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Assembly

## Research and Information Service Briefing Paper

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# Telework in the US Federal Government

This briefing paper provides further information and evidence to the Committee for Finance and Personnel in relation to the implementation in the United States of the *Telework Enhancement Act 2010*.

## Key points

- Whilst American federal agencies are required to have a teleworking policy in place, they retain discretion to determine their own criteria for eligibility and participation (to the extent that they must comply with the statutory requirements) in accordance with business needs (section 1.2.);
- The federal Office of Personnel Management has provided guidance, consultancy support and training to support implementation of the *Telework Enhancement Act 2010* (sections 1 and 2);
- The Office of Personnel Management's reporting has been criticised by the Government Accountability Office. It is likely to be 2015 at the earliest before the Office of Personnel Management can report on implementation in a way that will fully meet its statutory obligations (section 3.1.);
- The Government Accountability Office found that both large and small federal agencies have faced similar barriers (such as 'management resistance') to implementation of the *Telework Enhancement Act 2010* (section 3.2.); and,
- Five federal agencies have responded to a RaISe request for information and have provided helpful initial information to support Committee for Finance and Personnel's Inquiry.

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## Introduction

This Briefing Paper follows RaISe paper NIAR151-13 *Flexible working: further evidence*.<sup>1</sup> The Committee for Finance and Personnel (CFP) requested additional evidence in relation to the implementation of *The Telework Enhancement Act 2010* (the Act) in US federal agencies. In particular, CFP requested further detail on take-up of teleworking within federal agencies. In addition, CFP requested more detail on which of those federal agencies which may have equivalents within the Northern Ireland Civil Service (NICS). This was requested to help CFP determine whether federal agencies' experiences may be applicable to Northern Ireland.

The primary purpose of this paper is therefore to identify appropriate agencies from which CFP could directly obtain further evidence.

A secondary purpose of this paper is to present further details on the teleworking implementation process in the US. This information is presented first (in sections 1 to 3) to provide CFP with a more detailed understanding of the central support provided to federal agencies to assist their implementation of the Act.

The paper is structured as follows:

- Section 1 details of the guidance issued by the Office of Personnel Management (OPM) to federal agencies on implementation of the Act;
- Section 2 provides information in relation to the training that the OPM has developed for employees and managers;
- Section 3 examines the evidence from a review into the OPM's reporting to Congress under the requirements of the Act;
- Section 4 presents the responses received from the federal agencies that replied to RaISe's request for information; and,
- Section 5 provides some concluding remarks.

Where appropriate, some recommendations have been drawn to CFP's attention.

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<sup>1</sup> RaISe (2013) 'Flexible working: further evidence' available online at: [http://www.niassembly.gov.uk/Documents/RaISe/Publications/2013/finance\\_personnel/9413.pdf](http://www.niassembly.gov.uk/Documents/RaISe/Publications/2013/finance_personnel/9413.pdf)

## 1. OPM Guidance on telework policy

The OPM has published a *Guide to Telework in the Federal Government* which is designed to outline practical information to assist federal agencies, managers, supervisors, Telework Managing Officers, and other staff. The Act requires the OPM to:

*...provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities,<sup>2</sup>*

This section of the paper draws on that guidance, to provide further clarity on some issues in relation to interpretation, and implementation, of the Act.

In addition to the publication of guidance, the OPM also operates a consultancy service. These consultants:

*...can help agencies meet these mandates and establish effective Telework Programs. OPM Consultants partner with agency Telework program managers to address the individual and organizational performance issues necessary to create and sustain a productive and effective telework environment.<sup>3</sup>*

OPM also provides interactive training and workshops tailored to agency specific telework program requirements (such as training supervisors on managing remote employees) and consultants can “*evaluate agency telework policies to ensure a strong foundation for the agency program, and perform position and organizational analyses to determine telework-compatible jobs.*”<sup>4</sup> For more on training provision, see section 3 of this paper.

### 1.1. Definition

The Act defines ‘telework’ or ‘telework’ as:

*...a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.<sup>5</sup>*

In its guidance, the OPM provides the following supplementary explanation:

*In practice, "telework" is a work arrangement that allows an employee to perform work, during any part of regular, paid hours, at an approved*

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<sup>2</sup> S.6504(b)(1) <http://www.gpo.gov/fdsys/pkg/PLAW-111publ292/pdf/PLAW-111publ292.pdf>

<sup>3</sup> <http://www.opm.gov/services-for-agencies/telework-management/>

<sup>4</sup> <http://www.opm.gov/services-for-agencies/telework-management/>

<sup>5</sup> s.6501(3) <http://www.gpo.gov/fdsys/pkg/PLAW-111publ292/pdf/PLAW-111publ292.pdf>

*alternative worksite (e.g., home, telework center). This definition of telework includes what is generally referred to as remote work but does not include any part of work done while on official travel or mobile work.*<sup>6</sup>

‘Mobile work’ (which is specifically **excluded** from the definition of telework in the Act) is defined as:

*Work which is characterized by routine and regular travel to conduct work in customer or other worksites as opposed to a single authorized alternative worksite. Examples of mobile work include site audits, site inspections, investigations, property management, and work performed while commuting, traveling between worksites, or on Temporary Duty.*<sup>7</sup>

The exclusion of mobile work from the definition of telework helps to demonstrate that routine on-the-job travelling to other work sites does not constitute teleworking. This is relevant to Northern Ireland because it means that the work travel of professional and technical officers, such as architects or engineers for example, to site meetings would probably be seen as mobile work rather than telework.

