

Beyond Accessible Web & IT: Update on State Impact

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Overview

- Technology Crossroad
- The Problem & A Solution
- States and Accessible Web Requirements
- Section 508 Legislation & Technology Standards
- Section 508 Impact on the States

Technology Crossroad

- Explosive Growth of Electronic Commerce
- Shift from Web Content Publishing to Web Applications
- IT Evolution to Multi-Modality Architecture
- Civil Rights Alignment

The Problem

- Historically, Disability Law and Public Policy Reflected the Medical Model
- Focus on Diagnosis and Disability Rather than Ability and Incompatibility with Environment/Object
- Led to Isolation & Segregation Due to Ignorance, Neglect, Superstition or Fear

The Problem

- Electronic & Information Technology (E&IT) Design Historically Did Not Include User Interfaces for People with Disabilities
- E&IT Engineers Were Not Trained in Accessible Design for Mainstream Products & Services
- IT Businesses Had No Incentive to Design Accessibly for All

The Problem- Inaccessible Web

- 1995 Americans with Disabilities Act Web Complaint against the City of San Jose, CA
- Led to first Accessible Web Design Standard for Local Government and Federal Recognition as a Best Practice

The Problem- Software “Upgrades”

- Previous “Reasonable Accommodations” Enabling Gov’t Employees to Work Were No Longer Effective Due to Software “Upgrades”
- Danger of Employees with Disabilities Losing Their Jobs
- Systemic and Expensive Problem was Emerging for Gov’t Employers

The Problem & A Web Solution

- Technology Industry Members of World Wide Web Consortium (W3C) Launch Web Accessibility Initiative in 1997
- WAI Releases Web Content Accessibility Guidelines (WCAG) 1.0 in 1999
- WCAG is Industry Standard Created Outside of Government Regulatory Process

States and Accessible Web

- 2002 First ADA Title II case Holding that the ADA Applied to Government Websites
- Martin v. Metropolitan Atlanta Transportation Authority (MARTA)
- Transportation Routes & Schedules not formatted for access for Riders who were Blind
- www.gand.uscourts.gov/documents/1001cv3255TWTinj.pdf

States and Accessible Web

- In 2003 USDOJ Cited Legal Obligations under the ADA and the Rehabilitation Act for State and Local Governments to Maintain Accessible Websites
- Points to Both WCAG 1.0 and Section 508
- www.udoj.gov/crt/ada/websites2.htm

Section 508 Legislation

- Congress Amended the Rehabilitation Act of 1973 to Strengthen Section 508

Rehabilitation Act of 1973



Section 508 Legislation

- Part of 1998 Workforce Investment Act addressing Changing Workforce: People with Disabilities and Aging Workforce
- Paperwork Reduction Act
- Increasing Role of Technology in Society
- Business Case: Cost-Effective Approach

Section 508 Legislation- Timeline

- Enacted by Congress in 1998
- E&IT Accessibility Standards Published in December 2000
- Federal Section 508 Procurement Effective June 2001
- States Start Adopting Section 508

Section 508 Legislation

- Requires Federal Govt E&IT to be Accessible to People with Disabilities, Including Federal Employees and Members of the Public



Section 508 Legislation- Scope

- Hardware/Software
- Web Pages
- Databases
- Fax Machines/Copiers
- ITMS, Kiosks
- Telecommunications
- Multimedia



Section 508 - Web

- Section 508 Web Standards are not the same as W3C WCAG 1.0
- 5 Additional Rules Were Added involving Electronic Forms, Skip Links, Timed Response Alerts, Plug-Ins and Scripts

Section 508- Scope

- Includes any IT and any equipment or interconnected system or subsystem of equipment, that is used in the creation, conversion or duplication of data or information



Section 508- Technical Standards

- Software Applications and Operating Systems
- Web-based intranet and Internet Information and Applications
- Telecommunication Products
- Video & Multimedia Products
- Self Contained, Closed Products
- Desktop & Portable Computers

Section 508- Technical Standards

- Sixty-five (65) Technical Elements under these Standards
- Six Functional Performance Criteria
- Three Requirements under Information, Documentation and Support

Section 508- Impact on IT

- Accessibility in Mainstream EIT
- Accessibility in Both Products & Support-Help Desk, Documentation and Training
- Interoperability for Assistive Computer Technology

Section 508 Legislation

- Provides a Private Right of Action Against Federal Agencies
- Provides a Marketplace Incentive for Designing Accessibly
- Informs Entities Covered under ADA and Section 504 of Rehabilitation Act on Accessible IT

Section 508 - Overseers

- USDOJ- Coordinates
- Access Bd- Standards
- FAR Council- FAR revise
- GSA- Technical Assist
- CIO Council- Assists in Policy & Procedures
- Office of CFO- \$\$ Policy & Oversight
- Office of Management & Budget- 508 Steering Committee



Section 508 Legislation

- Section 508 Applies whenever Agencies Develop, Procure, Maintain or Use IT
- Section 508 Establishes Complaint and Reporting Procedure for Enforcement
- Successful Vendor Bid Protests Can Void Contracts in Favor of Winner

Section 508- Federal Agencies Must

- Identify 508 Procurement Requirements
- Perform Market Research
- Document any Nonavailability or Undue Burden Exception
- Develop 508 Minimum Requirements Based on Market Research & Agency Needs
- Submit 508 Information with Purchase Requests

Section 508- Federal Procurement

- Must Include 508 Clauses in Solicitations
- Follow 508 Proposal Evaluations
- If Feasible, Confirm 508 Compliance Before Acceptance
- After Acceptance, Exercise Warranty Clause if Products or Services Violate Contract-Specified Compliance

