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Telework in the Federal Government: Background, Policy, and Oversight

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Summary

Advances in information and computer technology; the development of the Internet; and the explosion of wireless and digital products, including powerful laptops, hand-held electronic devices, and remote work-access capabilities, have given some federal employees the ability to telework – work anytime from almost anyplace. Telework emerged as an option for the federal workforce over the last decade. Management considerations, such as productive and satisfied workers; environmental considerations, such as reduced traffic congestion and improved air quality; and quality of life considerations, such as accommodating the short or long-term health problems or family responsibilities of employees, have been offered as justification for the establishment of telework programs.

Reservations about telework include managerial concerns about maintaining performance and productivity in the office or organization with fewer workers at the central site; the security of government records and the use of software licensed to the government on computers at the alternative work sites; and the availability of funding to provide necessary support for employees to work away from the main office. The General Services Administration (GSA) reported that about 26,000 executive branch employees were teleworking as of October 1999. It is not known how many legislative branch staff telework. According to the Administrative Office of the U.S. Courts, the judicial branch does not currently have any teleworkers.

Policies on telework are evolving. General policies and guidance on the implementation of telework programs in the executive branch have been established by GSA and the Office of Personnel Management. Although there are no corresponding entities in the legislative branch, a comparison of the policies and guidance for existing telework programs in this branch indicate that they are quite similar to those in the executive branch. Among the factors that reportedly contribute to successful telework experiences are top management support, a clear telework agreement that includes expectations accompanied by measurable goals, and accountability and performance results. Congress may remain interested in the issue of telework programs in the federal government. Section 359 of P.L. 106-346, the Department of Transportation Appropriations Bill for FY 2001, directs executive agencies to establish policies under which eligible employees could telecommute to the maximum extent possible and without diminished performance. By April 23, 2001, OPM must ensure that telework policies are in place for 25% of the federal workforce eligible to participate, and for an additional 25% each year thereafter. This report discusses telework in the federal government, including background, views on telework, policy, implementation within the executive and legislative branches, and future considerations.

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Telework in the Federal Government: Background, Policy, and Oversight

Introduction

Telework, working away from the traditional office, dates from the early 1930s, was publicly advocated in the early 1960s and late 1970s, and emerged as an option for the federal workforce over the last decade. Advances in information and computer technology; the development of the Internet; and the explosion of wireless and digital products, including powerful laptops, hand-held electronic devices, and remote work-access capabilities, have given some federal employees the ability to work anytime from almost anyplace. The employee's home, a telework center, a client's office, or an automobile may serve as the alternative worksite. Telework is also referred to as flexiplace, telecommuting, alternate work location, or alternative worksite, and these terms are used interchangeably in this report.

Management considerations, such as productive and satisfied workers; environmental considerations, such as reduced traffic congestion and improved air quality; and quality of life considerations, such as accommodating the short or long-term health problems or family responsibilities of employees, are often cited as benefits of establishing telework programs.

Reservations about telework include managerial concerns about maintaining performance and productivity in the office or organization with fewer workers at the central site; the security of government records and the use of software licensed to the government on computers at the alternative work sites; and the availability of funding to provide necessary support for employees to work away from the main office. These issues will require continuous evaluation as decisions are made on the extent to which telework programs might be implemented in the executive and legislative branches.

General policies and guidance on the implementation of telework programs in the executive branch have been established by the General Services Administration (GSA) and the Office of Personnel Management (OPM).[1] Although the legislative branch has no corresponding entities, a comparison of the policies and guidance for this branch (where telework programs exist) indicate that they are quite similar to

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[1]U.S. General Services Administration, *Implementation Manual for Telecommuting/Telework*, available on the Internet at [http://policyworks.gov/org/main/mp/library/policydocs/mworkplce.htm]; U.S. Office of Personnel Management, *Telecommuting*, available on the Internet at [http://www.opm.gov/wrkfam/telecomm/telecomm.htm], both Web sites visited Feb. 21, 2001.

those of the executive branch.[2] GSA reported that about 26,000 executive branch employees (less than 1% of the total executive branch workforce[3]) were teleworking as of October 1999.[4] It is not known how many legislative branch staff telework. According to the Administrative Office of the U.S. Courts, the judicial branch does not currently have any teleworkers.[5]

Because Congress maintains a high level of interest in the productivity of the federal workforce, it is expected to monitor the implementation and evaluation of telework programs in the federal government. Section 359 of the Department of Transportation Appropriations Bill for FY 2001 (P.L. 106-346), which was signed by the President on October 23, 2000, includes a provision directing executive agencies to establish policies under which eligible employees could telecommute to the maximum extent possible and without diminished performance.[6] By April 23, 2001, OPM must ensure that telework policies are in place for 25% of the federal workforce eligible to participate, and for an additional 25% each year thereafter. Conference report language on the provision directs OPM to evaluate the program and report to Congress within one year.[7] A Telework Issues Working Group has been established in the executive branch to facilitate the implementation of the law's provisions and to determine what further guidance or legislation are needed.

In the legislative branch, the House of Representatives established a telecommuting policy in October 1999 that is available for use by employing offices.[8]

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[2]A formally established telework program is distinct from other personnel policies for work at home that already may have been implemented by individual entities in both the executive and legislative branches.

[3]OPM reported that the executive branch civilian workforce totaled 2,644,801 as of September 2000 (most current data available). See: U.S. Office of Personnel Management, *Federal Civilian Workforce Statistics; Employment and Trends as of September 2000* (Washington: OPM, 2000), p. 12. (Hereafter cited as *Employment and Trends.*)

[4]Kellie Lunney, "Managers Still Tepid About Telecommuting," July 26, 2000. Available on the Internet at [http://www.govexec.com/news/], visited Feb. 21, 2001. In October 1998, OPM reported that there were 24,889 federal teleworkers in 42 federal departments and agencies. See: U.S. Office of Personnel Management, Memorandum for Directors of Personnel, from Steven R. Cohen, Director, Office of Workforce Relations, Nov. 20, 1998.

[5]In its December 1995 *Long-Range Plan for the Federal Courts*, the Judicial Conference of the United States recommended that "Working conditions for court support personnel should be progressive and make provision for," among other things, "flexible work arrangements." According to the Administrative Office of the U.S. Courts, its staff have attended seminars on telework. It is not aware of any judicial employees who are currently teleworking. (Telephone conversation with the Administrative Office Dec. 5, 2000.)

[6]P.L. 106-346, section 359, Oct. 23, 2000, 114 Stat. 1356.

[7]U.S. Congress, Conference Committees, 2000, *Making Appropriations for the Department of Transportation and Related Agencies for the Fiscal Year Ending September 30, 2001, and for Other Purposes*, conference report to accompany H.R. 4475, H. Rept. 106-940, 106th Cong., 2nd sess. (Washington: GPO, 2000), p. 151. (Hereafter cited as H. Rept. 106-940.)

[8]In accordance with House Administration Committee resolution 106-1-21, adopted October

(continued...)

While the Senate does not have a Senate-wide policy, the Senate Sergeant at Arms office established a policy for that office in October 1998. Two legislative branch support agencies – the Congressional Budget Office (alternate work location) and the General Accounting Office (flexiplace) – also have established telework policies. The Library of Congress is currently considering the feasibility of establishing a telework program for the Library, including the Congressional Research Service (CRS), and has a task force examining the issue.

Background

Noteworthy in the early history of telework are these occurrences:

> As early as 1934 when the NCUA [National Credit Union Administration] was the Federal Credit Union Bureau, credit union examiners conducted their examinations at credit union sites and then completed their reports at home. Neither the NCUA nor its predecessor provided office space for credit union examiners ... the NCUA implemented a work-at-home program for its auditors that is still operating successfully.

> The earliest effort to generate a Federal telework program, however, appears to have occurred in the early 60's when Jack Nilles, commonly considered to be the father of telework, began teleworking from Los Angeles to Washington, DC while working as a consulting rocket scientist to the U.S. Air Force Space Program. Inspired by this experience, Nilles coined both the words "telecommuting" and "teleworking" in 1973.

> The first person to generate Federal experimentation with telework was Frank Schiff. At the time, Schiff was Vice President and Chief Economist for the Committee for Economic Development.[9] In 1979, Schiff published an article in the *Washington Post* in which he challenged the Federal Government to look at management practices, union rules, and Federal laws and regulations in an effort to facilitate working at home as a means of improving productivity, saving costs, and saving energy (this was at the height of the energy crisis ...). During that same time, Schiff coined the term "Flexiplace" to encompass not only work-at-home but also such other flexible location arrangements as satellite work centers .... [I]n contrast to such terms as "telecommuting," [flexiplace] stressed increased flexibility in the location of work, whether or not this is based on the use of telecommunications equipment.[10]

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[8](...continued)
21, 1999.

[9]According to its Internet Web site, "the Committee for Economic Development (CED) is an independent, nonpartisan organization of business and education leaders dedicated to policy research on the major economic and social issues of our time and the implementing of its recommendations by the public and private sectors." The Web site is [http://www.ced.org], visited Feb. 21, 2001.

[10]U.S. General Services Administration, Evaluation and Innovative Workplaces Division Office of Real Property, Office of Governmentwide Policy, *The Evolution of Telework in the*
(continued...)

