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House of Representatives

August 25, 2008

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Mr. Gordon Mansfield
Deputy Secretary
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington DC 20420

Dear Mr. Mansfield:

Thank you for your prompt response to my letter to Secretary Peake following our conversation on August 5 regarding the flexiplace telework program. However, I remain deeply troubled by the department's position that telework is an "incentive" for managers, rather than a widespread option available to all eligible federal employees.

I firmly believe that requiring an additional 140 hours of work (10 credits) – the equivalent of three and a half weeks each year – for employees who telework is fundamentally wrong and counter to the spirit, if not letter, of the law. Current law allows managers to determine which positions are eligible for telework and requires that employees maintain a fully successful performance rating. It does not authorize managers to differentiate requirements for the same position based on whether the employee works in office or by telework.

In fact, Title V of the U.S. Code establishes "a basic administrative workweek of 40 hours for each full-time employee in his organization." Current flexiplace conditions would instead require that employees agree to an additional 2.7 hours per week over the 40-hour workweek for office workers in order to be eligible for telework. This appears to be inconsistent.

You also state that the additional credits required for flexiplace are designed to compensate for the hours that "office attorneys" spend mentoring new attorneys. If so, perhaps taxpayers should be equally troubled that "office attorneys" spend nearly one month of their year mentoring new attorneys – and that is before subtracting vacation and sick leave days. I also fail to understand why Flexiplace attorneys cannot mentor new attorneys using phone or videoconference technologies.

As the author of the telework law, I am convinced that current flexiplace requirements by your department constitute an arbitrary disincentive to telework, which has led to an under utilization of telework opportunities within the Board of Veterans Appeals and beyond. I have recently been contacted by other VA employees who have notified me of similar instances of extra work requirements in telework programs throughout the department.

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This pattern of disincentives to telework at the Department of Veterans Affairs is unfortunate and untenable. At a time of high energy costs and traffic congestion, as well as widespread telework adoption at other federal agencies, it is simply inexcusable that the VA would make telework less attractive or accessible to employees.

Since we last spoke, I was stunned to learn that out of your 233,000 employees; a mere 1,472 employees are currently eligible for telework – a meager 0.6 percent of your workforce.

Enclosed is a summary of the percentage of positions designated as eligible for telework in each federal agency that I had my staff prepare using OPM's data. You should be concerned that the average cabinet agency eligibility rate is 87.64 percent compared to your 0.6 percent.

Your department's efforts to limit telework are unacceptable. I will be asking the department's inspector general to review compliance with current telework law and OPM regulations both in regard to properly designating which positions are eligible for telework and the flexiplace program. I will also be contacting my colleagues on the House and Senate Veterans Affairs Committees and Appropriations Committees regarding this matter.

Should you wish to revise flexiplace requirements and reassess VA positions eligible for telework, I would be willing to assist in arranging meetings with federal agencies that have successfully adopted and implemented telework. Please do not hesitate to contact me or my staff member, Thomas Culligan, at 202-225-5136.

Best wishes.

Sincerely,

Frank R. Wolf
Member of Congress

FRW:tc

Telework Eligibility by Cabinet Agency

Agency	Population	# Eligible	% Eligible
Department of Agriculture	92250	74413	80.66%
Department of Commerce	34637	31089	89.76%
Department of Defense	679924	603265	88.73%
Department of Education	4152	4152	100.00%
Department of Energy	14902	13383	89.81%
Department of Health and Human Services	62104	56171	90.45%
Department of Homeland Security	141698	38861	27.43%
Department of Housing and Urban Development	8868	8069	90.99%
Department of Interior	74665	69188	92.66%
Department of Justice	108847	61448	56.45%
Department of Labor	15350	15032	97.93%
Department of State	11942	11942	100.00%
Department of Transportation	52119	51981	99.74%
Department of Treasury	106145	105413	99.31%
Environmental Protection Agency	17186	16912	98.41%
Office of National Drug Control Policy	110	110	100.00%
Cabinet Agency Average			87.64%

