

CALIFORNIA DEPARTMENT OF GENERAL SERVICES
TITLE 2. ADMINISTRATION. DIVISION 2. FINANCIAL ADMINISTRATION
Statewide Forms Management Program
INITIAL STATEMENT OF REASONS

The Department of General Services (Department) proposes a regulation regarding the modernization of State Public-Use Forms (Forms) used to administer the business of California. Per Government Code Section 14770, the Department has oversight of the State Forms Management Program's since its inception in 1975. Over 50 years has passed, and the state has seen incredible technological advances enabling the state to develop Forms in formats other than paper. This Initial Statement of Reasons explains the purpose and necessity of using present-day means and technology to administer and manage Forms electronically and provide protections for the information collected.

[Government Code Section 14770](#) requires the director of the Department to ". . .establish and staff an activity within the department to be known as the 'Forms Management Center' for the orderly design, implementation, and maintenance of a Statewide Forms Management Program." This activity includes the study, development, coordination, and initiation of State Standard (STD) Forms (Forms of interagency and common administrative usage) which is required by [Government Code Section 14771\(a\)\(2\)](#).

[Government Code Section 14771\(a\)](#) requires the director of the Department, through the Forms Management Center to "...develop and promulgate rules and standards to implement the [State Forms Management Program]." These rules and standards include responsibilities of the Forms Management Center, State Agency Forms Management Representatives, and Department Forms Coordinators.

[Government Code Section 12274\(a\)](#) requires the head of each Agency to "...establish and maintain an active, continuing program for the economical and efficient management of the records and information collection practices of the Agency. The program shall ensure that the information needed by the Agency shall be obtained with a minimum burden upon individuals and businesses..."

The State Forms Management Program is mandatory. Its effectiveness depends on a clear understanding of the responsibilities of the Department, the operating Agencies, and the Forms Management Center, and include making use of available technology. The responsibilities derived from the statutes above were developed from good business practices, input from Forms professionals, and analysis of Forms usage. They are part of the Form Management Center's resource documents and are based on " department best business practices" for Forms programs.

PROPOSED REGULATION TEXT:

- Section 1896.460 Electronic Signatures for Forms Management

SECTION 1896.460 ELECTRONIC SIGNATURES FOR FORMS MANAGEMENT

Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

In 1999, California enacted the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.2) of Part 2 of Division 3 of the Civil Code), which provides that an "Electronic

Signature" is valid and enforceable under any law that requires a signature in any transaction between two or more persons, including a government Agency. In 2016, the Legislature amended Civil Code section 16.5 by providing that a "digital signature" authorized by Section 16.5 is one type of "Electronic Signature" that a public Agency may choose to adopt under the Uniform Electronic Transactions Act.

Digital signatures under Civil Code section 16.5 are distinct from the broader category of Electronic Signatures under the Uniform Electronic Transactions Act because digital signatures require the use of specific technology to verify the signature.

Further, where a public entity elects to use a digital signature, Civil Code section 16.5, subdivision (a) further requires that the digital signature must be: unique to the person using it; capable of verification; under the sole control of the person using it; linked to data in such a manner that if the data are changed, the digital signature is invalidated; and conforms with regulations adopted by the Secretary of State.

Put simply, where an "Electronic Signature" under the Uniform Electronic Transactions Act could be as simple as the signor's name written in cursive font, a "digital signature" under Section 16.5 requires an Electronic Signature to use technology that essentially creates a "digital fingerprint." Adobe Sign and DocuSign are two well-known examples of software that meet the digital signature criteria.

The Uniform Electronic Transactions Act (UETA), as adopted by California in [Civil Code §1633.1 et seq.](#), permits the use of Electronic Signatures by governmental entities.

In December 2020, under the authority of the Statewide Forms Management Program, the Department released [Management Memo \(MM\) 20-07](#) to require the use and acceptance of Electronic Signatures on state Forms.. This includes thousands of state Forms. State Agencies can use the information in the [Electronic Signature-Toolkit](#) to assist in their electronic signature planning and implementation efforts.

This proposed regulation requires all Forms that are designed to be completed by customers (public or private sector entities) conducting business with the State of California be available in an electronic format. Agencies shall use Electronic Signatures in place of a Wet Signature unless prohibited by law.

Specific Purpose of the Regulation

The proposed regulation makes complying with statutory requirements related to Electronic Signatures more straightforward. It also brings to the forefront Acceptable Technologies, California Code Regulations, Title 2, Section 22003, which states by what parameters and criteria an Electronic Signature is considered valid, secure, and compliant. The Department believes there may be minimal benefit to the environment by expressly allowing Electronic Signatures which may save paper and provide timely response to the residents of California.

Benefits of the Regulation

The proposed regulation will provide for more streamlined and improved processes as well as a timelier provision of a signature.. With the volume of signatures needed at any given time,

working throughout various government entities does not facilitate timely wet signatures. However, with Electronic Signature capability, there would be minimal delays for a signature.

Additionally, the transition to Electronic Signatures improves government efficiency overall. Electronic Signatures are a major part of state modernization efforts and will create efficiencies in data gathering, limiting duplication or manual processing and better information tracking. By allowing Electronic Signatures in automated workflows, the time and effort required for various approval processes will lessen, and the need for paper will be reduced.

Necessity of the Regulation

This regulation is necessary to ensure that all Forms use Electronic Signature as appropriate. The regulation is also necessary to ensure that Forms using Electronic Signatures comply with Electronic Signature regulations including Acceptable Technologies, California Code Regulations, Title 2, Section 22003. Applying Acceptable Technologies to Electronic Signatures assures Form users that Electronic Signatures are safe, secure, and valid/verifiable as to the authority certificate of signer.