## 1.2. Eligibility

The Act does not make teleworking an employee right. The OPM guidance makes clear that the Act requires federal agencies to establish telework programmes, but **does not give individual employees a legal right to telework**. Instead the Act intends that agencies should allow teleworking to “*the maximum extent possible without diminishing employee performance.*”<sup>8</sup>

The House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs also stated that:

*The goal of this legislation is to ensure that Federal agencies more effectively integrate telework into their management plans and agency cultures.*<sup>9</sup>

Secondly, the OPM guidance reminds agencies that employee participation in telework is voluntary; the Act “*does not mandate telework or promote telework for its own sake.*”<sup>10</sup> Instead, the OPM states the intention of the Act is to promote maintenance of continuity of operations and reduce management costs, at the same time as improving

<sup>6</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 4)

<sup>7</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 4)

<sup>8</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 6)

<sup>9</sup> Congressional Research Service (2011) P.L. 111-292, the Telework Enhancement Act of 2010: Summary of Provisions and Possible Issues for Oversight’ available online at: <http://www.fas.org/sqp/crs/misc/R41818.pdf> (accessed 28 August 2013) (see page 1)

<sup>10</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 6)

employees' work-life balance. Ultimately, the guidance states that "*telework is primarily an arrangement established to facilitate the accomplishment of work.*"<sup>11</sup>

To this end, the guidance specifies that "*agencies retain both the discretion and the obligation to determine employee eligibility for telework subject to business-related, operational needs and the limitations described in the Act.*"<sup>12</sup>

This means that each of the federal agencies has discretion to make its own eligibility determinations for employees subject to operational needs. The OPM guidance states that it is the **agencies themselves** that are in the best position to define how implementation of the Act will not diminish employee performance or agency operations. On this basis, the guidance states that it would be "*impractical and inadvisable*" for OPM to suggest a government-wide standard or one-size-fits-all approach to eligibility decisions.<sup>13</sup>

Consequently, the OPM advises that federal agencies should specifically describe the eligibility and participation criteria in their policies.<sup>14</sup>

### 1.2.1. 'Eligibility' vs 'participation'

The OPM guidance provides some additional interpretation of the 'eligibility' and 'participation' terms for the purposes of implementing the Act. This is discussed here because there is a distinction between a post being deemed 'eligible' and the individual employee being permitted to 'participate.' This may be important because it appears to mean that even though employees may hold an eligible post, their conduct and performance must still be acceptable before their employer must allow them to participate in teleworking.

The Act only specifies two relatively specific categories of employee who may not be deemed eligible:

- an employee who "has been officially disciplined for being absent without permission for more than 5 days in any calendar year"; and,
- an employee who "has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct of Employees of the Executive Branch for reviewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties [Public Law 111-292, 6502(a)(2)(A)(B)]."<sup>15</sup>

<sup>11</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 6)

<sup>12</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 6)

<sup>13</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 14)

<sup>14</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 14)

<sup>15</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 14)

The guidance provides advice on how the term ‘officially disciplined’ should be interpreted (essentially if a written note is placed on an employee’s personnel file). It also provides some guidance on when an *eligible* employee may not be permitted to participate in telework. For example, the Act states that agencies’ policies must provide that:

*...an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee.*<sup>16</sup>

This provision means that agencies retain the ability to withhold authorisation for telework if employees do not meet the required standards. Further, the Act requires that policies “*ensure that telework does not diminish employee performance or agency operations.*”<sup>17</sup> In other words, an employee whose performance when teleworking is not up to scratch may have authorisation withdrawn.

The following section sets out more detail on the requirements for agencies’ teleworking policies.

### 1.3. Requirements of policies

The Act requires each agency to establish a telework policy under which eligible employees of the agency may be authorised to telework.<sup>18</sup> This requirement was not, however, a revolutionary duty for some federal agencies:

*Section 359 of Public Law 106-346 (October 23, 2000), stated that “[e]ach executive agency shall establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance.” Therefore, the law required executive agencies to have a telework policy in place long before the passage of the Act (Public Law 111-292). However, the Act expanded upon and strengthened the Federal Government’s commitment to the telework program. Accordingly, each agency was required to carefully review and revise its existing telework policy by June 7, 2011, to ensure compliance with the requirements of the Act.*<sup>19</sup>

The Act therefore built upon laws that had been in place for more than a decade for some agencies.

The OPM guidance makes clear that there is no requirement in the Act for agencies to submit their telework policies to OPM for review. But the Act does require agencies to

<sup>16</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-111hr1722enr/pdf/BILLS-111hr1722enr.pdf> (section 6502(b)(3))

<sup>17</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-111hr1722enr/pdf/BILLS-111hr1722enr.pdf> (section 6502(b)(1))

<sup>18</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 9)

<sup>19</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 9)



*"consult with the Office of Personnel Management in developing telework policies."*<sup>20</sup>

The Act also requires the OPM to provide policy guidance in relation to pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities. Further, OPM is required to assist federal agencies in establishing appropriate measures and teleworking goals.<sup>21</sup>

The guidance specifies that a well-written telework policy is the foundation for a good telework programme, and it provides two main objectives to be met:

- The policy should be written in such a way that it can be clearly understood and easily used; and,
- The policy should incorporate content fundamental to the development and support of an effective telework program.<sup>22</sup>

The guidance also provides details on what the telework policy should contain with regard to implementation of the programme.<sup>23</sup>

## 1.4. Telework agreements

The Act requires participants to have written agreements before they can telework. The OPM guidance states that a written agreement is:

*...entered into between an agency manager and an employee authorized to telework...outlines the specific work arrangement that is agreed to; and is mandatory in order for any employee to participate in telework.[...] It is important to remember that the Act requires that an employee successfully complete telework training before being allowed to enter into a written agreement and telework.*<sup>24</sup>

The guidance highlights the importance for agencies of ensuring that all appropriate employees receive the necessary training and have agreements in place; without agreements employees cannot undertake 'unscheduled telework' when it is offered because of the status of the Federal Government's operations. For example, if a dismissal notice is issued because of extreme weather and federal agencies are closed, those without telework agreements would be required to take paid leave. (An example of an OPM dismissal notice is provided as Appendix 2.)

Information about the OPM's telework training provision is provided in section 2 of this paper.

<sup>20</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 10)

<sup>21</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-111hr1722enr/pdf/BILLS-111hr1722enr.pdf> (section 6504 (b)(2))

<sup>22</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 10)

<sup>23</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 11)

<sup>24</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 17)

The guidance provides best-practice tips for the drafting of telework agreements. These are shown in Box 1.

