



May 30, 2023

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Robin Carnahan
Administrator
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Attorney General Garland and Administrator Carnahan:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Technology & Telecommunications and Rights Task Forces, we write to thank the Department of Justice (DOJ) and the General Services Administration (GSA) for the recent issuance of the Section 508 Report to Congress and the President on Accessibility of Federal Electronic and Information Technology. We greatly appreciate the issuance of this long-awaited report and look forward to working with you and your colleagues in the federal government to ensure that the promises of Section 508 are made a reality.

The Consortium for Constituents with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. The Technology & Telecommunications Task Force deals with issues related to access to telecommunications, assistive technology, and information and communication technology in education, employment, independent living, and other areas. The Rights Task Force advocates on a wide variety of matters involving the civil rights of individuals with disabilities, driven by the four key goals set forth in the Americans with Disabilities Act (ADA): equality of opportunity, full participation, independent living, and economic self-sufficiency.

We are pleased that DOJ and GSA have published this report, which has been sorely lacking over the past ten years despite the statutory requirement to report on Section 508 compliance biannually.

Unfortunately, the report demonstrates what individuals with disabilities already know far too well – federal agencies are not living up to the mandates of Section 508. Federal employees with disabilities and the general public too often face insurmountable barriers to accessing and using information and communication technology (ICT) developed, procured, maintained, or used by federal agencies. The data in the report are staggering, but not surprising. Even using self-reported data from agencies, serious noncompliance and far too many instances of inaccessibility remain.

The report notes that the majority (two-thirds) of agencies included in the report reported no change in the maturity of their accessibility programs, and two agencies even went backwards since the last report. More than two-thirds of PDFs among the top 10 downloads at each agency were inaccessible. Less than 3% of agency Internet and Intranet pages are being tested for accessibility (and we note that the majority of testing appears to be done through automated systems, which only partially address accepted accessibility standards). Even a majority of agency's accessibility statements were themselves not fully accessible. These metrics simply do not reflect a federal government that is meeting the accessibility needs of employees and members of the public with disabilities.

The CCD Technology & Telecommunications and Rights Task Forces have long advocated for the federal government to take concrete steps to improve digital accessibility, including the implementation of real consequences for agencies that continue to disregard their legal obligations under Section 508. In July 2022, the Task Forces sent a letter (included as an attachment here) to Ambassador Susan Rice and key leaders at the Domestic Policy Council and throughout the Administration offering specific recommendations to ensure digital accessibility. The issuance of the recent Section 508 report reflected the first of these priority recommendations, and we are pleased that this important initial action was taken. We urge DOJ and GSA to work towards implementation of additional recommendations to ensure that the next Section 508 report can reflect meaningful improvements in federal agency compliance.

The full list of recommendations are included in the attached letter (dated July 8, 2022), and we encourage Administration officials to carefully consider these policies. **In particular, we believe it is critical that a federal agency, such as the US Access Board, GSA, or DOJ, be given specific authority and resources to enforce Section 508 compliance across the federal government.** Without clear and meaningful consequences, agencies will not have an appropriately impactful incentive to commit sufficient staff time, attention, and resources towards ensuring that their obligations under Section 508 are met.

Thank you for your attention to our recommendations. We look forward to working with you and your colleagues to advance meaningful reforms to ensure that digital accessibility is incorporated throughout the federal government so that employees with disabilities and the general public enjoy a genuine, effective, and meaningful opportunity to participate in the federal workforce and interface with the government.

If you have any questions, please contact any of the co-chairs of the Technology & Telecommunications and Rights Task Forces: Audrey Busch-Treussard (audrey.busch-treussard@ataporg.org), Laura Kaloi (lkaloi@stridepolicy.com), Clark Rachfal (crachfal@acb.org), Claudia Center (ccenter@dredf.org), Steve Lieberman (slieberman@unitedspinal.org), Larkin Taylor-Parker (ltaylorparker@autisticadvocacy.org), or Morgan Whitlatch (mwhitlatch@cpr-ma.org).