Among other early examples of telework were a 1980 experiment at an Army facility in St. Louis and a 1989 flexiplace pilot study lasting six months at the Environmental Protection Agency's (EPA's) Research Triangle Park, North Carolina facility. The Army project was discontinued when "[d]espite the fact that the program performed successfully (project manager evaluations), an army audit team concluded that the potential benefits were exceeded by the risks of fraud and abuse." The final report on the EPA pilot "was generally positive about the feasibility of Flexiplace arrangements."[11] When the Loma Prieta earthquake severely damaged EPA's offices in San Francisco, California, on October 17, 1989, the agency "responded by establishing an auxiliary command post for 80 employees and work-at-home arrangements for the remaining 700+ workers."[12] In 1989, GSA found that "A substantial number of Federal agencies were already utilizing informal, as-needed telework arrangements that were established typically on a case-by-case (individual employee) basis."[13]

Over the last decade, telework has emerged as an option for managing the federal workforce. "Beginning as early as 1990 and continuing throughout the evolution of Federal telework, the program has enjoyed bi-partisan political support from both the executive and legislative branches of government," according to the GSA study.[14] In 1990, the President's Council on Management Improvement approved plans and guidance to implement a pilot flexiplace program governmentwide. By January 1993, OPM had encouraged agency use of flexiplace and provided implementation guidance.[15] Presidential memorandums in 1994 and 1996 affirmed flexible work arrangements as contributing to the creation of a family-friendly workplace. GSA and the Department of Transportation continue to coordinate a national telework initiative (NTI), begun in January 1996 by the President's Management Council, to encourage an increase in the number of federal teleworkers. The NTI set a goal of having 160,000 federal employees participating in telework by the end of 2002. Its earlier goal to have 60,000 teleworkers by October 1998 was not met, and both GSA and Transportation are seeking to improve the initiative.[16] Recent legislative provisions on telework are discussed in the Implementation section below.

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[10](...continued)
Federal Government, by Wendell Joice (Washington: GSA, Feb. 2000), pp. 7-8, 11. (Hereafter cited as *Evolution of Telework.*)

[11]Ibid., p. 9.

[12]Ibid., p. 10.

[13]Ibid., pp. 6-7. See also: T.N. Cowley and W.H. Joice, *Informal Work-at-Home Arrangements in the Federal Government* (Washington: GSA, 1989). Unpublished.

[14]*Evolution of Telework*, p. 14.

[15] U.S. Office of Personnel Management, *Telecommuting*, available on the Internet at [http://www.opm.gov/wrkfam/telecomm/telecomm.htm], visited Feb. 21, 2001.

[16]For further information on the history of telework, see: *Evolution of Telework*, especially pp. 11-21.

In the late 1990s, Senate/House discussions about telecommuting resulted in three legislative branch entities – the Office of the Chief Administrative Officer, the Office of the Senate Sergeant at Arms, and the Congressional Budget Office – adopting telecommuting policies. Earlier, in June 1994, the General Accounting Office established a flexiplace policy. Each Member's office, committee and House administrative office constitutes a separate employing authority. Therefore, no legislative branch entity has central authority or jurisdiction to set policy for the entire legislative branch.[17] The House and the Senate each set their own chamber rules, policies, and practices. Further, within each chamber, each Member's office sets its own office policies and programs, subject to applicable rules and regulations. Subject to the jurisdiction of certain chamber rules and oversight, House and Senate administrative offices that are separate employing offices may also set their own policies and programs that include telework.

The federal government, as well as state and local governments, have increased efforts to work with private businesses[18] to promote telework.[19] On October 24, 2000, Telework America Day, the First Annual Washington Area Conference on Telework, was held. Co-sponsored by the Metropolitan Washington Council of Governments (COG), the Fairfax County Government, and the International Telework Association and Council (ITAC), the conference drew over 400 non-profit, government, and business leaders who met to discuss issues and objectives and

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[17]There is no single formal policy on telecommuting for all legislative branch entities. The House and Senate have encouraged the Librarian of Congress to look at the feasibility of a telecommuting program, which is discussed later in this report. Melanie Fonder, "Telecommuting Gives Hill Staffers Flexibility," *The Hill*, Oct. 27, 1999, p. 28.

[18]The Subcommittee on Oversight and Investigations of the House Committee on Education and the Workforce published an August 1999 report on the American worker, which included a section on telework, and conducted an October 1999 hearing on telework in the United States. See: U.S. Congress, House Committee on Education and the Workforce, Subcommittee on Oversight and Investigations, *American Worker Project: Securing the Future of America's Working Families*, subcommittee report, 106th Cong., 1st sess. (Washington: [1999]); and U.S. Congress, House Committee on Education and the Workforce, Subcommittee on Oversight and Investigations, *Telework: The Impact on Workplace Policy in the United States*, hearing, 106th Cong., 1st sess., Oct. 28, 1999. Unpublished. Both documents are available on the Internet at [http://edworkforce.house.gov/oversight/awp/awpreport/report.pdf] and [http://edworkforce.house.gov/hearings/106th/oi/oihearings.htm], visited Feb. 21, 2001. See also: Christine Avery and Diane Zabel, *The Flexible Workplace; A Sourcebook of Information and Research* (Westport, CT: Quorum Books, 2000); International City/County Management Association, *Telecommuting Program*, 1993, available on the Internet at [www.icma.org/], visited Feb. 21, 2001; J.M. Martino, *Work-Life Initiatives in a Global Context*, June 29, 1999, available on the Internet at [http://www.conference-board.org/], visited Feb. 21, 2001.

[19]The City of Rockville, Maryland has developed a telecommuting policy, and Alexandria, Virginia is considering legislation to encourage employees to work from home. Fairfax County, Virginia government officials have set a goal to have 900 of the county's 10,000 employees working at home at least one day a week by 2005. See: Michael D. Shear, "Telecommuting Hits Home as Way To Relieve Gridlock; Area Officials Vow To Move Idea Along," *Washington Post* (Loudoun Extra), Nov. 9, 2000, p. V4.

promote telework in the Washington region. The conference focused on telework as a possible solution to such issues as the area's growing problems with traffic congestion and air quality, employees' balancing of work and family life, and hiring and retaining skilled workers. COG adopted a resolution setting a goal to expand telework so that 20% of the area's workforce would be working at home at least once a week by 2005.[20]

In support of this expansion, then Secretary of Transportation Rodney Slater reportedly urged all cabinet departments to help COG meet its 2005 goals. According to Secretary Slater, "The number of telecommuters in the region could increase to 68,000," and telework "would make a tremendous contribution to reduced air pollution and congestion."[21]

Views on Telework

Positive Views

To some, telework seems to be a natural progression of flexible workplace features, including flexible work schedules and subsidies to encourage employees to use public transportation. Various purposes or reasons are stated in support of telework. Among those identified by GSA (OPM and the legislative branch identify many of these as well) are the following:

> Improvements in employee morale and effectiveness. [The rationale is that telework saves time, thus contributing to a better balance between work and family needs.]
>
> Reductions in transportation costs including car insurance, maintenance, and wear.
>
> Accommodation of employees with short or long term health problems or family responsibilities, such as problems associated with elder care and latch-key children.
>
> Cost savings to the Government in regard to office space, sick leave absences, and energy conservation.[22]
>
> Reduction in automobile-created air pollution and traffic congestion [and reduction in stress caused by the latter].
>
> Potential for increased productivity.

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[20]See the Metropolitan Washington Council of Governments' Web site [http://www.mwcog.org/commuter/ccindex.html], visited Feb. 21, 2001.

[21]Secretary Slater's letter to the cabinet departments was noted at the First Annual Washington Area Conference on Telework. Shear, "Telecommuting Hits Home," p. V4.

[22]For an analysis of telecommuting as an energy conservation option see U.S. Library of Congress, Congressional Research Service, *Telecommuting: A National Option For Conserving Oil*, by Fred Sissine, CRS Report 90-524 (Washington: Nov. 9, 1990).

Improved work atmosphere due to fewer co-worker non-business interruptions.[23]

Those who favor telework believe that it adds a dimension of appeal to federal service. Recruiting, hiring, and training new staff are costly in terms of both dollars and staff time devoted to those efforts (which in turn affect the organization's other work). Retaining skilled staff (and their institutional memory) may be considered a benefit. The General Accounting Office (GAO) placed "strategic human capital management" on its January 2001 list of high risk concerns in the federal government. The Senate Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia of the Committee on Government Affairs, in a December 2000 report on management of the federal government's human capital, recommended that comprehensive workforce planning be made mandatory across the executive branch. The subcommittee conducted a hearing on February 1, 2001 at which the Comptroller General testified about the designation of human capital management as a high risk area.[24]

Specific examples of financial savings associated with telework have been identified. By implementing a telecommuting program in 1995 for railroad safety inspectors in 22 field offices, the Federal Railroad Administration saved approximately $251,929 by closing 18 field offices and reducing office space in nine others through FY 1998.[25] GSA provided a preliminary assessment of four telecenters in 1995, which found that "telecommuters save an estimated 6,000 miles of travel annually by using the centers one or two days a week. The corresponding time savings for a telecommuter is some 160 hours a year and $500 a year in transportation costs."[26]

Other potential savings that could accrue from telework programs can also be identified. Employees who are teleworking on those days which are designated as liberal or unscheduled leave could continue to work thereby reducing the cost to the government.[27]

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[23]U.S. General Services Administration, Evaluation and Innovative Workplaces Division, Office of Real Property, Office of Governmentwide Policy, *Implementation Manual, Section IV: Questions and Answers* (Question 6). Printed from the Internet at [http://policyworks.gov/org/main/mp/library/policydocs/manual6.htm], visited Feb. 21, 2001. Telework may also facilitate the employment of persons who are disabled. See: Wendell H. Joice, "Home Based Employment: A Consideration for Public Personnel Management," *Public Personnel Management*, vol. 20, no. 1, 1991, pp. 49-60.

