Shaping the Future of Procurement TOAL 2024

Procurement & Electronic Accessibility

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Electronic and Information Resources Accessibility Coordinator

Two Important Facts

- The opinions expressed are my own, and not necessarily those of my employer, The University of Texas Arlington.

- I am not an attorney, and I am not offering you legal advice.

Laura Hopkins

Masters of Science, Information Technology Management

Electronic and Information Resources Accessibility Coordinator

IAAP - CPAAC

PMI - CAPM

CTCM – Certified Texas Contract Manager

CTPM – Certified Texas Procurement Manager

4 Sessions, Sunday, September 29, 2024

- Intro to Electronic Accessibility

- What does the law require?

- Procurement – Policy, Procedure and Process

- RFB, IFB, Evaluations, T&C, Verification

SESSION 1
Introduction to Electronic Accessibility

EIR, ICT, EIT, Digital Accessibility

What does it mean to be accessible?

Equal access to the information by everyone, at the same time.

Including those with disabilities. A few examples:

- Blindness/Low vision
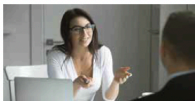
- Deafness/Heard of hearing

- Colorblindness

What is the barrier?

DEPTH

The 2018 Winter Olympics get started in 18 days!

BUSINESS

What's affected in the event of a shutdown? Here's what to know

Philadelphia Flyer

The Eagles Win Super Bowl LII!

The birds chalk up their first super bowl victory against the defending New England Patriots

BY TYLER FARRAR
tfarrar@phillyflyer.com

Prior to Sunday's game, the Philadelphia Eagles had three championships to their name but never a super bowl. Going into the game with backup quarterback Nick Foles, fans and critics alike where having a hard time believing that a victory was even possible. Much to everyone's dismay, Foles proved them wrong.

The game started with New England drawing first blood by scoring a touch-town early in the first quarter. Orerion non conet qui idit explam rerum as nimendias aligenienis et volorciae cus intotame ni denimpor sus voluptatem alia commodiamus illant fugitio nsecto mosam, omnihit iatium laboris sam eos etur sam nis molut odit untibus apissunto et alitatios dolori odipsandit, que dolupta tempora sitatur? Genit offic tem quo qui ute des estios as reicitas ad molorporia dolenda nit la qui accus doluptatur?

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What will close in Philly, what won't in a shutdown

Limerick and West Chester workers would continue to work

BY AMY MARSHALL
bmarshall@phillyfly-

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Philly Up In Arms Over Whiz Shortage

Second page (right)

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Who benefits?

- **Users with disabilities** benefit from content that is free from barriers and is universally accessible, useful, and understandable.

- **All users benefit** because the content is well-organized, easy to use, and provides clear pathways to information.

- **Content authors benefit** because these practices result in an efficient workflow and flexible content.

Everyone benefits from inclusive and accessible content.

Why?

2 Reasons

Because we care!

COMMUNITY THAT CARES

Because it is the law!

How to File a Discrimination Complaint with the Office for Civil Rights

SETTLEMENT AGREEMENT - CENTRAL TEXAS COLLEGE OF KILLEEN

Case(s):
Central Texas College of Killeen

Why do we need to be accessible?

- Texas Government Code, Title 10 General Government, Subtitle B Information and Planning, **Chapter 2054** Information Resources, Subchapter A General Provisions, Subchapter M Access to Electronic and Information Resources by Individuals with Disabilities

- Texas Administrative Code, Title 1 Administration, Part 10 Department of Information Resources, **Chapter 213** Electronic and Information Resources, Chapter C Accessibility Standards for Institutions of Higher Education

- Texas Administrative Code, Title 1 Administration, Part 10 Department of Information Resources, **Chapter 206** State Websites, Subchapter Institution of Higher Education Websites

- **Federal Law 29 U.S.C.,** Title 29, Chapter 16, Subchapter V, Sec. 794d - Electronic and Information Technology

