



APR 4 2003

GSA Office of Governmentwide Policy

MEMORANDUM FOR RONALD POUSSARD
DIRECTOR
DEFENSE ACQUISITION REGULATIONS COUNCIL

FROM: RODNEY P. LANTIER, DIRECTOR
REGULATORY AND FEDERAL ASSISTANCE
PUBLICATIONS DIVISION

SUBJECT: FAR Case 2002-012, Section 508 Micro-Purchase
Exception Sunset Provision

Attached are comments received on the subject FAR case published at 67 FR 80321;
December 31, 2002.

| <u>Response Number</u> | <u>Date Received</u> | <u>Comment Date</u> | <u>Commenter</u> |
|----------------------------|--------------------------|-------------------------|---|
| 2002-012-1 | 02/07/02 | 02/07/03 | Hattie Hearne |
| 2002-012-2 | 03/03/03 | 03/03/03 | ITAA |
| 2002-012-3 | 03/03/03 | 03/03/03 | Information Technology Industry Council |
| 2002-013-4 | 03/04/03 | 03/04/03 | Barbara Jackson LeMoine |

Attachments

2002-012-1



"HATTIE HEARNE"
<COOKHATTIE1234@A
OL.COM>

To: "General Services Administration Attn: Laurie Duarte "
<farcase.2002-012@gsa.gov>

cc:
Subject: SMALL BUSINESS OWNED

02/07/2003 02:42 AM

HATTIE HEARNE
1427 FARRELL ST.
VALLEJO, CA 04590

February 7, 2003

General Services Administration Attn: Laurie Duarte
Attn: FAC 2001-11, FAR case 2002-012
1800 F St NW, Rm 4035
Washington, DC 20405

Dear FAR Secretariat (MVA) Duarte:

TO WHOM IT MAY CONCERN:MY NAME IS HATTIE HEARNE I HAVE BEEN WAITING 4 YRS
TO OPEN MY BUSINMESS OF DISABLED ADULTS, I WAS APPROVED BY THE STATE, MY
HOME WAS APPROVED, NOW I AM A BLACK 52 YR OLD WOMAN WHO HAS HAD A TUFF
DEAL WITH THE SYSTEM,THE REGENCY WILL AND HAS DYNIED ME FROM GETTING
CLIENTS IN MY HOME, I BEEN THRU ALL THE RED TAPE THIER IS AND I HAVE BEEN
DENIED MY RIGHTS OF HAVING CLIENTS FROM THIER REGENCY, NOW I AM AWARE THAT
WOMEN WITH A BUSINESS COULD GET A GRANT TO HELP THEM BUT I WAS TOLD
BECAUSE I LIVE IN A PRODONENTLY BLACK NEIGHBORHOOD I DO NOT QULIFY

Sincerely, HATTIE HEARNE

HATTIE HEARNE

2002-012-2



March 3, 2003

General Services Administration
FAR Secretariat (MVA)
1800 F Street, NW, Room 4035
Washington, DC 20405

ATTN: Ms. Laurie Duarte

**Re: FAC 2001-11, FAR case 2002-012, Section 508 Micro-Purchase
Exception (Interim Rule)**

Dear Ms. Duarte:

The Information Technology Association of America (ITAA) submits these comments in response to the interim rule extending the electronic and information technology "micro-purchase" exception to October 1, 2004. As discussed in more detail below, the ITAA believes that the decision by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council ("the Councils") to extend the expiration date of the micro-purchase exception is reasonable considering the practicalities of the matter.

As to the Councils' request for comments on product labeling, we believe that including statements of Section 508 conformance on product labeling would impose significant burdens on IT vendors while providing very little value for purchasers.