**Box 1: OPM best-practice tips for telework agreements<sup>25</sup>**

- Term of the agreement: consider a one-year renewable agreement, or even a six-month agreement in telework situations that may need to be revised more frequently;
- Type of telework specified by the agreement: describe if the agreement is for regular, recurring telework, or situational/ad-hoc/episodic telework;
- Schedule: specify days of the week and the hours to be worked during telework days;
- Requirements: outline any additional requirements (e.g., technology) beyond the prerequisites to telework outlined in the Act (e.g., training, written agreement);
- Expectations: clarify any assumptions, for example, regarding work location (e.g., if expected to work only from home) and frequency and modes of communication (e.g., email vs. telephone, core hours for contact, speed for returning calls);
- Equipment and other expenses: determine and specify equipment and/or expenses that will be covered by the agency, employee, or shared;
- Expectations for emergency telework, i.e., be clear on whether or not an employee is expected to work in the case of a continuity event such as a National or local emergency; during an emergency event involving inclement weather; or another situation that may result in a disruption to normal office operations. With regard to Continuity of Operations, note that Emergency Relocation Group (ERG) members must be prepared to telework at any time;
- Information security: provide a summary for data security procedures in the agreement;
- Safety: provide a self-certification safety checklist to telework employees as a guide when preparing the alternative work location for telework; and,
- Termination/modification: ensure that employees know the agreement can be terminated or modified, and outline the conditions for termination/modification.

## 1.5. Designation of Telework Managing Officers

Section 6505 of the Act requires formal designation of a senior official as a Telework Managing Officer (TMO). The Act requires that the TMO must have “*direct access to the head of the agency.*”<sup>26</sup> In addition, the OPM’s guidance states that the TMO is meant to be a strategic thinker/planner, who will help the agency to incorporate telework “*in a way that makes good business sense.*”<sup>27</sup>

The TMO is directly accountable for the telework programme in their agency. In addition, the TMO:

- is responsible for policy development and implementation related to agency telework programs;
- serves as an advisor for agency leadership, including the Chief Human Capital Officer (equivalent to head of HR);
- serves as a resource for managers and employees on telework matters; and,

<sup>25</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see pages 17-18)

<sup>26</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-111hr1722enr/pdf/BILLS-111hr1722enr.pdf> (section 6505(c))

<sup>27</sup> OPM (2011) ‘Guide to Telework in the Federal Government’ available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 18)

- is the primary point of contact with OPM on telework matters (including reporting on implementation of the Act).<sup>28</sup>

The OPM guidance states that:

*In addition to making telework an integral way of doing business in the agency, the TMO is responsible to help with the development of goals and metrics in order to evaluate the effectiveness of the program. In designating a TMO, agencies should look for the same leadership competencies and high standards that they would consider in selecting for any leadership position.*<sup>29</sup>

## 1.6. Guidance for managers

The OPM guidance provides recommendations for managers to make teleworking an effective practice. Recommendations include: leading by example; understanding the needs of the group or team; and, using good performance management practices. As the guidance is rather lengthy, it is included as Appendix 3 to this paper.

## 1.7. Performance management

It was noted in RaISe paper NIAR151-13 that the success of telework programs is recognised as being highly dependent upon appropriate performance management practices. It was also noted above that agencies' retain the power to withhold authorisation for eligible employees to telework if their performance is not at the required standard.

It follows that for a teleworking programme to be successful, agencies, managers and employees need to follow good performance management practice. The OPM website explains that it can provide consultants to review agencies' appraisal systems, to develop and/or evaluate appraisal systems, and to support development plans.<sup>30</sup>

This central consultancy role may provide two useful functions: firstly, it means that agencies can receive support in ensuring performance management regimes are sufficiently robust to manage teleworking; secondly, at federal level there is a mechanism for central oversight and assurance.

Beyond this role, the OPM also provides telework training as detailed in the next section.

<sup>28</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 18-19)

<sup>29</sup> OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see page 18)

<sup>30</sup> <http://www.opm.gov/services-for-agencies/performance-management/> (accessed 22 August 2013)

## 2. OPM telework training provision

The Act requires that:

*...an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework<sup>31</sup>*

Section 6503 of the Act requires the heads of federal agencies to provide a telework training programme. To support federal agencies, the OPM provides web-based training for both employees and managers. It does not appear to be a requirement of the Act that agencies must necessarily make use of the OPM's training – they may have other sources of training provision.

### 2.1. Training for employees

Topics covered in the training include:

- the potential benefits of telework;
- telework principles and procedures;
- the identification of personal strengths and weaknesses as a teleworker;
- setting up a place to telework at home; and,
- the necessary tools to successfully telework.

<sup>31</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-111hr1722enr/pdf/BILLS-111hr1722enr.pdf> (section 6503(a)(2))

## 2.2. Training for managers

**telework.gov** Manager Training

Essentials of Telework

Menu References Help

**Introduction - Navigation**

Welcome to Telework Fundamentals - Manager Training! Before we get started, let's discuss the navigation of this training to help you access content or enrich the content as you move through the training.

These navigation components include:

- Menu Tab
- References Tab
- Help Tab
- Page Counter
- D-Link
- Audio/Audio Controls
- Back and Next Buttons

The image on the next page is a sample screen that shows examples of each of the components along with its descriptions. Select each of the yellow highlighted area to learn more.

User Instructions: Select NEXT to continue.

BACK NEXT

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Topics covered in the training include:

- the potential benefits of telework;
- telework principles and procedures;
- the identification of employee work habits and job tasks that are suitable for telework; and,
- the necessary tools for effective management of teleworkers.

The following section of this paper goes on to address the effectiveness of the OPM in delivering its functions under the Act.

### 3. The US Government Accountability Office Reports

Much of the material in this paper has been drawn directly from the OPM's publications about the Act. RaISe has also sought to identify any evaluations of the OPM's effectiveness in relation to the implementation of the Act.

In addition to the requirement for the OPM to provide guidance to the federal agencies, the Act places reporting duties on the OPM. The Act specifies that reports must be provided in the proscribed form to: Congress; the Comptroller General; and, the Office of Management and Budget.<sup>32</sup>

In June 2013, the US Government Accountability Office (GAO) presented the findings of its review into the OPM's *2012 Status of Telework in the Federal Government: Report to Congress*. The GAO is headed by the Comptroller General and performs a broadly similar role to the Northern Ireland Audit Office: it investigates how the federal government spends taxpayer dollars.<sup>33</sup>

The GAO's review assessed the extent to which the OPM's report discharged its duties under the Act. In addition, the GAO gathered information regarding the challenges that 'smaller agencies' may have encountered in implementation of telework programmes.<sup>34</sup>

The GAO review therefore in two ways represents a potentially valuable further source of evidence for CFP's Inquiry.

