

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

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SUBJECT: Use of FAX Machines to Submit Applications
for Federal Government Employment

DATE: SEP 27 1991

Several administrations have informally raised issues concerning the use of facsimile (FAX) machines to submit and receive applications for employment. The Federal Railroad Administration, through the Personnel Policy and Executive Personnel Division (M-16), recently asked the Office of the General Counsel for a formal opinion on the acceptance of "faxed" applications. Attached is a copy of their opinion.

Briefly stated, the Office of the General Counsel has determined: that faxed signatures are acceptable under certain circumstances, as detailed in the attachment; that applications sent by applicants using their own or commercial FAX machines may be accepted on a Federal government FAX machine; and that applications should not be considered if there is evidence that they were sent from a Federal government FAX machine, unless they were sent by special direction of the Department or unless required by law.

Questions concerning the acceptance of faxed applications should be directed to Denise Schossler of M-16 on 366-9447.



Director of Personnel

Attachment

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**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Memorandum

Subject: Use of FAX Machines to Submit Applications for Federal Government Employment

Date:

AUG 23 1991

From: Roberta Gabel *Robate*
Assistant General Counsel for Environmental,
Civil Rights and General Law

Reply to
Attn. of:

To: Richard Cronin, Chief
Personnel Policy and Executive
Resources Division

This is in response to the memorandum received through you from the Director of Personnel, Federal Railroad Administration, regarding the use of facsimile (FAX) machines to submit applications for Federal Government employment.

In regard to the acceptability of an electronic signature on an application we recently informed a number of DOT offices of a GAO opinion (B-243759, June 5, 1991) stating that electronic signatures are the equivalent of handwritten signatures when 1) they are unique to the signer, 2) under the signer's control, 3) capable of being verified, and 4) have acceptable integrity. Thus faxed signatures would be acceptable under these circumstances. Although the GAO opinion expressly deals with agencies' use of electronic data interchange technologies to create binding contractual agreements, we believe that these principles equally apply with respect to use of FAX transmissions to submit Federal employment applications.

We agree with the Office of Personnel Management and Denise Schosler of your staff that applications sent from applicants using their own or commercial FAX machines should be accepted by DOT. The cost of transmission would be borne by the sender and the negligible cost of DOT's FAX paper would not be a problem. You could view the use of DOT's paper as being in the nature of preserving a Federal record. The National Archives and Records Administration (NARA) considers a FAX to be an acceptable Federal record when 1) it is received in connection with agency business and 2) it is appropriate for the preservation as evidence of agency activities and because of the value of the information (36 C.F.R. 1222.34, NARA Bulletin No. 91-6).

Regarding the submission of applications for employment by applicants using Federal government FAX machines to send such applications, an analogy to the restriction on the use of penalty mail in 39 U.S.C. 3204 is relevant. We refer to our opinion of August 4, 1983. DOT should not consider applications if there is evidence that they were sent from Federal government FAX machines unless they were sent by special direction of the Department or unless required by law.