Agency	Population	# Eligible	% Eligible
USAID	1476	1466	99.32%
Fed Reserve Board of Governors	1880	1624	86.38%
Chemical Safety and Hazard Investivation Board	38	38	100.00%
Committee for Purchase from the Blind and Disabled	29	24	82.76%
Commodity Futures Trading Commission	450	443	98.44%
Consumer Product Safety Commission	403	353	87.59%
Corporation for National Service	561	549	97.86%
Court Services and Offender Supervision Agency	1158	844	72.88%
Defense Nuclear Facilities Safety Board	88	0	0.00%
Department of Agriculture	92250	74413	80.66%
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Department of Transportation	52119	51981	99.74%
Department of Treasury	106145	105413	99.31%
Department of Veterans Affairs	233151	1472	0.63%
Environmental Protection Agency	17186	16912	98.41%
Equal Employment Oppportunity Commission	2200	1840	83.64%
Office of Science and Technology	50	38	76.00%
Export-Import Bank	376	376	100.00%
Farm Credit Administration	257	257	100.00%
Farm Credit Insurance Corporation	10	7	70.00%
Federal Communications Commission	1819	1816	99.84%
Federal Deposit Insurance Corporation	4570	4570	100.00%
Federal Election Commission	359	259	72.14%
Federal Energy Regulatory Commission	1304	1284	98.47%
Federal Housing Finance Board	132	130	98.48%
Federal Labor Relations Authority	134	113	84.33%

Federal Maritime Commission	124	124	100.00%
Federal Mediation and Conciliation Service	264	246	93.18%
Federal Trade Commission	1085	1085	100.00%
General Services Administration	12205	11190	91.68%
Institute of Museum and Library Services	57	54	94.74%
Inter-American Foundation	47	45	95.74%
International Boundary and Water Commission	240	100	41.67%
International Broadcasting Bureau	1743	1043	59.84%
Japan US Friendship Commission	4	4	100.00%
Marine Mammal Commission	10	10	100.00%
Merit Systems Protection Board	230	222	96.52%
National Aeronautics and Space Administration	18520	18520	100.00%
National Archives and Records Administration	3064	1300	42.43%
National Capital Planning Commission	45	45	100.00%
National Council on Disability	12	12	100.00%
National Credit Union Administration	949	361	38.04%
National Endowment for the Arts	159	159	100.00%
National Endowment for the Humanities	160	160	100.00%
National Labor Relations Board	1814	1646	90.74%
National Mediation Board	49	49	100.00%
National Science Foundation	1387	1377	99.28%
National Transportation Safety Board	385	383	99.48%
Nuclear Regulatory Commission	3555	3135	88.19%
Nuclear Waste Technical Review Board	15	15	100.00%
Occupational Safety and Health Review Commission	60	60	100.00%
Office of Federal Housing Enterprise Oversight	226	223	98.67%
Office of Government Ethics	80	58	72.50%
Office of National Drug Control Policy	110	110	100.00%
Office of Personnel Management	4725	2750	58.20%
Office of Special Counsel	105	102	97.14%
Overseas Private Investment Corporation	198	174	87.88%
Peace Corps	850	380	44.71%
Railroad Retirement Board	936	310	33.12%
Securities and Exchange Commission	3563	3563	100.00%
Selective Service Administration	4971	4971	100.00%
Smithsonian Institute	4004	2404	60.04%
Social Security Administration	63537	14870	23.40%

Trade and Development Agency	48	46	95.83%
U.S. Access Board	28	25	89.29%
U.S. Commission on Civil Rights	49	49	100.00%
U.S. Holocaust Memorial Museum	400	400	100.00%
U.S. International Trade Commission	357	241	67.51%
<u>Total Agency Eligibility Average</u>			<u>84.24%</u>