[24]See: U.S. Congress, Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, *Report to the President: The Crisis in Human Capital*; Report Prepared by Senator George V. Voinovich, Chairman, subcommittee report, 106th Cong., 2nd sess. (Washington: 2000), p. 46. (Hereafter cited as *The Crisis in Human Capital.*)

[25]*Evolution of Telework*, p. 34.

[26]U.S. Dept. of Transportation, *Successful Telecommuting Programs in the Public and Private Sectors; A Report to Congress* (Washington: U.S. Dept. of Transportation, 1997), p. 31.

[27]OPM estimated that a one-day closure in the Washington, DC Primary Metropolitan (continued...)

Reservations

Among the concerns of managers thinking of establishing telework programs and the considerations of employees thinking of participating in telework programs are the following:

Tasks and Positions. Certain tasks may be better suited to telework than others. Among those mentioned by GSA and OPM are general planning; writing; data analysis; reviewing files; telephone-intensive tasks (information research, setting up meetings); and computer-oriented tasks (programming, data entry, word processing). Additionally, telework may be appropriate particularly for completing episodic work or projects without interruptions. Typically eligible for telework are jobs characterized by work that: (1) is unclassified and does not require a security clearance; can be performed off-site; lends itself to easy measurement of its products and progress; (2) requires tools that are easily portable; (3) can be performed with the use of a telephone, computer, and/or facsimile machine; and (4) can be performed by an individual, rather than a group.[28]

Tasks that may not be suited for telework include those involving: (1) extensive face-to-face interaction with the supervisor or other employees, or the public; (2) supervision of other employees; (3) research that requires access to materials not accessible electronically, or which cannot be removed from the main office site; and (4) the use of equipment that cannot be provided by the employing office. In the executive and legislative branches, telework may not be practical for certain staff whose positions require close and frequent interaction with Members of Congress, high government officials, or other staff; or responsiveness to constituent inquiries (including office visits and telephone calls).

Equity and Morale. While some cite morale and productivity as benefits of telework, making some employees eligible for participation and others ineligible may raise fairness issues and have an opposite effect on employees who remain at work in the central office site.

Productivity. If an employee's productivity declines and if the evaluation so indicates, the employer and employee would need to re-evaluate the terms of the

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[27](...continued)
Statistical Area costs $68.3 million dollars and in the entire executive branch costs $339.1 million dollars, as of November 2000. Three recent closures of federal government offices in the Washington, DC area were January 8 through 10 and January 12, 1996 because of snow; January 25-26, 2000 because of snow; and April 17, 2000 (limited closure or unscheduled leave) because of the protests surrounding the World Bank and the International Monetary Fund annual meetings. (U.S. Office of Personnel Management, Office of Congressional Relations. Data sent to CRS by facsimile Nov. 29, 2000.) The cost of closing Senate and House offices because of inclement weather or budget shutdown, or for other reasons, cannot be quantified, because each office acts as its own employing office and determines the policy for staff.

[28]U.S. Office of Personnel Management, Office of Congressional Relations. Statement sent to CRS by facsimile Nov. 29, 2000.

telework agreement, or even terminate it. Reserved for the manager or supervisor is the right to terminate telework agreements for any reason and at any time. Some employees who were initially motivated to participate in telecommuting may decide after a period of time that telework is unsuitable for their particular circumstances. Others may find that they prefer a clear delineation between work and home, or that the alternative work location does not provide an environment conducive to greater productivity. Still others may conclude that there is no substitute for being at the central worksite full time, interacting face-to-face with colleagues, and accessing work materials that are digitally inaccessible.

Staff Work Style and Turnover. In some congressional offices and committees, being available almost "24-7" (the concept of all-day, everyday work style) may be expected for certain positions and during specific legislative and appropriations cycles. Similar availability may be required during certain periods, such as annual preparation of the budget, in the executive branch.[29] Some believe that flexible work arrangements (including telework) during other periods, for particular offices, may help retain staff in both the executive and legislative branches.
Staff turnover on Capitol Hill traditionally has been high, particularly in entry positions.[30]

Impact on Organizational Culture. The essence of an organization is embodied in its unique culture. Methods that enable teleworking employees to stay connected to the cultures of their organizations are thought to be important because the procedures for fulfilling agency missions are developed and communicated by those cultures. The scope and implementation of a telework program might affect how the culture is transmitted throughout the organization and the way in which managers and staff interact and work.

Policy

Twice, in 1994 and 1996, presidential memorandums were issued that affirmed flexible work arrangements and directed OPM and GSA to assist executive agencies in implementing family-friendly work arrangements, including telecommuting. In implementing the directives, both agencies established similar definitions for telework, which emphasized that the term connotes working away from the principal (or traditional) office or at "any location other than an employee's normal duty station." According to GSA, "modern technological advances have made it easier to work anytime, anywhere, and anyplace." "To be considered telecommuting, [however] the

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[29]An examination of the telework policies indicates that employees who are teleworking would come into the central office as needed.

[30]Nearly two-thirds of House staff have less than two years of experience in their current positions, including 39% of chiefs of staff, 64% of legislative directors, and 74% of press secretaries. Almost 50% of Senate staff had less than one year of experience in their current positions, including 43% of communications directors, 46% of legislative assistants, 79% of legislative correspondents, and 38% of legislative directors. See: Congressional Management Foundation, *2000 House Staff Employment Study* (Washington: CMF) and Congressional Management Foundation, *1999 Senate Staff Employment Study* (Washington: CMF).

work done must be in paid status ... [W]orking at home extra hours for which the employee is not paid is not telecommuting."[31]

Policies on telework are evolving. Both GSA and OPM have published general policies and guidance on telework programs. These enunciate some common principles underlying such programs and address issues that an agency or employee must consider before establishing or participating in a program. Although the legislative branch has no corresponding entities, a comparison of the policies and guidance for this branch (where telework programs exist) indicate that they are quite similar to those of the executive branch.[32]

Principles underlying telework programs as enunciated by GSA and OPM can be grouped into three categories, stated below.

Ground Rules

- Telecommuting is a management decision and option, not an employee right or benefit.
- Participation is voluntary and may be terminated by either the employee or the supervisor or manager.
- A written telecommuting agreement must be signed by the employee and supervisor or manager.
- Telecommuting does not change the terms and conditions of employment, including salary and benefits.
- Responsibilities of employees are specifically defined.
- Work schedule (days or hours) and location of the alternative work site are specified.

Working Conditions

- Duties and tasks performed must be conducive to working in another environment that will optimize efficiency and performance.
- Some agencies may prohibit the care of dependents during scheduled teleworking hours.

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[31]U.S. General Services Administration, *Implementation Manual for Telecommuting/Telework*, available on the Internet at [http://policyworks.gov/org/main/mp/library/policydocs/mworkplce.htm]; U.S. Office of Personnel Management, *Telecommuting*, available on the Internet at [http://www.opm.gov/wrkfam/telecomm/telecomm.htm], both Web sites visited Feb. 21, 2001. GSA's guidance is more detailed than OPM's, and the latter's Web site refers readers to GSA.

[32]Sample telework agreements were examined to reach this conclusion.

- The alternative worksite, generally the responsibility of the employee, should be a clean, safe area which may be subject to inspection by the employing office.[33]

- Appropriate office equipment and supplies, and service and maintenance of government-owned equipment, may be provided and are to be used for official purposes only.

- Specifically authorized telecommuting expenses may be reimbursable (telephone and telecommunications charges are generally reimbursable in accordance with regulations).

- Workman's compensation rules generally apply.

- Safeguards for the security of classified and sensitive information may apply and be spelled out in written agreements.

- Files, records, and documents created using government-owned equipment are the property of the government.

Performance Requirements

- Work performance must not be diminished as a result of telecommuting, and performance appraisals are conducted in the same manner as if the work occurred at the central office.

- Participating employees must be able to work independently and require minimum supervision.

- In some cases, eligibility may require attainment of a certain performance rating.[34]

Implementation

Executive Branch

Section 359 of the Department of Transportation Appropriations Act for FY 2001, which became P.L. 106-346 on October 23, 2000, directs executive agencies to establish policies under which eligible employees "may participate in telecommuting to the maximum extent possible without diminished employee performance." OPM issued guidance to the agencies on the law's provisions on January 29, 2001 and February 9, 2001. According to OPM:

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[33]See: U.S. Library of Congress, Congressional Research Service, *Application of the Occupational Safety and Health Act (OSHA) to Teleworkers*, by Kimberly D. Jones, CRS Report RS20463 (Washington: Feb. 11, 2000).

