



## **MHDC ELECTRONIC SIGNATURE, TRANSMISSION, AND STORAGE POLICY FOR OWNER AND AGENTS**

MHDC is implementing a policy allowing for electronic signatures on certain documents as described below. An “electronic signature” or “e-signature”) is an electronic process that indicates acceptance of and intent to sign an agreement or form. The federal Electronic Signatures in Global and National Commerce Act (“ESIGN”) and the Missouri Uniform Electronic Transactions Act set forth in Missouri Revised Code Sections 432.200 to 432.295 (“UETA”) establish the general requirements for the permissible use of e-signatures. Compliance with ESIGN and UETA is designed to ensure the validity and enforceability of a transaction involving records signed electronically with an e-signature, notwithstanding that the signature is provided in electronic format.

With the issuance of this policy, MHDC permits, but does not require, Owner/Agents (O/As) to use electronic signatures and will accept e-signatures on Eligible Program Documents (as defined below), subject to all federal, state, and local regulations and programmatic electronic signature requirements including Fannie Mae, U.S. Treasury, FHA, VA, HUD, and USDA-Rural Development as applicable. This also includes the transmission and storage of electronic documents and personal identifying information. Additionally, the O/A is responsible for ensuring investor and syndicator acceptance of the use of electronic signatures. To comply with requirements set forth in the Fair Housing Amendments Act and Section 504 of the Rehabilitation Act, entities may also be required to accept alternative methods (e.g., signature stamps) as a reasonable accommodation. O/As adopting the terms of this Policy must provide applicants and residents the option to utilize wet (i.e. original) signatures and paper documents upon request.

### **A. HUD’s Electronic Signature, Transmission and Storage – Guidance for Multifamily Assisted Housing Industry Partner**

In November 2020, HUD issued *Housing Notice 2020-10, Electronic Signature, Transmission and Storage - Guidance for Multifamily Assisted Housing Industry Partners* (<https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-10hsgn.pdf>), to provide guidance for HUD’s Multifamily Housing Industry Partners, Owners, management agents, and service providers; and HUD and Contract Administrator (CA) staff.

The Notice provides guidance on acceptable procedures for use of electronic signatures and the electronic transmission and electronic storage of documents and files. Except as excluded under regulation, the Notice pertains to all HUD forms and owner/agent (OA) created documents related to asset management, Section 8 contract renewal & occupancy policies. It is also the responsibility of the O/A to be aware of any exceptions that are excluded under 24 CFR regulations for electronic communication. Except for regulatory requirements, references to original signatures, original documents, transmission or submission of documents, and file maintenance in HUD established guidance may be implemented through electronic means. The guidance in the 2020 Notice does not apply to properties with a Section 221(d)(4) mortgage, the HOME program, or to Public and Indian Housing (PIH) programs.

**MHDC will adopt HUD’s Notice 2020-10 policy and guidance on electronic signature, transmission and storage for the Eligible Program Documents in its other affordable housing programs, as stated below, with some additional general and programmatic requirements as noted.**

## **B. O/A Implementation Requirements**

MHDC reserves the right to require “wet” signatures if in its sole and absolute discretion it determines they are necessary. O/A’s of properties being monitored by MHDC intending to take advantage of MHDC’s electronic signature policy must take the following actions:

- **MHDC Certification for Use of Electronic Signatures** (Complete and submit the Certification for Use of Electronic Signatures through MHDC’s Asset Management Reporting System (AMRS). O/As must then recertify when there is change in the owner and/or management agent or other material change to their electronic signature processes.
- **Owner/Management Policy:** Initially, and upon any change in the Owner or Management Agent Company, the O/A must develop and implement a policy and procedure for the use of electronic signatures. O/As are responsible for ensuring that their electronic signature policies also address electronic transmission and storage comply with federal, state, local, and applicable programmatic laws and requirements, including any requirements regarding protection of personally identifiable information (PII). MHDC has no liability for owner/management company electronic signature policies.
- **Agreement with Tenant to Proceed Electronically:** O/As must execute an agreement with applicants/residents to proceed electronically. A copy of this agreement must be in all resident/applicant files.
- **MHDC Request for Documents:** Hard copies of the tenant files must be provided to MHDC upon request.
- **File Format:** All tenant files must be made available in a format compatible with MHDC software.

- **Hard Copies:** The Owner/Management policy must provide an accommodation to residents who request to review and sign hard copies of documents.

### **C. Eligible Program Documents**

Generally, MHDC permits these documents to be signed electronically for the applicant/resident file:

#### **1. Tenant Documentation**

1. Tenant applications,
2. Leases,
3. Addendums,
4. Verification of income and assets,
5. Tenant Income Certification (TIC), and
6. Student status documents.

#### **2. Asset Management Compliance Forms**

MHDC's Asset Management Compliance forms located here, with the exception of forms requiring notarization, are permitted to be executed with any accepted form of electronic signature: [http://www.mhdc.com/program\\_compliance/LHTC/forms-documents.htm](http://www.mhdc.com/program_compliance/LHTC/forms-documents.htm)

Forms requiring acknowledgment and notarization must still be properly notarized and a scan of the notarized form may be submitted. Originals of these forms must be kept on file at the property. Forms requiring notarization include:

1. Exhibit A: Owner's Certification of Continuing Program Compliance
2. Exhibit G: Notice of Change in Ownership/Ownership Interest
3. Exhibit J: Authorized Representative Designation
4. Exhibit J-1: Management Authorized Representative Designation
5. Exhibit K: HOME Annual Certification of Continued Program Compliance
6. Exhibit W: 8609 Owners Certification General Partnership Form
7. Exhibit EUP-2: EUP Owner Certification of Compliance
8. Exhibit EUP-3: Annual Occupancy Report
9. QCP-3: Qualified Contract Application
10. Exhibit 3YDP: 3-Year Decontrol Period (Annual Owners Certification of Continuing Compliance
11. Exhibit A-2: Project Owner's Management Agent Certification
12. Exhibit A-22: Authorization for Release of Property Information
13. AHAP-355: Owner's Certificate of Continuing Compliance

### **D. Additional Programmatic Requirements**

#### **1. HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)**

For further HOME guidance, refer to HUD's general electronic signature information found here <https://www.hudexchange.info/programs/housing-counseling/technology/#electronic->

signatures. These requirements are subject to change based upon receipt of additional guidance.

## **2. LOW-INCOME HOUSING TAX CREDIT (LIHTC)**

For LIHTC, electronic signatures in applicant/resident files are permitted. MHDC is awaiting further IRS guidance on other forms outside of applicant/resident file documents. These requirements are subject to change based upon receipt of additional guidance.

### *References:*

“Use of Electronic Signatures in Federal Organization Transactions”, January 25, 2013, Federal CIO Council <https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>.

HUD Exchange (HOME) Electronic Signatures <https://www.hudexchange.info/programs/housing-counseling/technology/#electronic-signatures>

HUD Housing Notice 2020-10, Electronic Signature, Transmission and Storage - Guidance for Multifamily Assisted Housing Industry Partners <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-10hsgn.pdf>