



April 06, 2020

Class Deviation CD-2020-05

MEMORANDUM FOR CONTRACTING ACTIVITIES

FROM: JEFFREY A. KOSES
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

SUBJECT: FAR and GSAR Class Deviation - Flexibilities for Signatures and Seals on Bonds

1. Purpose.

This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) and General Services Acquisition Regulation (GSAR) to allow vendors and sureties the use of electronic signatures in lieu of manual signatures and eliminates the requirement for any seals for bonds.

2. Background.

FAR Subpart 28.1 prescribes requirements and procedures for the use of bonds, alternative payment protections, and all types of bid guarantees. In addition, GSAM Subpart 528.1 provides supplemental bond guidance, including for construction and building service contracts.

FAR 28.106-1, *Bonds and Bond-Related Forms*, identifies forms that shall be used per the form instructions, when a bid bond, performance bond, payment bond or an individual surety is required. These forms instruct corporations to affix their corporate seals to the form. Many states use a raised seal, and a couple states use an adhesive seal.

Furthermore, GSAR 528.202 requires corporate surety bonds to have a manual signature and an affixed corporate seal in addition to the contracting officer (CO) manually verifying acceptability of the surety bond with the written statement "Acceptability of Bond Verified" and the CO's signature "on the bond or properly identified attachment."

Unfortunately, as written, the stated procedures preclude alternatives to affixing corporate seals and manual signatures to execute a bond. Neither requirement is conducive nor beneficial during times of emergency or crisis such as those presented by the Novel Coronavirus 2019 (COVID-19) pandemic.

This class deviation will allow vendors and sureties the use of electronic signatures in lieu of a manual signature and eliminates the requirement for any seal when a bid bond, performance or payment bond, or an individual surety is required.

3. Authority.

This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404. This deviation is issued following consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).

4. Deviation.

See Attachment A for the changes in the FAR text as revised by this deviation. See Attachment B for the changes in the GSAR text as revised by this deviation.

5. Effective Date.

This deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR and GSAR.

6. Point of Contact.

Questions regarding this class deviation may be directed to GSARPolicy@gsa.gov.

Attachments

Attachment A – Line-In/Line-Out: FAR Text
Attachment B – Line-In/Line-Out: GSAR Text

ATTACHMENT A

FAR DEVIATION LINE-IN/LINE-OUT TEXT FOR CLASS DEVIATION CD-2020-05

FAR Baseline: FAC 2020-05 effective 03/30/2020

- Additions to baseline made by deviation are indicated by **[bold text in brackets]**
- Deletions to baseline made by deviation are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding and following parts or sections
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a section and subsection or subsection

Part 28 - Bonds and Insurance

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[28.002 Policy.

For purposes of this part, electronic, mechanically-applied and printed signatures, seals and dates may be used and shall be considered original signatures, seals and dates, without regard to the order in which they were affixed.]

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28.101-3 Authority of an attorney-in-fact for a bid bond..

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~~(e) For purposes of this section, electronic, mechanically-applied and printed signatures, seals and dates on the power of attorney shall be considered original signatures, seals and dates, without regard to the order in which they were affixed.~~

[(c)] ~~(d)~~ * * *

[(d)] ~~(e)~~ * * *

[(e)] ~~(f)~~ * * *

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28.106-1 Bonds and bond-related forms.

The following Standard Forms (SF's) and Optional Forms (OF's), shall be used, except in foreign countries, when a bid bond, performance or payment bond, or an individual surety is

required. The bond forms shall be used as indicated in the instruction portion of each form[, **except that a seal is not required**].

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ATTACHMENT B

GSAR DEVIATION LINE-IN/LINE-OUT TEXT FOR CLASS DEVIATION CD-2020-05

GSAM Baseline: Change 106 effective 02/19/2020

- Additions to baseline made by deviation are indicated by **[bold text in brackets]**
- Deletions to baseline made by deviation are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding and following sections
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a subsection

Part 528 - Bonds and Insurance

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Subpart 528.2 - Sureties and Other Security for Bonds

~~528.202 Acceptability of corporate sureties.~~

~~Corporate surety bonds must be manually signed by the Attorney in Fact or officer of the surety company and the corporate seal affixed. The contracting officer may waive failure of the surety to affix the corporate seal as a minor informality. (See B-184120, July 2, 1975, 75-2 CPD-9.)~~

~~528.202-70 Acceptability of bonds and sureties.~~

~~Verify the acceptability of the surety on a bond by placing the words "Acceptability of Bond Verified," and sign immediately thereunder, on the bond or on a properly identified attachment. Retain the bond with the original of the contract. The contracting officer may use the Notice to Proceed to notify the contractor that the bond(s) has been accepted.~~

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