

SMITH ANDERSON

Telework: Staffing Strategy for the Future¹

Kimberly J. Korando
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.
Raleigh, North Carolina
919.821.6671
kkorando@smithlaw.com

CURRENT THINKING

19 million and growing...

...although statistics vary, it is estimated that the U.S. currently has approximately 19 million teleworkers with forecasts of 30 million by 2004 and 40 million by 2010.

Most companies will use teleworkers...

...technological advances, new demographic patterns, environment and transportation mandates and incentives, and emergency preparedness issues ultimately will push or pull most companies to engage in telework to some extent.

Benefits to be gained...

...telework offers huge benefits to companies, employees and society.

Whether we reap these benefits fully will depend on whether we grow to understand telework and then manage it properly.

Human resources is the key strategic business partner for serving as a catalyst for reaping these benefits and the architect for successful program design.

Informal, *ad hoc* telework arrangements don't work well – or as well...

¹ Telework involves using telecommunications to work wherever necessary to get the job done – home, telework center (space shared by multiple employers), satellite offices, client locations, airports, hotels, etc. Telecommuting, the most common type of telework, involves working at home one or more days per week during working hours.

SMITH ANDERSON

... research shows that successful telework arrangements overwhelmingly depend on formally planned, supported and managed programs.

Currently, approximately 2/3rds of all telework arrangements are informal, *ad hoc* arrangements worked out by individual managers and employees, presumably resulting from company resistance to or lack of priority for, developing a formal policy.

According to experts, these informal or poorly planned arrangements tend to overlook details and not achieve full benefits and, as such, have fueled recent media reports that telework is losing popularity because it is fraught with pitfalls such as legal questions, management difficulties, decreased productivity, and decreased employee moral/teamwork.

Telework is a valuable option for some, but not all, companies. Some companies that fail to adopt telework will limit their competitiveness...

...each company must carefully assess the pros and cons of telework to its business.

Some companies consider telework as a problem solution option when:

- The entity is growing, adding staff, and running out of space.
- Rental or lease costs are increasing.
- The entity is under pressure to reduce costs, and there is a need to examine current facility and overhead expenses.
- Some departments or functions already perform a significant portion of their jobs away from the office.
- Leases are up for renewal and management is looking at options.
- Dispersal of employees would reduce the organization's exposure in case of emergencies and natural disasters such as earthquakes or serious weather problems.

Management focus must be on results...

...successful programs require a management paradigm shift from focusing on where, when and how work is done to individual accomplishments, team results, and business impact.

SMITH ANDERSON

Benefits of Telework

Win-win-win-win for companies, employees, society, the environment.

Companies: cost savings (space, furniture, parking, reduced absenteeism costs, etc.), improved productivity (fewer employee distractions/interruptions, work scheduled during times employee most effective/around other obligations, not affected by sickness or inclement weather), increased employee retention/recruiting (increases labor pool, especially disabled, semi-retired).

Employees: increases flexibility in balancing work/family, reduces employee costs (travel, parking, clothing), reduces commuter stress.

Society: increases employment opportunities for disabled, increases family time, decreases wear on transportation infrastructure.

Environment: traffic reduction, air quality improvements, energy savings.

Some benefits realized only when a critical mass of telework is achieved (e.g., increase in employee morale, space savings). This phenomenon will drive telework on larger scale.

Challenges of Telework

Significant change in management style required: Focus must be on results, not hours

- Addressing manager fear of loss of control
- Building trust relationship: managers/teleworkers
- Keeping teleworkers in promotional opportunity mainstream

Technology issues

- Connectivity/lack of broad band (high speed connections)
- Teleworker technology competency: self-sufficient basic troubleshooting

SMITH ANDERSON

Morale/Teamwork issues

- Teleworker isolation
- Coworker resentment

Implementation/Liability issues

Factors in Successful Programs

- ❖ **Formal planned, supported and managed program**
- ❖ **Top management support...**
...well-communicated/telework focus on organizational, not individual, benefits
- ❖ **Criteria/process established for carefully selecting...**
 - jobs
 - employees
 - managers
- ❖ **Thorough orientation/training for...**
 - teleworkers (time management, communications, home office tips, technology)
 - managers (performance management, communications, inclusion)
 - coworkers (communications, benefits to organization)
- ❖ **Objective performance expectations measures...**
...developed by managers and communicated to teleworkers
- ❖ **Telework limited to...**
...1-3 days per week with office presence required and procedures for regular contact with office (business/social). Arrangement not a substitute for child/eldercare.