[34]See Footnote 31.

> The purpose of the law is to require that each agency take a fresh look at the barriers that currently inhibit the use of this flexibility, act to remove them and increase actual participation. The law recognizes that not all positions are appropriate for telecommuting; therefore, each agency must identify positions that are appropriate in a manner that focuses on broad objective criteria. Once an agency has established eligibility criteria, subject to any applicable agency policies or bargaining obligations, employees who meet them and want to participate must be allowed that opportunity if they are satisfactory performers.[35]

The guidance includes a form on which the agencies must report to OPM on the establishment of their telecommuting policies, including the percentage of their workforce covered by and the basic elements of the policy. The form must be returned to OPM by April 2, 2001.

By April 23, 2001, the Director of OPM must ensure "that the requirements of the section are applied to 25 percent of the Federal workforce [eligible to participate], and to an additional 25 percent of such workforce each year thereafter."[36] The provision was added to the appropriations bill by the conference committee which explained the requirement in its report accompanying the bill:

> Within one year, the Office of Personnel Management shall evaluate the effectiveness of the program and report to Congress. Each agency participating in the program shall develop criteria to be used in implementing such a policy and ensure that managerial, logistical, organizational, or other barriers to full implementation and successful functioning of the policy are removed. Each agency should also provide for adequate administrative, human resources, technical, and logistical support for carrying out the policy. Telecommuting refers to any arrangement in which an employee regularly performs officially assigned duties at home or other work sites geographically convenient to the residence of the employee. Eligible employees mean any satisfactorily performing employee of the

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[35]U.S. Office of Personnel Management, Memorandum for Heads of Executive Departments and Agencies, Establishing Telecommuting Policies, Jan. 29, 2001 and Feb. 9, 2001. Sent to CRS by the Family-Friendly Workplace Advocacy Office at OPM by facsimile Feb. 15, 2001.

[36]P.L. 106-346, Oct. 23, 2000, 114 Stat. 1356. In a February 13, 2001 news release, Representative Frank Wolf stated the intent of the provision: "The program is to be phased in over the next four years, giving 25 percent of those eligible to telecommute the option of starting this year." The news release is available on the Internet at [http://www.house.gov/wolf/2001213Telecommute.htm], visited Feb. 15, 2001.
Another provision on telework is included under the Department of Transportation, Office of the Secretary account in Public Law 106-346 as well. The Secretary of Transportation is directed to "conduct an assessment of the existing practices and infrastructure involved with telework efforts in the greater New York metropolitan area and determine if a telework program, supported by the federal government, could provide significant incentives for increasing the use of telework, thereby reducing vehicle miles traveled and improving air quality." The assessment is to identify representatives from local government, environmental organizations, and transportation agencies to serve as "a New York City design team for implementing a telework program." The Secretary must report his or her findings to Congress within six months. Funding in the amount of $300,000 is provided to carry out these activities. See: H. Rept. 106-940, p. 66.

agency whose job may typically be performed at least one day per week [at an alternative worksite].[37]

Telework Issues Working Group. In November 2000, GSA and OPM formed a working group, which currently comprises representatives from 17 cabinet and independent executive agencies, to evaluate issues related to telework and to determine what further guidance or legislation, if any, might be recommended. (The departments and many independent executive agencies have had telework coordinators in place for some time.[38]) The working group anticipates that the Chief Information Officers will be active participants in its discussions, especially those on computers and other equipment. An initial meeting of the group on November 7, 2000 produced a listing of "Telework Related Policy Issues" for examination, covering nine areas (and 18 pages).[39] Some of the issues to be reviewed, categorized by area, are quoted below.

> **Legal/Procurement:** Are existing telework guidelines up-to-date and accurate regarding liability laws?
>
> **Telecommunications:** [A]ddress the costs of maintaining two work stations for employees who telecommute. Should the agency be responsible for paying for computer equipment, job related internet costs [and the like].
>
> **Computers and Other Equipment:** To insure that Government work is not compromised as a result of viruses or inadequate safeguards that an employee may have on a personal computer at home, as funding is available, agencies should be urged to provide appropriate equipment and software for teleworkers [suggested by a Department of Energy representative on the working group].[40]
>
> **Taxes:** If [an agency] establish[es] alternative officing and the employee no longer has full use of the workstation at the main worksite, does that mean the worker can write off [for tax purposes] use of [the] home office?
>
> **Worksite Health/Safety:** Although self-certification forms, [certifying that health and safety requirements are met], are readily available from both GSA and OPM, it is not clear ... how and under what conditions they are to be used.
>
> **Human Resources Management:** [Such issues as] (1) Should other employees have access to a teleworker's main worksite station when [it] is not in use? (2) Need [for] a governmentwide policy that excludes employees where feasible, from standard leave and hours of duty regulations. (The idea of [working] "anytime – anywhere"). (3) Need [for a] standard definition of telework: temporary disability, permanent disability, project work [and so forth and] [c]larification that telework covers any alternate worksite and not just home, telecenters [and so forth].

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[37]H. Rept. 106-940, p. 151.

[38]For a listing of the coordinators, see: [http://policyworks.gov/org/main/mp/library/policydocs/tcoords.htm], visited Feb. 21, 2001.

[39]"Telework Related Policy Issues." Internal working document sent to CRS by a member of the working group by e-mail Nov. 28, 2000.

[40]Ibid., p. 4.

> **Continuation of Operations (COOP):** Need clarification of policies on telework and [continuing agency operations].
>
> **Pay:** [Such issues as] (1) Locality pay implications and guidance? (2) Manager has four long distance telework situations where he wants to pay competitive salary rates, travel costs from [the] home office to [the] traditional office, and not [have that] impact upon competitive area status during possible RIFs [reduction in force]. For example [the] regular office [is] in state A [and the] home office [is] in state B. Wants to pay travel to state A.
>
> **General, Training, Support:** Need to clarify [the] roles of OPM and GSA in Telework .... It would be less confusing to agencies if OPM and GSA would clarify their respective roles in establishing Federal telecommuting policy and initiatives ... [and set up] a "one-stop" web site for telecommuting [suggested by a Department of Commerce representative on the working group]. Greater collaboration among Departments/Agencies would create the synergy needed to create first-class programs [suggested by a Department of Education representative on the working group].[41]

Executive agencies with the largest numbers of teleworkers currently are the Departments of the Treasury, Labor, and Health and Human Services (HHS).[42] All three departments established policies based on GSA and OPM guidance, but tailored those policies to their own organizations. The United States Patent and Trademark Office recently expanded its telework program. A brief discussion of each of these telework programs follows.

Department of the Treasury. The Treasury Department has unofficially operated a telework and flexiplace program since 1996. It adopted an official policy for the program on October 18, 2000. Among other requirements, the policy provides that the written telework agreement between the supervisor and the employee must specify:

> (1) the alternative work site ..., (2) specific hours and days per week to be worked at the alternate work place, (3) pertinent office equipment to be provided and by whom, (4) method of communication to be used between the official duty station and alternate work place, and (5) duties to be performed and methods of evaluation to be employed.

At least 12,000 of its almost 144,000 employees[43] are participating in telework. The Internal Revenue Service is the agency within the department that has the

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[41]Ibid., pp. 11-12.

[42]See also: The PricewaterhouseCoopers Endowment for the Business of Government, *Managing Telecommuting in the Federal Government: An Interim Report*, by Gina Vega and Louis Brennan (Washington: PricewaterhouseCoopers, June 2000). (Hereafter cited as *Managing Telecommuting*.)

[43]U.S. Office of Personnel Management, *Federal Civilian Workforce Statistics; Employment and Trends as of September 2000* (Washington: OPM, 2000), p. 13. This is the source for the employment data for the Depts. of Labor and Health and Human Services as well.

greatest number of teleworkers and says it uses the program to help it compete with the dot-com world for information technology professionals.

Treasury employees also have used telework for purposes of pregnancy leave and to provide alternative worksites for employees affected by the San Francisco earthquake and the bombing of the Oklahoma City federal building, and investigating the explosion at the Branch Davidian headquarters in Waco, Texas. Other department employees have worked from their automobiles, for instance, conducting a study that randomly monitored the diesel fuel used by truckers. According to a Treasury official, a challenge in implementing telework is getting managers, who are not sure what employees are doing when they are out of sight, comfortable with the program. Although not mandated previously, the department will be requiring all its bureaus to collect and report data related to their telework programs as a result of the Public Law 106-346 provision discussed above.[44]

Department of Labor. Called flexiplace, the Labor Department's program operated as a pilot program before becoming permanent. Approximately 350 of the department's more than 16,000 employees participate in telework under formal agreements. Additionally, about 2,000 Labor Department employees participate under episodic or informal arrangements, and some 2,100 to 3,000 safety inspectors from the Mine Safety and Health Administration and compliance officers from the Wage and Hour Office have always worked from their automobiles. Labor Department participants are working at alternate worksites on an average of two to three days per week. Telework also is used as a tool to recruit and retain quality employees according to the agency.

The specifics of flexiplace were negotiated between the Labor Department and two unions that represent its employees. One agreement covers the Washington office, and a second covers field offices. A third agreement covers all nonbargaining unit members nationwide. The policy includes among its features requirements related to government records:

> Classified or sensitive data should not be accessible from an off-site system, unless agency-automated data processing (ADP) security officials certify that the system adequately protects records .... Payroll and personnel data bases are examples of operating data bases that are only accessible from the office .... Correspondence files and historical records are likely to be one-of-a-kind and may not be taken from the office-site location.[45]

Funding is among the significant challenges for the Labor Department in implementing telework. Labor does not have the money to maintain two offices for its workers, and some employees who very much want to telework have bought their

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[44]Telephone conversation with Garland Green, telework coordinator at the Dept. of the Treasury, Nov. 28, 2000. The department's policy is set forth in U.S. Dept. of the Treasury, *Treasury Telework and Flexiplace Program*, Treasury Directive 74-14, Oct. 18, 2000.

[45]The department's policies are set forth in U.S. Dept. of Labor, *Flexiplace Handbook* (Washington: [1998]) and U.S. Dept. of Labor, *Flexiplace Handbook for Non-Bargaining Unit Employees* (Washington: [1998]).

own equipment. This in turn has raised security issues, including the use of government licenced software on personal computers. The department has not had any formal requirements for collecting and reporting data on telework.[46]

Department of Health and Human Services (HHS). Authority has been decentralized, and each agency within the Department of Health and Human Services administers its own telework program. The HHS Office of the Inspector General is not participating in telework, because of the procedure under which the attorneys bill their hours and concerns about court records being taken to the homes of employees. HHS has 2,241 of its almost 63,000 employees teleworking; the Health Care Financing Administration, with 535 teleworkers, has the largest number of participants. Telecommuting is being added as a component of the department's human resources agenda for 2001.

Challenges to implementing telework at HHS have included managerial concerns about how to determine output and how to hold employees accountable when workers are away from the central worksite. The department's information technology professionals have raised concerns about letting agency computers be placed in the homes of employees because of lack of staff available to maintain them and concerns about protecting the security of the government files they contain. Data on the department's telework programs have been informally collected and reported in response to specific requests; it is anticipated that these activities may occur more formally as a result of Public Law 106-346.[47]

United States Patent and Trademark Office (USPTO). In spring 2000, the USPTO "expand[ed] its telecommuting program for attorneys to include at least 60 of its approximately 360 current trademark attorneys." Since 1997, the agency, in partnership with the National Treasury Employees Union (NTEU), has operated a pilot program under which 18 trademark attorneys worked at home. Some of USPTO's primary goals in implementing telework are to "reduce time spent on the roads"; "to make additional space available in an agency which has seen its workload increase greatly over past years"; and to provide "a better quality of work life for employees [to] enable the organization to attract and retain highly qualified employees." Supervisors and participants are being trained, and specific guidance is being issued on administrative, customer service, and performance issues under the expanded program.[48]

The issues of technology, performance and customer service, labor relations, and employee satisfaction were examined by the USPTO in evaluating the success of its two-year pilot program. Among the results were the following:

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[46]Telephone conversation with Gail Guest, coordinator, Dept. of Labor WorkLife Center, Nov. 28, 2000.

[47]Telephone conversation with Karen Billingslea, telework coordinator at the Dept. of Health and Human Services, Nov. 28, 2000.

[48]U.S. Patent and Trademark Office, "Telecommuting Expands in Trademark Operation." Information sent to CRS by e-mail from the PTO Dec. 5, 2000.

Technology: Implementing a work at home program ... has presented some unique challenges, primarily in the area of technology. Trademark examining attorneys work in a production environment using one of a kind automated search and research tools contained in a number of live databases. The program involves the set up of a complete desktop work environment at participants' homes, enabling them to perform all of their job functions from a remote location. The pilot experience highlighted some areas where technology improvement was necessary, including the need to move away from costly [computer system] connections.

Performance and Customer Service: Compared with a control group of trademark examining attorneys in the office, pilot work at home employees were able to maintain or exceed performance goals. Productivity was positively affected. In addition, an independent customer telephone survey showed that work at home employees were able to provide the same high level of customer service as employees who remain in the office.

Labor Relations: All aspects of the program were developed and implemented in partnership with National Treasury Employees Union 245 and through the PTO Partnership Council.[49] A labor/management partnership working group continues to provide oversight over the expanded program. The working group has been one of the most successful partnership efforts in history and serves as a model for future endeavors in partnership.

Employee Satisfaction: ... Most telecommuters report they get more done and are more satisfied with their jobs as a result of telecommuting. The shortened commute decreases employee travel expenses and commuting stress, while enhancing the quality of work life and increasing the amount of time telecommuters have for family life and personal pursuits. Telecommuters also enjoy a greater degree of work-related autonomy and responsibility. [A pilot participant commented:] There is absolutely no comparison between the way I feel on my work-at-home days vs. in-office days. The work environment here at my rural Maryland home, with the view of mountains, trees and wildlife, possesses a general peace/quiet which is a far cry from the urban office environment and, in my opinion, a vast improvement. Participation in this program has probably extended my PTO career.

"[T]he USPTO hopes to greatly expand the use of alternative work site options for an increasing percentage of its employees."[50]

International Telework. Work abroad may also apply telework, as this example provided by OPM illustrates:

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[49]An NTEU press release states that the union will be exploring "increased telecommuting options" for all federal employees. See: "NTEU President Says New Report Is a 'Good Starting Point' for Resolving Federal Workforce Issues," Dec. 8, 2000, available on the Internet at [http://www.nteu.org, choose "Press Kit"], visited Feb. 21, 2001.

[50]U.S. Patent and Trademark Office, "Telecommuting Expands in Trademark Operation." Information sent to CRS by e-mail from the PTO Dec. 5, 2000.

> In 1995, one of the functional bureaus at the Department of State proposed that a civil service employee be permitted to perform her Washington-based job duties from overseas. The employee was married to a foreign service officer who was being posted in Ankara, Turkey. The bureau and the employee felt that a telework arrangement would be ideal and would meet the needs of both the agency and the employee. The department determined that the employee's duties in the financial bureau could be performed and monitored from the overseas location through the use of technology. A major benefit for the employee was that she did not have to leave her job and experience a break in her Federal service. The department was very interested in keeping this employee on board, given her excellent record, her extensive knowledge and superb skills. It further determined that she might be able to conduct site reviews in some European cities, thereby saving the department the more expensive travel costs of sending other employees from the U.S. According to the employee, the arrangement worked out very well, [and she] report[ed] that her production increased dramatically. While in Ankara, she occupied an office at the embassy. Issues of diplomatic immunity, reporting requirements, use of technology, and office space and location were some of the details addressed by a team that worked to implement this arrangement.[51]

Telecenters. More than 300 federal employees are using telecenters, satellite offices shared by agencies, as their alternative worksites.[52] As of October 1, 2000, GSA reported that 370 employees were using these facilities. Agencies with the largest numbers of employees working from telecenters were: Department of Defense (120); GSA (65); Departments of Transportation (44), Agriculture (32), and Education (28); OPM (19); and Departments of HHS (14) and Treasury (13).[53] Telecenters are located in the states of Georgia, Illinois, Minnesota, and Ohio, and in the Washington, DC metropolitan area.[54] Among the sites in the DC area are telecenters located in the District of Columbia; in Bowie, Frederick, Hagerstown, Laurel, Prince Frederick, Silver Spring, and Waldorf, Maryland; in Fairfax, Fredericksburg, Herndon, Manassas, Stafford, Sterling, Winchester, and Woodbridge Virginia; and in Ranson, West Virginia.[55] Monthly fees charged to an agency to lease an individual workstation vary by telecenter.[56] According to GSA: "Agencies that use telecenters must lease the telecenter workstations used by their teleworkers and, therefore, experience a double overhead cost for each teleworker using a telecenter (overhead for existing main worksite workstation plus lease cost for use of telecenter

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[51]U.S. Office of Personnel Management, Office of Congressional Relations. Statement sent to CRS by facsimile Nov. 29, 2000.

[52]For information on the history of telecenters, see: *Evolution of Telework*, pp. 24-31.

[53]Data provided to CRS by GSA by facsimile Dec. 5, 2000.

[54]Interagency Telecenter Listing, available on the Internet at [http://hydra.gsa.gov/pbs/owi/tclist.htm], visited Feb. 21, 2001.

[55]Listed on the Internet at [http://www.wmtc.org/index.mv], visited Feb. 21, 2001.

[56]For an example of the fees, see: "Federal Interagency Telecommuting Centers, FY2001 Pricing Structure and Billing Procedures," available on the Internet at [http://hydra.gsa.gov/pbs/owi/pricing2001.htm], visited Feb. 21, 2001.

workstation). This, clearly, is not an efficient use of funds and is a primary deterrent to the development of telecenters."[57]

The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, P.L. 105-277, provided that "For fiscal year 1999 and each fiscal year thereafter, of the funds made available to each Executive agency for salaries and expenses, at a minimum $50,000 shall be available only for the necessary expenses of the Executive agency to carry out a flexiplace work telecommuting program." The law defined the term "flexiplace work telecommuting program" as "a program under which employees of an Executive agency are permitted to perform all or a portion of their duties at a flexiplace work telecommuting center."[58] Telephone conversations with several executive agencies, indicate that no procedure was in place to track the implementation of this provision.

