



## DEPARTMENT OF THE ARMY

U.S. ARMY CORPS OF ENGINEERS

441 G STREET NW

WASHINGTON DC 20314-1000

CECW-P

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Use of Electronic Signatures on Agreements with Non-Federal Entities.

### 1. References:

- a. Government Paperwork Elimination Act (GPEA), Pub. L. 105-277, sec. 1701-1710, 1998 (codified as 44 U.S.C.A. § 3504 n.)
- b. Electronic Signatures in Global and National Commerce (E-SIGN) Act, 15 U.S.C. § 7001 et seq., 1 October 2000.
- c. Uniform Electronic Transactions Act (UETA), 1999.
- d. Appendix II to OMB Circular A-130; Implementation of the Government Paperwork Elimination Act, November 2000.
- e. OMB M-00-10, Implementation of the Government Paperwork Elimination Act, 25 April 2000.
- f. OMB M-00-15, Guidance on Implementation of the Electronic Signatures in Global and National Commerce Act (E-SIGN), 25 September 2000.
- g. National Institute of Standards and Technology (NIST), Special Publication 800-63, Electronic Authentication Guidance.
- h. Memorandum, Office of the Chief Counsel, subject: Electronic Signatures in Transactions with Non-Federal Entities, 1 April 2020.

### 2. Background:

- a. This Memorandum provides guidance on the use of electronic signatures on agreements entered into between the Department of the Army and non-Federal entities pursuant to water resources development authorities. Agreements covered by this guidance include, but are not limited to, cost sharing agreements, contributed funds agreements, and agreements for the provision of technical assistance.
- b. Under the GPEA and the E-SIGN Act, electronic records and electronic signatures may not be denied legal effect, validity, or enforceability solely because they are in electronic form. These laws do, however, establish certain requirements which

an electronic signature must meet in order for it to have legal effect. This Memorandum outlines a signing process to collect electronic signatures on agreements with non-federal entities that would satisfy those requirements and is appropriate considering the costs, benefits, and risks.

3. Process:

a. Contact the person signing on behalf of the non-federal entity directly via email. By email the District should contact the person identified in the agreement as the signatory for the non-federal entity for confirmation that he or she will be electronically signing the agreement as the representative of the non-federal entity and has signature authority to bind the non-federal entity. The email should direct the person to respond by email with confirmation of the understandings set forth in this initial email from the District.

b. Transmit electronic copy of finalized agreement. Following confirmation by the person with signatory authority, the District will transmit by email the final, unsigned agreement to that person. This email should outline the following procedure for electronic signing of the agreement:

i. Form of signature may include either a digitized signature (scanned copy of the person's handwritten signature, which has been applied at the signature line of the agreement) or a typed signature. If signature is to be typed on the signature line, the person signing should use a different font from the rest of the document.

ii. Typed date below the signature line, in same font as the rest of the document.

iii. Once the chosen form of signature has been applied, the non-federal entity should save the signed document as a PDF.

iv. The non-federal entity should transmit by email the PDF version of the agreement, which includes the electronic signature, back to the District, and include in the email a statement which confirms that the person who signed the document has signed electronically, and understands that this electronic signature has the same legal effect as if a handwritten signature had been applied.

c. Confirm receipt of agreement signed by the non-federal interest. The District by email should provide to the person who electronically signed the agreement confirmation that USACE has received the electronically signed agreement from the non-federal entity and that USACE will now electronically sign the agreement as well.

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d. Apply signature by USACE signature authority. If an electronic signature will be used by USACE, the electronic signature should be applied using a CAC signature onto the same document which the non-federal entity has signed.

e. Transmit fully signed agreement to the non-federal entity. The District should provide by email the electronic record of the final, signed agreement and state that the agreement has been electronically signed by both parties and request from the non-federal entity confirmation that the final, signed agreement has been received and that the agreement has not been altered since the non-federal entity signed it.

f. Store final, signed agreement along with all associated emails. The “signing process” includes all email communications from the first step through the confirmation above and these communications should be stored in the same location as the final, signed agreement.

5. POC is Jeff Lin, HQUSACE Agreements Team, who may be contacted at (202) 761-5220 or jeffrey.p.lin@usace.army.mil.

ALVIN B. LEE  
Director of Civil Works

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