- **Rehabilitation Act of 1973**, Section 503, Section 504 and Section 508

- **Americans with Disabilities Act** of 1990, as amended

- Justice Department **Rule Nondiscrimination on the Basis of Disability**; Accessibility of Web Information and Services of State and Local Government Entities, published 4/24/24; effective date 6/24/24; compliance date
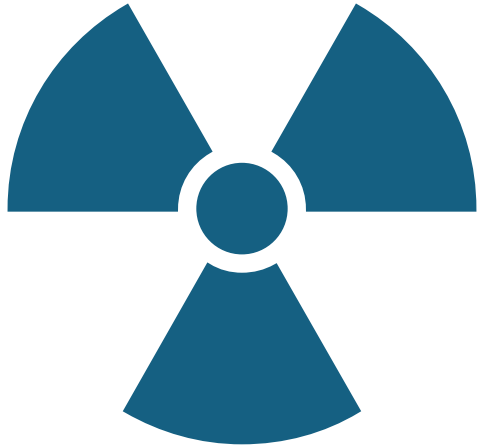
What is the risk to our institutions when we do not comply with the legal requirements?

Does the law have teeth?

Are you creating risk for the University?

Are you doing your part to be accessible so we can reach our goals to be diverse and inclusive?

RESOLUTION AGREEMENT

The University of Texas Rio Grande Valley
OCR Reference No. 06-16-2154

The U.S. Department of Education, Office for Civil Rights (OCR) and The University of Texas Rio Grande Valley (UTRGV or Recipient) enter into this agreement (Agreement) to resolve the above-referenced complaint. This Agreement was entered into voluntarily, and does not constitute an admission of liability, non-compliance, or wrongdoing by UTRGV. UTRGV assures OCR that it will take ... 504 of the Rehabilitation Act ... implementing regulation at 3 ... Act of 1990 (Title II), 42 U.S. ... C.F.R. Part 35, which prohib ... financial assistance and public ...

50 Colleges Hit With ADA Lawsuits

A blind man is taking 50 colleges to court, alleging their websites are inaccessible to people with disabilities.

By Lindsay McKenzie // December 10, 2018

22 COMMENTS

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SHARE

EXPERIENCE REPORT

Lawsuits Over Digital Accessibility for People With Disabilities Are Rising

New reliance on e-commerce and other digital experiences during the pandemic has exposed problems with accessibility online, advocates say

Joint Letter from DOJ and DOED

**U.S. Department of Justice**
Civil Rights Division

U.S. Department of Education
Office for Civil Rights

May 19, 2023

Dear Colleague: We write to make you aware of the Justice Department and Department of Education's ongoing efforts to address barriers that prevent people with disabilities from participating in online services, programs, and activities that colleges, universities, and other postsecondary institutions make available to students and the public.

In May 2022, OCR proactively launched 100 compliance reviews regarding digital accessibility. The reviews look at digital accessibility in public- and student-facing websites and educational platforms maintained by public and private colleges, universities, and other postsecondary institutions, as well as State departments of education, school districts, charter schools, and public libraries.

