



Oregon

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MEMORANDUM

To: All Agency Directors and Agency CIOs

From: Katy Coba, DAS Director and Chief Operating Officer
Terrence Woods, State Chief Information Officer

Date: August 25, 2020

Subject: E-Signature Guidance

Given the Department of Administrative Services (DAS) and Enterprise Information Services' (EIS) recent clarification regarding statewide policy 50.050.01 – “Working Remotely” and section 7(b)’s prohibition on the use of personal devices (*e.g.*, computers, scanners and printers) to conduct state business, we recognize the potential for increased interest in the use of electronic signatures (e-signatures). Consequently, this memo is intended to address their use in conducting state business, the availability of e-signature solutions like DocuSign eSignature and Adobe eSign on state contract and current guidance from Cyber Security Services (CSS).

Nearly 20 years ago, the state of Oregon enacted its version of the Uniform Electronic Transactions Act (UETA) effective June 22, 2001, along with 46 other states.¹ While the public sector has been slow to embrace e-signatures, they have become ubiquitous and come to define our lives online—covering everything from shopping to real estate transactions. With few exceptions (*e.g.*, wills and certain transactions for the sale or lease of goods governed by Oregon’s Uniform Commercial Code under ORS chapters 72 and 72A), e-signatures are considered just as valid and enforceable as a “wet” or “ink” signature. Suffice to say, e-signatures are a perfectly acceptable way to conduct state business, provided that the e-signature solution/provider meets the necessary security requirements.²

At this time, there are two e-signature solutions currently available on state contracts, including DocuSign eSignature and Adobe eSign—both of which, have already been vetted by CSS.

DocuSign

DocuSign eSignature is currently available through a Basecamp price agreement 9412 with Carahsoft, please see the [Buyers Guide](#) to learn more. A statewide license agreement is

¹ An “*electronic signature*” is defined as “*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*” ORS 84.

² Please note, that this should not be taken as a legal advice and we encourage anyone with questions regarding the enforceability of e-signatures for a particular transaction type or that involve regulated, Level-3 or Level-4 data to contact the Department of Justice (DOJ).

planned, when complete, it will be available on the [existing software license](#) page. When CSS reviewed DocuSign eSignature they determined that it was ISO 20071: 2013 certified; a SOC 1 Type 2, SOC 2 Type 2 certified organization with annual audits, it was PCI-DSS compliant, it adhered to CSA-STAR Requirements and was it compliant with the ESIGN Act.³

Adobe eSign

Adobe eSign is available through a price agreement 6454 with SHI, please see the [Buyers Guide](#) to learn more. A statewide license agreement is being re-negotiated. When complete, it will be available on the [existing software license](#) page. When CSS reviewed Adobe eSign they determined that it was certified compliant with ISO 27001, SOC 2 Type 2, and PCI DSS used in the payment card industry. It also complies with privacy regulations, including HIPAA, GLBA, and FERPA in the U.S.⁴

Ultimately, the selection of an e-signature solution is a business decision. Executive Branch agencies are encouraged to exercise due diligence in considering the level of authentication required for the e-signature in question and the classification of the data in the documents to be uploaded for signature; for more information on data classification, please see: <http://www.oregon.gov/das/Policies/107-004-050.pdf>.⁵

With that said, EIS/CSS strongly advise Executive Branch agencies to use the government version (if available) or paid commercial version of any e-signature solution in lieu of the “free version.” While many e-signature solutions designed for government use have obtained rigorous security and privacy certifications (e.g., SOC II, FedRAMP) and been deemed compliant with federal privacy regulations governing Level-3 data such as HIPAA (Healthcare Information Portability and Accountability Act), the same cannot be said of free versions.

If your agency is interested in using either of the e-signature solutions listed above, EIS/CSS are available to assist, review and provide security guidance regarding any potential security risks. In all cases, this will require the completion of a completed Cloud Workbook pursuant to 107-004-150, <https://www.oregon.gov/das/policies/107-004-150.pdf>, and submission of the vendor terms of use or license agreement.

If the request is related to enable working remotely in response to COVID-19, CSS is committed to reviewing and returning security requests within three business days for low dollar and low risk (i.e., Level-1 and Level-2 data) e-signature use cases. In all cases involving regulated data or Level-2 data stored outside of the U.S., it will be necessary to consult with DOJ. Additionally, in cases involving Level 3 or Level 4 data it will be necessary to for DOJ to conduct a legal sufficiency review. As previously noted, EIS/CSS strongly advise the use of the government- or paid-commercial-version of any e-signature solutions under consideration.

³ Please see: <https://www.docusign.com/sites/default/files/Trust-Brief-TB051319TCAPUBGLB.pdf>; https://www.docusign.com/sites/default/files/DS_SecurityBrief_SB_051519_IS_PUB_GLB.pdf; <https://www.docusign.com/company/terms-and-conditions/web>; <https://www.docusign.com/products-and-pricing>.

⁴ Please see: <https://www.adobe.com/legal/terms.html>; <https://www.microsoft.com/en-us/industry/microsoft-adobe-enterprise-partnership?activetab=pillars:primary2>.

⁵ For purposes of OAR 125-600-0005, Guidelines for Use of Electronic Signatures by State Agencies, agencies are deemed to have an exception under Section (4), provided that they have completed *Cloud Workbook* pursuant to 107-004-150, consulted with CSS and submitted the vendor terms of use or license agreement.