



SBA Procedural Notice

TO: All SBA Employees and SBA Surety Partners

CONTROL NO.: 5000-20026

SUBJECT: Acceptance of Electronic Signatures
in the Surety Bond Guarantee Program (SBG)

EFFECTIVE: May 13, 2020

The purpose of this Notice is to inform SBA employees and Surety Companies and Surety Agents participating in SBA's Surety Bond Guarantee (SBG) Program (referred to collectively as Surety Partners) that, effective immediately, SBA's Surety Partners and small business concerns (referred to collectively as the signatories) may utilize electronic signatures in accordance with the performance standards outlined in this Notice on SBA Forms and other SBG documents requiring signatures. SBA is issuing this Notice now to provide Surety Partners with flexibility regarding acceptable signatures on SBG documents during this period of uncertainty due to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic. Electronic signatures meeting the requirements in this Notice will be treated as equivalent to handwritten signatures. Nothing in this Notice affects existing SBA requirements as to who is required to sign any specific document or which documents the Surety Partners are required to retain in their file.

SBA's policy is consistent with and requires Surety Partners to comply with the current version of the National Institute of Standards and Technology (NIST) [Digital Identity Guidelines](#). SBA requires compliance with Identity Assurance Level 2 (IAL2), as described in the NIST Digital Identity Guidelines.

Electronic Form of Signature

For the SBA-approved forms of signature, the vendor must comply with "[Use of Electronic Signatures in Federal Organization Transactions](#)," Version 1.0, January 25, 2013, section D: "Requirements for Legally Binding Electronic Signatures."

Electronic Signature Eligible Documents

Unless otherwise prohibited by law, Surety Partners may use electronic signatures on the documents referenced below (collectively referred to as “Eligible Documents”), provided that the signatories comply with the standards outlined in this Notice. Electronic signatures cannot be used on any document identified below if the recording office requires wet ink signatures.

- Office of Surety Guarantees, SBG application and claims documents;
- All other federal government documents [*i.e., Documents and agreements related to the guaranteed bond*];
- Liquidation documents;
- Litigation documents, unless otherwise specified by a court order;
- Post-default action documents; and
- Surety on-boarding documents (*i.e., Surety participation applications and agreements*); *delegated authority documentation; targeted & full Surety review documentation.*)

The use of electronic signatures is voluntary; however, Surety Partners who choose to use electronic signatures must fully comply with the standards outlined in this Notice and may be held liable for failure to adhere to these standards. Electronic signatures may not be used for transactions that require filing of security or other documents with a jurisdiction that does not have electronic filing capabilities.

Vendor/Technology Selection Requirements

A Surety Partner must ensure that any electronic signature technology vendor it uses:

- Complies with Section 101 of the Electronic Signatures in Global and National Commerce (ESIGN) Act;
- Has the experience, capabilities, and expected longevity to meet all SBA electronic signature requirements;
- Includes vendor agreements that contain express provisions that vendors will comply with all applicable SBA requirements pertaining to this procedural notice;
- Includes vendor agreements language that would ensure that vendor representatives will be available to provide testimony to support the United States government in litigation regarding electronic signature data that will be introduced in court;
- Meets disaster recovery and archiving requirements; and
- Has adequate quality control processes.

Surety Liability for Failure to Adhere to Prescribed Standards

OSG will review compliance with the [ESIGN Act](#) as well as standards in this Notice as components of its oversight of Surety Partners.

Quality Control

Surety Partners must ensure that their electronic signature policies and procedures meet all requirements including their own oversight of the electronic signature process.

Record Retention

SBA's [record retention requirements](#) are the same for both wet ink and electronic signatures. For records signed electronically, the audit trail as well as any computer systems (including hardware and software), controls, and documentation must be readily available for, and subject to, SBA inspection for the same periods as records signed in wet ink. A Surety Partner's system must be able to reproduce electronic records as accurately as if they were paper when printed or viewed. These records must be made available to SBA on request.

Jermaine Perry
Acting Director
Office of Surety Guarantees