



## **CLASS DEVIATION FROM THE FEDERAL ACQUISITION REGULATION**

### **Determination and Findings**

In accordance with Civilian Agency Acquisition Council (CAAC) Letter 2020-04 Supplement 1, "Supplement to CAAC Consultation to Issue a Class Deviation from the Federal Acquisition Regulation (FAR) to eliminate hard copy original documents, signatures, notarization, seals on bonds and other seals for certain contract requirements," dated May 12, 2023, the Department of Commerce is authorizing a class deviation to eliminate the requirement for hard copy original documents, original signatures, notarization, seals on bonds, and other scenarios.

#### **FINDINGS:**

Supplement 1 to CAAC Letter 2020-04 allows agencies to authorize a class deviation to allow greater flexibility by eliminating the requirement for hard copy original documents, original signatures, notarization, seals on bonds and other scenarios.

The importance of original and notarized documents has dwindled in this electronic age and the need to eliminate hard copy original documents, signatures, notarization, seals on bonds and other seals for certain contract requirements continues to exist. Remote online notarization is not approved in many states. Where approved, it requires prior certification of the notary, which requires additional time and money and may be difficult to obtain. Equally difficult is for vendors and sureties to produce manual signatures and provide their seals on bonds.

Currently, FAR 2.101 defines "signature" or "signed" to include electronic signatures, and FAR 4.502(d) expressly authorizes agencies to "accept electronic signatures and records in connection with government contracts."

In accordance with CAAC Letter 2020-04 Supplement 1, contracting officers shall use the following changes:

- A. When obtaining financial protection against losses under contracts per FAR part 28:
  - 28.101-3(c) allowing the use of electronic means is moved to an added section at 28.002 to apply the same flexibilities to all of part 28;
  - 28.106-1 adding an exception to stamping a corporate seal on bonds;
  - 28.106-8 allowing a signed statement by the contractor that the payment is due and owed;
  - 28.203-1(b) not requiring the Standard Form 28 to be sworn and notarized;
  - 28.203-3 allowing a written authorization of the release signed by the surety saying that it approves of such release;
  - 52.228-11, Individual Surety- Pledge of Assets (Feb 2021) (DEVIATION MAY 2023), not requiring the Standard Form 28 to be sworn and notarized, in place of 52.228-11, Pledges of Assets (Aug 2018);

- 52.228-15, Performance and Payment Bonds—Construction (JUN 2020) (DEVIATION MAY 2023), not requiring the seal when executing the standard forms required by the clause; and
  - 52.228-16, Performance and Payment Bonds—Other than Construction (NOV 2006) (DEVIATION MAY 2023), not requiring the seal when executing the standard forms required by the clause.
- B. When processing assignment of claims per FAR subpart 32.8:
- 32.802(e) allowing the use of a copy of the assignment instrument; and
  - 32.805(a), (b), (c), and (e) allowing the use of electronically signed documents and a copy of the assignment instrument.
- C. When executing novation agreements and change-of-name agreements per FAR part 42:
- 42.1204(f) allowing the use of a copy of the documents;
  - 42.1204(i) not requiring a seal on the Novation Agreement; and
  - 42.1205(b) not requiring a seal on the Change-of-Name Agreement.

## **DETERMINATION**

In accordance with FAR 1.404, I hereby authorize this class deviation to eliminate the requirement for hard copy original documents, original signatures, notarization, seals on bonds and other scenarios.

This class deviation will remain in effect until rescinded or incorporated into the FAR.

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Approved:  
Olivia J. Bradley  
Senior Procurement Executive and Director  
for Acquisition Management

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Date: