

111TH CONGRESS
2^D SESSION

H. R. 1722

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telework Improve-
3 ments Act of 2010”.

4 **SEC. 2. TELEWORK.**

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

8 **“CHAPTER 65—TELEWORK**

“Sec.

“6501. Definitions.

“6502. Governmentwide telework requirement.

“6503. Implementation.

“6504. Telework Managing Officer.

“6505. Evaluating telework in agencies.

9 **“§ 6501. Definitions**

10 “For purposes of this chapter—

11 “(1) the term ‘agency’ means an Executive
12 agency (as defined by section 105), except as other-
13 wise provided in this chapter;

14 “(2) the term ‘telework’ or ‘teleworking’ refers
15 to a work flexibility arrangement under which an
16 employee performs the duties and responsibilities of
17 such employee’s position, and other authorized ac-
18 tivities, from an approved worksite other than the lo-
19 cation from which the employee would otherwise
20 work;

21 “(3) the term ‘continuity of operations’, as used
22 with respect to an agency, refers to measures de-

1 signed to ensure that functions essential to the mis-
2 sion of the agency can continue to be performed dur-
3 ing a wide range of emergencies, including localized
4 acts of nature, accidents, public health emergencies,
5 and technological or attack-related emergencies; and

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

10 **“§ 6502. Governmentwide telework requirement**

11 “(a) TELEWORK REQUIREMENT.—

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

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

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

21 “(i) conforms to the regulations pro-
22 mulgated by the Director of the Office of
23 Personnel Management under section
24 6503, and

1 “(ii) authorizes employees to telework
2 to the maximum extent possible without di-
3 minishing agency operations and perform-
4 ance; and

5 “(B) that information on whether a posi-
6 tion is eligible for telework is included in de-
7 scriptions of available positions and recruiting
8 materials.

9 “(b) LIMITATIONS.—

10 “(1) CERTAIN EMPLOYEES NOT AUTHORIZED
11 TO TELEWORK.—An employee may not telework
12 under a policy established under this chapter if any
13 of the following apply to the employee:

14 “(A) The employee has a seriously delin-
15 quent tax debt (as determined under paragraph
16 (2)).

17 “(B) The employee has been officially dis-
18 ciplined for violations of subpart G of the
19 Standards of Ethical Conduct for Employees of
20 the Executive Branch for viewing, downloading,
21 or exchanging pornography, including child por-
22 nography, on a Federal Government computer
23 or while performing official Federal Govern-
24 ment duties.

1 “(C) The employee received a payment
2 under the Low-Income Home Energy Assist-
3 ance Act of 1981 (42 U.S.C. 8621 et seq.) but
4 was ineligible to receive the payment under the
5 criteria described in section 2605(b)(2) of such
6 Act (42 U.S.C. 8624(b)(2)).

7 “(D) The employee has been officially dis-
8 ciplined for being absent without permission for
9 more than 5 days in any calendar year.

10 “(2) DETERMINATION OF SERIOUSLY DELIN-
11 QUENT TAX DEBT.—

12 “(A) IN GENERAL.—For purposes of para-
13 graph (1)(A), a ‘seriously delinquent tax debt’
14 means an outstanding debt under the Internal
15 Revenue Code of 1986 for which a notice of lien
16 has been filed in public records pursuant to sec-
17 tion 6323 of such Code, except that such term
18 does not include—

19 “(i) a debt that is being paid in a
20 timely manner pursuant to an agreement
21 under section 6159 or section 7122 of such
22 Code;

23 “(ii) a debt with respect to which a
24 levy has been issued under section 6331 of
25 such Code upon accrued salary or wages

1 (or, in the case of an applicant for employ-
2 ment, a debt with respect to which the ap-
3 plicant agrees to be subject to a levy issued
4 under such section upon accrued salary or
5 wages); and

6 “(iii) a debt with respect to which a
7 collection due process hearing under sec-
8 tion 6330 of such Code, or relief under
9 subsection (a), (b), or (f) of section 6015
10 of such Code, is requested or pending.

