Office of the Comptroller One Ashburton Place 9th Floor Boston, MA 02108	Commonwealth of Massachusetts	Operational Services Division One Ashburton Place 10th Floor Boston, MA 02108
Joint Policy:	**Procurement/Contracts**	
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Contractor Authorized Signatory Listing (CASL)

Executive Summary

This Chapter is issue jointly by the Office of the Comptroller (CTR) and the Operational Services Division (OSD) and outlines the requirements for maintaining a **Contractor Authorized Signatory Listing (CASL)** for any Contract executed by the department. This policy applies to all state departments within the Judiciary, Executive and Legislative Branches (see link for Contracts – Departments by Procurement Levels I, II and III). A **Contractor Authorized Signatory Listing (CASL)** must be obtained for any contract regardless of value.

Submitting a document to final status in MMARS will be interpreted as the department head's certification that the document and all underlying supporting documentation are supported by sufficient authorized funds and comply with Comptroller policies and procedures and other requirements of law (including procurement requirements, legislative requirements, etc.). This certification includes the requirement outlined in this policy that the department is responsible for verifying the authority of any contract signatory to sign a contract (both for the department and the contractor) and the authenticity of the signature on a contract (the signature was actually made by the authorized signatory and not a designee). Therefore, a department may not submit any contract related MMARS document to final status unless the contract signatories have been validated in accordance with this policy.

Considerations

The Office of the Attorney General (AGO) represents state departments in the event of contract litigation. In order to be able to adequately represent a state department, the Office of the Attorney General has requested that verification of contractor signature authorization be attached to every contract as part of the contract file. Verification that a contract is executed by authorized signatories of both the contractor and the department is essential to ensure that a contract is legally valid, and the full protections of the Commonwealth boilerplates are in place to protect the Commonwealth and the department.

Policy

In order for a contract (including grants, leases, ISAs, subsidies, etc.) to be legally valid, it must be executed by an authorized signatory of both the department and the contractor. As requested by the Office of the Attorney General (AGO), a department is required to take reasonable steps to verify that a contract, including the applicable *Commonwealth Terms and Conditions*, has been executed by an authorized signatory of the contractor and that the signature that appears on the contract was actually

made by the authorized signatory and not a representative. An authorized signatory is an individual who is legally authorized to sign on behalf of the contractor and legally bind the contractor.

> It must be standard business practice for departments to verify that the signature that appears on a contract was made by an individual authorized to execute a contract on behalf of the contractor (regardless of the contract amount).

Departments need to establish internal procedures for obtaining and filing **Contractor Authorized Signatory Listing (CASL)** for contractors. A department may use the "**Contractor Authorized Signatory Listing (CASL)**" issued by CTR or any comparable form provided the contractor certification language appears on this comparable form.

> It is strongly recommended that Departments obtain authentication of signature for the signatory who submits the Contractor Authorized Listing for new contractors that the department does not already have business dealings. Authentication can be made for corporations by certification by a corporate clerk on the 2nd page of the **Contractor Authorized Signatory Listing (CASL) Form**, or by requiring some form of proof of authority.

At a minimum, a list of authorized signatories for a contractor must be attached to the **record copy** of each contract or contract amendment filed at the department. This listing may be obtained ***once per contractor*** (as part of either the procurement or contract execution process) and photocopied and attached to each contract the department has with that contractor until the listing is updated. The listing ***DOES NOT*** have to be attached to a photocopy of any contract submitted to CTR or OSD for PEND review and processing. Review of proof of contractor signature authorization will be made during Quality Assurance and other post-audit reviews. Departments will be reviewed or audited based upon the policies identified in this chapter.

The contractor will be responsible for ensuring that the listing of authorized signatories is current, since the department will rely on this listing for signature verification of contracts with the contractor. The contractor is responsible for immediately notifying any Commonwealth department with which it does business whenever the individuals listed on this Listing change by providing an updated listing (by mail or fax).

Identity Theft and Retaining Proof of Contractor Authorized Signatures

Due to concerns about identify theft, the actual signature of the authorized signature should not appear on the **Contractor Authorized Signatory Listing (CASL)**. Instead, just the name and title of authorized signatories and any limitations in signature authorization. If the department wants to verify the actual signature that appears on the contract is made by the authorized signatory, and not a representative, the department may request a notarized signature on the contract or other proof of signature. Proof of signature should not be included as part of any public records request, since this information is of a "highly personal nature" and would not be considered a public record and should not be disclosed. If included in the contract file, any proof of signature (other than a notarized signature on the contract) should be retained in a confidential folder or clearly marked "Confidential – Do Not Reproduce or Disclose this information as a public record."

