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T3.1.9 Electronic Commerce Added 7/2007

A Electronic Commerce and Signature in Contracting Added 7/2007

1 Authority for Electronic Commerce Revised 7/2013

a. The FAA may use electronic commerce and signature. The Electronic Signatures in Global and National Commerce Act (E-SIGN) provides authority for electronic contract formation, signature, and recordkeeping. It also establishes legal equivalence between:

(1) Contracts written on paper and contracts in electronic

form;

(2) Pen-and-ink signatures and electronic signatures; and

(3) Other legally-required written records and the same information in electronic form.

b. Definitions.

(1) *Electronic Commerce*: Electronic techniques for accomplishing business transactions, including, but not limited to, electronic mail or messaging, World Wide Web technology, electronic bulletin boards, and electronic data interchange.

(2) *Electronic Signature*: A method of electronically signing an electronic message that identifies and authenticates a particular person as the source of the electronic message, and indicates such person's approval of the information contained in the electronic message.

2 Considerations for Technology and Systems Revised 7/2013

a. Before implementing electronic commerce hardware and software, the Contracting Officer (CO) must consult with legal counsel, information security, and information technology specialists to ensure proposed technology is legally supportable, does not weaken security of current systems, is consistent with enterprise-level standards, and does not use unsupported or outdated technology.

b. The procurement team (CO, program official, legal counsel, and other supporting staff) must ensure proposed hardware and software:

(1) Represents the best value to the FAA;

(2) Considers the full or partial use of current systems;

(3) Does not weaken the security of current systems or support outdated technology;

(4) Provides a means of access by all concerns, to the extent practicable;

(5) Properly identifies users and protects sensitive data from unauthorized access; and

(6) Does not violate any law, regulation, Executive Order, or FAA policy.

c. The procurement team must ensure electronic commerce and signature system is capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm of loss, misuse, or unauthorized access to or modification of the information. The technology must ensure records have:

(1) *Authenticity:* Ensures that the record is what it purports to be and to have been created by the person who claims to have created and sent it;

(2) *Integrity*: The records are complete and unaltered;

(3) *Reliability*: Contents can be trusted to be a full and accurate representation of the transaction(s) to provide for a valid audit trail; and

(4) *Usability*: Records can be located, retrieved, presented, and interpreted.

d. All parties (FAA and offeror/contractor) who will use the electronic commerce technology must agree in advance to the particular methodologies and format to be used, and to what extent the contractual action will use electronic commerce. This CO must document this agreement.

e. The CO may authorize using alternative forms of media, such as hardcopy drawings and schematic models, to supplement electronic commerce in a procurement action.

f. Records management and retention policies in FAA Order 1350.15C apply to electronic commerce, and disposal guidelines must be strictly followed.

3 Electronic Signature **Revised 7/2013**

a. Electronic signatures may be accomplished by different technologies, including: (1) Personal Identification Number (PIN) or passwords; (2) Digital signatures; (3) Smart cards; and (4) Biometrics.

b. The CO must ensure that the name of the electronic signer and the date when the signature was executed are included as part of any electronic record.

4 Electronic Contract Files **Added 1/2014**

a. *eDocS*. The official contract file contains the complete record of activities, rationale for

decisions and related documentation from planning through close-out of a procurement action. Beginning with new contract actions in FY14, except for documents which are otherwise required to be created or maintained in paper format such as documents associated with real estate transactions and documents requiring a raised seal signifying authenticity, FAA's official contract file must be created, stored and maintained in Electronic Document Storage (eDocS). The Chief of the Contracting Office (COCO) may waive this requirement on an individual or class basis.

(1) eDocS contains a standard folder structure based on mandatory AMS contract file checklists used to label and organize documents into official files. The CO must use eDocs to establish and maintain an official file for all procurement actions occurring in FY14 and later, excluding purchase card transactions and certain real estate transactions involving sales or conveyances.

(2) The CO must ensure documents stored in eDocS are complete, legible, accurately labeled, and filed promptly under the appropriate contract folder. Signed documents especially must be accurate, complete, legible, and not altered in any way.

(3) The CO must indicate the location of all contract file documents not stored within eDocS in the Annotations field of the eDocS properties page. The annotation must address any and all documents associated with the official contract file whether stored in electronic form or in paper form, including but not limited to paper files that may be maintained in original form, such as large scale drawings impractical to convert to electronic format or a document with a raised seal signifying authenticity.

(4) Documents containing personally identifiable information (PII) are subject to Privacy Act restrictions. A Tax Identification Number (TIN) may be an individual's Social Security Number, and as such would be PII that must be protected. As a general rule, the following documents containing a TIN must be encrypted before storing in eDocS (other documents may also include PII and must be encrypted):

(a) Business declaration
(b) Electronic funds transfer waiver
(c) Intra-Agency Agreements (DOT 2300.1a)

(5) Classified and sensitive unclassified documents must be marked and stored according to FAA orders 1600.72 and 1600.75.

(6) Documents stored in eDocS should not be password protected or encrypted, unless otherwise required by regulation, policy, or order.

(7) All users must complete training before using eDocS.

(8) By no later than April 1, 2014, the contract reporting metadata for all active contracts must be entered into eDocS. It is the responsibility of the CO to ensure that the data is maintained and updated. eDocS will identify the metadata that must be entered and maintained.

(9) After operating procedures are established and training is provided, the requirement to use eDocS will apply to procurement actions by individuals with a Delegation of Procurement Authority who are outside of Acquisition and Contracting (AAQ) and the Office of Acquisition Services at the Aeronautical Center (AMQ).

b. *Electronic Records*. Federal law, regulations, and policy allow and encourage electronic contract files and using electronic signatures. The Comptroller General as far back as 1991 has affirmed electronic contracts meet the requirement that contracts be in writing. The Electronic Signatures in Global and National Commerce Act (E-SIGN) gives legal equivalence between electronic contract records, including contracts digitally signed, and paper-based, manually signed documents. E-SIGN also provides legal equivalence for retaining electronic versus paper records. Electronic records satisfy any other policy, regulation, or law that requires "written" contract documents and related information to be created, maintained, and stored. The National Archives and Records Administration regulations and policy allow agencies to transmit files for storage entirely in electronic format.

B Clauses **Added 7/2007**

view contract clauses

C Forms **Added 7/2007**

view procurement forms