The ITAA provides global public policy, business networking, and national leadership to promote the continued rapid growth of the information technology (IT) industry. The ITAA consists of over 500 corporate members throughout the United States and a global network of 47 countries' IT associations. The Association plays a leading role in issues of IT industry concern, including information security, finance policy, digital intellectual property protection, telecommunications competition, workforce and education matters, immigration, online privacy, *consumer protection*, *government IT* procurement, human resources, and e-commerce policy. ITAA members range from the smallest IT start-ups to industry leaders in the Internet, software, IT services, ASP, digital content, systems integration, telecommunications, and enterprise solution fields. (More information on the ITAA may be found at www.ITAA.org.)

The ITAA greatly appreciates this opportunity to provide our comments.

A. The ITAA Supports the Councils' Interim Rule Extending the Section 508 Micro-purchase Exception to October 1, 2004.

The ITAA supports the Councils' interim rule extending the Section 508 micro-purchase exception to October 1, 2004. We agree with the Councils that eliminating the micro-purchase exception at this time is not feasible.

The ITAA continues to believe that the micro-purchase exception is a common-sense *approach for addressing small acquisitions made by government employees using a purchase*

Information Technology Association of America

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card. Most users of government purchase cards are not contracting officers or members of the procurement workforce and do not possess the training to assess whether a product supports the applicable accessibility standards. Without an extension of the micro-purchase exception, each procuring agency would be required to forward proposed electronic and information technology micro-purchases to agency procurement officers who have received proper training. This process would significantly burden contracting offices with numerous additional transactions needing review, although the dollar amounts of the transactions themselves account for a very small part of the Government's procurement budget. In sum, the situation would unduly delay and burden Government procurements.

B. Product Labeling Is Not Feasible.

Members of the ITAA have expended tremendous financial resources to build accessibility features into their products. ITAA members make information about these product features available to federal agencies by completing Voluntary Product Accessibility Templates (VPATs) that are placed either on the vendor's website (and on the government's www.Section508.gov website) or provided in response to an agency's request. The VPAT process provides a useful mechanism for companies to provide full accessibility information about their products to purchasing officials, including any qualifying statements that the company deems the purchaser should know.

Regarding Section 508 product labeling, however, the ITAA believes that product labeling would raise significant legal and practical concerns for the IT industry without providing any real benefit to government purchasers or consumers.

An important issue for industry is that inaccurate product labeling exposes vendors to risks associated with class action lawsuits under state deceptive trade practices statutes. (This is in addition to the risks associated with the False Claims Act for government purchases.) As such, it is especially important that vendors take enormous pains to ensure that statements included on product labels are 100% accurate. That is one reason why product labeling is a very significant cost item for vendors. With respect to how these concerns relate to Section 508, we believe that everyone would agree that there are varying degrees of accessibility and that reasonable minds may differ regarding the extent to which a product is accessible. In our view, most companies would be unwilling to make blanket statements on a product label regarding Section 508 because of the risk that someone with a different interpretation may impose litigation.

Also, a vendor's blanket statement regarding Section 508 conformance on a product label would provide very little value to purchasers. A product label is read only by those purchasers who buy the product off of a store shelf. However, we understand that a majority of micro-purchases are made over the telephone or the Internet. These purchasers would not be in a position to view the product prior to purchase.

A Section 508 conformance statement on a product label also would not absolve a Federal agency of the responsibility of doing its own market research under the Federal Acquisition Regulations to determine such things as the extent to which the applicable accessibility standards are satisfied by commercially available products and whether an exception to Section 508 should be applied. A Section 508 statement on a product label also would not ensure that the product would be compatible with the agency's existing infrastructure and technology.

Accordingly, it is ITAA's view that Section 508 product labeling is neither a desirable nor feasible option.

012-2

C. Internal Education and Training.

ITAA member companies are employing tremendous resources to design and manufacture accessible products. A key component of this process is training and putting systems in place to ensure that the engineers have accessibility as a key design requirement. ITAA members are also focusing on training their sale forces on accessibility requirements so that they may assist purchasers by providing helpful information when purchasers make their accessibility determinations.

It is difficult to summarize the wide variety of means that IT companies are using to educate and train their hardware and software developers and salespersons regarding accessibility issues. We will leave it up to the individual companies to provide the specific details. If the Councils would like our detailed views on this issue, however, we would gladly provide them.

