

TELEWORK IMPROVEMENTS ACT OF 2010

MAY 4, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOWNS, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 1722]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1722) to improve teleworking in executive agencies by developing a telework program that allows employees to telework at least 20 percent of the hours worked in every 2 administrative workweeks, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Telework Improvements Act of 2010”.

SEC. 2. TELEWORK.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by inserting after chapter 63 the following:

“CHAPTER 65—TELEWORK

“Sec.

“6501. Definitions.

“6502. Governmentwide telework requirement.

“6503. Implementation.

“6504. Telework Managing Officer.

“6505. Evaluating telework in agencies.

“§ 6501. Definitions

“For purposes of this chapter—

“(1) the term ‘agency’ means an Executive agency (as defined by section 105), except as otherwise provided in this chapter;

“(2) the term ‘telework’ or ‘teleworking’ refers to 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;

“(3) the term ‘continuity of operations’, as used with respect to an agency, refers to measures designed to ensure that functions essential to the mission of the agency can continue to be performed during a wide range of emergencies, including localized acts of nature, accidents, public health emergencies, and technological or attack-related emergencies; and

“(4) the term ‘Telework Managing Officer’ means, with respect to an agency, the Telework Managing Officer of the agency designated under section 6504.

“§ 6502. Governmentwide telework requirement

“(a) TELEWORK REQUIREMENT.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this chapter, the head of each agency shall establish a policy under which employees shall be authorized to telework, subject to paragraph (2) and subsection (b).

“(2) AGENCY POLICIES.—The head of each agency shall ensure—

“(A) that the telework policy established under this section—

“(i) conforms to the regulations promulgated by the Director of the Office of Personnel Management under section 6503, and

“(ii) authorizes employees to telework to the maximum extent possible without diminishing agency operations and performance; and

“(B) that information on the eligibility of employees to telework is included in descriptions of available positions and other recruiting materials.

“(b) PROVISIONS RELATING TO CERTAIN CIRCUMSTANCES.—Nothing in subsection (a) shall be considered—

“(1) to require the head of an agency to authorize teleworking in the case of an employee whose duties and responsibilities—

“(A) require daily direct handling of classified information; or

“(B) are such that their performance requires on-site activity which cannot be carried out from a site removed from the employee’s regular place of employment; or

“(2) to prevent the temporary denial of permission for an employee to telework if, in the judgment of the agency head, the employee is needed to respond to an emergency.

“(c) RULE OF CONSTRUCTION.—Nothing in this chapter shall—

“(1) be considered to require any employee to telework; or

“(2) prevent an agency from permitting an employee to telework as part of a continuity of operations plan.

“§ 6503. Implementation

“(a) RESPONSIBILITIES OF AGENCIES.—The head of each agency shall ensure that—

“(1) appropriate training is provided to supervisors and managers, and to all employees who are authorized to telework, as directed by the Telework Managing Officer of such agency;

“(2) the training covers the information security guidelines issued by the Director of the Office of Management and Budget under this section;

“(3) no distinction is made between teleworkers and nonteleworkers for purposes of—

“(A) periodic appraisals of job performance of employees,

“(B) training, rewarding, reassigning, promoting, reducing in grade, retaining, or removing employees,

“(C) work requirements, or

“(D) other acts involving managerial discretion;

“(4) in determining what constitutes diminished performance in the case of an employee who teleworks, the agency shall consult the performance management guidelines of the Office of Personnel Management; and

“(5) in the case of an agency which is named in paragraph (1) or (2) of section 901(b) of title 31, the agency incorporates telework in its continuity of operations plans and uses telework in response to emergencies.

“(b) PROMULGATION OF REGULATIONS BY OPM.—The Director of the Office of Personnel Management shall—

“(1) not later than 180 days after the date of the enactment of this chapter, in consultation with the Administrator of General Services, promulgate regulations necessary to carry out this chapter, except that such regulations shall not apply with respect to the Government Accountability Office;

“(2) provide advice, assistance, and any necessary training to agencies with respect to the requirements of this chapter, including with respect to—

“(A) questions of eligibility to telework, such as considerations relating to employee performance, and

“(B) making telework part of the agency’s goals, including those of individual supervisors and managers; and

“(3) in consultation with the Administrator of General Services, maintain a central, publicly available telework website that includes—

“(A) any regulations relating to telework and any other information the Director considers appropriate,

“(B) an e-mail address which may be used to submit comments to the Director on agency telework programs or agreements, and

“(C) a copy of all reports issued under section 6505(a).

“(c) SECURITY GUIDELINES.—The Director of the Office of Management and Budget, in coordination with the National Institute of Standards and Technology, shall issue guidelines not later than 180 days after the date of the enactment of this chapter to ensure the adequacy of information and security protections for information and information systems used in, or otherwise affected by, teleworking. Such guidelines shall, at a minimum, include requirements necessary—

“(1) to control access to agency information and information systems;

“(2) to protect agency information (including personally identifiable information) and information systems;

“(3) to limit the introduction of vulnerabilities;

“(4) to protect information systems not under the control of the agency that are used for teleworking; and

“(5) to safeguard wireless and other telecommunications capabilities that are used for teleworking.

“§ 6504. Telework Managing Officer

“(a) DESIGNATION AND COMPENSATION.—Each agency shall designate an officer, to be known as the ‘Telework Managing Officer’. The Telework Managing Officer of an agency shall be designated—

“(1) by the Chief Human Capital Officer of such agency; or

“(2) if the agency does not have a Chief Human Capital Officer, by the head of such agency.

“(b) STATUS WITHIN AGENCY.—The Telework Managing Officer of an agency shall be a senior official of the agency who has direct access to the head of the agency.

“(c) LIMITATIONS.—An individual may not hold the position of Telework Managing Officer as a noncareer appointee (as defined in section 3132(a)(7)), and such position may not be considered or determined to be of a confidential, policy-determining, policy-making, or policy advocating character.

