



Project bank accounts: signing requirements during COVID-19 - CPN 2/2020

Purpose

1. This construction policy note (CPN) advises on a change to signing trust documents for project bank accounts (PBAs).

Key message

2. An electronic signature may be used in place of a “wet” signature for signing trust documents in PBAs during the COVID-19 pandemic.

Timing

3. This CPN applies with immediate effect and until 30 June 2020; it will be subject to review by then.

Target audience

4. This note is intended for all relevant staff:
 - in public bodies to which [PBA policy applies](#) (section 1 and 7-11).
 - in all other bodies that can award public contracts to which a PBA could be applied.
 - in other organisations providing procurement routes for the construction of public buildings and infrastructure.

Introduction

5. In light of measures taken to mitigate the COVID-19 pandemic, Scottish Government recognises that current restrictions may militate against the normal logistics necessary to execute a trust deed in good time to open a PBA and to add subcontractors to new PBAs or those which have already been opened.

Signatures

6. Contracting authorities should henceforth give consideration to expediting PBA administration by suspending requirements for “wet” signatures in PBA trust documents in favour of an electronic facsimile or scan of the appropriately-

designated signatory's true manuscript. This should be undertaken on the clear understanding of both parties as follows:

- the change relates both to PBAs which are already open and those which are opened while this CPN is extant.
- the suspension of the need for "wet" signatures and any reintroduction of same does not affect the parties' rights and obligations either under the contract or the trust agreement, nor the interpretation of the terms in both.

Standards

7. Contracting authorities should ensure as far as reasonably practicable that their chosen mode of electronic signature conveys the authority and purpose normally associated with the designated signatory's "wet" signature and, by association, validates the document bearing it. They should also require the contractor to meet this standard in their chosen mode of electronic signature.
8. For any party to the trust agreement (for example truster, trustee, beneficiary), characters typed directly from keyboard to document to form the designated signatory's name should not be regarded as a satisfactory mode of electronic signature.
9. Contracting authorities should assure themselves that no changes to the trust documents have arisen from electronic processes for transmitting and signing the PBA trust documents upon return from the contractor. They should also seek assurance from the contractor that such processes used to add additional parties (for example, subcontractors becoming beneficiaries) will likewise not be used to change the substantive terms of the trust agreement received initially by the contractor from the contracting authority.

Dissemination

10. Please bring this CPN to the attention of all those staff involved in the procurement of relevant construction projects.

Contact

11. If you have any questions about this CPN please contact:

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