* * * *

The ITAA and its membership strongly support the goal of making IT fully accessible to individuals who have disabilities. As always, we appreciate the opportunity to comment on accessibility issues pertaining to Federal Government purchases of IT products and services and look forward to our continuing dialogue with the Councils on this important subject.

Respectfully submitted,



Harris N. Miller
President
Information Technology Association of America

2002-012-3



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March 3, 2003

General Services Administration
FAR Secretariat (MVA)
1800 F Street, NW Room 4035
Attn: Laurie Duarte
Washington, DC 20405

REF: FAC 2001-11, FAR case 2002-12

Dear Ms. Duarte:

I am pleased to submit these comments electronically on behalf of ITI, the Information Technology Industry Council, in response to the request for comments published in the December 31, 2002 edition of the Federal Register (67FR 251), on the Interim Rule to extend the Section 508 Micro-Purchase exception to October 1, 2004. In particular, we wish to respond to the question regarding the labeling of accessible products.

We support the extension of the micro-purchase exception. We recognize the challenges facing the General Services Administration (GSA) and other agencies in educating government personnel regarding their Section 508 obligations, whether purchasing one or 10,000 "electronic and information technology" (EIT) products. Accordingly, an extension makes sense. Nevertheless, we were surprised to learn that the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (together, the Councils) had anticipated that commercial manufacturers would apply some form of a label or logo to their product packaging to provide Section 508 "conformance information." We believe such a label would not serve nor achieve the desired intent.

One Size Does Not Fit All

The EIT Accessibility Standards, published by the Access Board in December 2000, are not a single monolithic requirement, rather a series of subjective criteria that apply to various products or services. In some instances, similar products could be associated with different sections of the Standards, depending on their features and relative functionality. It would be very difficult and unwieldy to create a label that could provide sufficient information to federal buyers, including those using government purchasing

cards, regarding a product's conformance with a particular section or sections of the Standards. In addition, we do not believe that it would meet the requirements of 48 CFR Part 10, which outline an agency's duties regarding acquisition planning and market research.

A Label Would Lack Utility

A principle objective of commercial EIT manufacturers is to design products that can be successful in multiple markets, including government markets. Section 508 has succeeded in that regard, spurring research and development of more accessible EIT products, which are now being offered in consumer, commercial and government markets worldwide. Accordingly, the commercial EIT inventory of an Internet or retail office supply store is unlikely to be any different than those products being offered via federal contracts or acquisition programs, such as "GSA Advantage!". Government agencies have been identifying and buying accessible EIT with increasing ease, as manufacturers continue to design accessibility into each new generation of products. Given current experience and design trends, we submit that product labeling would ultimately be of little real value or utility to federal purchasers.

Costs Would Far Outweigh the Benefits

As the Interim Rule points out, the U.S. Government spends an estimated \$52 billion per year on EIT products and services, and only a "very small percentage" of that total is acquired "through the micro-purchase process with [government] credit cards." Typically, EIT hardware and software products are acquired via other federal contract vehicles, where the government has been able to take advantage of its purchasing power to obtain more favorable pricing. For most EIT manufacturers, government sales in general represent a very small percentage of their overall business – two to five percent for most ITI members – with government credit card percentages barely registering at all.

Assuming a meaningful label could be designed, the challenge of competing for space on the packaging and the cost of applying the label to packaging is *not* insignificant, and would be extremely difficult to justify the expense given that it is unlikely to generate additional sales. In addition, since government credit card purchases are typically made using the Internet, by phone or in person at retail establishments, it is very likely that government buyers would not even *see* the label until *after* the purchase.

