

Ensuring Our Future: The Rise of Teleworking in the Federal Government

Managers continue to search for innovative methods beyond compensation to motivate and engage employees and increase individual performance. Sometimes, organizations may pursue progressive workplace policies for quick and easy solutions to complex, “wicked” problems, which could lead to disastrous outcomes, and costly legal ramifications. Scholars feel compelled to be proactive in the research and should draw attention to the growing trend of telework in the Federal government and possible legal implications that could arise in the near future. This growing trend in the public sector is a result of a “windows of opportunity” whereby many significant events and ideas converged producing a new policy and practice. Telework, particularly in the federal government, exemplifies a contemporary human resources management issue in 2014, the 75th year anniversary of ASPA.

While it continues to grow in popularity across all sectors, the U.S. federal government has taken the lead in offering flexible work arrangements, including telework, to its employees¹. According to the Office of Personnel Management’s guide to telework, ‘telework’ or ‘teleworking’ refers to a work flexibility arrangement under which an employee performs the duties and responsibilities from an approved worksite other than the location from which the employee would otherwise work². More often, this work arrangement occurs in the employee’s home, though it could occur in remote telework site. The 2013 Status of Telework in Federal Government Report shows 47 percent of Federal workers are currently eligible to work from home (up from 31

¹ Facer, R. L., & Wadsworth, L. (2008). Alternative work schedules and work-family balance: A research note. *Review of Public Personnel Administration*, 28, 166-177.

² Office of Personnel Management (OPM) (2012). Federal Employee Viewpoint Survey Results: Employees influencing change. 2012. Washington, DC.

http://www.fedview.opm.gov/2012files/2012_Government_Management_Report.PDF

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percent in 2012)³. While the number of people who are currently eligible to telework increases, this does not necessarily mean that those employees take advantage of the practice. Still, the number of Federal employees with telework agreements increased from 144,851 in 2011 to 267,227 in 2012 (most current data)⁴. Likewise, the Office of Personnel Management reports that 209,192 Federal employees teleworked at least once during 2012, up from 168,558 in 2011, that's an increase of 24 percent in the course of one fiscal calendar year⁵. With numbers like these, it is not difficult to see why the scholarship and study of teleworkers proves challenging when simply collecting accurate information of employees who telework is a significant undertaking.

The growth of teleworking practice in the public sector can be attributed to a couple of significant events including political movement and support, the emphasis on results and performance outcomes from the Clinton and Bush administrations, and increased climate changes and extreme weather conditions. In early November 2007, the House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia held a hearing on how to break new ground in telework. The advocates of telework stressed that the workforce dynamics are rapidly shifting (including the labor force participation of parents with young children, dual-income households, elder caregivers, and single parents) and that the government must adapt to these changes⁶.

There is a push among telework scholars and advocates for a new “results-only work environment” (ROWE), which seeks to demolish decades-old business dogma that equates

³ U.S. Office of Personnel Management. (2013). Guide to telework in the federal government. Retrieved from http://www.telework.gov/Reports_and_Studies/Annual_Reports/2013teleworkreport.pdf

⁴ OPM, 2013.

⁵ OPM, 2013.

⁶ O’Keeffe, S. W. (2008). Shifting Federal Telework into Drive. *Executive Challenges: Today, Tomorrow, and Beyond*, 1, 51.

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physical presence with productivity⁷. Results-based assessments or outcome-oriented approaches attempt to measure an employee's contribution to the success of the organization and their ability to meet goals, which makes telework an ideal human resources practice for those that support ROWE.

During the 2010 February blizzards in the Washington, DC area, the government projected a loss of \$100 million worth of productivity for each day it remained closed, but that estimate was reduced to \$71 million since roughly 30 percent of federal workers in the Washington area teleworked during the storm, according to the Office of Personnel Management⁸. The Telework Enhancement Act of 2010 was signed into law on December 9, 2010. The passage and signing of this legislation (Public Law 111-292) was a significant milestone in the history of Federal telework⁹. For these reasons, telework agreements and practices continue to grow in number across the federal government workforce.

The cost savings of telecommuting for both the employer and the worker are known and well supported, but the legal issues of telework have yet to be addressed from an administrative law and public human resources perspective. Several questions arise when considering what effects the growing value of telework and the rapid adoption of the practice will have on public sector organizations. Legal issues for human resource managers to consider include the employees' rights to privacy when working from home. How much regulation does the organization have of where the employee works? Who is liable for those injured "on the job" and how is worker's compensation determined for teleworkers? How does teleworking affect the

⁷ Kelly, E. L., Moen, P., & Tranby, E. (2011). Changing Workplaces to Reduce Work-Family Conflict Schedule Control in a White-Collar Organization. *American Sociological Review*, 76(2), 265-290.

⁸ Losey, Steven. February 21, 2010. Federal Times, "'Snowmageddon' drives call for more telework". Retrieved from <http://www.federaltimes.com/article/20100221/PERSONNEL01/2210308/-8216Snowmageddon-drives-call-more-telework>.

⁹ United States Government Printing Office. Public Law 111-292 111th Congress An Act. Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ292/pdf/PLAW-111publ292.pdf>

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oversight and regulation for the Occupational Safety and Health Act (OSHA)? What are the consequences for exempt and nonexempt employees under the Fair Labor Standards Act (FLSA) when teleworking? Finally, how do we consider equal opportunity, discrimination, and fairness in determining which employees have access to telework and flexible work arrangements? Each of these questions has yet to be explored in the public administration literature and as such present considerable opportunity for continued exploration and research endeavors.

The goal of this subject matter paper is certainly not suggest that public human resource managers use these legal issues as an excuse to *not* offer telework and flexible work arrangements to their employees. Instead, the intention behind this paper is to bring attention to the rapid adoption of telework, particularly in the federal government, its historical roots, and some unanswered questions regarding the growing practice. Public human resources managers should pause to consider these legal issues and view it as an opportunity for dialogue between themselves and employees when discussing telework agreements. Clearly stated goals and expectations between the organization and employee is the most important factor for continued success of telework arrangements¹⁰. Through the study of a single human resources practice, like telework, the ideas promoted by ASPA including accountability, professionalism, ethics, and performance management continue to provide meaningful discussions and productive scholarship. In 2014, the 75th year anniversary of ASPA, a contemporary issue facing human resources is the growth trend of teleworking in the federal government. Telework, most importantly, represents the product of considerable expansion in scope and breadth of human resources management in the public sector and an opportunity for improved theory and practice within the field for ASPA's next 75 years.

¹⁰ OPM, 2013.