

section 303 of the Federal Property and Administrative Services Act of 1949 (former] 41 U.S.C. 253) [see 41 U.S.C. 3105, 3301, 3303 to 3305].

“(c) USE OF OTHER FEDERAL AGENCIES.—The heads of Federal agencies with relevant jurisdiction over the subject matters in subsection (a)(2) shall work cooperatively with the Director of the Office of Personnel Management to carry out that subsection, if the Director determines that coordination is necessary to fulfill obligations under that subsection.”

IMPLEMENTATION OF TELECOMMUTING PROGRAMS

Pub. L. 108-7, div. B, title VI, §623, Feb. 20, 2003, 117 Stat. 103, as amended by Pub. L. 111-292, §2(b)(2)(A), Dec. 9, 2010, 124 Stat. 3170, provided that: “Of the funds appropriated in this Act [div. B of Pub. L. 108-7, see Tables for classification] for the Departments of Commerce, Justice, and State, the Judiciary, and the Small Business Administration, \$100,000 shall be available to each Department or agency only to implement telecommuting programs: *Provided*, That, 6 months after the date of enactment of this Act [Feb. 20, 2003] and every 6 months thereafter, each Department or agency shall provide a report 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 Managing Officer to be responsible for overseeing the implementation of telecommuting programs and serve as a point of contact on such programs for the Committees on Appropriations.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 109-108, title VI, §617, Nov. 22, 2005, 119 Stat. 2340, as amended by Pub. L. 111-292, §2(b)(2)(D), Dec. 9, 2010, 124 Stat. 3171.

Pub. L. 108-447, div. B, title VI, §622, Dec. 8, 2004, 118 Stat. 2919, as amended by Pub. L. 111-292, §2(b)(2)(C), Dec. 9, 2010, 124 Stat. 3171.

Pub. L. 108-199, div. B, title VI, §627, Jan. 23, 2004, 118 Stat. 99, as amended by Pub. L. 111-292, §2(b)(2)(B), Dec. 9, 2010, 124 Stat. 3171.

TELECOMMUTING IN EXECUTIVE AGENCIES

Pub. L. 106-346, §101(a) [title III, §359], Oct. 23, 2000, 114 Stat. 1356, 1356A-36, provided that: “Each 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. Not later than 6 months after the date of the enactment of this Act [Oct. 23, 2000], the Director of the Office of Personnel Management shall provide that the requirements of this section are applied to 25 percent of the Federal workforce, and to an additional 25 percent of such workforce each year thereafter.”

§ 6502. Executive agencies telework requirement

(a) TELEWORK ELIGIBILITY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this chapter, the head of each executive agency shall—

(A) establish a policy under which eligible employees of the agency may be authorized to telework;

(B) determine the eligibility for all employees of the agency to participate in telework; and

(C) notify all employees of the agency of their eligibility to telework.

(2) LIMITATION.—An employee may not telework under a policy established under this section if—

(A) the employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year; or

(B) the employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement that—

(A) is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

(B) is mandatory in order for any employee to participate in telework;

(3) 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;

(4) except in emergency situations as determined by the head of an agency, not apply to any employee of the agency whose official duties require on a daily basis (every work day)—

(A) direct handling of secure materials determined to be inappropriate for telework by the agency head; or

(B) on-site activity that cannot be handled remotely or at an alternate worksite;

(5) be incorporated as part of the continuity of operations plans of the agency in the event of an emergency; and

(6) enumerate the circumstances under which employees may be permitted to temporarily perform work requirements and duties from approved overseas locations, provided that, except in emergency situations as determined by the head of the agency, such circumstances shall not include a situation in which an employee's official duties require on at least a monthly basis the direct handling of secure materials determined to be inappropriate for telework by the agency head.

(c) REQUIRED TELEWORK.—If an agency places an employee in investigative leave under section 6329b, the agency may require the employee to, through telework, perform duties similar to the duties that the employee performs on-site if—

(1) the agency determines that such a requirement would not—

(A) pose a threat to the employee or others;

(B) result in the destruction of evidence relevant to an investigation;

(C) result in the loss of or damage to Government property; or

(D) otherwise jeopardize legitimate Government interests;

(2) the employee is eligible to telework under subsections (a) and (b) of this section; and

(3) the agency determines that it would be appropriate for the employee to perform the duties of the employee through telework.

(Added Pub. L. 111-292, §2(a), Dec. 9, 2010, 124 Stat. 3165; amended Pub. L. 114-328, div. A, title XI, §1138(d)(3), Dec. 23, 2016, 130 Stat. 2469; Pub. L. 117-81, div. F, title LXII, §6202(a)(2), Dec. 27, 2021, 135 Stat. 2389.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 111-292, which was approved Dec. 9, 2010.

AMENDMENTS

- 2021—Subsec. (b)(6). Pub. L. 117-81 added par. (6).
2016—Subsec. (c). Pub. L. 114-328 added subsec. (c).

Statutory Notes and Related Subsidiaries

TELECOMMUTING OPPORTUNITIES

Pub. L. 117-81, div. F, title LXII, §6202, Dec. 27, 2021, 135 Stat. 2389, provided that:

“(a) DETO POLICY.—

“(1) IN GENERAL.—Each Federal department and agency shall establish a policy enumerating the circumstances under which employees may be permitted to temporarily perform work requirements and duties from approved overseas locations where there is a related Foreign Service assignment pursuant to an approved Domestically Employed Teleworking Overseas (DETO) agreement, consistent with the requirements under section 6502 of title 5, United States code [sic] (relating to the executive agencies telework requirements), as amended by paragraph (2), and DETO requirements, as set forth in the Foreign Affairs Manual and Foreign Affairs Handbook of the Department of State.

“(2) AMENDMENT.—[Amended this section.]

“(b) ACCESS TO ICASS SYSTEM.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of State shall revise chapter 900 of volume 6 of the Foreign Affairs Manual, the International Cooperative Administrative Support Services Handbook, the Personnel Operations Handbook, and any other relevant regulations to allow each Federal agency that has enacted a policy under subsection (a) to have access to the International Cooperative Administrative Support Services (ICASS) system.”

§ 6503. Training and monitoring

(a) IN GENERAL.—The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

- (A) employees eligible to participate in the telework program of the agency; and
(B) all managers of teleworkers;

(2) except as provided under subsection (b), an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework described under section 6502(b)(2);

(3) teleworkers and nonteleworkers are treated the same for purposes of—

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

(4) when determining what constitutes diminished employee performance, the agency

shall consult the performance management guidelines of the Office of Personnel Management.

(b) TRAINING REQUIREMENT EXEMPTIONS.—The head of an executive agency may provide for an exemption from the training requirements under subsection (a), if the head of that agency determines that the training would be unnecessary because the employee is already teleworking under a work arrangement in effect before the date of enactment of this chapter.

(Added Pub. L. 111-292, §2(a), Dec. 9, 2010, 124 Stat. 3166.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (b), is the date of enactment of Pub. L. 111-292, which was approved Dec. 9, 2010.

§ 6504. Policy and support

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

- (1) 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;
(2) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and
(3) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies;

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care; and

(C) the National Archives and Records Administration on policy and policy guidance for telework in the areas of efficient and effective records management and the preservation of records, including Presidential and Vice-Presidential records.

(c) SECURITY GUIDELINES.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in coordination with the Department of Homeland Security and 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 while teleworking.

(2) CONTENTS.—Guidelines issued under this subsection shall, at a minimum, include requirements necessary to—

- (A) control access to agency information and information systems;
(B) protect agency information (including personally identifiable information) and information systems;