11 “(B) REGULATIONS.—The Office of Per-
12 sonnel Management shall, for purposes of car-
13 rying out this paragraph, prescribe any regula-
14 tions which the Office considers necessary, ex-
15 cept that such regulations shall provide that an
16 individual shall be given a reasonable amount of
17 time to demonstrate that the individual’s debt
18 is described in clause (i), (ii), or (iii) of sub-
19 paragraph (A).

20 “(3) CERTIFICATION OF SAVINGS.—An agency
21 may not permit employees to telework under a policy
22 established under this chapter unless the head of the
23 agency certifies to the Director of the Office of Per-
24 sonnel Management that the implementation of the
25 policy will result in savings to the agency.

1 “(4) PROVISIONS RELATING TO CERTAIN CIR-
2 CUMSTANCES.—Nothing in subsection (a) shall be
3 considered—

4 “(A) to require the head of an agency to
5 authorize teleworking in the case of an em-
6 ployee whose duties and responsibilities—

7 “(i) require daily direct handling of
8 classified information; or

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

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

17 “(c) PROHIBITING COLLECTIVE BARGAINING ACTIVI-
18 TIES WHILE TELEWORKING.—Notwithstanding any provi-
19 sion of chapter 71, any time during which an employee
20 teleworks may not be treated as ‘official time’ for purposes
21 of the authority to carry out any activity under section
22 7131 of this title.

23 “(d) REQUIREMENT THAT PRESIDENTIAL AND VICE-
24 PRESIDENTIAL RECORDS CREATED ON NON-OFFICIAL
25 ELECTRONIC MAIL OR SOCIAL MEDIA ACCOUNTS WHILE

1 TELEWORKING BE COPIED TO OFFICIAL ELECTRONIC
2 MAIL ACCOUNTS.—In the case of any employee who, while
3 teleworking pursuant to a policy established under this
4 chapter, creates or receives a Presidential record or Vice-
5 Presidential record within the meaning of chapter 22 of
6 title 44, United States Code, through a non-official elec-
7 tronic mail account, a social media account, or any other
8 method (electronic or otherwise), the employee shall elec-
9 tronically copy the record into the employee’s official elec-
10 tronic mail account.

11 “(e) RULE OF CONSTRUCTION.—Nothing in this
12 chapter shall—

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

15 “(2) prevent an agency from permitting an em-
16 ployee to telework as part of a continuity of oper-
17 ations plan.

18 **“§ 6503. Implementation**

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

21 “(1) appropriate training is provided to super-
22 visors and managers, and to all employees who are
23 authorized to telework, as directed by the Telework
24 Managing Officer of such agency;

1 “(2) the training covers the information secu-
2 rity guidelines issued by the Director of the Office
3 of Management and Budget under this section;

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

6 “(A) periodic appraisals of job perform-
7 ance of employees,

8 “(B) training, rewarding, reassigning, pro-
9 moting, reducing in grade, retaining, or remov-
10 ing employees,

11 “(C) work requirements, or

12 “(D) other acts involving managerial dis-
13 cretion;

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

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

24 “(b) RESPONSIBILITIES OF OPM.—The Director of
25 the Office of Personnel Management shall—

1 “(1) not later than 180 days after the date of
2 the enactment of this chapter, in consultation with
3 the Administrator of General Services, promulgate
4 regulations necessary to carry out this chapter, ex-
5 cept that such regulations shall not apply with re-
6 spect to the Government Accountability Office;

7 “(2) provide advice, assistance, and any nec-
8 essary training to agencies with respect to the re-
9 quirements of this chapter, including with respect
10 to—

11 “(A) questions of eligibility to telework,
12 such as the effect of employee performance on
13 eligibility, and

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

17 “(3) in consultation with the Administrator of
18 General Services, maintain a central, publicly avail-
19 able telework website that includes—

20 “(A) any regulations relating to telework
21 and any other information the Director con-
22 siders appropriate,

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

1 “(C) a copy of all reports issued under sec-
2 tion 6505(a).