Business Solutions for Government Challenges

Rather than relying on labeling schemes or similar means, ITI recommends greater government and contractor utilization of market-oriented tools, such as the Voluntary Product Accessibility Template, better known as the VPAT (available for download via the ITI web site at www.itic.org/policy/508/Sec508.html). Developed by ITI in partnership with GSA, the VPAT provides a simple mechanism for manufacturers to highlight the accessibility features of their EIT products relative to the Accessibility

Ms. Duarte
March 3, 2003
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Standards. This in turn helps government buyers meet their obligations under the law and survey the commercial marketplace for accessible products that will meet the requirements of a given acquisition.

As part of an ongoing effort to support Section 508, ITI has posted "best practice" recommendations on our web site, which include a listing of suggested terms to use when filling out VPATs. We will soon publish additional guidance for businesses to help ensure more consistent reporting of accessibility information within product categories. We believe that this will make the VPAT an even more effective tool in helping federal agencies fulfill their responsibilities under Section 508.

ITI and its members remain committed to working with the government and other interested parties to increase the availability of accessible EIT for employees with disabilities. Thank you for the opportunity to submit these comments. We would be happy to respond to any questions the Councils may have.

Sincerely,

Rhett B. Dawson
President

2002-012-4



"Barbara Jackson
LeMoine"
<blemoine@afb.net>

To: farcase.2002-012@gsa.gov
cc:
Subject: FAC 2001-11, FAR Case 2002-012

03/04/2003 03:15 PM

General Services Administration
FAR Secretariat (MVA),
1800 F Street, NW., Room 4035,
Washington, DC 20405.

ATTN: Laurie Duarte

The American Foundation for the Blind is please to submit comments on the extension of the small-purchase exception until 2004. The American Foundation for the Blind has been closely involved in advocacy for Section 508 from participation in the drafting of the amendment to participation as a member of the Electronic and Information Technology Advisory Committee established to develop recommendations resulting in the Architectural and Transportation Barriers Compliance Board's final standards. We offer the following comments based on our experiences in this process as well as our long history in advocacy and leadership undertaken to assure that individuals who are blind or visually impaired will have full access to the information they need to lead independent and productive lives.

We are concerned that it has already been two years since the standards were published and there appears to be little formal training for federal employees with credit cards. What limits are there going to be set to the number of times this exception can be extended? We do not see an incentive for the government to resolve this problem so that the exception is not needed. Perhaps, the small purchase itself is the problem. What research has been done to eliminate this method of purchasing? It seems to us that 52 Billion dollars is a lot of money. It appears by the questions being asked that the government is depending on the industry to provide the information. It seems incongruous to rely on the producers of the products to ensure that the products themselves are compliant. The real losers here are the disabled persons themselves when they are employed in an office, which uses incompliant software, or hardware purchased under the exception and, because of this, the individual cannot perform certain tasks thus impeding career opportunities. The reason that section 508 was passed is that we needed to establish a right to have access to electronic and information and technology on an equal grounds with nondisabled persons. Furthermore, as prices go down for products it is possible to purchase more and more sophisticated EIT for less money, which means that they could be purchased under the small-purchase exception.

In response to your questions:

a. What mechanisms or approaches should the Government consider to ensure EIT micro-purchases (products and services) are accessible?

The government should create tools with questions and measurements for the purchaser to utilize in determining accessibility.

b. Currently, what type of training is being employed by your organization to educate purchasers and users regarding the Section 508 requirements? Is any training specifically geared towards cardholders and micro-purchases? If so, how do you explain and communicate the Section 508 requirements?

Our organization doesn't currently train anyone on small-purchases or cardholders. WE do have the ability to develop training modules to train cardholders if this is helpful.

2002-0124

We would appreciate responses to our questions. Please address them to:

Joy L. Relton
American Foundation for the Blind
Governmental Relations Group
820 1st Street Suite 400
Washington, DC 2002

Sincerely,
Joy L. Relton
Governmental Relations Representative
American Foundation for the Blind
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Email: jrelton@afb.net

CC: FAR Desk Officer
Office of Information and Regulatory Affairs
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Washington, DC 20503
Subject: FAC 2001-11, FAR Case 2002-012

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