SMITH ANDERSON

- ❖ **Coordinated with IT...**
...for existing/future compatibility

SMITH ANDERSON

SELECTION STRATEGIES FOR SUCCESS

Best Practices for Selecting Jobs Suitable for Telework

- ❖ Base telework decisions on the job, not life style factors
- ❖ Analyze job activities for telework suitability
 - Bottom line: At least a portion of the work can be done as well or better away from the office
 - Divide job activities into 2 groups: office activities and location independent activities

Studies show a positive correlation between the extent to which activities are specifically allocated and productivity improvements
- ❖ Common job suitability factors...
 - requires independent work
 - requires little face-to-face interaction
 - requires concentration
 - results in specific measurable work product
 - can be monitored by output, not time
 - See Appendix A, General Job Task Analysis matrix
- ❖ Common job unsuitability factors...
 - requires extensive face-to-face interaction with supervisors, coworkers, clients, public
 - requires access to materials that are not removable from the office
 - company unable to provide special facilities/equipment offsite

SMITH ANDERSON

- security measures too costly

See Appendix B, A Sampling of Telecommutable Jobs

Best Practices for Selecting Employees Suitable for Telework

- ❖ Selection process is the key...
 - Employee must have job knowledge/skills, personality, self-motivation and home setting suitable for telework.

Telework America 2000 survey: Average teleworker is a seasoned employee in his/her early 40s
- ❖ Employee Suitability Indicators
 - Organized
 - Highly disciplined
 - Self-starter
 - Able to work productively on own
 - Knowledgeable about job
 - Dependable and trustworthy
 - Low need for social interaction
 - Good communication skills
 - Above-average performer
 - Motivated by production/exceeding objectives; and not simply being seen
 - Positive attitude towards telework
 - Flexible
 - Strong understanding of organization's objectives

SMITH ANDERSON

- ❑ Manages time well and prioritizes
- ❑ Home environment suitable
- ❖ Employee Unsuitability Indicators
 - ❑ Needs on-the-job training
 - ❑ Needs to learn the organization
 - ❑ Needs close supervision
 - ❑ Thrives on interaction with others
 - ❑ Desires telework to care for child, sick, aged, etc.
- ❖ Other Employee Assessment Factors
 - ❑ Level of job knowledge
 - ❑ Amount of job experience
 - ❑ Productivity
 - ❑ Overall quality of work
 - ❑ Adaptability of current (or potential future) job to telework
 - ❑ Organizational and planning skills
 - ❑ Project management skills
 - ❑ Time management skills and ability to structure time in an unstructured environment
 - ❑ Ability to set goals for self and follow through on them
 - ❑ Self-discipline/ability to manage potential friction between personal and work commitments
 - ❑ Communication skills: verbal
 - ❑ Communication skills: written

SMITH ANDERSON

- ❑ Self-marketing
- ❑ Technology literacy level/ability to work with technology to achieve business goals
- ❑ Ability to work productively without needed supervision or frequent feedback
- ❑ Tendency to ask for advice or input when needed
- ❑ Reliability and discipline regarding work commitments
- ❑ Ability to thrive in isolated work environments with no co-workers present
- ❑ Self-motivation, self-discipline, ability to avoid procrastination
- ❑ Flexibility
- ❑ Ability to work confidently in unfamiliar or constantly changing situations
- ❑ Independence/ability to self-manage
- ❑ Desire for scheduled flexibility
- ❑ Willingness to try new ways of working
- ❑ Interest and enthusiasm about teleworking

*Don't choose employees solely on basis that they were best at the job as currently organized or because they are located farthest from office.

Selecting Managers Suitable to Manage Telework

- ❑ Empowers and trusts employees
- ❑ Manages by results, not time spent working
- ❑ Encourages feedback and communication
- ❑ Effective problem solver/facilitator

SMITH ANDERSON

- Effective planner and organizer of work to facilitate results
- Breaks down tasks and assigns deadlines
- Supports telework and takes action for successful arrangements

SMITH ANDERSON

PROGRAM DEVELOPMENT/IMPLEMENTATION CHECKLIST

Benchmarking

- Experts advise that benchmarking by industry generally does not add value because perfect industry matches are not required. They advise that some special issues may be worth benchmarking: union impact, cultures emphasizing close supervision and jobs involving unique technology.
- Employers with well-established formal plans: AT&T, IBM, Cisco, Merrill Lynch, Prudential, Mobil Oil Corp., United Airlines, Johnson & Johnson, and the States of California, Florida, Georgia, Massachusetts.

Critical design issues

- **Identify objectives, costs and benefits**
 - ❑ Set scope, budget, team members
 - ❑ Obtain senior management support
- **Consider developing/evaluating pilot program**
- **Assess organizational readiness in three critical areas:**
 - ❑ Performance management
 - ❑ Technology
 - ❑ Communications

See App. C, AT&T Telework Webguide

- **Develop criteria/tools for assessing and selecting suitable jobs, employees and managers**
- **Assess and address technology issues:** needs of business, supply, cost, compatibility, support services, communication, equipment maintenance, tech support, ease of use, training/education, growth/expansion potential, security