Sincerely,

Access Ready
American Council of the Blind
American Foundation for the Blind
American Printing House for the Blind
Assistive Technology Industry Association
Association of Assistive Technology Act Programs
Association of People Supporting Employment First
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
CommunicationFIRST
Epilepsy Foundation of America
Muscular Dystrophy Association
National Association of Councils on Developmental Disabilities
National Center for Learning Disabilities
National Disability Rights Network (NDRN)
Paralyzed Veterans of America
Perkins School for the Blind
United Spinal Association
Viscardi Center

CC:

Kristen Clarke, Assistant Attorney General for Civil Rights, DOJ
Jennifer Mathis, Deputy Assistant Attorney General for Civil Rights, DOJ
Rebecca Bond, Chief, Disability Rights Section, DOJ
Anne Raish, Principal Deputy Chief, Disability Rights Section, DOJ
Krystal Brumfield, Associate Administrator, Office of Government-Wide Policy, GSA
Andrew Nielson, Director, Government-Wide IT Accessibility Program, GSA
Shalanda Young, Director, Office of Management and Budget

July 8, 2022

The Honorable Susan Rice
Director, Domestic Policy Council
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Implementation of Digital Accessibility Initiatives and Mandates in E.O. 14035 and Section 508 of the Rehabilitation Act

Dear Madam Ambassador:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Technology & Telecommunications¹ and Rights² Task Forces, we write to express our support for the Administration's efforts to advance diversity, equity, inclusion, and accessibility (DEIA) in the federal workforce. **The purpose of this letter is to request that the Administration take all necessary and sufficient steps to ensure that federal agencies are held accountable for achieving digital accessibility** (an outcome that should have been achieved years ago). To accomplish this goal, we ask that there be real consequences for those agencies that continue to renege on their legal obligations under Section 508 and fail to meet the clear expectations in E.O. 14035 to ensure digital accessibility. We also request a meeting with you and your staff to discuss these recommendations.

The CCD is the country's largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance.

The development, procurement, maintenance, and use of websites, online systems, mobile applications, and other forms of information and communication technology (ICT)³ are central to the operation of Federal agencies in the 21st century. Reliance on the internet and intranets has dramatically changed the way agencies conduct work and communicate internally as well as with the public, including the manner in which individuals apply for jobs. Further, agency use of email and social media is dramatically

¹ The Technology & Telecommunications Task Force deals with issues related to access to telecommunications, assistive technology, and information and communication technology in education, employment, independent living, and other areas.

² The Rights Task Force advocates on a wide variety of matters involving the human and civil rights of individuals with disabilities through an equity lens.

³ The term "information and communication technology" means information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include but are not limited to: computers and peripheral equipment; information kiosks and transaction machines; telecommunication equipment; customer premise equipment; multifunction office machines; software; applications; web sites; videos; and electronic documents. [Appendix A to Part 1194, E103.4; Architectural and Transportation Barriers Compliance Board (U.S. Access Board); Information and Communication Technology (ICT) Standards and Guidance, 82 Fed. Reg. 5,790 (January 18, 2017).]

changing the way agencies communicate, both internally and externally.

[Executive Order No. 14035 on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#)⁴ establishes that diversity, equity, inclusion, **and accessibility**⁵ are priorities for the Biden administration and establishes additional procedures to advance these priorities across the Federal workforce.⁶

[Section 508 of the Rehabilitation Act](#)⁷ requires agencies to provide federal employees and members of the public with disabilities access to information and data that is comparable to the access provided to federal employees and members of the public without disabilities. Consistent with the Section 508 statute, [regulations implementing Section 508](#)⁸ also require that ICT developed, procured, maintained, and used by federal agencies be accessible to and usable by people with disabilities.

On behalf of CCD, we applaud the Biden Administration for including “accessibility” as a cornerstone of efforts in E.O. 14035 to “cultivate a workforce that draws from the full diversity of the Nation.” In particular, we strongly support the unequivocal directive in the Executive Order and the [Government-wide DEIA Strategic Plan](#)⁹ that:

- “All information and communication technology and products developed, procured, maintained, or used by Federal agencies are accessible and usable by employees with disabilities consistent with all standards and technical requirements of the Rehabilitation Act of 1973” [E.O. 14035§ 10(b)(iii)(F)] and
- “[the federal government] Ensure all technology, whether developed in-house or externally, is compliant with Section 508 of the Rehabilitation Act before deployment.” [Government-wide DEIA Strategic Plan, § 4 Accessibility Roadmap, p. 14].