Technical, Theoretical, and/or Empirical Study, Report or Documents

The Department has had two significant efforts related to Electronic Signature adoption. The first was Electronic Signature for acquisitions and second is the statewide adoption of Electronic Signatures for Forms.

In 2019, the Department adopted Electronic Signature for acquisitions and won the National Association of State Chief Administrators (NASCA) Innovations in State Government Award for Electronic Signature for Acquisitions, General Services: Procurement. The Department increased innovation, transferability, and efficiencies by making it possible to process state acquisitions using Electronic Signatures. The study is attached as Exhibit 1.

In the second effort, also in 2019, the Department began a project to require Agencies to convert Forms to PDF format to enable acceptance of Electronic Signatures. Over 4,000 Forms were converted making the return on the investment immeasurable as this conversion occurred prior to the COVID-19 pandemic. In December 2020, under the authority of the Statewide Forms Management Program, the Department released [Management Memo \(MM\) 20-07](#) to require the use and acceptance of Electronic Signatures on all state Forms.

The Electronic Signature requirements and supporting documentation were built after consultation with various Department subject matter experts and Form owners such as Forms Management, Information Security, Information Technology, and Legal Services. Additionally, the Department collaborated with stakeholders throughout the state including the State Controller's Office, Government Operations Agency, Department of Technology, General Services Workgroup, and others to ensure the success of the Electronic Signature initiative.

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The Department rejects the alternative of a manual or Wet Signature. Emergencies such as pandemics, electrical outages, and natural disasters including fires, floods, and earthquakes have changed the way the state does business. Due to the complex work and involvement of various agencies and offices throughout the state, the tracking of paper and wet signatures would inherently cause significant delays in tracking and providing services to California

residents and businesses. It is no longer a certainty that staff whose signature is needed will be in the office and readily available to manually sign a Form with a Wet Signature.

The Department also rejects the alternative option of physical mailing of Forms with a request for signature. The amount of time it takes to receive a Form in the mail and then return it signed, adds time to the signature process. Lost or rerouted mail that doesn't make it to the destination, along with other postal issues, like weather delays that impact timeliness could be a critical factor in contracts with vendors, job candidates, and pay authorizations. Lastly, the state saves a significant amount of money by reducing paper, printing, and mailing expenses.

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

Adverse Economic Impact Assessment

The Department has determined that the proposed regulatory action will have no effect on small business. These regulations make complying with statutory requirements related to Electronic Signatures more straightforward, which if anything will have a positive impact on small businesses that provide Electronic Signatures and small businesses that use Electronic Signatures to communicate and/or do business with state Agencies. Small Businesses have requested the state to move from archaic processes like wet signature and paper checks as the economy and processing delays make it difficult for small businesses to continue operations.

The federal government also encourages electronic signature. The Government Paperwork Elimination Act (GPEA) encourages federal agencies to use electronic signatures to improve efficiency.

The Electronic Signatures in Global and National Commerce Act (E-SIGN Act) provides legal recognition for electronic signatures in many cases. Agencies like the Food and Drug Administration (FDA) and the Alcohol and Tobacco Tax and Trade Bureau (TTB) have specific rules governing electronic signatures for compliance purposes. Any technology required to implement the Statewide Forms Management Program is already included in the technological standards set for the state. There is also no significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

California Code of Regulations
Addition of Subchapter 13 Forms Management to Chapter 3 of
Division 2 of Title 2 of the California Code of Regulations
Section 1896.460 Electronic Signatures for Forms Management

ECONOMIC IMPACT ASSESSMENT
(Government Code Section 11346.3(b))

California Statewide Forms Program – Use of Electronic Signatures

The proposed regulations clarify that state departments shall use electronic signatures on statewide forms and that those signatures meet existing legal and security standards. This clarification aligns the Statewide Forms Program with current technology practices and ensures consistency with state and federal laws governing electronic records and signatures.

The purpose of the clarification is to provide departments with clear authority and guidance on the use of electronic signatures, reduce ambiguity in form-processing procedures, and support more efficient and accessible form submission practices. The clarification does not impose new requirements on businesses or individuals and does not create new costs for state agencies as most state agencies have moved in this direction since the start of the 2020 Pandemic.

Creation or Elimination of Jobs within the State of California

The proposed regulations are not expected to create or eliminate jobs in California. The clarification simply affirms the permissibility of electronic signatures on statewide forms and does not require new staffing, operational changes, or additional workload for public or private entities.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed regulations will not result in the creation of new businesses or the elimination of existing businesses. The clarification does not impose new obligations on the private sector and does not affect business operations, costs, or market conditions.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California

The proposed regulations will not impact the expansion or contraction of businesses in California. Because the clarification applies only to state form-processing procedures and does not impose requirements on businesses, no economic effect on business growth or reduction is anticipated.

Benefits of the Regulations:

The proposed regulations provide several non-economic benefits, including:

- Increased clarity and consistency in the use of electronic signatures on statewide forms
- Improved efficiency in form processing for state agencies
- Enhanced accessibility and convenience for individuals submitting forms
- Alignment with modern technology practices and existing legal standards

These benefits support improved government operations without creating economic impacts on the public, businesses, or state agencies, and generally these entities have pushed for the allowance of electronic signatures as it relieves some of the administrative related burdens.