“(d) DUTIES AND RESPONSIBILITIES.—Each Telework Managing Officer of an agency shall—

“(1) provide advice on teleworking to the head of such agency and to the Chief Human Capital Officer of such agency (if any);

“(2) serve as a resource on teleworking for supervisors, managers, and employees of such agency;

“(3) serve as the primary point of contact on telework matters for agency employees and (with respect to such agency) for Congress and other agencies;

“(4) work with senior management of the agency to develop and implement a plan to incorporate telework into the agency’s regular business strategies and its continuity of operations strategies, taking into consideration factors such as—

- “(A) cost-effectiveness,
 - “(B) equipment,
 - “(C) training, and
 - “(D) data collection;
 - “(5) ensure that the agency’s telework policy is communicated effectively to employees;
 - “(6) ensure that electronic or written notification is provided to each employee of specific telework programs and the agency’s telework policy, including authorization criteria and application procedures;
 - “(7) develop and administer a tracking system for compliance with Governmentwide telework reporting requirements;
 - “(8) provide to the Director of the Office of Personnel Management and the Comptroller General such information as such individuals may require to prepare the reports required under section 6505, including the techniques used to verify and validate data on telework, except that this paragraph shall not apply with respect to the Government Accountability Office;
 - “(9) establish a system for receiving feedback from agency employees on the telework policy of the agency;
 - “(10) develop and implement a program to identify and remove barriers to telework and to maximize telework opportunities in the agency;
 - “(11) track and retain information on all denials of permission to telework for employees who are authorized to telework, and report such information on an annual basis to—
 - “(A) the Chief Human Capital Officer of such agency (or, if the agency does not have a Chief Human Capital Officer, the head of such agency), and
 - “(B) the Director of the Office of Personnel Management, for purposes of preparing the reports required under section 6505(a), except that this subparagraph shall not apply with respect to the Government Accountability Office;
 - “(12) ensure that employees are notified of grievance procedures available to them (if any) with respect to any disputes that relate to telework; and
 - “(13) perform such other duties and responsibilities relating to telework as the head of the agency may require.
- “(e) **RULE OF CONSTRUCTION REGARDING STATUS OF TELEWORK MANAGING OFFICER.**—Nothing in this section shall be construed to prohibit an individual who holds another office or position in an agency from serving as the Telework Managing Officer for the agency under this chapter.

“§ 6505. Evaluating telework in agencies

“(a) **ANNUAL REPORT BY OPM.**—

“(1) **IN GENERAL.**—The Director of the Office of Personnel Management shall submit to the Comptroller General and the appropriate committees of Congress a report evaluating the extent to which each agency is in compliance with this chapter with respect to the period covered by the report, and shall include in the report an evaluation of each of the following:

“(A) The degree of participation by employees of the agency in teleworking during the period. In the case of an agency which is an Executive department, the evaluation will include the degree of participation by employees of each component within the department, including—

- “(i) the total number of employees in the agency;
- “(ii) the number and percentage of such employees who are eligible to telework; and
- “(iii) the number and percentage of such employees who do telework, broken down by the number and percentage who telework 3 or more days per week, one or two days per week, and less frequently than one day per week.

“(B) The method the agency uses to gather data on telework and the techniques used to verify and validate such data.

“(C) Whether the total number of employees who telework is at least 10% higher or lower than the number who teleworked during the previous reporting period and the reasons identified for any such change.

“(D) The agency’s goal for increasing the number of employees who telework in the next reporting period.

“(E) The extent to which the agency met the goal described in subparagraph (D) for its previous report, and, if the agency failed to meet the goal, the actions the agency plans to take to meet the goal for the next reporting period.

“(F) The best practices in agency telework programs.

“(G) In the case of an agency which is named in paragraph (1) or (2) of section 901(b) of title 31, the extent to which the agency incorporated telework in its continuity of operations plans and used telework in response to emergencies.

“(2) MINIMUM REQUIREMENT FOR COMPLIANCE.—For purposes of the reports required under this subsection, the Director shall determine that an agency is in compliance with the requirements of this chapter if the Director finds that the agency—

“(A) reported the requested data accurately and in a timely manner; and

“(B) either met or exceeded the agency’s established telework goals, or provided explanations as to why the goals were not met as well as the steps the agency is taking to meet the goals.

“(3) REPORTING PERIOD; TIMING.—The Director shall submit a report under this subsection with respect to the first 1-year period for which the regulations promulgated by the Director under section 6503(b) are in effect and each of the 4 succeeding 1-year periods, and shall submit the report with respect to a period not later than 6 months after the last day of the period to which the report relates.

“(4) EXCLUSION OF GOVERNMENT ACCOUNTABILITY OFFICE.—The Director shall not submit a report under this subsection with respect to the Government Accountability Office.

“(b) REPORTS BY COMPTROLLER GENERAL.—

“(1) EVALUATIONS OF REPORTS BY DIRECTOR OF OPM.—Not later than 6 months after the Director submits a report under subsection (a), the Comptroller General shall review the report and submit a report to the appropriate committees of Congress. The report shall evaluate the compliance of the Office of Personnel Management and agencies with this chapter and address the overall progress of agencies in carrying out this chapter, and shall include such other information and recommendations as the Comptroller General considers appropriate.

“(2) REPORTS ON GOVERNMENT ACCOUNTABILITY OFFICE.—The Comptroller General shall submit a report with respect to the Government Accountability Office in the same manner and in accordance with the same requirements applicable to a report submitted by the Director with respect to any other agency under subsection (a).

“(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Committee on Oversight and Government Reform of the House of Representatives; and

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 63 the following:

“65. Telework 6501”.