Studies. The General Accounting Office (GAO) published the results of an evaluation of flexiplace in July 1997, which included these observations:

> Agency officials said that most employees using flexiplace were in professional occupations. They told us that the staff members most frequently using flexiplace were employed as engineers and engineering technicians, attorneys and paralegals, program and management analysts, computer personnel, investigators, and inspectors.
>
> Agency officials and union representatives told us that management resistance was the largest barrier to implementing flexiplace programs. They explained that some managers and supervisors resisted allowing staff to participate in flexiplace because they did not believe that employees were working unless they could see them.
>
> [A] lack of adequate equipment was identified as a barrier by 12 of the 28 agency officials and 4 of the 9 union representatives we interviewed .... Five of the 28 agency officials and 1 of the 9 union representatives believed that the nature of the job was a barrier to implementing flexiplace .... Five of the agency officials and one of the union representatives we interviewed said that the handling of sensitive data was a barrier.
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> Agency officials reported few operational difficulties as a result of flexiplace arrangements. Although agency officials told us that some managers initially

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[57]U.S. General Services Administration, "Federal Telework Topics," p. 17, available on the Internet at [http://policyworks.gov/org/main/mp/library/policydocs/mworkplce.htm], visited Feb. 21, 2001.

[58]P.L. 105-277, Oct. 21, 1998, 40 U.S.C. 490 note, 112 Stat. 2681-522 - 2681-523. The law covered these departments and agencies: Depts. of State, the Treasury, Defense, Justice, Interior, Labor, Health and Human Services, Agriculture, Commerce, Housing and Urban Development, Transportation, Energy, Education, Veterans' Affairs; and General Services Administration, Office of Personnel Management, Small Business Administration, Social Security Administration, Environmental Protection Agency, and U.S. Postal Service.

feared participants would abuse flexiplace arrangements, these officials reported few instances of abuse.[59]

At the request of Congress, OPM reviewed family-friendly workplace arrangements in the federal government in August 1998. Telecommuting was one of the programs about which agencies were asked to provide feedback. Data provided to OPM showed that 73% of the agencies reported that they had implemented telecommuting programs, but just 0.5% of federal employees were participating in such programs. The agencies reported to OPM that the top three reasons for not implementing telecommuting were that it "may cause customer complaints about availability; may cause difficulties in ensuring office coverage; and may cause problems scheduling meetings." According to OPM: "Several focus group participants stated that their offices do not permit telecommuting, even if their agencies had implemented the program. Focus group feedback indicated there are several barriers to implementing telecommuting programs: lack of resources, lack of trust between supervisors and employees, time consuming paperwork necessary to track employee hours, difficulty in assessing employee performance, and security issues."[60] According to OPM, its Philadelphia regional office is currently preparing a study that will be a compendium of telework success stories.[61]

A June 2000 study published by the PricewaterhouseCoopers Endowment for the Business of Government concluded that "best practices in teleworking have yet to manifest themselves" and their development will be ongoing and incremental. The authors found that such practices would be "optimized by the happy confluence of work inherently suited to flexiplace; workers suited to independent work; and trusting, supportive, and unintrusive managers."[62]

The Merit Systems Protection Board's 2000 survey on Merit Principles asked executive branch employees throughout the government about the availability and importance of various family-friendly programs. With regard to telecommuting, 20% of respondents reported that such a program was available to them; 63% said it was not available; and 17% didn't know or were not sure.[63]

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[59]U.S. General Accounting Office, *Federal Workforce: Agencies' Policies and Views on Flexiplace in the Federal Government*, GAO Report GGD-97-116 (Washington: July 1997), pp. 13-16.

[60]U.S. Office of Personnel Management, Office of Workforce Relations, *A Review of Federal Family-Friendly Workplace Arrangements* (Washington: Aug. 1998), pp. 8-9, 13.

[61]U.S. Office of Personnel Management, Office of Workforce Relations, Family-Friendly Workplace Advocacy Office. Statement sent to CRS by facsimile Jan. 8, 2001.

[62]*Managing Telecommuting*, pp. 23, 26.

[63]U.S. Merit Systems Protection Board, Office of Policy and Evaluation, *Issues of Merit*, Sept. 2000, p. 5. Using OPM's Central Personnel Data File (CPDF), MSPB selected random samples of 750 employees from 22 major executive branch departments and independent agencies. A 23rd category, called "other," included a random sample of 750 employees from the remaining smaller agencies. For information on the survey, see the MSPB Web site at [http://www.mspb.gov/studies/survey2000.html], visited Feb. 21, 2001. (Hereafter cited as

(continued...)

A December 2000 report issued by the Senate Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia of the Committee on Governmental Affairs supported efforts to increase the number of federal employees who are telecommuting, stating that such programs "make federal service more attractive to many employees, especially parents of young children," and "ha[ve] the potential to reduce traffic congestion and pollution in large metropolitan areas."[64]

U.S. Congress

An examination of the House and the Senate, their respective administrative offices, and legislative branch support agencies, reveals no single telecommuting policy in the legislative branch. Senate, House, and legislative branch agencies that have established formal telework policies are not provided funding specifically for this purpose; funding must be taken out of existing budgets. In the House, ordinary and necessary telework expenses incurred by Members and their employees, in compliance with the Committee on House Administration's telecommuting policy, are reimbursable under the Members' Representational Allowance (MRA), as provided for in the *Members' Congressional Handbook*.[65] Funds for training qualify under the MRA as well. Conversations with the human resources offices of congressional offices and legislative support entities that have telework programs indicate that most teleworkers are working from home. As of October 1, 2000, only a handful of legislative branch employees were using the GSA telework centers. Entities in the legislative branch that have established formal telecommuting policies, or are considering a telecommuting policy, are discussed below.[66]

House of Representatives. The Committee on House Administration adopted a telecommuting policy available to Members' offices, committees, and House administrative offices, in committee resolution 106-1-21 on October 21, 1999. The resolution provides guidelines and rules for offices that choose to establish their own programs. The House policy defines telecommuting as "a working arrangement, mutually agreed upon by the employee and the employing office, whereby the employee works at an alternative worksite on specified days and/or for specified hours." An alternative worksite is a location other than the central worksite approved by the employing office (for example, a residence or a telecommuting center).

The House Administration Committee chair and ranking member announced the bipartisan House policy to all House Members in a November 5, 1999 *Dear*

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[63](...continued)
Issues of Merit.)

[64]*The Crisis in Human Capital*, p. 48.

[65]See the telecommuting section of the *Members' Congressional Handbook* on the Internet at [http://www.house.gov/cha/handbook/handbook1.html], visited Feb. 21, 2001.

[66]Entities that have not established telecommuting policies, according to conversations with them in November and December 2000, are the offices of the Secretary of the Senate, the Clerk of the House, the House Inspector General, the Government Printing Office, and the Architect of the Capitol.

Colleague letter. The policy states that telecommuting is not a right or benefit, and that the establishment of such a program is entirely at the discretion of each employing office. A clear prohibition specifies that the alternative worksite may not be a political, campaign, or commercial office.[67]

Under House Administration Committee resolution 106-1-21, the employing office has discretion, subject to applicable House rules and regulations, on establishing the criteria for selecting eligible employees to participate in its telecommuting program. A telecommuting agreement must be signed by employees prior to their participation in the program. Factors considered in the selection of employees for the program may include their ability to work without direct supervision; their specific work responsibilities (requiring minimum supervision); equipment or materials needed; and an assurance that telecommuting will not adversely affect their performance or the responsibilities of co-workers. In general, the program is not recommended as suitable for new employees, employees who require close supervision, or those who require interaction with co-workers.

Applicable rules and regulations under the House policy, in accordance with committee resolution 106-1-21, provide:

> An employee with a telecommuting work arrangement is covered by the same rules, regulations and procedures applicable to all employees of the employing office, including those set forth in Committee on House Administration regulations, the employing office's employee manual, the Rules of the House of Representatives, applicable federal laws, and the guidance of the House Committee on Standards of Official Conduct. Violation of any of these rules, regulations, procedures or laws may result in disciplinary action up to and including termination of employment.
>
> Work schedules must comply with the Congressional Accountability Act and regulations promulgated thereunder.

The *Members' Congressional Handbook* provides that ordinary and necessary telecommuting expenses incurred in compliance with the telecommuting policy are reimbursable.[68]

According to the telecommuting policy approved by the Committee on House Administration, strict guidelines on confidentiality and security are outlined in the House policy. These guidelines include a discussion of access to restricted information, storage of files, and establishment of procedures to ensure confidentiality.

Office of the Chief Administrative Officer (CAO). In spring 2000, this House administrative office established a telecommuting policy nearly identical to the general House telecommuting policy described earlier. The CAO policy defines telecommuting as "a working arrangement, mutually agreed upon by the employee

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[67]In accordance with the House policy adopted by the House Administration Committee.

