

WORKPLACE FLEXIBILITY 2010

Georgetown University Law Center

SOME BACKGROUND INFORMATION ON WORKPLACE FLEXIBILITY IN FEDERAL AGENCIES

A variety of programs and initiatives exist that respond to the concerns of the changing federal workforce through various types of workplace flexibility initiatives. But additional research is needed to determine their comprehensiveness or effectiveness and it is unclear to what degree these activities have been coordinated or leveraged across federal agencies.

Office of Personnel Management (OPM)

- Launched the **Career Patterns Initiative** in 2006 to respond to the anticipated retirement of 40% of the federal workforce by 2015. The Career Patterns Initiative helps agencies promote “flexibilities,” including flexible work arrangements, part time employment, and mid-career entry.¹

Department of Labor (DOL)

- Included a goal to “promote flexible workplace programs” in the **DOL FY2006-2011 Strategic Plan**. The Plan explains that workplace flexibility is attractive to older workers and workers with disabilities who seek more flexible work arrangements and to future workers who seek a balance of work and family.²
- **Secretary Elaine L. Chao** articulated DOL’s need to explore workplace flexibility, noting that “many people today value flexibility and freedom as much as they do their weekly paycheck.”³
- Responded to a request from Senators Kohl and Smith and a Government Accountability Office recommendation to spearhead an **interagency taskforce** to address the aging of the American workforce. The taskforce published a final report recommending strategies to deal with the impact of older workers. The report also highlights workplace flexibility, including existing model programs such as “[c]ustomized employment demonstrations funded by [DOL’s] Office of Disability Employment Policy [that] have shown the feasibility of tailoring

¹ OPM, CAREER PATTERNS INITIATIVE A GUIDE FOR AGENCIES (2006), at http://www.opm.gov/hcaaf_resource_center/careerpatterns/CPGuideV1.pdf. Linda Springer, Director of OPM, regularly talks about the “retirement tsunami” that the federal government is facing. See, e.g., Statement of Linda M. Springer before the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia on “Federal Benefits: Are We Meeting Expectations?” (August 2, 2007).

² U.S. Department of Labor, Strategic Plan Fiscal Years 2006-2011, at http://www.dol.gov/_sec/stratplan/strat_plan_2006-2011.pdf (“Our nation’s ability to compete in this . . . global marketplace is dependent on a highly skilled, adaptive workforce and on workplaces that provide for needed flexibility.”).

³ Department of Labor Women’s Bureau, *Exploring Workplace Flexibility*, E-News Letter, Oct. 4 2002, at <http://www.dol.gov/wb/media/newsletter/e-news4artl-04.htm>.

employment to meet both workers' and employers' needs through flexible employment policies and customized employment strategies."⁴

Department of Treasury

- Created ***Fed Experience*** with the Partnership for Public Service and IBM in 2008 to recruit and hire retiring IBM employees to work in the federal government.⁵

Environmental Protection Agency (EPA)

- Created the ***Senior Environmental Employment (SEE) Program*** -- a public private partnership between the EPA and non profit organizations designed to recruit older workers to provide ongoing support for long and short term projects. Since 1975, there have been 1500 full or part time participants. Participants are supervised by federal employees, but are not employed by the government.⁶

General Accountability Office (GAO)

- Convened a **Forum on Engaging and Retaining Older Workers** in 2006. This forum of employers, unions, advocates, researchers, and federal agencies identified barriers to recruiting and retaining older workers in the workforce.
- Published a report about the Forum in 2007 that included best practices that highlighted flexible work arrangements.⁷

National Aeronautics and Space Administration (NASA)

- Ranked **second** in "*family friendly benefits and culture*" and **fourth** in "*work-life*" by the 2007 Best Places to Work in the Federal Government Survey.⁸
- Nearly 40% of NASA employees are over the age of 40. Faced with the retirement of a substantial amount of its workforce, NASA realized its need to make a "very dynamic, demographic kind of (workforce) adjustment."⁹
- The **Telecommuting Program at Langley Research Center** "is designed to provide flexible work situations that can benefit the Center [and] its employees."¹⁰

⁴ DEPARTMENT OF LABOR, REPORT OF THE TASKFORCE ON THE AGING OF THE AMERICAN WORKFORCE, at 27 (2008) (citing Office of Disability Employment Policy, Evaluation of Disability Employment Policy Demonstration Programs – Task 11: Outcomes Analysis Project: Summary of Preliminary Findings from Phase III of the Independent Evaluation-Interim Progress Report, WESTAT, Jan. 2006).