(2) Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005, as contained in the Consolidated Appropriations Act, 2005 (5 U.S.C. 6120 note) is amended by striking “designate a ‘Telework Coordinator’ to be” and inserting “designate a Telework Managing Officer or designate the Chief Human Capital Officer or other career employee to be”.

SEC. 3. POLICY GUIDANCE.

Not later than the expiration of the 120-day period which begins on the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue policy guidance requiring each Executive agency (as such term is defined in section 105 of title 5, United States Code), when purchasing computer systems, to purchase computer systems that enable and support telework, unless the head of the agency determines that there is a mission-specific reason not to do so.

SEC. 4. TRAVEL EXPENSE TEST PROGRAMS.

Section 5710 of title 5, United States Code, is amended to read as follows:

“§ 5710. Authority for travel expense test programs

“(a)(1) Notwithstanding any other provision of this subchapter, if the Administrator of General Services determines it to be in the interest of Government, the Administrator may approve the request of an agency to operate a test program under which the agency may pay through the proper disbursing official any necessary travel expenses of the employee in lieu of any payment otherwise authorized or required under this subchapter. Under an approved test program, an agency may

provide an employee with the option to waive any payment authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the test program.

“(2) Any test program operated under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

“(b) The Administrator shall transmit a description of any test program approved or extended by the Administrator under this section to the appropriate committees of the Congress not later than 30 days before the program or extension takes effect.

“(c)(1) An agency operating a test program approved under this section shall annually submit a report on the results of the program to date to the Administrator.

“(2) Not later than 3 months after the conclusion of a test program approved under this section, the agency operating the program shall submit a final report on the results of the program to the Administrator and the appropriate committees of Congress.

“(d) The Administrator may approve such number of test programs under this section as the Administrator considers appropriate, including test programs which are carried out on a government-wide basis, except that the number of test programs in operation at any time may not exceed 12.

“(e)(1) The Administrator may not approve any test program under this section for an initial period of more than 2 years.

“(2) Upon a showing of enhanced cost savings, the Administrator may extend an approved test program for an additional period not to exceed 2 years.

“(f) In this section, the term ‘appropriate committees of Congress’ means the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(g) The authority to conduct test programs under this section shall expire upon the expiration of the 6-year period which begins on the date of the enactment of the Telework Improvements Act of 2010.”.

SEC. 5. TELEWORK RESEARCH.

(a) **RESEARCH BY OPM ON TELEWORK.**—The Director of the Office of Personnel Management shall—

(1) conduct studies on the utilization of telework by public and private sector entities that identify best practices and recommendations for the Federal government;

(2) review the outcomes associated with an increase in telework, including the effects of telework on energy consumption, the environment, job creation and availability, urban transportation patterns, and the ability to anticipate the dispersal of work during periods of emergency; and

(3) make any studies or reviews performed under this subsection available to the public.

(b) **USE OF CONTRACT TO CARRY OUT RESEARCH.**—The Director of the Office of Personnel Management may carry out subsection (a) pursuant to a contract entered into by the Director using competitive procedures.

Amend the title so as to read:

A bill to require the head of each executive agency to establish and implement a policy under which employees shall be authorized to telework, and for other purposes.

PURPOSE AND SUMMARY

H.R. 1722, the Telework Improvements Act of 2009, was introduced by Representatives John P. Sarbanes, Danny K. Davis, Stephen F. Lynch, Gerald E. Connolly, Frank R. Wolf, James P. Moran, and C.A. Dutch Ruppersberger on March 25, 2009. H.R. 1722 improves the efficiency of the federal workforce by allowing more federal employees to telework. Under the bill, the head of each agency must establish a policy that authorizes employees to telework and must designate a Telework Managing Officer for the agency. The bill directs the Office of Personnel Management (OPM) to issue regulations and other guidance to agencies on issues related to telework and requires OPM and the Government Accountability Office (GAO) to evaluate and report on agency telework programs.

BACKGROUND AND NEED FOR LEGISLATION

Telework provides a number of benefits including reduced energy consumption and traffic congestion, competitive hiring and retention, cost savings, and emergency preparedness. Despite these and other benefits, many agencies continue to underutilize telework.

Public Law 106–346 mandated that each executive agency “establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance.” According to a status report released by OPM in 2009, however, only 5 percent of federal employees participated in telework programs in 2008.¹

The Committee has determined through its oversight efforts that there is not a consistent definition of telework across agencies. The way agencies measure and track telework also varies. Some agencies, such as the Department of Energy, said they track how many employees are teleworking through time and attendance systems.² Other agencies, such as the Department of Housing and Urban Development, do not track actual telework and instead calculate telework based on existing telework agreements between supervisors and employees.³

H.R. 1722 defines telework and requires each agency to establish a policy to authorize employees to telework. H.R. 1722 also addresses one of the most frequently cited barriers to telework, resistance from management, by requiring agencies to provide telework training for managers, supervisors, and teleworking employees.

An important consideration for agency telework programs is ensuring the security of government information. In March 2010, before the Subcommittee on Government Management, Organization, and Procurement, a witness from GAO testified that agencies have not fully implemented agencywide information security programs, putting federal information at increased risk.⁴ The National Institute of Standards and Technology (NIST) has identified ways in which agencies and teleworking employees can protect information and limit the introduction of vulnerabilities, including those resulting from inadequate maintenance of antivirus software and operation system patches, improperly configured firewalls, and unrestricted acceptance or use of spam, popup windows, file sharing, and peer-to-peer software (P2P). As reported by the Committee, H.R. 1722 requires OMB, in coordination with NIST, to issue guidelines to ensure that the information and security protections for teleworking are adequate.