SMITH ANDERSON

- **Develop corporate communications** (senior management support, corporate objectives, etc.)
- **Develop policy** – topics to consider including:
 - ❑ definition of types of telecommuting available
 - ❑ employee eligibility/selection requirements
 - ❑ employee, supervisor and hr responsibilities
 - ❑ performance issues
 - ❑ time and attendance
 - ❑ reporting responsibilities
 - ❑ application/integration of other employer policies – privacy, monitoring, personal use, etc.
 - ❑ equipment issues – who provides, maintains, insures; develop procedure for maintaining equipment inventory and authorization for payroll deductions for loss, damage, failure to return
 - ❑ security issues – especially handling of confidential, proprietary information
 - ❑ expense reimbursement
 - ❑ safety and accidents, including ergonomics
 - ❑ liability, compliance and responsibility
 - ❑ insurance coverage – confirming employer policies cover all risks; consider requiring employee to provide also and develop procedure for periodic check to ensure continued coverage
 - ❑ tax
 - ❑ zoning

SMITH ANDERSON

➤ **Develop orientation and training tools for teleworkers:**

- ❑ Setting boundaries at home, see App. D, Psychological Success Factors
- ❑ Time management tips, see App. E, Time Management Tips, Tips for Managing Yourself
- ❑ Office communications/staying involved, see App. F, Tips for Staying in Touch
- ❑ Setting up home office, safety checklist, see App. G, The Home Office

➤ **Develop orientation and training tools for managers**

- ❑ Preparing measurable performance standards for each teleworker (productivity, value/quality, cost savings)
- ❑ Performance management, trust communications, and inclusion, see App. H, Manager Checklist
- ❑ Technology

➤ **Develop orientation and training for coworkers**

- ❑ Benefits to organization
- ❑ Communications, inclusion
- ❑ Technology

➤ **Develop and execute Teleworker agreement.** Consider including some or all of the following:

- ❑ Designation as employee or independent contractor
- ❑ Statement of what activities, circumstances and locations are involved
- ❑ Equipment expenses, technical support, training, supplies employer will provide

SMITH ANDERSON

- ❑ Space, equipment, furniture the employee will provide
- ❑ Specific schedule requirement
- ❑ Responsibility for insurance and maintenance on equipment and work area
- ❑ Return of employer-provided equipment at termination
- ❑ Employee's responsibility for equipment, maintenance and repairs
- ❑ Employee's responsibility for workplace safety of home office and injury reporting
- ❑ Requirement that employee record and submit time regularly – how, when and where wages will be paid
- ❑ Any limitations on work hours, and prior approval for overtime if non-exempt
- ❑ Confidentiality of computer data and other company records
- ❑ Limitations on personal use of employer provided equipment
- ❑ Limitations on access to employer-provided equipment and employee workplace
- ❑ Acknowledgment that arrangement is temporary and may be terminated or modified by the employer at any time
- ❑ Employment at will disclaimer

NOTE: An informal *ad hoc* approach to telework does not negate the need for clear guidelines for employee selection, communications/involvement in the office, performance measures, a telework contract or training.

SMITH ANDERSON

SPECIAL TELEWORK LEGAL ISSUES

OSHA, Safety and Health

OSHA will not hold employer's liable for employee home office and does not require employers to inspect home offices.

OSHA will inspect other home-based work sites if a complaint or referral is received and employers are responsible for damages caused by employer required materials, equipment or work processed.

Employers must keep records of work-related injuries/illnesses.

Best practices: Prepare and update a safety checklist, include ergonomics, and consider including in telework agreement provisions limiting work area access to employees only and permitting employer home inspections. The latter items are essential for home-based work sites, other than offices. Make safety checklist representations part of the telework agreement and develop a process for periodic updates.

FLSA, Wages

Procedures should be developed to ensure that non-exempts work overtime only when it is authorized in advance and necessary.

Strategies for minimizing liability: Set regular work schedule in advance and/or use email or voicemail clock-ins for recordkeeping purposes.

Taxes

Teleworkers outside the company's home state may trigger employer tax obligations, including corporate, not just employment, tax in these states.

Workers Compensation

Out of state teleworkers will be subject to workers' compensation laws in the state from which they work.

Determining whether injuries at home arose "out of" and "in the course of employment" is difficult and currently not well defined by the courts.

SMITH ANDERSON

Strategies for minimizing fraudulent claims: Develop set work schedule in advance; require email/voicemail clock-in and out procedure/time requirements for notifying employer of claim in telework agreement.

Unemployment Benefits

Depending on the particular states involved, out-of-state teleworkers may be covered by the unemployment benefit laws of the state in which they live or the employer's state. Therefore, these laws should be consulted at the onset of the arrangement.

Employee Rights Laws

Out-of-state teleworkers likely will be afforded protections under the laws of the state in which they work. Depending on the states in question, this may favor the employer or the employee.

Best Practices: Consideration should be given to placing a choice of law provision in the telework agreement providing for application of the employer's state law. This provision should be enforceable with regard to many, but not all, employment issues.

SMITH ANDERSON

ADDITIONAL RESOURCES

AT&T Telework Webguide: www.att.com/telework/

JALA International, Inc., www.jala.com

Gil Gordon Associates, www.gilgordon.com

State of North Carolina, Teleworking Project, www.teleworking.osp.state.nc.us

International Telework Association and Council (ITAC), www.telecommute.org

U.S. Department of Labor, Telework and the New Workplace of the 21st Century, www.dol.gov/dol/asp/public/telework/main.htm