#### 3.1. The GAO assessment of the OPM report

In 2012, the GAO issued an earlier review called *Federal Telework: Program Measurement Continues to Confront Data Reliability Issues*. At that time, the GAO found that there were likely to be difficulties in measuring the implementation of the Act for a number of reasons, including:

- inability for the OPM to compare participation and frequency data with prior years because of the various collection methods employed by different federal agencies;
- changes by the OPM to the data call instrument (such as changes in terminology, for example) leading to a risk to data quality; and,
- uncertainty about whether all necessary staff had attended OPM training for federal agencies on reporting and whether that training had been consistently delivered.<sup>35</sup>

In its report the following year – after the first formal report by the OPM on the implementation of the Act – the GAO's headline finding was that OPM had only

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<sup>32</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-111hr1722enr/pdf/BILLS-111hr1722enr.pdf> (section 6506(b)(1)(B))

<sup>33</sup> <http://www.gao.gov/about/index.html>

<sup>34</sup> GAO-13-298 (2013) 'Federal Telework: Office of Personnel Management's 2012 Telework Report Shows Opportunities for Improvement' available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013)

<sup>35</sup> GAO-12-519 (2012) 'Federal Telework: Program Measurement Continues to Confront Data Reliability Issues' available online at: <http://www.gao.gov/assets/600/590219.pdf> (accessed 5 August 2013)



*“partially reported on 2 of the Act’s 7 reporting requirements.”*<sup>36</sup> In other words, **the GAO found that the OPM’s reporting showed considerable room for improvement.**

The GAO identified a number of issues:

- whilst the OPM partially reported on two of the Act’s seven reporting requirements, it did not report agency information for the five remaining requirements. This was because *“insufficient time had elapsed”* for all the requirements of the Act to be fully implemented and because agencies *“faced challenges in measuring outcomes for some nonparticipation goals”*,<sup>37</sup> and,
- the OPM recognised *“weaknesses”* in agency data sources, but had *“not taken adequate steps”* to establish a date by which agencies would produce reliable data;<sup>38</sup>

The GAO report acknowledged some of the difficulties faced by the OPM. For example, in relation to the non-reporting of whether agencies’ had met their participation goals, the GAO noted:

*OPM did not report whether each agency met its participation goals because these goals had not yet been established. This report set a baseline for future reporting of whether agencies had met its goals.*<sup>39</sup> [emphasis added]

**This suggests that, before recommending a homeworking policy for Northern Ireland, CFP could consider how the Northern Ireland Civil Service might seek to ensure timely establishment of relevant goals by departments. DFP’s views might also be sought.**

The GAO also found instances of difficulties in the US federal service which might not be so prohibitive in Northern Ireland. One of the challenges faced by OPM was an absence of standardised, government-wide data from payroll providers because the systems in place did not have the capacity to collect data on participation and frequency.<sup>40</sup>

In the Northern Ireland Civil Service, all departments use a single payroll provider in HR Connect. This might make it more straightforward for standardised data to be

<sup>36</sup> GAO-13-298 (2013) ‘Federal Telework: Office of Personnel Management’s 2012 Telework Report Shows Opportunities for Improvement’ available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 14)

<sup>37</sup> GAO-13-298 (2013) ‘Federal Telework: Office of Personnel Management’s 2012 Telework Report Shows Opportunities for Improvement’ available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 10)

<sup>38</sup> GAO-13-298 (2013) ‘Federal Telework: Office of Personnel Management’s 2012 Telework Report Shows Opportunities for Improvement’ available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 10)

<sup>39</sup> GAO-13-298 (2013) ‘Federal Telework: Office of Personnel Management’s 2012 Telework Report Shows Opportunities for Improvement’ available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 16)

<sup>40</sup> GAO-13-298 (2013) ‘Federal Telework: Office of Personnel Management’s 2012 Telework Report Shows Opportunities for Improvement’ available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 18)

collected across all departments, if a similar policy to the US federal government were to be pursued.

**CFP may wish to ask DFP if HR Connect is capable of incorporate teleworking participation data in its reporting of management information.**

The GAO report notes that the OPM has stated that “*ideally data collected through [a new] automated system would be used for the 2015 report to Congress.*”<sup>41</sup> This is quite a long timescale for accurate reporting following the passing into law of the Act in 2010.

### 3.2. Challenges for smaller agencies

Generally speaking, the US federal agencies are on a much larger scale than Northern Ireland departments and associated public bodies – for obvious reasons of the size of the American population. The GAO’s findings in relation to smaller agencies may therefore be of interest to CFP as these may be – in organisational terms – more broadly comparable with Northern Ireland departments.

As part of its review, the GAO compared the views of large and small federal agencies in regard to the challenges of implementing teleworking. CFP should note that the GAO defined a ‘small’ agency as one with fewer than 1,700 employees. Clearly, in the Northern Ireland context, an agency with 1,600 employees would be rather large.

The GAO’s comparison found that **both large and small agencies identified similar challenges:**

*Eighty percent of the agencies (16 agencies) in OPM’s focus groups had more than 1,700 employees. Challenges reported by OPM in its focus groups included:*

- *manager resistance;*
- *technology related challenges;*
- *equity with which telework has been made available to employees;*
- *performance management; and*
- *access to senior leadership.*

*Eighty percent of the agencies (8 agencies) in our discussion group had fewer than 1,700 employees. Challenges reported by discussion group participants included:*

- *management resistance;*

<sup>41</sup> GAO-13-298 (2013) ‘Federal Telework: Office of Personnel Management’s 2012 Telework Report Shows Opportunities for Improvement’ available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 22)



- *technology related challenges;*
- *office coverage; and*
- *budget and funding.*<sup>42</sup>

This evidence suggests that size of agency has not been a determinative factor in the difficulties faced in implementing the Act. In turn, this may suggest that Northern Ireland departments could potentially face similar issues.

### 3.3. Update re 2013 OPM report

After making its first report to Congress in 2012, the OPM is required by the Act to make further reports annually. At the time of writing, no report for 2013 was available via the OPM's Telework website.<sup>43</sup>

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<sup>42</sup> GAO-13-298 (2013) 'Federal Telework: Office of Personnel Management's 2012 Telework Report Shows Opportunities for Improvement' available online at: <http://www.gao.gov/assets/660/655635.pdf> (accessed 5 August 2013) (see page 23)

<sup>43</sup> [www.telework.gov](http://www.telework.gov) checked 30 September 2013.