3 “(c) SECURITY GUIDELINES.—The Director of the
4 Office of Management and Budget, in coordination with
5 the National Institute of Standards and Technology, shall
6 issue guidelines not later than 180 days after the date of
7 the enactment of this chapter to ensure the adequacy of
8 information and security protections for information and
9 information systems used while teleworking. Such guide-
10 lines shall, at a minimum, include requirements nec-
11 essary—

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

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

17 “(3) to limit the introduction of vulnerabilities;

18 “(4) to protect information systems not under
19 the control of the agency that are used for tele-
20 working;

21 “(5) to safeguard wireless and other tele-
22 communications capabilities that are used for tele-
23 working; and

24 “(6) to prevent inappropriate use of official
25 time or resources that violates subpart G of the

1 Standards of Ethical Conduct for Employees of the
2 Executive Branch by viewing, downloading, or ex-
3 changing pornography, including child pornography.

4 **“§ 6504. Telework Managing Officer**

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

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

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

13 “(b) STATUS WITHIN AGENCY.—The Telework Man-
14 aging Officer of an agency shall be a senior official of the
15 agency who has direct access to the head of the agency.

16 “(c) LIMITATIONS.—An individual may not hold the
17 position of Telework Managing Officer as a noncareer ap-
18 pointee (as defined in section 3132(a)(7)), and such posi-
19 tion may not be considered or determined to be of a con-
20 fidential, policy-determining, policy-making, or policy ad-
21 vocating character.

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

1 “(1) provide advice on teleworking to the head
2 of such agency and to the Chief Human Capital Of-
3 ficer of such agency (if any);

4 “(2) serve as a resource on teleworking for su-
5 pervisors, managers, and employees of such agency;

6 “(3) serve as the primary point of contact on
7 telework matters for agency employees and (with re-
8 spect to such agency) for Congress and other agen-
9 cies;

10 “(4) work with senior management of the agen-
11 cy to develop and implement a plan to incorporate
12 telework into the agency’s regular business strate-
13 gies and its continuity of operations strategies, tak-
14 ing into consideration factors such as—

15 “(A) cost-effectiveness,

16 “(B) equipment,

17 “(C) training, and

18 “(D) data collection;

19 “(5) ensure that the agency’s telework policy is
20 communicated effectively to employees;

21 “(6) ensure that electronic or written notifica-
22 tion is provided to each employee of specific telework
23 programs and the agency’s telework policy, including
24 authorization criteria and application procedures;

1 “(7) develop and administer a tracking system
2 for compliance with Governmentwide telework re-
3 porting requirements;

4 “(8) provide to the Director of the Office of
5 Personnel Management and the Comptroller General
6 such information as such individuals may require to
7 prepare the reports required under section 6505, in-
8 cluding the techniques used to verify and validate
9 data on telework, except that this paragraph shall
10 not apply with respect to the Government Account-
11 ability Office;

12 “(9) establish a system for receiving feedback
13 from agency employees on the telework policy of the
14 agency;

15 “(10) develop and implement a program to
16 identify and remove barriers to telework and to
17 maximize telework opportunities in the agency;

18 “(11) track and retain information on all deni-
19 als of permission to telework for employees who are
20 authorized to telework, and report such information
21 on an annual basis to—

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

1 “(B) the Director of the Office of Per-
2 sonnel Management, for purposes of preparing
3 the reports required under section 6505(a), ex-
4 cept that this subparagraph shall not apply
5 with respect to the Government Accountability
6 Office;

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

10 “(13) perform such other duties and respon-
11 sibilities relating to telework as the head of the
12 agency may require.

