

System Letter

NUMBER: 18-02
SUBJECT: Electronic Signatures
REFERENCES: Civil Code §1633.1- 1633.17; Government Code §16.5; Government Code §11854, §11895(b);

April 16, 2018

**TO: Agency Secretaries
Department Directors
Departmental Budget and Accounting Officers**

FROM: FI\$Cal

It is well settled law that electronic signatures have the same force and effect as manual signatures in communications with public agencies. If the law requires a signature, an electronic signature suffices.

To achieve the statutory objectives set forth in Government Code §11854, the Department of FI\$Cal, in consultation with the Department of Finance, the Department of General Services, the State Controller's Office and the State Treasurer's Office, encourages departments to utilize and accept electronic signatures for all transactions, approvals, bids and contracts that will be processed through FI\$Cal, including, but not limited to:

- Standard 204, Payee Data Record;
- Standard 213, Standard Agreement;
- Standard 213 A, Standard Agreement Amendment;
- Report 14, Accounts Outside CTS.

Electronic technologies enable departments that transact in FI\$Cal to conduct business more efficiently and accurately than a paper-based legacy system.

Current law authorizes the use of an electronic signature, including a digital signature, in any written communication or agreement with a public entity. (Civil Code 1633.2; Government Code §16.5) An electronic signature that meets specified requirements has the same force and effect as the use of a manual signature. This means that for departments transacting in FI\$Cal, a party to a communication/transaction that uses or requires a signature (e.g., contract or approval) may affix a signature thereto by use of an electronic signature, provided that the

person affixing the signature has the intent to sign. An electronic signature is attributable to a person if it was the act of the person. The act of signing may be shown in any manner, including by showing the efficacy of the security procedure applied to determine the identity of the person to which the electronic signature is attributable. (Civil Code §1633.9)

A record or signature may not be denied legal effect or enforceability solely because it is in electronic form. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation. If a law requires a written record, an electronic record suffices. (Civil Code §1633.7)

It is the responsibility of each department to ensure that the appropriate person has the authority to execute electronic signatures on behalf of the department or division transacting in FI\$Cal. The FI\$Cal Security Office will work with departments to facilitate appropriate role provisioning to minimize the number of users who have authority to execute electronic signatures for bids, approvals, contracts and other transactions.

It is important to note that, in an automated transaction, a contract may be formed by the interaction of electronic agents of the parties even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements. The terms of a contract are determined by the substantive law applicable to it. (Civil Code §1633.14)

If you have questions regarding this System Letter, please contact FSC at 1-855-347-2250 or fiscalservicecenter@fiscal.ca.gov.

DGS will maintain current guidance on transactions that must be conducted electronically, and on documents that must be submitted to DGS in paper format, in the State Contracting Manual.