## 4. Case studies – returns from US Federal Agencies

CFP asked RaISe to identify appropriate agencies from which further evidence could be requested.

RaISe applied filtering criteria to narrow the number of agencies selected. For detail on the criteria used to select case studies, refer to Appendix 1.

This section of the paper outlines the responses received from the agencies contacted by RaISe, which should assist CFP in selecting appropriate case studies to follow up.

RaISe submitted the following questions to each of the selected agencies, based on some of the issues identified in the earlier RaISe paper:

1. Employees whose roles were deemed eligible for flexible working. Is there a breakdown available of the nature of those roles – for example, are they administrative or specialist/technical in nature?
2. Has your agency produced any specific policy guidance for the implementation teleworking?
3. Has your agency formally evaluated the process of implementing the Act? Are there any lessons you have learned from which Northern Ireland could learn? For example – were there any particular barriers to implementation and how did you seek to overcome them?
4. Are there any particular workforce management issues arising from the fact that some roles are determined to be eligible and others – no doubt for very good reasons – are not? Does this create workplace tensions/resentments and how are they managed?
5. How are the performance and productivity of teleworkers managed and measured to ensure that workers are completing the required hours of work and delivering the required outputs?

Responses have been received from:

- The US Department of Education;
- The US Department of Labor;
- The Office of Personnel Management;
- The National Labor Relations Board; and,
- The Federal Housing Finance Agency.

Table 1: responses from US Federal Agencies					
Agency	Response to Q1	Response to Q2	Response to Q3	Response to Q4	Response to Q5
<b>Department of Education</b>	96% of the Department of Education's positions were deemed as telework eligible. The only positions that were not eligible at the Department of Education (ED) were as follows: Drivers, Congressional Liaisons, Personal Assistants (in the nature of providing daily assistance to disabled employees), and certain clerical positions that require constant front desk support. Ineligible positions were adequately justified and reported to the Department's union representatives.	Our new policy, under draft, will address implementation guidance. This new policy will not be available for distribution until it has been negotiation with our union and cleared by our Office of General Counsel.	We work closely with our Office liaisons to identify and eliminate barriers. We promote telework in the individual offices, hopefully increasing the number of telework agreements on file. Historically, the Department had found there being resistance among levels of management regarding the implementation and usage of telework. Our Human Capital Office works with all levels of management and the union to adopt and promote greater use of telework. ED's Human Capital Officer has met with ED's senior leadership to emphasize the Department's dedication to expanding our telework program. Human Capital has also hosted management training sessions as well as conference calls to help first and second level supervisors understand the importance of telework. We have also worked with offices to provide them with assistance in effectively managing telework, ensuring that arrangements are successful. We also work with our union officials to identify employee concerns about	Because most of our workforce is telework eligible. There is not much of an issue here and issues are typically addressed through ED's union. There are reports on inconsistency about the frequency and flexibility of current agreements. And this is an issue that the Department is analyzing for further actions.	Teleworkers performance is treated the same as workers in the office. We use our Information Systems to make telework as seamless as possible so that teleworks can engage in meetings and complete relevant assignments on time and as expected.

			<p>telework, and address those concerns collaboratively. Additionally, ED heavily promoted telework week. Another major change for FY2012 was the introduction of a new web-based time and attendance system, which allowed employees to more clearly indicate their telework status. This new system more accurately reflects employees' telework status.</p>		
<p><b>Department of Labor</b></p>	<p>Both administrative and technical positions are eligible provided the duties and tasks are results-oriented, quantifiable and achievable away from the main worksite. These duties and tasks typically include, but are not limited to: document preparation; policy development; data compilation; data entry; and research.</p>	<p>Yes</p> <p><b>Note: a copy of the policy was supplied to RaiSe and can be made available upon request.</b></p>	<p>We've identified one barrier to telework implementation as the need for additional manager education and training on how to utilize telework to increase management effectiveness. DOL continues to provide counsel to managers through individual consultations and training sessions. In addition, DOL initially experienced fiscal challenges with obtaining updated government furnished computer equipment necessary to support employees in a telework environment. Subsequent budget planning included the purchasing of technologies and services to enable and promote the continued adoption of telework.</p>	<p>DOL clearly and consistently communicates with employees and managers that position telework eligibility is determined on a case-by-case basis by individual position suitability. DOL policy requires a written business reason be provided to employees when position duties are found to be incompatible with telework. This promotes certain transparency for employees and ensures participation decisions are business based, thus limiting workplace tensions and resentments amongst employees.</p>	<p>As done with all employees, managers can measure what an employee produces by examining the product or results of the employee's efforts. It is also helpful to use project schedules, key milestones, regular status reports, and team reviews. Supervisors may call employees who are working at home. Performance for all DOL employees is measured by whether the work is being completed on time and if it meets or exceeds the required standards and goals set forth by the manager – regardless of whether the work is done at the traditional worksite or the telework site.</p>

