

Adapted by the Board on 8/5/13(revised 12/13/13) at their meeting in Riggins ID

## ELECTRONIC DOCUMENTS White Paper

While electronic signatures have been permitted in Idaho for some time, the use of these signatures has increased over the past several years with more and more Agencies having Jurisdiction (AHJ) and clients requiring them of the design community every day. These documents, while 100% digital, still meet the requirements of Idaho Code 54-1215 (3), 54-1223 (5)-(6), 54-1235 (1), 54-1303, and 54-1309 (1) and IDAPA 10.01.01.014.02, 10.01.02.005.01, 10.01.02.005.03, and 10.01.03.011, so long as they are an electronic signature as defined in Idaho Code 28-50-102 (8) and have the security procedure as defined in Idaho Code 28-50-102 (14) present.

This paper will try to clarify these sections of code and rules. If there is a conflict between this paper and the sections of code and rules, the code and rules take priority.

Imagine a few years ago before the proliferation of personal computers and all these digital tools that are available today. The design professional would prepare the design and work with a draftsman to put that design into a drawing. When the drawing and associated specifications were correct to the intent of the design professional, that professional would then wet seal, sign and date the documents. The documents would then be transported to a reproducing facility and copies would be made for distribution. This method of duplication is still authorized, just as before. The copies may be digital scans of the original work, just like the blueprints of old. The seal, signature and date may be reproduced, just as before, where the original seal, signature and date is reproduced with the rest of the documents. As an alternative, to control the "copies" that are released to the public, the original may be retained in the design professional's office. The information as to the location of the original signed, sealed and dated documents must be provided on the copies with a notation similar to "original signed by and "date original signed" "on copies and the information that the "original documents are held at Joe Smith, PE's office, 132 Anystreet, Anytown, ID 83799" (See Idaho Code 54-1215 (3) (c) ). You can make copies of the original through digital scans of the documents just like you can make paper copies or blueprints of the original. *These copies, whether electronic or paper copies or blueprints, are nothing more than a reproduction of the original – copies. They are not originals and do not contain an original digital signature.* Copies of these electronic digital scans of documents can be stored, transmitted, or reproduced - as long as the native format is converted into a TIFF, JPEG, BMP, flattened PDF, or other such format including photocopies and prints where the entire document, including the seal and signature, are a single graphic entity.

If the AHJ or client demands the original signature on the submitted documents, that original signature can be either of the form of a wet seal, signature and date as stated in Idaho Code 54-1215 (3) or a digital signature that complies with Idaho Code 28-50 et. seq., in particular, as defined by Idaho Code 28-50-102 (8) with the Security procedure as defined in Idaho Code 28-50-102 (14) present. In order to comply with the statutes and rules, a digital signature must have the following properties:

1. It must be unique to the licensee;
2. It must be capable of independent verification;
3. It must be under the exclusive control of the licensee;
4. It must encrypt the electronic document or "record" such that a recipient can determine if the document or "record" was the document or "record" that was signed by the licensee; and
5. It must encrypt the electronic document or "record" in such a manner the recipient can determine if the original document or "record" was altered since it was made.

The format of the final documents will depend on the requirements of the recipient. The licensee will need to meet the requirements of the law, while still trying to match the requirements of the recipient.

Definitions are as shown in Idaho Code 28-50-102, pertinent sections are reproduced here for convenience:

- (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- (6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (7) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.
- (8) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality or other political subdivision of a state.
- (10) "Information" means data, text, images, sounds, codes, computer programs, software, databases or the like, but shall not include the electronic transfer of funds to or from the state.
- (11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.
- (12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.
- (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

The seal, as noted in Idaho Code 54-1215 (3) (a), may be a rubber stamp, crimp or electronically generated image. Images of Seals may be digitized, scanned or electronically reproduced per Idaho Code 54-1215 (3). These images may be reproduced and placed on plans, plats or documents in either an electronic or hard copy/wet seal form. The design of these seals must conform to the design specified in Idaho Code 54-1215 (3) (e). The handwritten wet signature and date or original digital signature with the security procedure in place is then placed on the final document either across the seal or adjacent to it. A standard reproduction signature or facsimile signature is not permitted. By copying a wet seal, signature and date, and then placing that copy on other documents, one would be violating Idaho Code 54-1215 (3) (a).

Copied documents (either digitally scanned or blueprints or photocopies) are just that – copies. You may reproduce copies of original work for bid sets, sets for inspectors, or for whatever. They are not the original signed work. They will not have current changes in place, but will simply be copies of an original work as of the date and time they were made. Similarly, scanning an original document with the wet signature and date and seal, will provide electronically distributable copies. These copies should be stored in a protected format that will make it difficult to alter – such as: TIFF, JPEG, BMP or other “picture” formats where the entire document, including the seal and signature, are a single graphic entity. Formats that can be protected are: PDF, DWF or other formats where the licensee enables protection and where modification of the document is under his exclusive control. If a PDF, DWF or other similar document format has been “flattened”, such that all layers of text, graphics and content are merged into a single graphic entity, then protection is not required.

A digital signature is one that has a security procedure in place and fixes or locks an electronic document or “record.” A final document or a preliminary document as described in Idaho Code 54-1215 (3) (b) must have either an original wet signature, seal and date or a digital signature. This type of electronic document can be stored, transmitted, or reproduced only with the Digital Signature intact. Copies of this type of electronic document can be stored, transmitted, or reproduced as long as the native format is converted into a TIFF, JPEG, BMP, flattened PDF, or other formats where the entire document, including the seal and signature, are a single graphic entity.