In recent years, telework also has increasingly been viewed as an important tool for ensuring continuity of essential government services in emergencies. A number of agencies have used telework to respond to real emergencies. John Berry, the Director of OPM, estimated that during the snowstorm that crippled the Washington, DC area in the winter of 2010, telework reduced the estimated cost of lost productivity from \$100 million a day to \$71 mil-

¹U.S. Office of Personnel Management, *Status of Telework in the Federal Government* (Aug. 2009).

²Letter from Claudia Cross, Deputy Chief Human Capital Officer, Director, Office of Human Capital Management, Department of Energy (July 12, 2007).

³Letter from Mark A. Studdert, General Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development (June 1, 2007).

⁴Government Accountability Office, *Information Security: Concerted Response Needed to Resolve Persistent Weaknesses* (GAO–10–536T).

lion.⁵ H.R. 1722 requires agencies with continuity of operations plans (COOP) to incorporate telework into those plans.

LEGISLATIVE HISTORY

H.R. 1722, the Telework Improvements Act of 2009, was introduced by Representatives John P. Sarbanes, Danny K. Davis, Stephen F. Lynch, Gerald E. Connolly, Frank R. Wolf, James P. Moran, and C.A. Dutch Ruppersberger on March 25, 2009, and referred to the Committee on Oversight and Government Reform.

The Subcommittee on Federal Workforce, Postal Service, and the District of Columbia held a business meeting to consider H.R. 1722 on March 24, 2010. The Subcommittee approved by voice vote a manager's amendment in the nature of a substitute and forwarded the bill, as amended, to the full Committee.

The full Committee considered H.R. 1722 on April 14, 2010, and ordered the bill to be reported, as amended, by a voice vote.

H.R. 1722 is similar to H.R. 4106, the Telework Improvements Act of 2009. H.R. 4106 was considered by the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia on February 28, 2008, and forwarded, as amended, to the full Committee by a voice vote. The full Committee considered H.R. 4106 on March 13, 2008, and ordered the bill to be reported, as amended, by a voice vote. H.R. 4106 passed the House on June 3, 2008, by a voice vote.

SECTION-BY-SECTION

Section 1: Short title

This section provides that the short title of the bill is the Telework Improvements Act of 2010.

Section 2: Telework

Section 2(a) amends Part III of Title 5 of the United States Code by inserting a new Chapter 65 on Telework. The new chapter adds sections 6501 through 6505.

The new section 6501 includes the following definitions:

The term "agency" means an executive agency.

The term "telework" or "teleworking" refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of the employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work. Under this section, telework includes any activities, including training and union activities, that an employee would normally be authorized to do during work hours at his or her regular place of employment.

The term "continuity of operations" refers to measures designed to ensure that functions essential to the mission of the agency can continue to be performed during a wide range of emergencies, including localized acts of nature, accidents, public health emergencies, and technological or attack-related emergencies.

⁵ Senate Committee on Appropriations, Testimony of OPM Director John Berry, *Hearing on FY 2011 OPM Budget*, 111th Cong. (Mar. 24, 2010).

The term “Telework Managing Officer” means the Telework Managing Officer that the head of each agency is required to designate under the new section 6504.

The new section 6502(a) covers the governmentwide telework requirement. Not later than one year after enactment of the legislation, the head of each agency is required to establish a policy under which employees are authorized to telework. The telework policy must conform to regulations promulgated by the Director of OPM.

In general, such policies must allow employees to telework to the maximum extent possible without diminishing agency operations and performance. The agency head is also required to ensure that information on the eligibility of employees to telework is included in descriptions of available positions and other recruiting materials. This requirement is intended to enhance recruitment efforts by giving applicants information about the potential availability of telework for an employee in that position.

Section 6502(b) provides for certain exceptions to the telework requirement. An agency head is not required to authorize teleworking for an employee whose duties and responsibilities require daily direct handling of classified information or require that they be performed on-site. In addition, the temporary denial of permission to telework is permitted if, in the judgment of the agency head, the employee is needed to respond to an emergency.

Section 6502(c) sets out a rule of construction that provides that agencies may not require any employee to telework. Additionally, this subsection clarifies that nothing in chapter 65 prevents an agency from permitting an employee to telework as part of a continuity of operations plan.

The new section 6503 covers implementation of telework requirements, setting forth certain requirements for agency heads, OPM, and OMB.

Section 6503(a) requires agency heads to ensure that appropriate training is provided to supervisors and managers, and to all employees who are authorized to telework. The training must address the information security requirements issued by OMB. Importantly, the section prohibits agencies from making a distinction between teleworkers and nonteleworkers for the purposes of job performance, discipline, and other acts involving the discretion of managers. In addition, most large agencies are required to utilize telework in their continuity of operations plans.

Section 6503(b) requires the OPM Director, in consultation with the Administrator of General Services, to promulgate regulations to assist and advise agencies in carrying out the telework requirements. The OPM Director is also required to maintain a central, publicly available telework website that includes any regulations on telework, an e-mail address for comments on telework, and a copy of OPM’s annual reports on telework compliance. This subsection clarifies that GAO is not required to comply with OPM’s regulations. GAO is required to report to Congress on its telework program under section 6505.

Under subsection 6503(c) the OMB Director, in coordination with NIST, must issue guidelines within 180 days after enactment that ensure the adequacy of information and security protections for information and information systems used for telework.

The new section 6504(a) requires each agency to designate a Telework Managing Officer (TMO).

Section 6504(b) requires that the TMO be a senior official who has direct access to the agency head.

Under section 6504(c), the TMO may not be a political appointee.

The Committee intends the TMO to be the agency's point person on telework, to be a resource for employees and managers, and to be accountable for ensuring that the requirements in the Act are met.

The TMO's specific duties are provided in section 6504(d) and include providing advice to the agency head and the Chief Human Capital Officer on telework, implementing a plan to incorporate telework into the agency's normal operations and its continuity of operations plans, distributing information and guidance to employees, and ensuring that all telework reporting requirements are met.