⁴ Exec. Order No. 14035, 86 C.F.R. 123 (2021). Available at <https://www.federalregister.gov/documents/2021/06/30/2021-14127/diversity-equity-inclusion-and-accessibility-in-the-federal-workforce>

⁵ The term “accessibility” means the design, construction, development, and maintenance of facilities, information and communication technology, programs, and services, so that all people, including people with disabilities, can fully and independently use them. Accessibility includes the provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design. [E.O. 14035, § 2(e)]

⁶ See Appendix for a more comprehensive description of digital accessibility provisions in E.O. 14035 and the [Government-wide Strategic Plan to Advance Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#).

⁷ Rehabilitation Act of 1973 § 508, 29 U.S.C. §794(d). Available at:

<https://www.dol.gov/agencies/oasam/regulatory/statutes/section-508-rehabilitation-act-of-1973>

⁸ Architectural and Transportation Barriers Compliance Board (U.S. Access Board); Information and Communication Technology (ICT) Standards and Guidance, 82 Fed. Reg. 5,790 (January 18, 2017). Available at:

<https://www.federalregister.gov/documents/2017/01/18/2017-00395/information-and-communication-technology-ict-standards-and-guidelines>

⁹ *Government-wide Strategic Plan to Advance Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce* (November 2021). Available at: <https://www.whitehouse.gov/wp-content/uploads/2021/11/Strategic-Plan-to-Advance-Diversity-Equity-Inclusion-and-Accessibility-in-the-Federal-Workforce-11.23.21.pdf>

Further, we applaud the technical assistance materials prepared by the Administration for use by federal agencies in achieving digital accessibility, particularly the guidance on www.Section508.gov titled "[Integrating Accessibility into Agency Diversity, Equity, Inclusion, and Accessibility \(DEIA\) Implementation Plans](#)."¹⁰ But we believe that these efforts, alone, will not ensure achievement of these goals, and that additional proactive steps need to be taken to ensure that the charge of the President's Executive Order is realized and Section 508 is fully implemented.

More specifically, we offer the following recommendations:

1. In accordance with current legislative and regulatory requirements, ensure that DOJ conducts a regular, comprehensive review of compliance with Section 508 by federal agencies and submit periodic reports to the President and Congress. This mandatory audit review is required to be conducted biennially under §(d)(2) of Section 508, but has not been completed since 2012.
2. Direct the Office of Management and Budget (OMB) to update the [2013 Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act](#).¹¹ The update should include, among other things, a directive that each federal agency proactively engage with users and take proactive steps to modernize infrastructures and support the rapid adoption of technological innovations that reduce reliance on inaccessible formats (such as paper and ink signatures), in-person meetings, and telephone interactions, including ensuring accessibility and usability for people with disabilities at the initial design stages. The current Strategic Plan requires agencies to report to OMB regularly on their progress in improving baseline assessment measures. These reports, or a summary developed by OMB, should be made public on an annual basis to enhance transparency and ensure progress in advancing accessibility goals.
3. Direct federal agencies to explicitly report on digital accessibility efforts in annual reporting required by § 3(d) of the 21st Century Integrated Digital Experience Act (IDEA).¹²
4. Require that the annual report to the President regarding implementation of EO 14035 [§ 4(c)] include a specific section on digital accessibility and that each federal agency submit quarterly progress reports to the Domestic Policy Council regarding digital accessibility. These reports should also incorporate by reference the accessibility sections included in the aforementioned 21st Century IDEA reports, and report on planned activities to address outstanding requirements under this legislation and any barriers to accessibility identified in these reports.

¹⁰ Available at: <https://www.section508.gov/manage/deia-guidance/>

¹¹ Office of Management and Budget, *Strategic Plan: Improving Management of Section 508 of the Rehabilitation Act: A Framework for Enhancing and Sustaining Management Improvements to Increase the Accessibility of Electronic and Information Technology* (2013). At: <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>

¹² 21st Century Integrated Digital Experience Act, Pub. Law 115-136.