What is EIR?
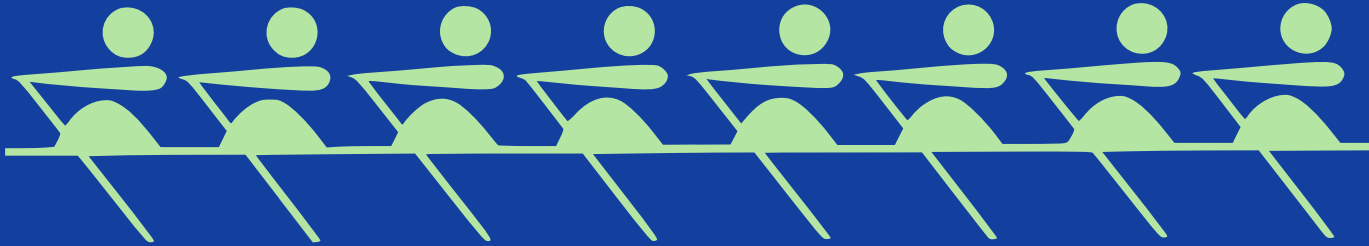
Electronic and information resources (EIR)--Includes information technology and any equipment or interconnected system or subsystem of equipment used to create, convert, duplicate, store, or deliver data or information. EIR includes telecommunications products (such as telephones), information kiosks and transaction machines, web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, thermostats or temperature control devices, and medical equipment that contain information technology that is integral to its operation, are not information technology. If the embedded information technology has an externally available web or computer interface, that interface is considered EIR. Other terms such as, but not limited to, Information and Communications Technology (ICT), Information Technology (IT), Electronic Information Technology (EIT), etc. can be considered interchangeable terms with EIR for purposes of applicability or compliance with this chapter.
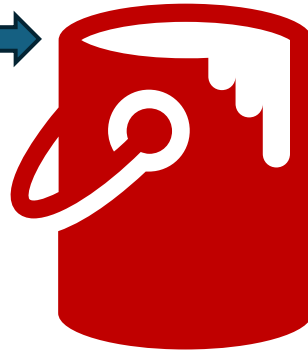
5 Buckets of EIR

1) Hardware

2) Websites

3) Software
   including SaaS

4) Other digital items:

- Mobile Apps
- Videos
- Social
- Media Posts
- Emails
- PDFs

5) Vendor services

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Hardware

Hardware: A tangible device, piece of equipment, or physical component of ICT, such as telephones, computers, multifunction copy machines, or keyboards.

Vendor Services

- Customizing webpages / portals

- Online platforms – Is there an on-line component to the deliverable?

- Electronic Communications – Emails? PDFs?

- Marketing services – social media posts? Emails?

- Videos

What is an EIRAC - Electronic and Information Resources Accessibility Coordinator?

What is an EIRAC?

Texas Administrative Code

TITLE 1   ADMINISTRATION
PART 10   DEPARTMENT OF INFORMATION RESOURCES
CHAPTER 213   ELECTRONIC AND INFORMATION RESOURCES
SUBCHAPTER C   ACCESSIBILITY STANDARDS FOR INSTITUTIONS OF HIGHER EDUCATION
RULE §213.41   EIR Accessibility Policy and Coordinator

(a) The department shall designate and maintain a person responsible for statewide accessibility initiatives.

(b) Pursuant to 1 Texas Administrative Code §206.74, each institution of higher education shall publish a current accessibility policy which includes the standards and specifications of this chapter.

(c) Each institution of higher education's accessibility policy shall require an institutionally-approved plan by which EIR will be brought into and maintained in compliance with the Technical Accessibility Standards and Specifications of this chapter. The plan shall include a process for corrective actions to remediate non-compliant items.

(d) The head of each institution of higher education shall designate an EIR Accessibility Coordinator who shall be organizationally placed to facilitate institution-wide EIR accessibility compliance and practices in support of in support of their internal accessibility policy. The institution's designation must contain the individual's name and other information in the format prescribed by the department.

All TX Agencies have an EIRAC

Texas Institution	EIRAC
Sam Houston State University	Kaylee Hutchison
Stephen F. Austin State University	Alison Reed
Texas A&M AgriLife	Kurk Alan
Texas A&M Engineering Extension Service	Vincent Riggins
Texas A&M Forest Service	Dudo Justin
Texas State Technical College	Scott Hodkinson
Texas State University System	Evan Pickrel
Texas Tech University	Ng Yung
University of North Texas	Christine Sikes

Questions - Break

SESSION 2

What does the law require?

The 2 laws most commonly referenced

- The Americans with Disabilities Act

  - Title I – Employment
  - Title II – State and Local Government Activities
  - Title III – Public Accommodations
  - Title IV – Telecommunications

    - With references to the Telecommunications Act, the Fair Housing Act, Air Carrier Access Act, Voting Accessibility for the Elderly and Handicapped Act, National Voter Registration Act, Civil Rights of Institutionalized Persons Act, The Rehabilitation Act – and others.