Electronic Submissions of Contractor Authorized Signatory Listing (CASL)

Although Massachusetts has adopted the Uniform Electronic Transactions Act (UETA), which authorizes parties to voluntarily agree to electronic transactions, the Commonwealth has not yet established the

requirements for electronic contracts. For now, the only electronic signatures that can be used related to contracts are limited to electronic approval of MMARS documents supporting a contract.

Departments may not enter into electronic contracts, use electronic signature or otherwise maintain electronic records except as authorized in accordance with UETA, as follows:

- **Executive Departments**. The supervisor of records, the records conservation board, and the information technology division, shall determine whether, the extent to which and the manner by which each executive department agency shall create, maintain and preserve electronic records, signatures and contracts and the method of converting paper government records to electronic format.
- **Non-Executive Departments**. The supervisor of records and the records conservation board shall determine whether, the extent to which and the manner by which each government agency not in the executive department, nor in the legislative or judicial departments, shall create, maintain and preserve electronic records, signatures and contracts and the method of converting paper government records to electronic format.

These policies will be updated once standards have been developed.

The **Contractor Authorized Signatory Listing (CASL)** must be complete, printed, executed by an officer of the Contractor and **attached to the record copy** of the contract in the Contract file.

The originals of the "**Contractor Authorized Signatory Listing (CASL)**" (or comparable form) may be maintained by the department in a central file provided a copy is physically attached to each contract or contract amendment. The one exception to this rule applies to filing of the *Commonwealth Terms and Conditions (T&C)* or the *Commonwealth Terms and Conditions for Human and Social Services (T&C HHS)*. The **Contractor Authorized Signatory Listing (CASL)** does not have to be attached to a *T&C* or *T&C HHS* when filed with the Office of the Comptroller.

The Commonwealth reserves the right to publish the names and titles of authorized signatories of contractors. The contractor's acceptance of any payment under a contractor will automatically waive any claim that a Contract or Amendment, including the *T&C* or *T&C HHS*, is void or voidable because it was not executed by an authorized signatory of the contractor.

Contractors include corporations, partnerships, sole proprietorships, other non-public entities and public entities (cities, towns, authorities). This Listing does not have to be completed by Individual contractors (Contract Employees, Independent contractors or Sole Proprietors). A **Contractor Authorized Signatory Listing (CASL)** is not required for Interdepartmental Service Agreements (ISAs) since authorized signatories are recorded as part of the Department Head Signature Authorization process.

For Contract Amendments, departments are responsible for verifying that the contractor signatory on the amendment appears on the "**Contractor Authorized Signatory Listing (CASL)**" on file with the Contract. If the signatory on the amendment does not appear on that listing, then the department must either obtain a new listing for that contractor with the new authorized signatory, or if the individual who executed the amendment for the contractor is not an authorized signatory, the amendment must be re-executed by an authorized signatory of the contractor.

However, submission of a *T&C* or *T&C HHS* and submission of a VCC or VCM in MMARS will be considered the department's certification that staff have obtained a **Contractor Authorized Signatory Listing (CASL)** for that contractor and maintain this document in relevant contract files. In addition, a VCC or VCM submission will be considered the department head's certification that staff has verified that the *T&C*

or *T&C HHS* has been executed by an authorized signatory of the contractor and that the signature was actually made by the authorized signatory and not a representative.

Departments may require contractor verification of signature authorization and authenticity of the actual signature. Verification of authority for corporations may include requiring a copy of a vote by the official body of the contractor, or the corporate clerk that the listed individuals (or any persons holding the title(s) identified) are authorized to execute contracts and other legal documents on behalf of the contractor and otherwise legally bind the contractor in all business interactions with the department. Verification of authenticity of the signature may include requiring a notarized signature by the contractor to compare with any Contract or Contract Amendment (including the *T&C* and *T&C HHS*) to ensure that the contract signature is witnessed and the identity of the individual has been verified.

Even though the burden in on the contractor to ensure that the Listing is current, the department should make an effort to remind the contractor to update the listing periodically (such as whenever a contract amendment is being negotiated), and immediately if authorized signatories on the listing have been terminated, or signature authority has been rescinded. It is imperative that the contractor inform the department whenever an individual listed on the contractor's authorized signatory listing leaves the contractor's employ or has signature authorization rescinded, to ensure that these individuals do not misdirect funds or otherwise disrupt contract performance.

Signature by Authorized Signatory on Contract Validates Acceptance of Commonwealth Terms and Conditions

Signature on a Standard Contract Form by an authorized signatory shall operate as a legal validation and acceptance of the Commonwealth Terms and Conditions even if the T/C or T/C *HHS* was not executed by an authorized signatory of the contractor. Acceptance of any payment shall waive any claim by a Contractor that a contract, including a *Commonwealth Terms and Conditions* or *Standard Contract Form* was not executed by an authorized signatory of the Contractor.