<p><b>Office of Personnel Management</b></p>	<p>We do not have a formal breakdown. It is based on their position, office coverage, etc. While people in administrative (receptionist ) type positions are not generally able to telework on a regular basis, we do encourage supervisors to be creative in allowing them some flexibility to telework on a situational basis (weather related, telework week, etc.). We encourage supervisors to look into creative options for them on those occasions such as ordering supplies, taking online training, etc.</p>	<p>No, not at this time.</p>	<p>We have not. One thing that has helped us in implementing the Act is developing a telework database which holds our Telework agreements and tracks information such as employee's telework eligibility determinations.</p>	<p>Generally, we have not seen any issues. Managers are asked to make the determinations based on the position (not the employee) so we have not had any major complaints or issues to overcome. OPM has always encouraged telework so it is not something that is new for our agency.</p>	<p>Our managers measure work for teleworkers the same way they measure it for an employee in the office. The transition should be seamless. While an employee may be physically in the office at his/her desk, that does not necessarily mean he or she is working. The same goes for teleworkers. You have to measure their performance based on their deliverables or productivity.</p>
<p><b>National Labor Relations Board</b></p>	<p>The ability to telework is not limited to specific positions. The determining factor is whether the employee's duties are "portable" – the type of work that can be performed from home. The types of positions that qualify for telework are, for the most part, higher-paid professional in nature. Support positions generally do not have sufficient portable work to fill an entire workday. Also, the duties of the lower-paid support positions most often require a presence in the office.</p>	<p>Yes. In addition, many of our employees are unionized and are covered by collective-bargaining agreements. Those agreements include additional provisions that govern telework rights.</p> <p><b>Note: a copy of the policy was supplied to RaiSe and can be made available upon request.</b></p>	<p>There is some reservation on the part of supervisors and upper management with respect to expanding telework. A number of people believe that teleworking diminishes good public service since some of our employees deal directly with members of the public. In those situations, office coverage becomes an issue since the supervisor may end up handling an employee's duties because he/she is teleworking. Managers also feel that there is a loss of synergy in the office – that people don't have informal conversations with one another in which they share information.</p>	<p>Not really. Most people who are not able to telework recognize that they don't have sufficient portable work.</p>	<p>Teleworkers are held to performance standards that are applied whether they telework or not. The same level of performance is required. If an employee's performance deteriorates below a certain level, management may remove the employee's telework privileges. In many instances, especially with professional employees, management looks at the employees final work product without a great deal of concern as to where it was produced.</p>

			Also, teleworkers are not able to participate in spontaneous meetings, except by telephone, which many managers believe is a less effective method of communication. It is difficult to overcome these barriers, but as telework is slowly expanded, managers usually become more accustomed to it. They are more comfortable calling people at home. Also, we anticipate that our telecommunication system will soon be improved, which will allow people to have one-on-one conversations by using the cameras in their laptop computers.		
<b>The Federal Housing Finance Agency</b>	Essentially, all FHFA employees are eligible provided that their work, either ongoing or on a project basis, is appropriate, their work habits demonstrate an ability to telework effectively, and that it benefits the agency. While some jobs are routinely suited to telework and may be afforded recurring scheduled telework, other positions only occasionally lend themselves to telework.	Yes.  <b>Note: a copy of the policy was supplied to RaiSe and can be made available upon request.</b>	While I don't know that any formal evaluation of the implementation of telework here at FHFA has occurred, I will answer based on personal and anecdotal information. The first thought is that supervisors and managers need to be convinced of the value of telework in terms of productivity, retention, and other management concerns. They also need to understand that, if they allow an individual to telework and it isn't a good situation, they may discontinue it and take any action that might be necessary just as they would if the individual had failed to perform or abide by other rules	There is an appeal procedure that allows for the reconsideration of requests. To the best of my knowledge, these appeals, if there are any at all, are infrequent.	Currently, we rely on supervisors and compliance with the policy to ensure that the work is being done, the time spent is reasonable, the quality acceptable, and the arrangement working.

			<p>at the worksite. Finally, managers and supervisors must understand that not every employee and not every task is appropriate for telework, so if one individual is approved, they need to assess other situations on their individual merits. One of the most effective arguments I have found is to remind supervisors that employees who are on business travel are, in effect, teleworking; and we are all comfortable with it as a routine part of business. Again, travel requires the appropriate task to be completed, employee characteristics such as independence and judgment, and a benefit to the agency. This does sometimes help with getting buy-in for telework.</p>		
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## 5. Concluding remarks

The information presented in this briefing paper demonstrates that the OPM has provided a considerable degree of guidance and assistance to federal agencies on the implementation of the Act. It also shows that - despite the time that has passed since the enactment of the Act - it will still be some considerable time more before the OPM is itself able to comply with its reporting duties.

A number of federal agencies have provided some initial information to RaISe on their experiences of implementation, and this could form a platform for CFP to progress a more in-depth process of evidence-gathering directly from the agencies concerned.

It appears from the GAO's findings in relation to size of agency that the barriers faced by all federal agencies have been broadly similar.

**CFP may wish to explore with federal agencies how barriers to the implementation of teleworking might be overcome in Northern Ireland.**



## Appendix 1: Case Study selection criteria

The OPM report gives eligibility/participation data for 87 federal agencies in total. In order to narrow these down to agencies with functions/remits likely to be similar to Northern Ireland departments, RaISe applied the following criteria:

- All agencies which (from their names) clearly would have no equivalent in Northern Ireland were excluded - NASA, the CIA, and the Securities and Exchange Commission are examples;
- All agencies with fewer than 100 employees were excluded – on the basis that CFP is likely to be more interested in applicability to larger organisations only (this is because the achievement of tangible benefits from teleworking are likely to be realised with greater impact if larger numbers of staff are involved);
- All agencies in which less than 50% of the total workforce was deemed eligible to telework were excluded – on the basis that CFP is likely to be more interested in those agencies where significant proportions of the workforce could participate (this is because there is likely to be a better depth of evidence available from those agencies with greater experience of managing teleworking);
- All agencies in which less than 20% of the eligible workforce was actually teleworking were excluded – on the basis that CFP is likely to be more interested in hearing about where teleworking is relatively widespread and happening in practice, rather than only smaller numbers taking part (this is because there is likely to be a better depth of evidence available from those agencies which have experienced greater participation from their workforces);

This brings the number of agencies from 87 to the list of 17 shown in Table 1. CFP may wish to note it would have been possible to alter the criteria to narrow the list down a bit more, or indeed to widen it.