The appointment of a responsible senior official will be essential in agency efforts to implement a successful telework program. However, the Committee recognizes that the size of a given agency and its existing telework program will play a large part in dictating the demands on a TMO. Section 6504(e), as added by the Chaffetz amendment, recognizes that agencies need flexibility in designating one or more individuals to implement the telework requirements. It also allows the individual serving as an agency's TMO to also hold another office or position in the agency where this would be appropriate and feasible.

The new section 6505 covers new reporting requirements for evaluating telework in agencies. The OPM Director is required by section 6505(a) to submit an annual report to the Comptroller General and the Congress that evaluates each agency's compliance with the telework requirements in the Act. The report will assess the degree of telework participation by agency employees. The report also will evaluate the methods used by agencies to gather telework data, agency trends in teleworking, and whether agencies are setting and meeting telework goals. For agencies that are required to have a COOP plan, the report will also evaluate the extent to which the agency incorporated telework in its plan and used telework in response to emergencies. OPM is directed to determine that agencies are in compliance if the agency reports the requested data accurately and in a timely manner and meets or exceeds the agency's established telework goals.

Section 6505(b) requires the Comptroller General to review the OPM report and submit a report to Congress. The Comptroller General's report will evaluate the compliance of OPM and agencies with the provisions in the Act, address the overall progress of agencies in carrying out those provisions, and include any other information and recommendations that the Comptroller General considers appropriate. Under the bill, the Comptroller General is not required to submit information on its telework program to OPM or comply with regulations OPM issues under this Act. GAO is required to report to Congress each year on its telework program. GAO must report the same data that OPM is required to report for other agencies under section 6505(a).

Section 6505(c) identifies the committees of Congress to receive the reports described in section 6505 as being the House Com-

mittee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs.

Section 2(b) makes technical and conforming amendments to title 5, United States Code.

Section 3: Policy guidance

Within 120 days after enactment, the Director of OMB is required to issue policy guidance requiring executive agencies, when purchasing computer systems, to purchase computer systems that enable and support telework, unless the agency head determines that there is a mission-specific reason not to do so.

The Committee intends such guidance to address the benefits of computer systems, including laptops and other portable systems, which may assist agencies in complying with the general telework requirements of this Act and the specific OMB guidelines on adequate information and security protections.

Section 4: Travel expense test programs

This section amends 5 U.S.C. § 5710 by reinstating authority for the General Services Administration (GSA) to initiate travel expense test programs.

Under this authority, if the GSA Administrator determines it is in the government's interest, the Administrator may approve an agency's request to operate a travel expenses test program. Under such a program the agency may designate and pay any necessary travel expenses for an employee as an alternative to any payment that is set or required under the existing GSA travel regulations. Under an approved test program, an agency may also provide an employee with the option to waive any payment authorized or required by the existing regulations. Any test program is required to enhance cost savings or other efficiencies that accrue to the government.

The Committee understands that at least one agency, the Patent and Trademark Office (PTO), intends to explore additional telework test programs that would enable employees to serve the mission of the PTO while living and working outside of the immediate geographical area in which PTO headquarters is located. The Committee believes PTO and its employees may benefit from the travel expense test program authority provided to GSA under this section.

The authority to conduct test programs expires six years after enactment.

Section 5: Telework research

This section requires the Director of OPM to conduct studies on the use of telework by public and private sector entities that identify best practices and recommendations for the federal government. Such research is required to review the outcomes associated with an increase in telework, including the effects of telework on energy consumption, the environment, job creation and availability, urban transportation patterns, and the ability to anticipate the dispersal of work during periods of emergency. These studies and reviews must be made available to the public.

EXPLANATION OF AMENDMENTS

Chairman Towns offered an amendment in the nature of a substitute that was passed by voice vote. The Towns amendment clarifies the reporting responsibilities of OPM and GAO. Under the amendment, OPM must report on agency telework programs annually for the first five years following enactment and include in its report an evaluation of the extent to which each agency is in compliance with the Act. GAO is required to report to Congress within 6 months after OPM's report on the compliance of OPM and agencies and the overall progress of agencies. The amendment requires OMB to develop guidelines on information security protection and guidance requiring agencies, when purchasing computer systems, to purchase computer systems that enable telework unless the head of the agency determines that there is a mission specific reason not to do so. The amendment also gives GSA the authority to test innovative ways to save the government money through telework travel expense programs.

Representative Connolly offered an amendment requiring the Director of OPM to conduct studies on the utilization of telework by public and private sector entities that identify best practices and recommendations for the federal government. The amendment also requires the Director of OPM to review the outcomes associated with an increase in telework, including the effects of telework on energy consumption, the environment, job creation and availability, urban transportation patterns, and the ability to anticipate the dispersal of work during periods of emergency and to make any studies or reviews performed under this subsection available to the public. The Connolly amendment also provides that the Director of OPM may use a competitively bid contract to carry out the required studies. The Connolly amendment was adopted by a voice vote.

Representative Chaffetz offered an amendment clarifying that the Telework Managing Officer may hold another office or position in an agency. The Chaffetz amendment was adopted by a voice vote.

COMMITTEE CONSIDERATION

On Wednesday, April 14, 2010, the Committee met in open session and ordered H.R. 1722 to be reported, as amended, to the House by a voice vote.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. H.R. 1722 relates to executive branch telework programs and does not apply to the legislative branch.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report including the need to improve agency telework programs, provide a consistent definition of telework, and establish consistent and accurate measurements of telework in the federal government.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including improving agency telework policies in order to allow more federal employees to telework, ensure agencies incorporate telework into continuity of operations planning, and increase the accountability and oversight of federal telework.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 1722. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the meaning of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 1722 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1722. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the

Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1722 from the Director of the Congressional Budget Office:

APRIL 29, 2010.

