



**Rural Development**

Joaquin Altoro  
Administrator

Rural Housing Service  
1400 Independence Ave, SW  
Room 5011-S  
Washington, D.C. 20250

**TO:** All RHS MFH National Office Directors  
Rural Development

**ATTN:** Leadership Designees  
All Multi-Family Housing Program Staff  
Rural Development

**FROM:** Joaquin Altoro  
Administrator  
Rural Housing Service

**SUBJECT:** Section 514/516, Section 515, and Section 538 Multi-Family  
Housing Program Use of Digital/Electronic Signatures

**PURPOSE**

The purpose of this Unnumbered Letter (UL) is to provide guidance to all Multi-Family Housing (MFH) program staff on the use of and acceptance of electronic signatures, electronic transmission, and electronic storage of documents and forms required by Rural Development (RD), Rural Housing Service (RHS) in the Multifamily Housing (MFH) Program as it pertains to 7 CFR 3560 and 7 CFR 3565. For the purpose of this unnumbered letter, industry partners include, but is not limited to, owners of Section 514/516, Section 515, and Section 538 multifamily housing properties, management agents, lenders, and service providers.

**BACKGROUND**

The use of electronic signatures in transactions involving federal organizations is primarily governed by one or more of the following laws (E-Transaction Laws):

1. Electronic Signatures in Global and National Commerce Act (E-SIGN) Act Pub. L. 106-229 (June 30, 2000), 114 Stat.464, codified at 15 U.S.C. 7001-7006. E-SIGN encourages federal agencies to accept electronic signatures.
2. The Uniform Electronic Transaction Act (UETA), approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL) on July 23, 1999. UETA provides that when a law requires either a record to be in writing or include a signature, an electronic record or an electronic signature can satisfy that requirement, so long as the parties to the transaction have agreed to proceed electronically. There are a couple of states which have chosen not to adopt the UETA Act and may have their own state Act in place.

**EXPIRATION DATE:**  
May 31, 2024

**FILING INSTRUCTIONS:**  
Housing Programs

The program regulations at 7 CFR 3560 and 7 CFR 3565 do not expressly prohibit or consent to digital or electronic signatures. Program regulations require that signed documents are submitted to the Agency.

This unnumbered letter clarifies that the Agency will accept electronically submitted documents, which include digitally or electronically submitted signatures submitted by borrowers, grantees, borrower representatives, lenders, management agents, and any other person wishing to electronically interact with the Agency if the policies set forth in this unnumbered letter, all state, county, and local laws, and all other requirements of the Agency are met.

## **IMPLEMENTATION**

The Agency may accept all documents associated with originating or servicing direct (Section 515 and/or 514) or guaranteed loan(s) (Section 538), or grant(s) (Section 516) which are signed digitally or electronically, provided the documents are in compliance with or other federal, state or local government signatory requirements. The acceptance and use of digital or electronic signatures by lenders, borrower grantees, and tenants is voluntary and encouraged. The Agency recognizes that electronic signatures include digital signatures as a subset.

The digital/electronic signature, printed name, and date must be clearly observed when the document is viewed either electronically or if printed. Parties who chose to submit and accept digital or electronic signatures must meet the standards and requirements set forth in the ESIGN Act as well as all other applicable federal and state regulations and guidelines. Parties must still adhere to all program regulations, guidance, and agreement as usual. Parties are charged with the same responsibility of due diligence with digitally or electronically signed documents as they are with paper documents. Parties are not required to submit follow-up hard copy of original information to the Agency

### **Accepting Forms and Documents Electronically**

Unless otherwise restricted, all multifamily housing program forms and related documents may be accepted electronically when received via:

- Email, with attachments
- Fax
- Grants.gov
- Cloud Vault
- Any other existing or future electronic system supported by the Agency (i.e. MINC – Management Interactive Network Connection)

Parties are not required to follow up with an original paper document or signature when forms are submitted in this manner; however, normal business practices and retention of documents are required to be followed when obtaining signatures of applicants/tenants/borrowers and maintaining electronic documents.

The burden is on the borrower, borrower representative, lender, or grantee to confirm Agency receipt of electronically funded documents by program deadlines and provide documentation of submission upon Agency request.

### Accepting Electronic and Digital Signatures

The Agency official will review to determine if a form has been properly electronically or digitally signed by the appropriate individuals. Unless otherwise restricted, acceptable electronic or digital signatures include:

- Scanned or Faxed images of documents containing handwritten signatures; and
- Digital signatures that provide a method to confirm the authenticity of the signature\*, which may include but are not limited to:
  - have been emailed by a party known to the Agency, from a recognized email address;
  - identify the individual signing the document; and
  - identify the software vendor used to execute the digital signature (such as DocuSign)

\*Note: This can be accomplished by the sender providing an electronic file containing a validation indicator (such as a pop-up box), or through an additional document with verification information such as authentication details or an access password, signer information, document tracking references, IP addresses, etc.

Unacceptable electronic signatures include:

- digital images of an individual's signature (jpg or similar) copy and pasted in the signature block, without any digital signature validation; and
- typed names or initials in the signature line of a document, unless digital signature validation as described above.

### Retention of Electronic Documents and Reviews

Refer to Multifamily Housing handbooks and RD regulations for record retention requirements. Retention requirements are the same for both paper and electronic documents and records.

For reviews conducted by RD, owner's and management agent's files may continue to be provided in paper format, if owners and management agents prefer. When available, reviews may also involve reading files electronically. In either instance, the files must be provided in compliance with RD's or other federal, state or local government security access requirements and personally identifiable information must be protected.

### Regulatory Restrictions

Sections of RD's regulations for multifamily housing programs require some notices to tenants be sent by first class mail, delivered directly to tenants or their units, or posted in public spaces. In these situations, electronic communication (email, posting on a website, etc.) **does not** satisfy the requirement, but may be provided through electronic communication **in addition to** the regulatory requirement. Owners, management agents, and industry partners must comply with current and future regulatory requirements. Regulatory requirements supersede the administrative requirements provided in this unnumbered letter and other RD Multifamily Housing handbooks and notices.

If the owner or management agent maintains electronic tenant files, they must scan and store an electronic file of the tenant notification in the tenant's file, when the tenant is provided a notice in paper form.

**Enforceability**

If any electronically signed document eventually is deemed unenforceable (e.g., the promissory note, mortgage or deed of trust, financial assistance agreement, etc.) and is connected to any fraud, misrepresentation or negligent servicing, the lender/borrower bears the risk that any loss claim submitted in relation with the unenforceable document will be denied or reduced in accordance with applicable regulations. The lender's failure to collect on the promissory note or enforce the security instrument because of its electronic signature will be treated as negligent servicing under Rural Housing Service regulations. The borrower or grantee bears the consequences of unenforceable documents in the case of grants or direct loans.

Failure to comply with any Federal statute or regulation could result in the denial of a loan guarantee, claim, direct loan, grant, withdrawal of lending authority and/or debarment from Federal programs.

**Contact Information**

If you have any questions regarding the guidance in this UL, please contact Deb Reed [deb.reed@usda.gov](mailto:deb.reed@usda.gov), Policy and Budget Branch, MFH Asset Management Division.