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

19 **“§ 6505. Evaluating telework in agencies**

20 “(a) ANNUAL REPORT BY OPM.—

21 “(1) IN GENERAL.—The Director of the Office
22 of Personnel Management shall submit to the Comp-
23 troller General and the appropriate committees of
24 Congress a report evaluating the extent to which
25 each agency is in compliance with this chapter with

1 respect to the period covered by the report, and shall
2 include in the report an evaluation of each of the fol-
3 lowing:

4 “(A) The degree of participation by em-
5 ployees of the agency in teleworking during the
6 period. In the case of an agency which is an
7 Executive department, the evaluation will in-
8 clude the degree of participation by employees
9 of each component within the department, in-
10 cluding—

11 “(i) the total number of employees in
12 the agency;

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

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

22 “(B) The method the agency uses to gath-
23 er data on telework and the techniques used to
24 verify and validate such data.

1 “(C) Whether the total number of employ-
2 ees who telework is at least 10% higher or
3 lower than the number who teleworked during
4 the previous reporting period and the reasons
5 identified for any such change.

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

9 “(E) The extent to which the agency met
10 the goal described in subparagraph (D) for its
11 previous report, and, if the agency failed to
12 meet the goal, the actions the agency plans to
13 take to meet the goal for the next reporting pe-
14 riod.

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

17 “(G) In the case of an agency which is
18 named in paragraph (1) or (2) of section
19 901(b) of title 31, the extent to which the agen-
20 cy incorporated telework in its continuity of op-
21 erations plans and used telework in response to
22 emergencies.

23 “(2) MINIMUM REQUIREMENT FOR COMPLI-
24 ANCE.—For purposes of the reports required under
25 this subsection, the Director shall determine that an

1 agency is in compliance with the requirements of
2 this chapter if the Director finds that the agency—

3 “(A) reported the requested data accu-
4 rately and in a timely manner; and

5 “(B) either met or exceeded the agency’s
6 established telework goals, or provided expla-
7 nations as to why the goals were not met as
8 well as the steps the agency is taking to meet
9 the goals.

10 “(3) REPORTING PERIOD; TIMING.—The Direc-
11 tor shall submit a report under this subsection with
12 respect to the first 1-year period for which the regu-
13 lations promulgated by the Director under section
14 6503(b) are in effect and each of the 4 succeeding
15 1-year periods, and shall submit the report with re-
16 spect to a period not later than 6 months after the
17 last day of the period to which the report relates.

18 “(4) EXCLUSION OF GOVERNMENT ACCOUNT-
19 ABILITY OFFICE.—The Director shall not submit a
20 report under this subsection with respect to the Gov-
21 ernment Accountability Office.

22 “(b) REPORTS BY COMPTROLLER GENERAL.—

23 “(1) EVALUATIONS OF REPORTS BY DIRECTOR
24 OF OPM.—Not later than 6 months after the Direc-
25 tor submits a report under subsection (a), the

1 Comptroller General shall review the report and sub-
2 mit a report to the appropriate committees of Con-
3 gress. The report shall evaluate the compliance of
4 the Office of Personnel Management and agencies
5 with this chapter and address the overall progress of
6 agencies in carrying out this chapter, and shall in-
7 clude such other information and recommendations
8 as the Comptroller General considers appropriate.

9 “(2) REPORTS ON GOVERNMENT ACCOUNT-
10 ABILITY OFFICE.—The Comptroller General shall
11 submit a report with respect to the Government Ac-
12 countability Office in the same manner and in ac-
13 cordance with the same requirements applicable to a
14 report submitted by the Director with respect to any
15 other agency under subsection (a).

16 “(c) APPROPRIATE COMMITTEES OF CONGRESS DE-
17 FINED.—In this section, the term ‘appropriate committees
18 of Congress’ means—

19 “(1) the Committee on Oversight and Govern-
20 ment Reform of the House of Representatives; and

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

23 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
24 (1) The analysis for part III of title 5, United States Code,

1 is amended by inserting after the item relating to chapter
2 63 the following:

“65. Telework 6501”.