Hon. EDOLPHUS TOWNS,
*Chairman, Committee on Oversight and Government Reform, House
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1722, the Telework Improvements Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1722—Telework Improvements Act of 2010

Summary: H.R. 1722 would require executive branch agencies of the federal government to establish policies to determine which employees are eligible to participate in certain telework programs. (Telework programs enable employees to work part time from places other than their regular place of employment.) Under the legislation, agencies would designate an officer to oversee teleworking practices and would authorize trial programs to test alternative ways to compensate certain federal employees who telework.

CBO estimates that implementing H.R. 1722 would increase the administrative costs of federal agencies by \$2 million in 2010 and by \$30 million over the 2010–2015 period, assuming the availability of appropriated funds. H.R. 1722 could affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any net increase in spending for telework programs by those agencies would not be significant. Enacting H.R. 1722 would not affect revenues.

H.R. 1722 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1722 is shown in the following table. The costs of this legislation fall within budget function 800 (general government) and all budget functions that contain salaries and expenses.

	By fiscal year, in millions of dollars—						
	2010	2011	2012	2013	2014	2015	2010–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	2	8	5	5	5	5	30
Estimated Outlays	2	8	5	5	5	5	30

Basis of estimate: For this estimate, CBO assumes that H.R. 1722 will be enacted in fiscal year 2010 and that spending will follow historical patterns for similar activities.

Under current law, executive branch agencies are required to establish policies for employees to participate in telework programs to the maximum extent possible without diminishing performance. The General Services Administration (GSA) and the Office of Personnel Management (OPM) provide guidance and resources to federal agencies to support telework policies. H.R. 1722 would require agencies to establish and implement policies to enable eligible employees to participate in telework programs and to report to the Congress on their efforts each year.

Based on information from OPM and GSA, CBO estimates that implementing H.R. 1722 would increase administrative costs to federal agencies by about \$30 million over the 2010–2015 period, assuming the availability of appropriated funds. That amount includes the cost of notifying employees of their eligibility to participate in telework programs, as well as preparing regulations, providing guidance to managers and employees, and preparing a federal study on telework.

The legislation also would authorize a six-year trial program for certain employees whose telework locations are beyond the local commuting area of the employing agency. Under current law, if those employees are required to report to their official duty station the agency must pay for the travel. H.R. 1722 would authorize agencies to make such travel payments optional. Because CBO estimates that few agencies employ such long distance workers, we estimate that implementing the trial program would have no significant impact on the federal budget.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. H.R. 1722 could affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any net increase in spending for telework programs by those agencies would not be significant. Enacting H.R. 1722 would not affect revenues. The net budgetary changes that are subject to pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 1722, the Telework Improvements Act of 2010, as ordered reported by the House Committee on Oversight and Government Reform on April 14, 2010

	By fiscal year, in millions of dollars													
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020	
NET INCREASE OR DECREASE (–) IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Intergovernmental and private-sector impact: H.R. 1722 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On June 1, 2009, CBO transmitted a cost estimate for S. 707, the Telework Enhancement Act of 2009, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs. The bills are similar but would be effective for different time periods.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

Chap. _____ Sec. _____

Subpart A—General Provisions

21. Definitions **2101**
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Subpart E—Attendance and Leave

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65. Telework **6501**
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SUBPART D—PAY AND ALLOWANCES

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**CHAPTER 57—TRAVEL, TRANSPORTATION, AND
SUBSISTENCE**

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**SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES;
MILEAGE ALLOWANCES**

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§ 5710. Authority for travel expenses test programs

[(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official for a period not to exceed 24 months any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

[(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

[(3) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

[(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program.

[(c) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.

[(d) No more than 10 test programs under this section may be conducted simultaneously.

[(e) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.]

§ 5710. Authority for travel expense test programs

(a)(1) Notwithstanding any other provision of this subchapter, if the Administrator of General Services determines it to be in the interest of Government, the Administrator may approve the request of an agency to operate a test program under which the agency may pay through the proper disbursing official any necessary travel expenses of the employee in lieu of any payment otherwise authorized or required under this subchapter. Under an approved test program, an agency may provide an employee with the option to waive any payment authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the test program.

(2) Any test program operated under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

(b) The Administrator shall transmit a description of any test program approved or extended by the Administrator under this section to the appropriate committees of the Congress not later than 30 days before the program or extension takes effect.

(c)(1) An agency operating a test program approved under this section shall annually submit a report on the results of the program to date to the Administrator.

(2) Not later than 3 months after the conclusion of a test program approved under this section, the agency operating the program shall submit a final report on the results of the program to the Administrator and the appropriate committees of Congress.

(d) The Administrator may approve such number of test programs under this section as the Administrator considers appropriate, including test programs which are carried out on a government-wide basis, except that the number of test programs in operation at any time may not exceed 12.

(e)(1) The Administrator may not approve any test program under this section for an initial period of more than 2 years.

(2) Upon a showing of enhanced cost savings, the Administrator may extend an approved test program for an additional period not to exceed 2 years.

(f) In this section, the term “appropriate committees of Congress” means the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

(g) The authority to conduct test programs under this section shall expire upon the expiration of the 6-year period which begins on the date of the enactment of the Telework Improvements Act of 2010.

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SUBPART E—ATTENDANCE AND LEAVE

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CHAPTER 65—TELEWORK

- Sec.
- 6501. Definitions.
- 6502. Governmentwide telework requirement.
- 6503. Implementation.
- 6504. Telework Managing Officer.
- 6505. Evaluating telework in agencies.

§ 6501. Definitions

For purposes of this chapter—

(1) the term “agency” means an Executive agency (as defined by section 105), except as otherwise provided in this chapter;

(2) the term “telework” or “teleworking” refers to 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;

(3) the term “continuity of operations”, as used with respect to an agency, refers to measures designed to ensure that functions essential to the mission of the agency can continue to be performed during a wide range of emergencies, including localized acts of nature, accidents, public health emergencies, and technological or attack-related emergencies; and

(4) the term “Telework Managing Officer” means, with respect to an agency, the Telework Managing Officer of the agency designated under section 6504.