Americans with Disabilities Act (ADA)

Applies to all federal/state agencies and places that require public accommodation.

- Federal Agencies, and all those receiving federal funds
- State Agencies, including schools
- Restaurants
- Hotels/Motels
- Shops
- Movie Theaters
- Private Schools (including housing)
- Doctors' Offices and Private Hospitals

- Day Care Centers
- Gyms
- Organizations Offering Courses or Examinations related to Applications, Licensing, Certifications, or Credentialing for Professional or Trade Purposes
- Privately Operated Transit and
- Commercial Facilities

Texas Administrative Code 206 - Websites

All new or changed web pages must comply with the standards referenced in US Section 508 Appendix C Chapter 7, 701.20 (**WCAG 2.0 Level AA** excluding Guideline 1.2 Time Based Media).

Texas Administrative Code 213 – Electronic and Information Resources

Each institution of higher education shall comply with the following standards referenced in Section 508 Appendix C: (1) Chapter 7, 702.10 (**WCAG 2.0 Level AA** excluding Guideline 1.2 Time Based Media).

New DOJ Rule

The rule changes the standard from WCAG 2.0 AA to WCAG 2.1 AA.

This puts TX schools under a "must follow the most restrictive rule" scenario.

Those without a stricter rule may be able to take advantage of some areas of the DOJ rule that Texas can't at the moment.

Adds Subpart H to Sec 508 – websites and mobile apps

#1 Exceptions
(not available to Texas agencies):

Web content that meets all 4 of these criteria do not need to meet 2.1 AA

a) Created before the date of the rule, and

b) Kept only for reference, research, recordkeeping, and

c) Content is kept in a special area for archived content, and

d) The content has not been changed since it was archived

New DOJ Rule

Adds Subpart H to Sec 508 – websites and mobile apps

#2 Pre-existing electronic documents (not available to Texas agencies):

a) The documents are word processing, presentation, PDF, or spreadsheet files; **AND**

b) They were available on the state or local government's website or mobile app **before** the date the state or local government must comply with this rule; **AND**

c) Not currently in use

New DOJ Rule

Adds Subpart H to Sec 508 – websites and mobile apps

#3 **Content posted by a third party where the third party is not posting due to contractual, licensing, or other arrangements with a public entity.**

Example: a third party posting a message board hosted by the institution.

Example: People commenting on a Social Media Post

New DOJ Rule

Adds Subpart H to Sec 508 – websites and mobile apps

#4   Individualized documents that are password-protected. {Not available to TX agencies.}

- Documents that meet **all three** of the following points do not need to meet WCAG 2.1, Level AA:
    - The documents are word processing, presentation, PDF, or spreadsheet files, **AND**
    - The documents are about a specific person, property, or account, **AND**
    - The documents are password-protected or otherwise secured.

New DOJ Rule

Adds Subpart H to Sec 508 – websites and mobile apps

#5 Pre-existing Social Media Posts

- Applicable to posts made by the institution prior to the Rule's effective date (June 2026).

- Note, currently, the posts are already required to meet WCAG 2.0AA.

New DOJ Rule

Adds Subpart H to Sec 508 – websites and mobile apps

#6   Use of Conforming Alternate Versions

State and local governments are allowed to use conforming alternate versions only when there is a technical or legal limitation that prevents inaccessible web content or mobile apps from being made accessible.

TAC 213.38 Procurements

(b) For the procurement of EIR made directly by an institution of higher education or through the department's commodity procurement contracts for which the solicitation is issued on or after April 18, 2020, the institution shall require a vendor to provide accessibility information for the purchased products or services, where applicable, through one of the following methods:

- A URL to a VPAT

- Other documents that provide credible evidence of accessibility conformance

- A URL that where a VPAT can be requested

Federal requirement

- **Accessibility Conformance Report (ACR)** - A written ACR for each ICT item, based on the product's [Voluntary Product Accessibility Template (™)](#)™. To be considered for award, the ACR must be complete, and submitted according to the instructions.