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

11 **SEC. 3. POLICY GUIDANCE.**

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

21 **SEC. 4. AUTHORITY FOR TELEWORK TRAVEL EXPENSE**
22 **TEST PROGRAMS.**

23 (a) IN GENERAL.—Subchapter I of chapter 57 of title
24 5, United States Code, is amended by adding at the end
25 the following:

1 **“§ 5711. Authority for telework travel expense test**
2 **programs**

3 “(a)(1) Notwithstanding any other provision of this
4 subchapter, under a test program which the Administrator
5 of General Services determines to be in the interest of the
6 Government and approves, an employing agency may pay
7 through the proper disbursing official any necessary travel
8 expenses in lieu of any payment otherwise authorized or
9 required under this subchapter for employees participating
10 in a telework program. Under an approved test program,
11 an agency may provide an employee with the option to
12 waive any payment authorized or required under this sub-
13 chapter. An agency shall include in any request to the Ad-
14 ministrator for approval of such a test program an anal-
15 ysis of the expected costs and benefits and a set of criteria
16 for evaluating the effectiveness of the program.

17 “(2) Any test program operated under this section
18 shall be designed to enhance cost savings or other effi-
19 ciencies that accrue to the Government.

20 “(3) Under any test program operated under this sec-
21 tion, if an agency employee voluntarily relocates from the
22 pre-existing duty station of that employee, the Adminis-
23 trator may authorize the employing agency to establish a
24 reasonable maximum number of occasional visits to the
25 pre-existing duty station before that employee is eligible

1 for payment of any accrued travel expenses by that agen-
2 cy.

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

5 “(b) The Administrator shall transmit a description
6 of any test program approved by the Administrator under
7 this section, and the rationale for approval, to the appro-
8 priate committees of the Congress at least 30 days before
9 the effective date of the program.

10 “(c)(1) An agency authorized to conduct a test pro-
11 gram under this section shall provide to the Adminis-
12 trator, the Telework Managing Officer of that agency, and
13 the appropriate committees of Congress a report on the
14 results of the program not later than 3 months after com-
15 pletion of the program.

16 “(2) The results in a report described under para-
17 graph (1) may include—

18 “(A) the number of visits an employee makes to
19 the pre-existing duty station of that employee;

20 “(B) the travel expenses paid by the agency;

21 “(C) the travel expenses paid by the employee;

22 or

23 “(D) any other information the agency deter-
24 mines useful to aid the Administrator, Telework

1 Managing Officer, and Congress in understanding
2 the test program and the impact of the program.

3 “(d) No more than 10 test programs under this sec-
4 tion may be conducted simultaneously.

5 “(e) The authority to conduct test programs under
6 this section shall expire 7 years after the date of the enact-
7 ment of the Telework Improvements Act of 2010.

8 “(f) In this section, the term ‘appropriate committees
9 of Congress’ means the Committee on Oversight and Gov-
10 ernment Reform of the House of Representatives and the
11 Committee on Homeland Security and Governmental Af-
12 fairs of the Senate.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for subchapter I of chapter 57 of title 5, United States
15 Code, is amended by adding at the end the following:

“Sec. 5711 Authority for telework travel expense test programs”.

16 **SEC. 5. TELEWORK RESEARCH.**

17 (a) RESEARCH BY OPM ON TELEWORK.—The Direc-
18 tor of the Office of Personnel Management shall—

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

23 (2) review the outcomes associated with an in-
24 crease in telework, including the effects of telework
25 on energy consumption, the environment, job cre-

1 ation and availability, urban transportation patterns,
2 and the ability to anticipate the dispersal of work
3 during periods of emergency; and

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

6 (b) USE OF CONTRACT TO CARRY OUT RESEARCH.—

7 The Director of the Office of Personnel Management may
8 carry out subsection (a) pursuant to a contract entered
9 into by the Director using competitive procedures.

Passed the House of Representatives July 14, 2010.

Attest:

Clerk.

111TH CONGRESS
2^D SESSION

H. R. 1722

AN ACT

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.