§ 6502. Governmentwide telework requirement

(a) **TELEWORK REQUIREMENT.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this chapter, the head of each agency shall establish a policy under which employees shall be authorized to telework, subject to paragraph (2) and subsection (b).

(2) **AGENCY POLICIES.**—The head of each agency shall ensure—

(A) that the telework policy established under this section—

(i) conforms to the regulations promulgated by the Director of the Office of Personnel Management under section 6503, and

(ii) authorizes employees to telework to the maximum extent possible without diminishing agency operations and performance; and

(B) that information on the eligibility of employees to telework is included in descriptions of available positions and other recruiting materials.

(b) **PROVISIONS RELATING TO CERTAIN CIRCUMSTANCES.**—Nothing in subsection (a) shall be considered—

(1) to require the head of an agency to authorize teleworking in the case of an employee whose duties and responsibilities—

(A) require daily direct handling of classified information; or

(B) are such that their performance requires on-site activity which cannot be carried out from a site removed from the employee’s regular place of employment; or

(2) to prevent the temporary denial of permission for an employee to telework if, in the judgment of the agency head, the employee is needed to respond to an emergency.

(c) **RULE OF CONSTRUCTION.**—Nothing in this chapter shall—

(1) be considered to require any employee to telework; or

(2) prevent an agency from permitting an employee to telework as part of a continuity of operations plan.

§ 6503. Implementation

(a) **RESPONSIBILITIES OF AGENCIES.**—The head of each agency shall ensure that—

(1) appropriate training is provided to supervisors and managers, and to all employees who are authorized to telework, as directed by the Telework Managing Officer of such agency;

(2) the training covers the information security guidelines issued by the Director of the Office of Management and Budget under this section;

(3) no distinction is made between teleworkers and nonteleworkers for purposes of—

- (A) periodic appraisals of job performance of employees,
- (B) training, rewarding, reassigning, promoting, reducing in grade, retaining, or removing employees,
- (C) work requirements, or
- (D) other acts involving managerial discretion;

(4) in determining what constitutes diminished performance in the case of an employee who teleworks, the agency shall consult the performance management guidelines of the Office of Personnel Management; and

(5) in the case of an agency which is named in paragraph (1) or (2) of section 901(b) of title 31, the agency incorporates telework in its continuity of operations plans and uses telework in response to emergencies.

(b) *PROMULGATION OF REGULATIONS BY OPM.*—The Director of the Office of Personnel Management shall—

(1) not later than 180 days after the date of the enactment of this chapter, in consultation with the Administrator of General Services, promulgate regulations necessary to carry out this chapter, except that such regulations shall not apply with respect to the Government Accountability Office;

(2) provide advice, assistance, and any necessary training to agencies with respect to the requirements of this chapter, including with respect to—

- (A) questions of eligibility to telework, such as considerations relating to employee performance, and
- (B) making telework part of the agency's goals, including those of individual supervisors and managers; and

(3) in consultation with the Administrator of General Services, maintain a central, publicly available telework website that includes—

- (A) any regulations relating to telework and any other information the Director considers appropriate,
- (B) an e-mail address which may be used to submit comments to the Director on agency telework programs or agreements, and
- (C) a copy of all reports issued under section 6505(a).

(c) *SECURITY GUIDELINES.*—The Director of the Office of Management and Budget, in coordination with the National Institute of Standards and Technology, shall issue guidelines not later than 180 days after the date of the enactment of this chapter to ensure the adequacy of information and security protections for information and information systems used in, or otherwise affected by, teleworking. Such guidelines shall, at a minimum, include requirements necessary—

(1) to control access to agency information and information systems;

(2) to protect agency information (including personally identifiable information) and information systems;

(3) to limit the introduction of vulnerabilities;

(4) to protect information systems not under the control of the agency that are used for teleworking; and

(5) to safeguard wireless and other telecommunications capabilities that are used for teleworking.

§ 6504. Telework Managing Officer

(a) *DESIGNATION AND COMPENSATION.*—Each agency shall designate an officer, to be known as the “Telework Managing Officer”. The Telework Managing Officer of an agency shall be designated—

- (1) by the Chief Human Capital Officer of such agency; or
- (2) if the agency does not have a Chief Human Capital Officer, by the head of such agency.

(b) *STATUS WITHIN AGENCY.*—The Telework Managing Officer of an agency shall be a senior official of the agency who has direct access to the head of the agency.

(c) *LIMITATIONS.*—An individual may not hold the position of Telework Managing Officer as a noncareer appointee (as defined in section 3132(a)(7)), and such position may not be considered or determined to be of a confidential, policy-determining, policy-making, or policy advocating character.

(d) *DUTIES AND RESPONSIBILITIES.*—Each Telework Managing Officer of an agency shall—

- (1) provide advice on teleworking to the head of such agency and to the Chief Human Capital Officer of such agency (if any);
- (2) serve as a resource on teleworking for supervisors, managers, and employees of such agency;
- (3) serve as the primary point of contact on telework matters for agency employees and (with respect to such agency) for Congress and other agencies;
- (4) work with senior management of the agency to develop and implement a plan to incorporate telework into the agency’s regular business strategies and its continuity of operations strategies, taking into consideration factors such as—
 - (A) cost-effectiveness,
 - (B) equipment,
 - (C) training, and
 - (D) data collection;
- (5) ensure that the agency’s telework policy is communicated effectively to employees;
- (6) ensure that electronic or written notification is provided to each employee of specific telework programs and the agency’s telework policy, including authorization criteria and application procedures;
- (7) develop and administer a tracking system for compliance with Governmentwide telework reporting requirements;
- (8) provide to the Director of the Office of Personnel Management and the Comptroller General such information as such individuals may require to prepare the reports required under section 6505, including the techniques used to verify and validate data on telework, except that this paragraph shall not apply with respect to the Government Accountability Office;
- (9) establish a system for receiving feedback from agency employees on the telework policy of the agency;
- (10) develop and implement a program to identify and remove barriers to telework and to maximize telework opportunities in the agency;
- (11) track and retain information on all denials of permission to telework for employees who are authorized to telework, and report such information on an annual basis to—