**Table 2: case study figures**

Agency (note 1)	Total employees	Number of eligible employees	% eligible	Number of telework agreements	% of eligible with agreements	Number of employees teleworking	% eligible teleworking	% total employees teleworking
Court Services and Offender Supervision Agency	1236	1108	90	428	39	330	30	27
Department of Education	4629	4312	93	2858	66	1778	41	38
Department of Health and Human Services	90732	47904	53	20957	44	20310	42	22
Department of Labor	15947	14668	92	4289	29	3793	26	24
Environmental Protection Agency	17697	17559	99	0	0	3633	21	21
Farm Credit Administration	288	288	100	288	100	120	42	42
Federal Election Commission	350	333	95	173	52	173	52	49
Federal Energy Regulatory Commission	1489	913	61	913	100	278	30	19
Federal Housing Finance Agency	519	470	91	93	20	159	34	31
General Services Administration	12752	11573	91		0	6779	59	53
National Labor Relations Board	1734	1000	58	219	22	219	22	13
National Transportation Safety Board	413	411	100	290	71	167	41	40
Office of Personnel Management	6377	3378	53	2644	78	1021	30	16
Overseas Private Investment Corporation	215	175	81	173	99	56	32	26
Selective Service System	130	101	78	81	80	37	37	28
Small Business Administration	2388	1950	82	450	23	450	23	19
U.S. International Trade Commission	361	361	100	279	77	138	38	38

## Appendix 2: Sample OPM dismissal notice<sup>44</sup>


# Snow & Dismissal Procedures


## ARCHIVED STATUS

**Washington, DC, Area**  
Applies to: March 6, 2013

**STATUS: FEDERAL OFFICES ARE CLOSED - EMERGENCY AND TELEWORK-READY EMPLOYEES MUST FOLLOW THEIR AGENCY'S POLICIES**

FEDERAL OFFICES in the Washington, DC, area are CLOSED. Emergency and telework-ready employees required to work must follow their agency's policies, including written telework agreements.





**Non-emergency employees** (including employees on pre-approved paid leave) will be granted excused absence (administrative leave) for the number of hours they were scheduled to work unless they are:

- required to telework,
- on official travel outside of the Washington, DC, area,
- on leave without pay, or
- on an alternative work schedule (AWS) day off.

**Telework-Ready Employees** who are scheduled to perform telework on the effective day of the announcement or who are required to perform telework on a day when Federal offices are closed must telework the entire workday or request leave, or a combination of both, in accordance with their agency's policies and procedures, subject to any applicable collective bargaining requirements.

**Emergency Employees** are expected to report to their worksite unless otherwise directed by their agencies.

<sup>44</sup> Source: OPM (2013) [http://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/status-archives/13/3/6/Federal-Offices-are-Closed---Emergency-and-Telework-ready-Employees-Must-Follow-Their-Agency's-Policies\\_513/](http://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/status-archives/13/3/6/Federal-Offices-are-Closed---Emergency-and-Telework-ready-Employees-Must-Follow-Their-Agency's-Policies_513/) (accessed 4 July 2013)

Providing research and information services to the Northern Ireland Assembly

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### **Appendix 3: How to Be an Effective Manager or Supervisor of Teleworkers<sup>45</sup>**

Managerial and supervisory skill, participation and support can make telework an effective tool and asset for any organization. To effectively implement a telework program, managers should put the following guidelines, recommendations, and in some cases - laws, into practice.

**Lead by Example** - Managers and supervisors must be committed to using telework to the fullest extent possible if Federal telework programs are to succeed. Research in the work/life field bears out that supervisors, managers and senior executives who model the use of workplace flexibilities such as telework in any organization serve as key drivers in effecting positive cultural change in that organization. This is especially so if the organization's climate and culture have traditionally reflected a skeptical, or even hostile, view of telework. There is a tendency for employees to model the behavior of supervisors. Non-participation of supervisors may send a non-verbal message of disapproval. It might even suggest that getting ahead in the Federal workforce (e.g., being promoted) depends on the employee's physical presence at the main worksite. Managers and supervisors that telework will help to dispel this false notion and lead the way towards a telework-friendly culture in the agency.

**Know Your Telework Managing Officer (TMO)** - Each agency has designated a TMO who serves as the primary point of contact for policy and program questions. Managers should maintain frequent contact with their TMO, or the TMO's designee, to ensure the agency's policy and procedures are properly applied and to ensure they are aware of the full range of support and resources available to them.

**Know Your Telework Policy and Procedures, Including Applicable Collective Bargaining Agreements** - Managers should familiarize themselves and their employees with their agency's policy and applicable collective bargaining agreements to ensure they are in compliance with their requirements. Most agency policies and many collective bargaining agreements will include procedures for establishing telework agreements, obtaining equipment, and related matters. In addition, all agencies should have policies on information systems and technology security (see the section on *Safety* below), and managers/supervisors must ensure their equipment choices and telework agreements comply with these policies. Information security includes protection of sensitive "hard-copy" files and documents.

**Participate in Training** - As described above, OPM offers online interactive telework training for managers and employees at Telework.Gov. It can be accessed directly at the following link: [www.telework.gov/tools\\_and\\_resources/training/index.aspx](http://www.telework.gov/tools_and_resources/training/index.aspx). Also, many agencies offer their own telework training and TMOs are available to consult with managers. Remember that employees who wish to telework must

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<sup>45</sup> Source: OPM (2011) 'Guide to Telework in the Federal Government' available online at: [http://www.telework.gov/guidance\\_and\\_legislation/telework\\_guide/telework\\_guide.pdf](http://www.telework.gov/guidance_and_legislation/telework_guide/telework_guide.pdf) (accessed 5 July 2013) (see pages 21-25)

successfully complete telework training prior to entering into a written telework agreement, unless exempted by the head of the agency as provided in the law [P.L. 111-292, Section 6503(b)]. Managers and supervisors are encouraged to complete telework training. Information technology security training, administered at the agency level, is mandatory. Managers must ensure teleworkers complete this training and understand their responsibilities in safeguarding work-related information.

**Determine Employee Eligibility** - Agencies have discretion to determine telework eligibility criteria for their employees, subject to the requirements and limitations of the law. These criteria should be detailed in agency policy and may also be covered in applicable collective bargaining agreements. See the section on Eligibility and Participation above for guidelines on making these types of determinations based on the law and your agency's telework policy.

**Understand and Assess the Needs of the Group** - Telework is often implemented piecemeal, rather than strategically, as individuals request arrangements. This reactive approach carries the risk of raising fairness issues. To the extent possible, telework should be implemented strategically, taking into account the needs and work of the group. Agencies have made this easier by making broader determinations on employee eligibility and notifying employees. However, managers and supervisors may be making decisions with regard to situational telework and groups of newly-hired employees.

**Create and Sign Written Telework Agreements** - The teleworker and his or her manager/supervisor must enter into a written telework agreement for every type of telework, whether the employee teleworks regularly or on a situational basis. The parameters of this agreement are most often laid out by the agency policy and/or collective bargaining agreement, but should include certain key elements (reference the Act or the section above on Telework Agreements). Most importantly, the agreement should be signed and dated by the manager and employee. Managers and TMOs are encouraged to keep copies of all telework agreements on file.