[68]See the telecommuting section of the *Members' Congressional Handbook* on the Internet at [http://www.house.gov/cha/handbook/handbook1.html], visited Feb. 21, 2001.

and the Associate Administrator of an employee, whereby the employee works at an alternative work site on specific days and/or for specified hours." The policy was adopted following a pilot telecommuting program which began on February 1, 2000 and ended on April 30, 2000. Seven participants in the pilot program telecommuted part-time, ranging from two to eight days during the three-month period. Results of the surveys of both supervisors and participants enabled the CAO to review and modify its program for implementation throughout the CAO. The positive survey feedback resulted in the CAO's enacting a permanent telecommuting policy, which is now in effect. Currently, five of approximately 570 permanent employees telecommute. The CAO program also addresses employees working from home because of disability and states: "In addition to this telecommuting program, in accordance with the Americans with Disabilities Act (ADA), the CAO may reasonably accommodate an eligible employee with a qualified disability by allowing the employee to work at home. As a condition of such a request, the CAO may require certification from a physician of the need for such accommodation."[69]

House Sergeant at Arms. According to the House Sergeant at Arms Office, the office follows the House telecommuting policy and guidelines. Currently, no employees participate in the program; however, should an employee ask to telecommute, the office would consider the feasibility of granting the request.

Senate. While there is no Senate-wide telecommuting policy, each Senate office and committee sets its own policy for employees on a case-by-case basis. The Senate Committee on Rules and Administration is currently examining the various aspects of telecommuting.

Senate offices and committees appear not to have a uniform definition or application of telecommuting. For example, some offices may include extended maternity or medical leave under this definition although they have no formal, established telecommuting policies.[70]

Senate Sergeant at Arms (SAA). Beginning in October 1998, this office implemented a telecommuting program that provides "full-time SAA employees the opportunity to complete certain pre-approved duties from a location other than the standard workplace." The SAA telecommuting policy is a voluntary and cooperative agreement between the SAA and the employee. Participation in the program is not an employee's right, nor is it guaranteed or expected as a condition of employment. The department director has sole discretion to establish eligibility for participation in the telecommuting program. Among the considerations to qualify for the program are an employee's overall performance (which must meet or exceed SAA standards); ability to work independently with minimal supervision; and ability to maintain a high level of productivity. In addition, position qualifications provide that the duties and

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[69]Information based on discussions with and documents received from the Office of the Chief Administrative Officer from Oct. 2000 through Jan. 2001.

[70]Based on conversations with the respective staffs of the Senate Committee on Rules and Administration, the Secretary of the Senate, and various Members' offices from Nov. 2000 through Jan. 2001.

assignments to be completed do not require on-site presence to be performed properly.

All SAA telecommuting agreements must meet the following requirements: (1) be approved in advance by the employee and the employee's department director; (2) have no adverse impact on SAA services provided to the Senate; and (3) allow for the agreement to be terminated at any time by the employee or the SAA for any reason. Under the policy, "the employee agrees to protect SAA records from unauthorized disclosure or damage and will comply with requirements of the Privacy Act of 1974, 5 U.S.C. 552a." The telecommuting agreement must specify the necessary security provisions as needed. (The sample agreement provided by the SAA leaves this provision blank so that required safeguards may be tailored to needs.) An inspection of the alternate workplace may be conducted during the employee's normal working hours to ensure proper maintenance of SAA-owned property and conformance with safety standards.[71]

Legislative Branch Support Agencies

The following legislative support agencies have implemented telecommuting programs or are currently examining telework to determine its feasibility as a component of a flexible workplace policy.

Congressional Budget Office (CBO).[72] This office established an alternate work location program in January 1999. CBO defines the program as "an arrangement whereby an employee is permitted to work at home or in another location. In some cases, employees may be connected to the office by telephone, facsimile or computer." According to CBO, it developed alternate work location arrangements to optimize performance; recruit and retain staff; and help staff balance professional work life with personal and family needs. Participation in this program is considered on a case-by-case basis and is not granted automatically. Supervisors determine those who may participate according to work performance, and the needs of the office.

Participating CBO staff must sign a written agreement defining their work and performance expectations. A number of terms are stipulated in the agreement. The employee must be accessible in person at the off-site office, by telephone, or by electronic mail, during scheduled work hours. Moreover, the employee must be available to work in the main CBO office as needed. CBO has the right to inspect the off-site office. CBO-supplied property and other resources must be used solely for official CBO business and remain the property of the agency. Any CBO employee working off-site is advised to consult tax and insurance policies on the home worksite because it is the employee's responsibility, and CBO is not liable for the employee's personal or real property at the alternate workplace. Depending on the agreement, the employee may or may not have the option to return to the CBO workplace, and

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[71]Based on discussions with the human resources office in the Sergeant at Arms Office, and information sent to CRS by facsimile Nov. 15, 2000.

[72]Based on discussions with the human resources office at the Congressional Budget Office in Oct. 2000 and Jan. 2001, and information transmitted to CRS by e-mail Oct. 17, 2000.

termination of the arrangement may occur with reasonable advance notice. The agreement also specifies security and confidentiality guidelines. In 1999, one employee participated in this program, and two employees participated in 2000.

General Accounting Office (GAO).[73] In addition to participating in an OPM government-wide flexiplace pilot program, GAO also conducted its own pilot program. Since June 1994, GAO has had a flexiplace arrangement that allows employees to work outside the traditional office setting. The positive feedback from the two pilots resulted in the establishment of a flexiplace program. Flexiplace is defined as "flexibility in work location with no change in official duty station or conditions of employment."

Under this policy, all full-time and part-time employees are eligible to participate, provided they meet certain performance standards and have proven work records indicating their ability to work independently with limited supervision. Flexiplace may be short-term or ongoing. Managers determine whether duties and work arrangements are appropriate for off-site work. Employees who telework on a continuing basis must be scheduled to spend at least one day a week in the office, unless exceptions are approved by the unit head. An employee may not work overtime without prior supervisory approval, and unauthorized overtime work may result in the termination of the flexiplace agreement, or other action. Employees are required to document time and attendance and submit bi-weekly work schedules for supervisory approval.

A number of specific safeguards for the protection of classified and sensitive data and records are stipulated in the GAO policy, as quoted below.

> Classified information shall not be taken to, accessed from, or processed at off-site (i.e., flexiplace) location.
>
> The processing of unclassified sensitive data is not recommended on off-site systems. However, it may be processed on off-site systems only when GAO/OMIC officials certify that the system adequately protects records and that such use conforms to applicable laws and policies.
>
> Employees with access to records that contain sensitive information, including records subject to GAO's privacy regulations, must maintain appropriate administrative, technical, and physical safeguards to ensure the security of the records.
>
> The authorization of the supervisor is required when sensitive information (including information subject to GAO's privacy regulations), whether in hard copy or electronic media form, is used by employees working at an alternate worksite. In addition, the supervisor must ensure that employees are knowledgeable of the appropriate/necessary safeguards.

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[73]Based on discussions with officials at the U.S. General Accounting Office from Oct. 2000 through Jan. 2001, and Order 2300.5 in the *GAO Operations Manual.*

> Employee agrees to protect government/agency records from unauthorized disclosure or damage and will comply with privacy requirements set forth in law and regulation.

GAO has the right to inspect the alternative worksite during the employee's normal working hours for purposes of ensuring safety standards and proper maintenance of government-owned property. If an inspection is deemed appropriate, the employee is to receive at least 24 hours' advance notice.

Library of Congress. The Library formed a task force early in 2000 to explore the feasibility and desirability of a telework program for its employees. The task force, comprising managers and employees, grew out of the Library's Human Resources 21st Century initiatives, and defines teleworking as a flexible work arrangement that allows employees to work off-site for some part of their work week. Details for establishing episodic off-site work arrangements also are being examined. The task force is currently establishing a framework and guidelines for a proposed pilot program for Library employees. In July 2000, conferees to the Legislative Branch Appropriations Bill for FY2001 encouraged the Librarian of Congress to consider a telecommuting program for the Library, including the Congressional Research Service (CRS).[74]

Future Considerations

Several issues related to telework will require continuous evaluation as entities in both the executive and the legislative branches consider, develop, and implement specific programs.

Security and Confidentiality[75]

Agency investments in information technology infrastructure, which allow firewalls to be created for both Internet and e-mail files, are increasing the security and confidentiality of government information. Security measures and established procedures for protecting sensitive information, such as the use of passwords for different gateways, likewise are designed to prevent unauthorized access.

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[74]The Legislative Branch Appropriations Bill for FY 2001, H.R. 5657, was enacted through Public Law 106-554, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 2001 (H.R. 4577), enacted on December 21, 2000. Report language is found in U.S. Congress, Conference Committees, 2000, *Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 2001*, conference report to accompany H.R. 4577, H. Rept. 106-1033, 106th Cong., 2nd sess. (Washington: GPO, 2000), p. 328; and U.S. Congress, Conference Committees, 2000, *Making Appropriations for the Legislative Branch for the Fiscal Year Ending September 30, 2001, and for Other Purposes*, conference report to accompany H.R. 4516, H. Rept. 106-796, 106th Cong., 2nd sess. (Washington: GPO, 2000), p. 44.

[75]See: U.S. Library of Congress, Congressional Research Service, *Electronic Government: A Conceptual Overview*, by Harold C. Relyea, CRS Report RL30745 (Washington: Nov. 27, 2000), especially pp. 7, 19-20. (Hereafter cited as *Electronic Government*.)