(A) the Chief Human Capital Officer of such agency (or, if the agency does not have a Chief Human Capital Officer, the head of such agency), and

(B) the Director of the Office of Personnel Management, for purposes of preparing the reports required under section 6505(a), except that this subparagraph shall not apply with respect to the Government Accountability Office;

(12) ensure that employees are notified of grievance procedures available to them (if any) with respect to any disputes that relate to telework; and

(13) perform such other duties and responsibilities relating to telework as the head of the agency may require.

(e) **RULE OF CONSTRUCTION REGARDING STATUS OF TELEWORK MANAGING OFFICER.**—Nothing in this section shall be construed to prohibit an individual who holds another office or position in an agency from serving as the Telework Managing Officer for the agency under this chapter.

§ 6505. Evaluating telework in agencies

(a) **ANNUAL REPORT BY OPM.**—

(1) **IN GENERAL.**—The Director of the Office of Personnel Management shall submit to the Comptroller General and the appropriate committees of Congress a report evaluating the extent to which each agency is in compliance with this chapter with respect to the period covered by the report, and shall include in the report an evaluation of each of the following:

(A) The degree of participation by employees of the agency in teleworking during the period. In the case of an agency which is an Executive department, the evaluation will include the degree of participation by employees of each component within the department, including—

(i) the total number of employees in the agency;

(ii) the number and percentage of such employees who are eligible to telework; and

(iii) the number and percentage of such employees who do telework, broken down by the number and percentage who telework 3 or more days per week, one or two days per week, and less frequently than one day per week.

(B) The method the agency uses to gather data on telework and the techniques used to verify and validate such data.

(C) Whether the total number of employees who telework is at least 10% higher or lower than the number who teleworked during the previous reporting period and the reasons identified for any such change.

(D) The agency's goal for increasing the number of employees who telework in the next reporting period.

(E) The extent to which the agency met the goal described in subparagraph (D) for its previous report, and, if the agency failed to meet the goal, the actions the agency plans to take to meet the goal for the next reporting period.

(F) The best practices in agency telework programs.

(G) In the case of an agency which is named in paragraph (1) or (2) of section 901(b) of title 31, the extent to

which the agency incorporated telework in its continuity of operations plans and used telework in response to emergencies.

(2) MINIMUM REQUIREMENT FOR COMPLIANCE.—For purposes of the reports required under this subsection, the Director shall determine that an agency is in compliance with the requirements of this chapter if the Director finds that the agency—

(A) reported the requested data accurately and in a timely manner; and

(B) either met or exceeded the agency’s established telework goals, or provided explanations as to why the goals were not met as well as the steps the agency is taking to meet the goals.

(3) REPORTING PERIOD; TIMING.—The Director shall submit a report under this subsection with respect to the first 1-year period for which the regulations promulgated by the Director under section 6503(b) are in effect and each of the 4 succeeding 1-year periods, and shall submit the report with respect to a period not later than 6 months after the last day of the period to which the report relates.

(4) EXCLUSION OF GOVERNMENT ACCOUNTABILITY OFFICE.—The Director shall not submit a report under this subsection with respect to the Government Accountability Office.

(b) REPORTS BY COMPTROLLER GENERAL.—

(1) EVALUATIONS OF REPORTS BY DIRECTOR OF OPM.—Not later than 6 months after the Director submits a report under subsection (a), the Comptroller General shall review the report and submit a report to the appropriate committees of Congress. The report shall evaluate the compliance of the Office of Personnel Management and agencies with this chapter and address the overall progress of agencies in carrying out this chapter, and shall include such other information and recommendations as the Comptroller General considers appropriate.

(2) REPORTS ON GOVERNMENT ACCOUNTABILITY OFFICE.—The Comptroller General shall submit a report with respect to the Government Accountability Office in the same manner and in accordance with the same requirements applicable to a report submitted by the Director with respect to any other agency under subsection (a).

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) the Committee on Homeland Security and Governmental Affairs of the Senate.

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**SECTION 622 OF THE DEPARTMENTS OF COMMERCE,
JUSTICE, AND STATE, THE JUDICIARY, AND RELATED
AGENCIES APPROPRIATIONS ACT, 2005**

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TITLE VI—GENERAL PROVISIONS

* * * * *

SEC. 622. The Departments of Commerce, Justice, State, the Judiciary, the Securities and Exchange Commission and the Small Business Administration shall, not later than two months after the date of the enactment of this Act, certify that telecommuting opportunities are made available to 100 percent of the eligible workforce: *Provided*, That, of the total amounts appropriated to the Departments of Commerce, Justice, State, the Judiciary, the Securities and Exchange Commission and the Small Business Administration, \$5,000,000 shall be available only upon such certification: *Provided further*, That each Department or agency shall provide quarterly reports to the Committees on Appropriations on the status of telecommuting programs, including the number of Federal employees eligible for, and participating in, such programs: *Provided further*, That each Department or agency shall ~~designate a "Telework Coordinator" to be~~ *designate a Telework Managing Officer or designate the Chief Human Capital Officer or other career employee to be* responsible for overseeing the implementation and operations of telecommuting programs, and serve as a point of contact on such programs for the Committees on Appropriations.

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