Telework agreements are living documents and should be revisited by the manager and teleworker and re-signed regularly, preferably at regular intervals as defined by your agency's telework policy and applicable collective bargaining agreements. At a minimum, new telework agreements should be prepared and signed when a new employee/supervisory relationship is established.

OPM strongly recommends that agencies include specific language in the telework agreement for any employee who may potentially be asked to telework in case of emergency situations or continuity events. Continuity events would include a National or local emergency or pandemic health crisis that results in activation of continuity plans. Emergency events would include inclement weather or other situations that may disrupt normal operations and lead to an offering of "unscheduled telework."

Remember that the law requires all teleworkers to have a written telework agreement in

place. This means that an employee who wishes to opt for "unscheduled telework" during a weather emergency may not telework if a written agreement is not in place. Individuals that are potential situational teleworkers (including "unscheduled telework") should be encouraged to practice teleworking on a regular basis and as often as possible.

**Base Denials on Business Reasons** - Telework requests may be denied and telework agreements may be terminated. Telework is not an employee right, even if the employee is considered "telework-eligible."

Denial and termination decisions must be based on operational needs or performance in accordance with the description in the law, not personal reasons. For example, a manager may deny a telework arrangement if the duties of the position are not amenable to telework. If the employee's denial or termination was as a result of a performance issue, the denial or termination should include information about when the employee might reapply, and also if applicable, what actions the employee should take to improve his or her chance of approval. Denials should be provided in a timely manner. Managers should also review the agency's collective bargaining agreement(s) and telework policy to ensure they meet any applicable requirements.

Managers should provide employees (and keep copies of) signed written denials or terminations of telework agreements. These should include information about why the arrangement was denied or terminated. The TMO should also be alerted regarding denials or terminations and copies provided to him/her as well.

With respect to employees covered by a collective bargaining agreement, appeals will be governed by the negotiated grievance procedure (unless this subject is specifically excluded from that procedure by the collective bargaining agreement, in which case the agency grievance procedure would govern). For non-bargaining unit employees, the agency grievance procedure in force would cover appeals from a denial of a request to telework.

**Use Good Performance Management Practices** - It is important to note that performance standards for teleworking employees must be the same as performance standards for non-teleworking employees. Management expectations for performance should be clearly addressed in the employee's performance plan, and the performance plan should be reviewed to ensure the standards do not create inequities or inconsistencies between teleworking and non-teleworking employees. Like non-teleworking employees, teleworkers are held accountable for the results they produce. Good performance management techniques practiced by a manager will mean a smooth, easier transition to a telework environment. Resources for performance management are available from OPM at [Performance Management](#).

**Communicate Expectations** - The telework agreement provides a framework for the discussion that needs to take place between the manager and the employee about expectations. For all types of telework, this discussion is important to ensure that

managers and employees understand one another's expectations concerning basic issues such as the following:

- What technologies will be used to maintain contact?
- What equipment will the agency provide; what equipment will the teleworker provide; what will be shared?
- Who provides technical assistance in the event of equipment disruption?
- What will the weekly/monthly telework schedule be?
- How will the manager and co-workers be kept updated about the schedule?
- Do changes need to be pre-approved?
- What will the daily telework schedule be; will the hours be the same as in the main office, or will they be different?
- What are the physical attributes of the telework office and do they conform to basic safety standards? (agencies may wish to provide employees with a self-certifying safety checklist for guidance)
- What are the expectations for availability by phone, email, etc?
- What is the expectation regarding the amount of notice (if any) given for reporting to the official worksite, and how will such notice be provided?
- How is a telework agreement terminated by management or the employee?
- Who is expected to telework in an emergency?
- What is expected of a teleworker in the event of an emergency?

**Facilitate Communication with All Members of the Work Group** - Teleworking and non-teleworking employees must understand expectations regarding telework arrangements including coverage, communication and responsibilities. Although individual teleworkers must take responsibility for their own availability and information sharing, managers can help ensure that methods are in place to maintain open communication across the members of a work group. Employees and managers alike are encouraged to exercise professional courtesy in keeping one another informed about their availability throughout the work day.

**Maintain Fairness in Assigning Work and Rewarding Performance** - Managers should avoid distributing work based on "availability" as measured by physical presence, and avoid the pitfall of assuming someone who is present and looks busy is actually accomplishing more work than someone who is off-site. Good performance management practices are essential for telework to be effective and equitable.

**Make Good Decisions About Equipment** - GSA offers guidelines for the equipment and support an agency may provide to teleworkers, in Federal Management Regulation (FMR) Bulletin 2006-B3, Guidelines for Alternative Workplace Arrangements (see "GSA Telework Information" in the References section at the end of this document). Generally, decisions regarding the ways in which teleworkers should be equipped are made by the agency and individual manager consistent with the agency's telework

policy and applicable collective bargaining agreements. Managers should familiarize themselves with these guidelines and also with their agency's policy on equipment. Within those constraints, the challenge for managers is in finding the right balance between budget, security and effectiveness. Factors to consider include technology needs based on the work of the employee, agency security requirements, and budget constraints. In addition, managers may also need to have conversations as appropriate to ensure the availability of equipment related to requests for reasonable accommodation.

**Practice Telework** - The success of an organization's telework program depends on regular, routine use. Experience is the only way to enable managers, employees, information technology (IT) support, and other stakeholders to work through any technology, equipment, communications, workflow, and associated issues that may inhibit the transparency of telework. Individuals expected or anticipated to telework in an emergency situation, including managers and supervisors, should be encouraged to telework with some frequency under non-emergency circumstances. Managers and supervisors should make it a point to regularly participate in telework in order to lead by example and be comfortable in dealing with the dynamics of managing in a telework environment.

**Safety** - Teleworkers must address issues of their own personal safety to be effective while teleworking from a home office or other alternative worksite. Government employees causing or suffering work-related injuries and/or damages at the alternative worksite are covered by the Military Personnel and Civilian Employees Claims Act, the Federal Tort Claims Act, or the Federal Employees' Compensation Act (workers' compensation), as appropriate.

Managers should review a safety checklist with teleworkers to ensure compliance and should immediately investigate any reports of accidents or injuries on the job.



