

## **Part I Chapter 31 Contract Signatures**

### **A. General.**

1. All contracts must be signed by both the contractor and the purchasing agency. All contracts must be approved for form and legality by the Office of General Counsel and the Office of Attorney General unless the form had been preapproved by those offices or delegation has been given to agency counsel to sign on behalf of the Office of General Counsel. Contracts may require other approvals as discussed in B below.
2. All bids must be signed by the bidder.
3. All proposals must contain a signature binding the offeror to its terms.

### **B. Commonwealth Signatures.**

1. **Legal Requirement.** In order for a contract to be binding upon the Commonwealth it must be signed by:
  - a. **The purchasing agency.** The agency head is statutorily authorized to sign for the agency. Signature authority may be delegated to other agency officials and employees. Such delegations must be approved and processed in accordance with [Management Directive 205.4, Delegation of Authority to Sign and Delegation to Authorize SAP Payments](#).
  - b. **The Office of General Counsel.** For those forms that have been preapproved by the General Counsel or Deputy General Counsel, or where delegation has been given by the Office of General Counsel, the agency chief counsel is delegated authority to approve such contracts on behalf of the Office of General Counsel. Agency chief counsel may further delegate the authority to other attorneys in his or her office.
  - c. **The Office of Attorney General.** For those forms that have been preapproved by the Office of Attorney General, no signature approval of each individual contract by the Office of Attorney General is required.
  - d. **Agency Comptroller.** The agency comptroller, on behalf of the Office of the Budget, signs contracts to encumber sufficient funds for payment of all invoices under the contract. The agency comptroller also signs all contracts for services for:
    - (1) Fiscal responsibility and budgetary appropriateness,
    - (2) Availability of funds.
  - e. **State Treasurer.** The State Treasurer must approve all Department of General Services statewide requirements contracts in excess of \$1,000,000 (as adjusted) based upon estimated requirements.

**2. Type/Method of Commonwealth Signature.**

- a. The purchasing agency copy of the contract must contain the original signature of the contractor and the purchasing agency. Photocopies of the signatures or stamped signatures may be used for other copies of the contract.
- b. The signatures of the Office of General Counsel, Office of Attorney General, agency counsel, agency comptroller and State Treasurer may be stamped or photocopied.
- c. An electronic signature, as defined in this handbook, shall be deemed to be an original signature.

**C. Bidder/Contractor Signature Requirements.**

**1. Legal Requirement.** In order for a bid, proposal, or contract to be considered valid, it must be properly signed by the contractor. For a competitive procurement, a bidder or offeror should not be given an opportunity to sign its bid/proposal after bid opening/proposal receipt time and date. If the bid documents contain no bidder signature, the bid must be rejected. If a proposal contains no offeror signature, the proposal must be rejected.

**2. Reason for Requirement.**

- a. Makes the offer firm and binding.
- b. Without a proper signature, obvious problems of proof and substantive law could present themselves should a dispute arise.
- c. Facilitates the process.

**3. Type/Method of Signature.**

- a. **General.** A person may adopt as his or her signature anything he or she cares to identify as such, so long as there is intent that it be his or her signature.
- b. **Photocopies or Facsimile Signature.** If the signature page does not contain an original signature, the bid will be acceptable if it includes a photocopy or facsimile copy of a signature page, which has been properly signed.
- c. **Stamped Signature.** A stamped signature will be acceptable if it indicates that the contractor intends to execute the bid in this manner and the contractor provides written verification that the person who affixed the stamped signature had the authority to affix the signature on behalf of the person identified by the stamp.
- d. **Typewritten Name.** The typewritten name of a person over the signature line on the signature page, with no signature on the line

itself, is considered a signature. The presence of the typewritten name under the line shows that the contractor did not intend it for his or her signature.

- e. **Electronic Signature.** An electronic symbol (including a printed name) or a security procedure that verifies that the contract, bid or proposal has been executed, adopted, or agreed upon by a person with the intent to sign the contract. An electronic signature qualifies as a signature.

- 4. **Proper Signature.** It is the responsibility of the purchasing agency and its counsel to determine if the proper bidder/contractor signatures have been affixed to the bid/contract. The following are guidelines ONLY.

- a. **When the Bidder/Contractor is an Individual.**

- (1) **Signature by Owner.** If the bid/contract is signed by the individual owner, the execution is proper without any additional signature or document. If the company's name is different than the individual's name, the signature page indicates that the individual who signed the signature sheet is, in fact, the owner. While the signature of a witness provides some evidence that the individual whose signature appears on the bid/contract did, in fact, sign the bid/contract, the witness' signature is not required in order for the bid/contract to be acceptable.

- (2) **Signature by Someone Other than the Owner.** If the bid is signed by someone other than the owner, a copy of the power of attorney from the owner authorizing the individual to sign bids/contracts on behalf of the individual, must be either attached to the bid or be on file with the purchasing agency. If the power of attorney is not attached or on file with the purchasing agency, a copy of the power of attorney may be obtained from the company. If the power of attorney is dated after the bid opening, the power of attorney must indicate, not only that the individual has the authority to sign bids/contracts on behalf of the individual, but that the individual had such authority at the time that the bid/contract was signed. If a person did not have the authority to sign the bid on or before bid opening time and date, then the bid cannot be accepted since it was not a binding bid at the time of bid opening. The bidder may not sign a new signature sheet after bid opening time and date.