5. Require that compliance with and implementation of Section 508 is included in audits conducted by each agency's Inspector General and include Section 508 compliance in OMB Circular A-123 audits.
6. Require that federal agencies appoint a Chief Accessibility Officer who is responsible for ensuring compliance with Section 508 agency-wide and implementing the digital accessibility roadmap prescribed by E.O. 14035 and the Government-wide Strategic Plan.
7. Establish and communicate to federal agency officials clear consequences for failures to comply with and implement Section 508 and the digital accessibility initiatives included in E.O. 14035.
8. Require that all federal agencies include in their DEIA strategic plan specific goals, objectives, and benchmarks for carrying out the roadmap for achieving digital accessibility set out in [“Integrating Accessibility into Agency Diversity, Equity, Inclusion, and Accessibility \(DEIA\) Implementation Plans.”](#)
9. Require third party certification (verification) of vendor accessibility claims including usability testing by actual users with disabilities (in procurement, require a certification of 508 compliance from a qualified third party with material experience in the space).
 - a. Certification must come from a legitimate expert in the space with the systems and methodology to make a valid determination of compliance.
 - b. Certification must also cover the vendor's "accessibility maturity" (i.e., the product should not just be evaluated for accessibility at a single point in time; vendors must have the systems and processes in place to maintain a product's compliance as it "matures").
10. Review, expand, and improve the Voluntary Product Accessibility Template (VPAT) process and documentation.
 - a. Vendors should provide a warranty related to the product's accessibility covered in their VPAT.
 - b. The US Access Board panel setting applicable standards should include a balance of representatives with all types of disabilities and technical experts including those who have actually built a product.
 - c. The current VPAT form, which is cumbersome and confusing, should be reviewed and replaced with a process that makes sense both from the vendors' and reviewers' point of view.
 - d. Require, if possible, accessibility features be turned on by default—avoiding a decision by buyers/operators who may not understand the requirement.
 - e. The agency should report who evaluated Section 508 compliance in the process, as well as:
 - i. The results of that assessment;
 - ii. The way that assessment maps back to the regulatory requirements; and
 - iii. The way that assessment was scored as part of the overall process.
11. Modify the complaint resolution process to safeguard federal employees who find and report that something does not work.
12. Include the Section 508 requirements in all procurements of technology by default.

13. Require the personal certification of the procurement officer and report of such certification back to the public.
14. Review the application of the National Security Exemption in the Section 508 regulation [36 C.F.R. 1194 (Appendix A, E. 202.3)] to determine whether it is being applied to ICT operated by agencies as part of a national security system [as defined in 40 U.S.C. 11103(a)] in a manner that unnecessarily screens out or tends to screen out qualified individuals with disabilities in military, intelligence, and/or foreign affairs agencies.

We look forward to meeting with you to discuss our recommendations for maximizing the likelihood that all federal agencies finally make digital accessibility a core aspect of “doing business” so that applicants and employees with disabilities enjoy a genuine, effective, and meaningful opportunity to participate in the federal workforce.

Thank you for your consideration of our meeting request and these recommendations. We look forward to working with you and other facets of the Administration to advance diversity, equity, inclusion, and accessibility across the Administration. If you have any questions, please contact any of the co-chairs of the Technology & Telecommunications and Rights Task Forces listed below.

Sincerely,

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CC:

The Honorable Merrick Garland, Attorney General, Department of Justice

The Honorable Marty Walsh, Secretary, Department of Labor

The Honorable Shalanda Young, Director, Office of Management and Budget

The Honorable Robin Carnahan, Administrator, General Services Administration

The Honorable Kiran Ahuja, Director, Office of Personnel Management

The Honorable Charlotte Burrows, Chair, Equal Employment Opportunity Commission

The Honorable Taryn Williams, Assistant Secretary of Labor for Disability Employment Policy and Chair, U.S. Access Board

The Honorable Andrés Gallegos, Chairman, National Council on Disability

APPENDIX:
**COMPREHENSIVE DESCRIPTION OF DIGITAL ACCESSIBILITY PROVISIONS IN EO
14035 AND DEIA GOVERNMENT-WIDE STRATEGIC PLAN**

E.O. 14035 on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce includes extensive policies applicable to digital accessibility. The E.O. defines “accessibility” to mean the design, construction, development and maintenance of facilities, information and communication technology, programs and services so that all people, including people with disabilities, can fully and independently use them. Accessibility includes the provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design.