TAC 213.38 Procurements - continued

(c) An institution of higher education shall implement a procurement accessibility policy, and supporting business processes and contract terms, for making procurement decisions. The institution of higher education shall monitor the procurement processes and contracts for accessibility compliance.

(d) This subchapter applies to EIR developed, procured, or materially changed by an institution of higher education, or developed, procured, or materially changed by a contractor under a contract with an institution of higher education

What is a VPAT?

Voluntary Product Accessibility Template$^{©}$ published by ITIC.ORG.

The VPAT template lists the WCAG criteria.

The vendor indicates if each criteria is supported or not.

Training Resources

- VPAT training from ITIC.ORG

  https://www.itic.org/policy/accessibility/vpat-training

- Sec508.gov video trainings

  https://www.section508.gov/training-home/#Trainingvideos

What documents need to address the accessibility requirements?

Scope of Work documents

RFP Terms and Conditions

Purchase Order/Contract Terms and Conditions

EIR Accessibility Warranty Clause

University of Arkansas

Procurement.uark.edu

Invokes C.F.R. Title 36, Chapter XI, Part 1194 - which is the Rehabilitation Act.

University of Texas at Arlington

ACCESS BY INDIVIDUALS WITH DISABILITIES:

Bidder represents and warrants under both this bid and any contract or agreement between Bidder and the University that results from this Invitation to Bid ("EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that Bidder provides or offers to provide to the University under this bid or any resulting contract or agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent successful Bidder becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Bidder represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty In the event that Bidder is unable to do so, then the University may reject Bidder's bid and/or terminate any contract or agreement between Bidder and the University resulting from this IFB and Bidder will refund to the University all amounts the University has paid under any contract or agreement resulting from this IFB within thirty (30) days after the termination date.

Questions - Break

Session 3/4

Policy, Procedure and Processes

And

RFP/ITB, Evaluations, Awards, Exemptions and Exclusions

Texas Administrative Code

Rules

You can't do this by yourself!

You must have a campus-wide, cooperative team to develop and implement the EIR Accessibility Program.

- Procurement
- EIRAC
- Legal Affairs
- University Compliance
- Information Security Office

- Office for Students with Disabilities
- Office of Information Technology
- Human Resources (ADA)
- Marketing
- Internal Audit (?)

Procurement Partners

Procurement Professionals partner with requesters.

Procurement partners with Legal Affairs and OIT.

Build your partnership with the EIRAC!

Who does what?

Buyer	EIRAC
Secure VPAT from vendors.	Score VPAT; if necessary, process exception forms.
Ensure EIRAC approval has been provided prior to purchase.	Communicate with Buyers regarding status of requests.
Work to ensure vendor meets PO requirements.	Report to Procurement if a contract/deliverable fails.

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EIR Accessibility Rules – more than only Purchase Orders

The rules apply to EIR:

- That is free

- That is put on a ProCard

- That is reimbursed

- That is created by the institution

- That is procured

- That is part of a revenue generating agreement.

Is the resource pre-approved?

If we assess a resource and it has an accessibility score of A, it is added as pre-approved.

If the resource is not pre-approved, a ticket for an assessment is required from the requester.

- Name and Description of Resource

- Purpose

- Users

- Cost

- Procurement Method

- Vendor

Procurement Responsibilities

Scope of Work

⟶ Identify elements of the procurement subject to WCAG

RFP/IFB Terms and Conditions

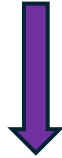⟶ ERIAC approval to proceed

Purchase Order Terms and Conditions

⟶ Coordinate verification

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Small Dollar Purchase Orders

Requesting department is responsible for securing EIR accessibility approval.

⬇

If Buyers issue small dollar POs, they verify ERIAC approval is attached or delay dispatching.

⬇

If small dollar POs automatically dispatched, add EIRAC to the approval workflow.