- b. **When the Bidder/Contractor is a Partnership.**

- (1) **Signature by Partner.** If the bid/contract is signed by a partner, the execution is proper without the need for any additional signatures or documents. If the partnership is a limited partnership, only a general partner is authorized to sign on behalf of the partnership. While the signature of a witness

provides some evidence that the individual whose signature appears on the bid/contract did, in fact, sign the bid/contract, the witnesses' signature is not required in order for the bid/contract to be acceptable. If the bid/contract is signed by a partner, the title "partner" should appear below the name and signature of the partner. If it is signed by a general partner for a limited partnership, the title "general partner" should appear below the name and signature of the partner.

- (2) **Signature by Someone Other than a Partner.** If the bid/contract is not signed by a partner, then a copy of the power of attorney from one of the general partners authorizing the person to sign the bid/contract, must be attached to the bid/contract or be on file with the purchasing agency. If a power of attorney is not attached to the bid/contract or is not on file with the department, the partnership may provide a power of attorney to the department provided that the individual who signed had the authority to sign for the partnership at the time that the bid was submitted. If the power of attorney is dated after the bid opening time and date, the power of attorney must specifically state that the individual who signed the bid had the authority to sign at the time that the bid was submitted. If the individual did not have the authority to sign at the time that the bid was submitted, then the bid is not acceptable.

**c. When the Bidder/Contractor is a Corporation.**

- (1) **Statutory Presumption.** If the bid/contract is signed by the president or a vice president and a secretary, assistant secretary, treasurer, or assistant treasurer, the execution is proper and no additional signature or document is required. The Pennsylvania statute is quite clear on the specific titles of the individuals who must sign on behalf of the corporation without any other evidence of signature authority. Substitutions are not permitted. For example, the signatures of two vice presidents are not an acceptable alternative; a chief executive officer cannot sign for the president; and a comptroller's signature cannot be substituted for a secretary's signature.
- (2) **Actual Authority.** If the bid or contract includes a copy of (or if the agency has a copy on file) a corporate resolution authorizing the individual(s) to sign the bid/contract on behalf of the corporation, then execution is proper since the individual has actual authority to sign on behalf of the corporation. If a corporate resolution is not attached to the bid/contract or is not on file with the purchasing agency, it may be obtained from the corporation provided that the individual who signed the bid had the authority to sign the bid at the time the bid was submitted. If the corporate resolution is dated after bid opening date, it must specifically state that the individual who signed the bid

had the authority to sign the bid on behalf of the corporation at the time the bid was submitted.

- (3) Actual Authority – Delegation.** If someone other than one of the individual(s) authorized by a corporate resolution signs a bid/contract, the signature may still be valid if the corporate resolution authorizes an officer not only to sign bids/contracts on behalf of the corporation, but to delegate his or her signature authority to others within the corporation. In the case of delegated authorization, the bidder/contractor must furnish a power of attorney, letter, or other document signed by the officer named in the corporate resolution stating that he or she has delegated his or her signature authority to the individual who signed the bid/contract.
- (4) Apparent Authority.** If someone other than the president or vice president signs on behalf of the corporation, or if the president's or vice president's signature is not attested to by the corporate secretary, assistant secretary, treasurer, or assistant treasurer, and the agency does not receive a copy of a corporate resolution or a copy of a corporate resolution and a delegation which provides proper evidence of signature authority, then the purchasing agency and its counsel must determine if the individual signing the bid or contract had apparent authority to sign it.
- (5) Corporate Seals.** The affixation of a corporate seal shall not be necessary for valid execution of a contract or bid.

**d. When the Bidder/Contractor is a Limited Liability Company ("LLC"):**

- (1) General Rule.** The bid/contract should be signed by a member of the LLC. A member managed LLC is treated as a form of partnership and members are deemed to be general partners with the power to manage the business and affairs of the LLC.
- (2) Manager – Managed LLCs.** For manager-managed LLCs, the bid/contract should be signed by the manager. The certificate of organization may provide that management of an LLC shall be vested, to the extent provided in the certificate of organization, in one or more managers. A manager-managed LLC is treated as a form of limited partnership. Managers have the authority of general partners and members are deemed to be limited partners.

**e. When the Bidder/Contractor is Another Governmental Agency or Instrumentality.** A contract with another governmental agency or instrumentality shall show the name of the governmental agency or instrumentality as the contractor. The contract should be signed by the person or persons authorized by statute to execute contracts on

behalf of the governmental agency or instrumentality or specified by their resolution.

**D. Invitation For Bids/Request For Proposals/Contract Provision.**

- 1.** All contracts, IFBs, RFPs and other solicitation documents should include a provision that states that the contract will not be effective or a legally-binding contract until: 1) it has been fully executed by the Commonwealth; 2) all approvals required by Commonwealth contracting procedures have been obtained; and 3) the fully-executed and approved contract has been sent to the contractor.
- 2.** Where a purchasing agency decides to send, receive and/or accept procurement documents electronically, the agency should specify in the procurement documents:
  - a.** The manner and format in which the electronic documents will be created, sent, received and stored.
  - b.** The type of electronic signature required.
  - c.** The manner and format in which the signature must be affixed to the electronic document.
  - d.** The identity of or criteria that must be met by the bidder, offeror or contractor submitting the electronic document.
  - e.** The Department of General Services has developed several forms that include appropriate language authorizing the electronic submission of bids.

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**References:**

- 1.** [Management Directive 205.4, Delegation of Authority to Sign and Delegation to Authorize SAP Payments](#)