Section 508- Buy Accessible

- USGSA Buy Accessible Data Center
- <http://emgbaw.altarum.org/DataCenter/logon.jsp>
- Voluntary Product Accessibility Template



State Impact

- States are Subject to Federal Laws Prohibiting Discrimination Against People with Disabilities
- Every State Also Has State Statutes Prohibiting Discrimination
- Every State is Unique in Structure and System

State Impact

- Must States Comply with Section 508?
No- Does not Apply to Direct Recipients of Federal Funds Unless a Federal Agency Specifically Requires Conformance
- Exception: AT Act of 1998, as Amended Requires Participating States to Comply
- Exception: State Statute Adopting Section 508

State Impact- Accessibility Drivers

- eCommerce Government Initiatives Require Every Citizen Access
- Workforce Investment Act Requires Accessible Information Technology at One-Stop Centers
- Help America Vote Act Requires Accessible Voting Machines

State Impact- Accessibility Drivers

- Aging Workforce and Government Employee Access
- Front-end Planning Less Costly than Retrofit
- Emerging Technologies- Wireless, Mobile Hand-held Devices, Personal Digital Assistants

State Impact- Observations

- Trend for States to Have Web Accessibility Policies based on W3C WCAG or Section 508 or a Hybrid
- Balance of Section 508 Technical Standards for Accessibility Have Not Appeared to Advance as Quickly in Application Development and IT Procurement

State Impact- Observations

- Many States have Adopted Section 508 Legislation:
Arizona, Arkansas, California, Colorado, Indiana, Kentucky, Louisiana, Maryland, Minnesota, Missouri, Montana, Nebraska, North Carolina, Oklahoma, Texas, Virginia, West Virginia

State Impact- California

- Amended CA Gov't Code §11135 Prohibiting Discrimination Against Disability
- Requires All Recipients of State Funding to Develop, Procure, Maintain or USE E&IT Complying with Section 508
- Existing Private Right of Action; Now Also Requires Contractor Resolution of E&IT Complaints

State Impact- Observations

- Today, All States Have a Statute, Policy and/or Guidelines related to Website Accessibility
- Some States Have Statutes or Policies requiring “Technology Access Procurement Clauses” (Arkansas, Colorado, Indiana, Kentucky, Maine, Maryland, Minnesota, Montana, Nebraska, Texas and Virginia)

State Impact- Observations

- Thirty (30) States Lack a Statute, Policy or Guidelines to Govern Accessible E&IT Procurement
- Thirty-Nine (39) States Have No Statute, Policy or Guideline for Application Development

State Impact- Observations

- See ITTATC Report at www.ittatc.org/laws/report_August_2004.php
- Some States Only Require Accessibility for Software
- Some States Limit IT Accessibility to Visual Disabilities Rather than Cross-Disability

State Impact- Observations

- Some States Have Administrative Complaint Procedures & Authorize Civil Action for Inaccessible Technology (Missouri, Kentucky, N. Carolina, Arkansas)
- One State Requires Vendor to Take a State Web Accessibility Course Based on State Standards for Entry into RFP Process (Connecticut)

State Impact - Observations

- Adoption of IT Accessibility Standards, Policies & Implementation Plans
- Contracts & Procurement
- IT Testing & Verification Strategies
- Administrative Complaint Procedures and/or Civil Action

State Impact- Observations

- Interagency Collaboration is Key Factor in Development of E&IT Policies & Implementation
- Education and Training is Probably Most Needed from Cabinet Level to Trenches

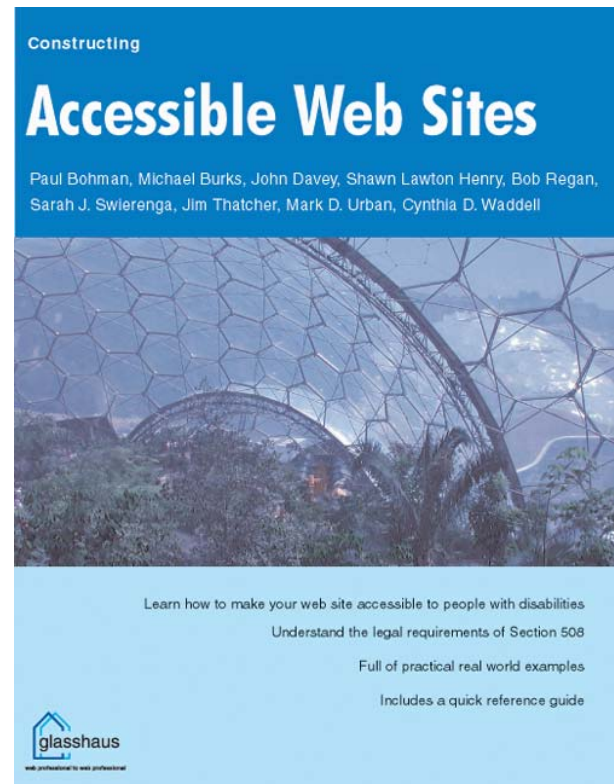
State Impact- ODF Issue

- State of Massachusetts Directive to Move to Open Document Format January 1, 2007
- Triggered an Accessibility Crisis Since ODF Has Gaps in Accessibility Support
- Process Being Implemented to Establish Accessibility Lab in IT Department and to Seek New Products or Plug-Ins for Microsoft Office Suite

Resources

- Constructing Accessible Web Sites

ISBN 1-59059-148-8



Resources

- New Apress Publication to be Released July 2006:

Web Accessibility: Web Standards & Regulatory Compliance

ISBN 1-59059-638-2

Resources

- ICDRI Section 508 Workshops & Training:
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