⁵ PARTNERSHIP FOR PUBLIC SERVICE, A GOLDEN OPPORTUNITY: RECRUITING BABY BOOMERS INTO GOVERNMENT (2008), at <http://www.ourpublicservice.org/OPS/publications/viewcontentdetails.php?id=122>; see also Steven Barr, *IBM Retirees Test the Water at Treasury*, WASH. POST, Jan. 18, 2008, at D04.

⁶ The SEE Program is authorized under the Environmental Programs Assistance Act, Pub. L. 98-313. Additional information is available at <http://www.epa.gov/epahrist/see/brochure/backgr.htm>.

⁷ COMPTROLLER GENERAL, HIGHLIGHTS OF A GAO FORUM, ENGAGING AND RETAINING OLDER WORKERS, GAO 07-438SP (2007).

⁸ Partnership for Public Service and Institute for the Study of Public Policy Implementation, *Best Places to Work in the Federal Government*, July 3, 2007, at <http://bestplacestowork.org/BPTW/about/index.php>.

⁹ Todd Halvorston, *NASA Faces Rush of Retirees*, FLA. TODAY, March 7, 2004, at http://www.space.com/missionlaunches/nasa_workforce_040307.html.

Nuclear Regulatory Commission (NRC)

- Ranked **first** on “*work/life*” and **third** in “*family friendly benefits and culture*” by the 2007 Best Places to Work in the Federal Government Survey.¹¹
- Advertises “*flexible work schedules*” and “*family friendly leave*” as programs to help “with balancing the dynamic complexities of today's work and family life.”¹²
- Rehires retired former federal retirees and has a policy that allows them to receive a full salary and a full pension annuity.¹³

White House Conference on Aging

- Convenes every decade to make policy recommendations related to aging. Last met in 2005 and approved specific recommendations in 2006.
- Recommended the implementation of flexible employment arrangements like phased retirement to overcome barriers older workers face. Suggested action items (including legislation) to recognize the special needs of older job seekers.¹⁴

Telecommuting Initiatives

- Since 1990, several telecommuting initiatives have been advanced through the appropriations process. For example, the Treasury, Postal Service, and General Government Appropriations Act of 1996 made permanent federal funds available to federal employers to install telephone lines and to pay monthly service charges for equipment in the homes of federal employees.¹⁵
- Under the 2000 Department of Transportation and Related Agencies Act, all executive agencies are required to establish policies that would allow eligible employers to telecommute “to the maximum extent possible without diminished employee performance.”¹⁶
- In 2004, Congress began to withhold \$5 million each from specific agency appropriations, including Justice, until they certified that “telecommuting opportunities [were] made available to 100% of the eligible workforce.”¹⁷

¹⁰ NASA, OFFICE OF HUMAN CAPITAL MANAGEMENT, TELECOMMUTING, at <http://ohcm.larc.nasa.gov/familylife/telecommuting.html> and <http://lms.larc.nasa.gov/admin/documents/LPR3900-1.pdf>.

¹¹ Partnership for Public Service and Institute for the Study of Public Policy Implementation, *supra* note 7.

¹² NRC Employment Opportunities Website, at <http://www.nrc.gov/about-nrc/employment/quality-life.html>.

¹³ Human Resources Processes, Policies, and Practices, at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2006/secy2006-0164/enclosure3.pdf>; see also A GOLDEN OPPORTUNITY, *supra* note 2, at 6 (noting that 96% “of NRC’s intermittent staff are 50 or older”).

¹⁴ WHITE HOUSE CONFERENCE ON AGING FINAL REPORT, at 65 (Dec. 11-14, 2005), at <http://www.whcoa.gov/>.

¹⁵ See Treasury, Postal Service, and General Government Appropriations Act of 1996 § 620, 31 U.S.C. § 1348.

¹⁶ See Department of Transportation and Related Agencies Appropriations Act § 359, 5 U.S.C. § 6120.

¹⁷ See Consolidated Appropriations Act of 2005 § 622, 5 U.S.C. § 6120.