Internal Controls

Departments will be reviewed or audited based upon the policies identified in this chapter. Please see: Internal Controls Procurement, Contracting, Bill Paying and Payroll.

Records Management

In accordance with 815 CMR 10.00: A department is the record keeper of the official record copy of the all contract documents. MMARS is the official record of the encumbrance and payment documents and will supersede any paper copies of the same information.

A department is responsible or retaining and archiving records in accordance with the disposal schedules issued by the Secretary of State Records Conservation Board. The contract/procurement file must contain, or refer to the location of, all documentation related to a procurement and resulting contract(s) including the ***Contractor Authorized Signatory Listing (CASL)***. A department is responsible for retaining and archiving contract records in accordance with the disposal schedules issued by the Secretary of State Records Conservation Board. Please see Policy Chapter on "Records Management".

Information Sources

Related Policy:

- Key State Finance Law Compliance Appointments and Responsibilities
- Department Head Signature Authorization and Electronic Signature for MMARS Documents
- Contracts Policies
- Accounts Payable Policies

- Records Management Policies
- OSD Procurement Information Center (PIC)

Legal Authority:

- Expenditure Classification Handbook;
- M.G.L. c. 7A (Office of the Comptroller); M.G.L. c. 29 (State Finance Law);
- M.G.L. c. 110F (Uniform Electronic Transactions Act); M.G.L. c. 30, § 65 (Legal Services);
- M.G.L. c. 29, § 29D (Debt Collection); M.G.L. c. 29, § 29E (Revenue Maximization);
- M.G.L. c. 30, § 27 (Revenue Receipt); M.G.L. c. 10, § 17B (Revenue Receipt); Massachusetts Constitution Article LXIII Section 1 (Revenue Receipt);
- M.G.L c. 7, § 22 (OSD – Commodities); M.G.L. c. 30, § 51; (OSD – Services) M.G.L. c. 30, §. 52; (OSD – Services)
- M.G.L. c. 29, §. 29A (Consultants) (Level III – Executive only);
- M.G.L. c. 29, §. 29B (Human/Social Services) (Level III - Executive only)
- M.G.L. c. 15A and M.G.L. c. 73 (state and community colleges);
- M.G.L. c. 75 (UMASS); General or special laws governing expenditures;
- Massachusetts Executive Orders (Level III – Executive Only);
- Administrative Bulletins (Level III – Executive Only);
- Comptroller regulations (815 CMR 2.00 10.00);
- M.G.L. c. 29, § 66 (State Finance Law Violations)
- Comm-PASS
- 801 CMR 21.00
- 808 CMR 1.00
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Attachments:

- MMARS transaction Records Management/Authorized Signature Form
- Attorney General Review Form for Attorneys Providing Legal Services
- Attorney General Policy for Prior Review of Attorneys
- Quick Reference – State Grants and Federal Subgrants
- Quick Reference – Commodities and Services
- Quick Reference – Subsidies
- Quick Reference – Interdepartmental Service Agreements (ISAs)
- Quick Reference – Interdepartmental Chargebacks
- Quick Reference – Commodities and Services, Grants, Subsidies, ISAs and Chargebacks
- Commonwealth Terms and Conditions Form
- Commonwealth Standard Contract Form
- Commonwealth Terms and Conditions for Human and Social Services (Level III - Executive Only)
- Standard Contract Form and Instructions
- Standard Contract Amendment Form
- Purchase Order for Commodities and/or Services
- Change in Contractor Identify Form (Change in business structure or contract assignment)
- Interdepartmental Service Agreement Form
- Subsidy Agreement
- For Standard Contracts for Construction (See Policy Chapters on Vertical and Horizontal Construction Contracts under construction)
- For Standard Contracts for Real Property Leasing (See Policy Chapter on Real Property Leasing Contracts – under construction)
- Contractor Authorized Signatory Listing Form
- Electronic Funds Transfer (EFT) form
- Form W-9 (Massachusetts Substitute W-9 Form (if not listed as vendor in the MMARS Vendor Customer file)
- MMARS transaction Authorization/Records Management Form
- Consultant Contractor Mandatory Submission Form

- Contacts – CTR Help Desk

REVISIONS

- November 1, 2005. Updates to reflect joint issuance of policy with OSD concurrent with launch of Procurement Information Center (PIC).
- **November 1, 2006** – Removed language referencing Knowledge Center and updated relevant links to Mass.gov/osc portal site.