In order for federal employees and applicants with disabilities to be assessed on their merits, accessible information technologies must be provided and, where needed, reasonable accommodations must be available that will allow qualified individuals with disabilities to perform the essential functions of their positions and access advancement opportunities [E.O. 14035, § 10].

According to E.O. 14035, the Secretary of Labor, the Director of the Office of Personnel Management (OPM), the Chair of the Equal Employment Opportunity Commission (EEOC), the Deputy Director for Management of the Office of Management and Budget (OMB), and the Executive Director of the Architectural and Transportation Barriers Compliance Board (Access Board), in consultation with the Administrator of General Services, as appropriate, shall coordinate with agencies to:

- Support the Federal Government's effort to provide people with disabilities equal employment opportunities and take affirmative actions within the Federal Government to ensure that agencies fully comply with applicable laws, including sections 501, 504 and 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, 794, 794d); [E.O. 14035, § 10].
- Ensure that applicants and employees with disabilities have access to information about, understand their rights to and may easily request reasonable accommodations, workplace personal assistance services, and accessible information and communication technology; [E.O. 14035, § 10] and all information and communication technology and products developed, procured, maintained or used by federal agencies are accessible and usable by employees with disabilities consistent with all standards and technical requirements of the Rehabilitation Act of 1973 [E.O. 14035, § 10].

According to the Government-Wide Strategic Plan to Advance DEIA in the Federal Workplace, the Federal Government must consistently design, construct, develop and maintain technology, programs and services so that all people, including people with disabilities, can fully and independently use them. The Federal Government’s commitment to accessibility should include proactive engagement with users and efforts

to modernize infrastructures to support the rapid adoption of disability-inclusive technological innovations.

To support this work, the Office of Management and Budget (OMB), in consultation with the General Services Administration (GSA), U.S. Access Board and the Chief Information Officer (CIO) Council, will review existing accessibility guidance and best practice resources and make updates as necessary to help agencies build and sustain an accessible federal technology environment. In addition, agencies should seek to bring together DEIA Implementation Teams, including CIOs and Chief Procurement Officers (CPOs), in decisions affecting accessibility [Government-wide Strategic Plan to Advance DEIA in the Federal Workplace, § 4 Accessibility Roadmap; pages 13-14].

Examples include:

- Providing training and guidance on processes to make virtual environments, including common and individual environments, equitable spaces.
- Training users and operators of virtual environments on conducting accessible meetings, creating accessible documents, and addressing potential physical and attitudinal barriers to equitable opportunities.
- Regularly assessing information technology and facilities against benchmarks and industry standards to support equitable access and to remove potential barriers.
- Ensure all technology, whether developed in-house or externally, is compliant with Section 508 of the Rehabilitation Act before deployment [Government-wide Strategic Plan to Advance DEIA in the Federal Workplace, § 4 Accessibility Roadmap; pages 13-14].

GSA has developed the guide *Integrating Accessibility into Agency Diversity, Equity, Inclusion and Accessibility (DEIA) Implementation Plans* to support federal agencies with implementation of E.O. 14035 and the Government-Wide DEIA Strategic Plan. More specifically, this guidance can help agencies implement elements of the Accessibility Roadmap outlined in the DEIA Strategic Plan. The guidance focuses solely on information and communication technology accessibility.

Resources for agency leaders include:

- [Executive Guide to Federal IT Accessibility](#)
- [Technology Accessibility Playbook](#)
- [Quick Guide to IT Accessibility for Program Managers](#)
- [Accessibility Requirement Tool](#) (ART)
- [Sell Accessible Products and Services](#) (VPAT Guidance)
- [Buy Accessible Products and Services](#) (Procurement Templates Guidance)
- [Guide to Accessible Web Design and Development](#)
- [Trusted Tester Training](#) and [ICT Testing Baseline](#)
- Accessibility Testing for Websites and Software
- [Create Accessible Digital Products](#) Guidance
- [Video, Audio, and Social Media](#) Guidance
- [Create Accessible Meetings](#) Guidance