Nevertheless, information technology professionals and agency employees need to work together to monitor the effectiveness of policies and requirements specific to their work. Hackers are increasingly aggressive in infiltrating government computer networks and systems, and planting viruses that can incapacitate them and result in possible shutdown of entire systems. Files could be permanently lost, and the integrity and authenticity of data could be compromised. Agencies are continuously vigilant and share information to develop common safeguards and antidotes for combating these attacks. They will need to extend such vigilance to ensure that the connections between central worksites and alternative worksites are secure.

A Department of Energy representative told the Telework Issues Working Group that "There is a need to establish a Government-wide minimum level of teleworker access to non-classified information such as e-mail (particularly for networks which have significant controls/firewalls that prohibit teleworking on a regular basis)." The representative "strongly recommend[ed] a partnership among the Federal Chief Information Officers (CIO) Counsel, GSA, and OPM on this issue."[76]

In the legislative branch, as discussed under Implementation above, the House, Senate Sergeant at Arms, CBO, and GAO policies address confidentiality and security. Confidentiality in serving Congress is an important component of the missions of the legislative branch support agencies.

Privacy

In addition to the security and confidentiality considerations, the requirements of the Privacy Act must be met by federal agencies.[77] These include "requirements regarding their management – i.e., collection, use, and storage – of personally identifiable information."[78]

GSA has counseled agencies that:

> Records subject to the Privacy Act may not be disclosed to anyone except those authorized access as a requirement of their official responsibilities. Agencies should ensure that appropriate physical, administrative, and technical safeguards are used to protect the security and confidentiality of such records.[79]

The Telework Issues Working Group heard from a representative of the Department of Health and Human Services (HHS) that the agency "is very concerned about the protection of Government records while [federal employees are] telecommuting." HHS found this protection "to be a serious problem when translated

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[76]"Telework Related Policy Issues," p. 4.

[77]88 Stat. 1896; 5 U.S.C. 552a.

[78]*Electronic Government*, p. 29, also p. 5. See also: U.S. Library of Congress, Congressional Research Service, *Access to Government Information in the United States*, by Harold C. Relyea, CRS Report 97-71 (Washington: Jan. 6, 1997).

[79]"Telework Related Policy Issues," p. 17.

to flexiplace" and suggested that OPM and/or GSA "specifically address this issue in telework guidance." According to the representative:

> Some form of control is necessary so that the appropriate Federal office will know exactly where a record is when it is not in the official files; that hard copy and electronic records are adequately protected during transmission to and from a telework site, and that all Federal electronic records and data bases used by an employee from a telework site are secure and protected at all times.[80]

In the legislative branch, each of the entities with telework programs addresses privacy issues in its policies, as discussed under the Implementation section above.

Another issue related to privacy is whether and how government officials will have access to personal computers owned by teleworking employees, if those computers are thought to have official government files saved on them. While an employing agency may arguably conduct unannounced inspections of agency equipment used in an employee's home, it is not certain whether such authority exists when an employee uses his or her own equipment.

Health and Safety[81]

As more employees participate in telework programs and increase the amount of time they spend at alternative worksites, health and safety at these locations, including standards for ergonomics, will continue to be issues for review. Both GSA and OPM have drawn up checklists that are not legally binding, but enable teleworkers to certify that specific health and safety elements are present at the alternative worksites, which may be subject to inspection by the employing office. Among the items on the checklist are the following.

> Are temperature, noise, ventilation, and lighting levels adequate for maintaining your normal level of job performance?
>
> Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service?
>
> Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through walls, exposed wires to the ceiling)?
>
> Will the building's electrical system permit the grounding of electrical equipment?
>
> Is there enough light for reading?[82]

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[80]Ibid, p. 5.

[81]See: U.S. Library of Congress, Congressional Research Service, *Application of the Occupational Safety and Health Act (OSHA) to Teleworkers*, by Kimberly D. Jones, CRS Report RS20463 (Washington: Feb. 11, 2000).

[82]U.S. General Services Administration, Evaluation and Innovative Workplaces Division, (continued...)

At its initial meeting, the Telework Issues Working Group discussed the need for the Occupational Health and Safety Administration (OSHA) to "publish and maintain basic guidance [at the] lay-person level, on safety and health in the home office" and "establish/clarify health/safety responsibilities for alternate worksites such as telecenters or other non-residence, third-party owned/operated worksites."[83] During the 106th Congress, at least six bills were introduced on this subject, but none reached the floor. Five of the bills would have amended OSHA to prevent its application in home offices, while one bill would have specifically provided for its application.[84]

As discussed above, all the legislative branch entities with telework programs have provisions regarding the right of the employing office to inspect the off-site work location.

Other considerations on which the executive branch is expected to focus include the funding of telework programs and the training of both managers and employees about their responsibilities in carrying them out.

Funding

Very little data on the funding of telework programs are readily available. There appear to have been no formal requirements for data collection; hence OPM has modest data to report. The Departments of the Treasury and HHS anticipate that they will begin to collect data on their programs so as to monitor the implementation of the recently passed law mandating establishment of telework policies.[85] At the Telework Issues Working Group meeting, a representative from HHS suggested that "The Human Resources Technology Council should be directed to bring about interagency consensus on a minimum standard data set for teleworking ... provid[ing] for consistent agency transmissions to OPM's Central Personnel Data File."[86] If accomplished, this would facilitate the evaluation and comparison of the various telework programs in the executive branch.

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[82](...continued)
Office of Real Property, Office of Governmentwide Policy, *Implementation Manual, Appendix C: Self-Certification Safety Checklist for Home-Based Telecommuters*. Printed from the Internet at [http://policyworks.gov/org/main/mp/library/policydocs/manual10.htm], visited Feb. 21, 2001.

[83]"Telework Related Policy Issues," p. 6.

[84]The five bills that would have amended OSHA application were H.R. 3518, H.R. 3530, H.R. 3539, H.R. 3588, H.R. 3643, and the one bill that would not have was H.R. 4080.

[85]P.L. 106-346. Telephone conversations with telework coordinators Garland Green (Treasury) and Karen Billingslea (HHS) Nov. 28, 2000. Both agencies said that some data were collected previously on an informal basis as needed.

[86]"Telework Related Policy Issues," p. 6.

Training

OPM is proposing development of a training module on telework that will be designed in a self-teaching format and accessible by computer. Similarly, the Department of the Treasury has discussed with GSA the possibility of establishing a common training program that can be used by all the executive branch agencies.[87] According to a Department of Education representative on the Telework Issues Working Group, "There is a need to find ways to make managers more comfortable with managing off-site employees, as well as a need for consistent training, especially in the area[s] of virtual teaming and communication techniques." A desire for an increased "commitment to management and teleworker training" was expressed by representatives from HHS and the EPA on the working group as well.[88] Some have observed that while trust and accountability cannot be taught, they can be built and environments conducive to them can be fostered.[89] OPM emphasizes that an agreement, worked out in common by, and specifying the responsibilities and work assignments of, managers and employees, must be signed by both parties before teleworking can occur. Fulfillment of the agreement would, perhaps, help overcome the "significant barrier to greater utilization of telework/flexible workplace arrangements, ... the attitude of the manager and the concern about work being completed."[90]

Conclusion

Interest in telework continues to grow, and policies continue to evolve in both the executive and the legislative branches. The Merit Systems Protection Board's *2000 Survey on Merit Principles*, discussed earlier, found that a telecommuting program was either important or very important to 47% of employees. This response ranked telecommuting in sixth place out of 12 places.[91] The December 2000 report issued by the Senate Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia expressed the desire that the goal set in January 1996 by the President's Management Council to have 160,000 federal employees telecommut[ing] nationwide by fiscal year 2002" would be met or exceeded.[92]

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[87]Telephone conversation with Garland Green, telework coordinator at the Dept. of the Treasury, Nov. 28, 2000.

[88]"Telework Related Policy Issues," p. 12.

[89]This statement is based on discussions with executive and legislative branch staff who administer programs mentioned in this report.

[90]"Telework Related Policy Issues," p. 12.

[91]Programs on flexible work schedule (86%), sick leave for family care (85%), compressed work schedule (71%), employee assistance programs (54%), and leave sharing (51%) placed higher. See: *Issues of Merit*, p. 5.

[92]*The Crisis in Human Capital*, p. 48.

Among the factors that appear to contribute to successful telework experiences are: top management support; a clear telework agreement that includes expectations accompanied by measurable goals; accountability and performance results; rapport between the manager and the employee, and the temperament (of both) to be flexible as the workload and other demands dictate; participating employees who have proven performance records; an organizational culture that supports change, flexibility, and creativity; proper training, equipment, and infrastructure; and initial implementation as pilot programs or episodic arrangements.

Reservations about telework may include managerial concerns about maintaining performance and productivity in the office or organization; the security of government records and the use of software licensed to the government on computers at the alternative work sites; and the availability of funding to provide necessary support for employees to work away from the main office, while at the same time maintaining an office at the agency.

As additional information about what factors are important to successful telework programs becomes available, agencies may see applications for their own employees. Further, as the infrastructure to support telework develops and if security safeguards are enhanced, an increase in the number of telework programs may occur. The Telework Issues Working Group may identify whether additional legislation or guidance are needed. The newness of telework policies in the legislative branch has some of the entities reviewing existing programs, and looking to those in the executive branch and private industry for insights into the requirements for successful implementation of telework.