

TO: ALL COUNTY PERSONNEL

**FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR**

PREPARED BY: OFFICE OF FINANCIAL MANAGEMENT & BUDGET (OFMB)

SUBJECT: ELECTRONIC SIGNATURES - ELECTRONIC TRANSACTIONS

PPM #: CW-R-010

ISSUE DATE
April 26, 2021

EFFECTIVE DATE
April 26, 2021

PURPOSE:

To provide policies and procedures mandated by federal and state laws for the management of electronic signatures and electronic transactions.

UPDATES:

Future updates to this PPM are the responsibility of the Director of OFMB.

AUTHORITY:

- 15 United State Code, s. 7001, et seq., as may be amended
- Florida Statutes, Chapter 119, Public Records Act, as may be amended
- Florida Statutes, Chapter 668, Electronic Signatures and Uniform Electronic Transaction Acts, as may be amended
- Florida Statutes, Section 257.36, Records and Information Management, as may be amended
- Palm Beach County Administrative Code, Section 405, as may be amended
- Florida Administrative Code, Chapter 1B-24, as may be amended, and
- Florida Administrative Code, Chapter 1B-26, as may be amended
- Countywide PPM CW-F-049, as may be amended
- Countywide PPM CW-R-005, as may be amended

DEFINITIONS:

Definitions listed in Attachment A.

BACKGROUND AND RESPONSIBILITIES:

The Director of OFMB is authorized by CW-R-005, Electronic Records Management, to establish procedures to ensure the County's compliance with the electronic records requirements of Florida Statutes and the Florida Administrative Code.

The Director of the Information Systems Services (ISS) Department is authorized by CW-R-005 to establish and enforce standards relating to information systems hardware, software, storage media, systems access, and security to ensure compliance with the law. Also, as a Resource Manager, the Director of ISS is responsible for monitoring and controlling the acquisition of computer and computer related goods and services (CW-L-008).

The director of a department which conducts electronic transactions and/or utilizes electronic signatures shall ensure that staff is aware of the requirements of Chapter 668, F.S. and other applicable statutes and rules and that legal guidance is obtained when necessary.

This policy applies to all electronic records or electronic signatures created, generated, sent, communicated, received or stored by the County.

In relation to Contracts and Agreements, Countywide PPM CW-F-049 requirements also apply.

POLICY:

The County permits the use and development of electronic transactions and/or electronic signatures between County departments/offices, other agencies, and the public. The County further encourages the development of electronic systems to deliver government services with increased efficiency and convenience. Departments/offices under the Board of County Commissioners may choose to use electronic transactions/signatures, but are not required to do so. If a department chooses to conduct one type of electronic transaction, the department may refuse to conduct another type of electronic transaction.

County departments and offices shall ensure that all laws, codes, and policies and procedures related to electronic records and media are followed for all such records and media that are under their control. ISS shall approve all eSignature software in advance of being utilized by a department.

PROCEDURES:

The County procedures for electronic records retention scheduling and disposal are the same as for other record media. The determination of record (master) copy or duplicate; maintenance/storage; back-up requirements; retrieval/access; and general legal authentication procedures are provided in CW-R-005.

A. Requirements of eSignature

- a. The use of electronic signatures is permitted if all the following criteria are met:
 - i. The electronic signature is the full name of the person signing the electronic transaction, not a role, position or job title.
 - ii. Authentication of the electronic signature is verifiable through a certificate authority. Departments shall verify eSignature certification.
 - iii. The electronic signature is under the sole control of the person using it.
 - 1. Email notifications requesting electronic signatures must not be forwarded.
 - 2. These requirements prohibit the use of proxy signatures.
 - iv. A date and time of the electronic signature is verifiable.
 - v. The electronic signature is linked to the electronic transaction in such a manner that if the electronic transaction is changed after the electronic signature is attached; the electronic signature is no longer valid.
- b. Use of the electronic signatures shall comply with the following:

B. Suggested Use of electronic signatures

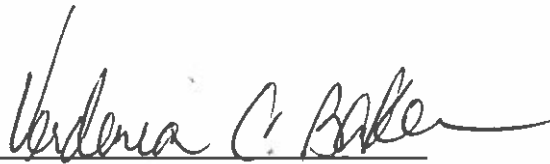
DOCUMENT TYPE	USE OF ELECTRONIC SIGNATURE
Memos (Internal and External), Forms (HR Related, Financial Approvals), and Other Correspondence	Yes
Letters and other correspondence from Board	Yes
Commission Applications	Yes
Contract, Amendments, Agreements	Yes
MOU Signatures	Yes
Certificates	Yes
Permits	Yes
Documents requiring the Mayor's Signature	No
Documents requiring notarization	No
Bonds	No

B. Complying With Special Provisions of Other Laws

1. If a provision of law other than s. 668.50 requires special treatment such as instructions on how a record is to be displayed, sent, communicated or transmitted, or that it must contain information that is formatted in a certain manner, those requirements shall be followed [s. 668.50 (8) , as amended].
2. If a provision of law requires a record to be in writing, an electronic record satisfies such provision [s. 668.50 (7) (c), as amended].
3. If a provision of law requires a signature, an electronic record satisfies such provision [s. 668.50 (7) (d), as amended].
4. If a provision of law requires a record to be retained, the requirement is satisfied by retaining an electronic record of the information if the record accurately reflects the information set forth in the record after it was first generated in final form as an electronic record or otherwise, and if the record remains accessible for later reference [s. 668.50 (12), as amended].

C. Determining the Validity of Transactions

Departments must exercise care in determining the validity of electronic transactions. There are risks that contracts may be formed even though some parties may not be aware of it and there are risks because an electronic record is considered received, even if no one is aware of its receipt [s. 668.50 (14) (a) and (15) (e) , as amended].


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Supersession History:

1. PPM #CW-R-010, effective 07/01/2001
2. PPM #CW-R-010, effective 05/13/2011
3. PPM #CW-R-010, effective 07/03/2014
4. PPM #CW-R-010, effective 08/06/2019

ATTACHMENT A

DEFINITIONS.—As used in this section:

- (a) “Agreement” means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under provisions of law otherwise applicable to a particular transaction.
- (b) “Automated transaction” means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
- (c) “Computer program” means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (d) “Contract” means the total legal obligation resulting from the parties’ agreement as affected by this act and other applicable provisions of law.
- (e) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (f) “Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (g) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.
- (h) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (i) “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of this state, including a county, municipality, or other political subdivision of this state and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
- (j) “Information” means data, text, images, sounds, codes, computer programs, software, databases, or other similar representations of knowledge.
- (k) “Information processing system” means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
- (l) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.
- (m) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in s. 119.011.
- (n) “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.
- (o) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.
- (p) “Transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.