TAPREQ Approval Workflow

VPAT	VPAT passes – approved VPAT failed – skip to exception VPAT not available continue
PO	If not purchased via PO or if no EIR Clause, continue.
EIR Accessibility Exception	• Blanket • Department A/B

Texas Requirements for EAE

- (4) An approved exception for a significant difficulty or expense under Texas Government Code §2054.460 shall include the following:

- (A) a date of expiration or duration of the exception;

- (B) a plan for alternate means of access for persons with disabilities;

- (C) justification for the exception including technical barriers, cost of remediation, fiscal impact for bringing the EIR into compliance, and other identified risks; and

- (D) documentation of how the institution of higher education considered alternative solutions and all institution resources available to the program or program component for which the product is being developed, procured, maintained, or used. Examples may include, but are not limited to, institution budget, grants, and alternative vendor or product selections.

A Ticketing System

Requesting department is responsible for securing EIR accessibility approval.

A ticketing system is helpful.

RFP/IFB Terms and Conditions

When is the assessment appropriate?

Purchase Order Terms and Conditions

Confirm assessment complete

RFP

When is the EIR Accessibility Assessment completed?

What percentage of the bid evaluation is assigned to accessibility?

Is the EIRAC included in pre-bid vendor meetings?

Is the EIRAC included in post-award kick off meetings?

Is Your Procurement Office Accessible?

Are the emails you send to vendors and campus members, even the state, accessible?

Are the bid documents accessible?

Is your website accessible?

https://www.uta.edu/accessibility/eir/best-practices

Exceptions

Exceptions per Rehabilitation Act:

- EIR that complies with earlier standards and has not been changed.

- National Security Systems

- EIR located in maintenance systems

- Assistive Technology

Exceptions per Texas Administrative Code (TAC):

GIS Software

38 WCAG Criteria

Electronic Content Standards

WCAG Level A Requirements

- ☐ 1.1.1 Non-text Content
- ☐ 1.2.1 Audio-only and Video-only (Prerecorded)
- ☐ 1.2.2 Captions (Prerecorded)
- ☐ 1.3.1 Info and Relationships
- ☐ 1.3.2 Meaningful Sequence
- ☐ 1.3.3 Sensory Characteristics
- ☐ 1.4.1 Use of Color
- ☐ 1.4.2 Audio Control
- ☐ 2.1.1 Keyboard
- ☐ 2.1.2 No Keyboard Trap
- ☐ 2.2.1 Timing Adjustable
- ☐ 2.2.2 Pause, Stop, Hide
- ☐ 2.3.1 Three Flashes or Below Threshold
- ☐ 2.4.1 Bypass Blocks (not required for non-web documents and software)
- ☐ 2.4.2 Page Titled
- ☐ 2.4.3 Focus Order
- ☐ 2.4.4 Link Purpose (In Context)
- ☐ 3.1.1 Language of Page
- ☐ 3.2.1 On Focus
- ☐ 3.2.2 On Input
- ☐ 3.3.1 Error Identification
- ☐ 3.3.2 Labels or Instructions
- ☐ 4.1.1 Parsing
- ☐ 4.1.2 Name, Role, Value

WCAG Level AA Requirements

- ☐ 1.2.4 Captions (Live)
- ☐ 1.2.5 Audio Description (Prerecorded)
- ☐ 1.4.3 Contrast (Minimum)
- ☐ 1.4.4 Resize Text
- ☐ 1.4.5 Images of Text
- ☐ 2.4.5 Multiple Ways (not required for non-web documents and software)
- ☐ 2.4.6 Headings and Labels
- ☐ 2.4.7 Focus Visible
- ☐ 3.1.2 Language of Parts
- ☐ 3.2.3 Consistent Navigation (not required for non-web documents and software)
- ☐ 3.2.4 Consistent Identification (not required for non-web documents and software)
- ☐ 3.3.3 Error Suggestion
- ☐ 3.3.4 Error Prevention (Legal, Financial, Data)

Questions?

Accessibility –

habit, not hindsight!

Shaping the Future of Procurement TOAL 2024

Thank you for having me!

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