



DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

THE E-VOLVING ORGANIZATION'S WORKFORCE

During the past decade there have been massive changes and advances in technology, and these advances have changed the landscape of the American workplace. Personal computers, the internet, fax machines, wireless phones and beepers, have provided workers with the ability to conduct business 24-hours a day, 7 days a week, 365 days a year from anywhere in the world. This has led to the development of flexible work arrangements that allow workers to conduct business outside of the traditional confines of the "office." These flexible work arrangements are known by a number of different names — Telecommuting, Telework, Work At Home, Home Work, and Virtual Offices — but they all have one thing in common, a worker conducts business from their home rather than the employer's place of business. For the purposes of this article, we will use the term Telecommuting to describe all such programs.

Benefits

Recruitment and Retention

There are many benefits to a company's use of a telecommuting program. First and foremost is recruitment and retention of skilled workers. Studies have shown that companies with telecommuting arrangements have an advantage in recruiting and retaining workers. Telecommuting programs are now common among the Best Companies (*Fortune*, January 10, 2000) and those companies identified in *Working Mother's* Top 100 Companies for Working Mothers. Therefore telecommuting programs increase a company's competitiveness in recruiting the best workers. Also, it enlarges the hiring pool as individuals can be recruited from distant locations and the need for relocation is eliminated.

Studies also indicate that such programs are a significant factor in employee retention. Gallup Polls have recently reported that employee turnover has been reduced by as much as 26% when telecommuting was available to employees. This can result in significant savings to the company. A recent survey by the International Telework Association & Council found that a savings of about \$8,000 can be realized if an employee stays with the company. (*Working Mother*, April 2000).

Employee Morale

Employees participating in telecommuting programs, and other work-life programs, are more likely to have a positive view of employee-management relations and feel proud about working for their companies. (Work and Family Newsbriefs, #11802 Press Release, University of Cincinnati, 5-27-98). Programs that allow employees to work from home also address work-life issues for an employee as it often allows them to have a more flexible schedule that promotes a work-life balance that increases employee morale and satisfaction. Gallup Poll results indicate that Employee Satisfaction with their jobs is more than 10% higher for telecommuters, as compared to the general employee population. This results in an employee's willingness to work harder, which translates into increased productivity.

Absenteeism

Telecommuting has also been shown to decrease absenteeism. Missing work when an individual is mildly ill or in order to care for a sick child or parent is no longer necessary when your office is in your home. This decrease in absenteeism could result in potential savings of approximately \$ 2,000 per year for each employee. (*Working Mother*, April 2000).

Cost Savings

A company that allows its employees to work from home may be eligible for a tax credit. A new federal law grants a tax credit to companies in Chicago, Houston, Los Angeles, Philadelphia and Washington, D.C. for telecommuting arrangements because of the decrease in pollution. (*Working Mother*, April 2000). The impact on the environment can be significant since the average full-time telecommuter will reduce air pollutants by 7,000 pounds of green house gas or CO₂ per year. In addition, society will benefit from the decrease in traffic and overcrowded roads.

Savings to the company can also be realized in overhead costs such as rent, utilities and the need for administrative support since less space is needed to house workers. The projected savings for one company participating in a telecommuting program with 45 employees are estimated to be approximately \$300,000 for the first year and \$160,000 per year thereafter.

There is also a cost saving to the employee, which translates to an increase in disposable income. Telecommuting eliminates or reduces the cost of commuting as well as wardrobe and meal expenses. By eliminating or reducing these costs, an individual can save up to \$6,700 per year.

Other Benefits

Other Benefits

Telecommuting programs can also reduce employee stress, provide opportunities for disabled workers and assist with compliance under the Americans with Disabilities Act ("ADA") as recent court opinions have indicated that allowing employees to work from home may be a "reasonable accommodation" under the ADA.

Potential Problems

Liability

Non-exempt employees that work from home are still subject to the provisions of the Fair Labor Standards Act. This means that non-exempt employees that work from home have the right to collect overtime pay for any work performed over 40 hours in one work week. If the number of hours worked exceeds 40 in one work week, whether at home, at work or a combination of both, then the employee is entitled to be compensated at one and a half times the hourly rate for all hours over 40. (See 29 U.S.C. §207(a)(1).

The Fair Labor Standards Act also contains record keeping requirements. There is a requirement that records are kept of the time of day and day of week the workweek beings as well as the hours worked each workday and each workweek by non-exempt employees. (See 29 U.S.C. §211(C) and 29 C.F.R. §516.2). Therefore, for non-exempt employees working from home, it will be necessary to implement procedures that will accurately reflect the hours worked. Failure to keep accurate records may subject the company to liability for back pay, liquidated damages and penalties.

What happens when an employee is injured at home? After much debate, the Labor Department recently issued a directive that formally exempts home offices from job safety inspections. *OSHA Formalizes Policy Exempting Home Offices from Safety Inspections*, DLR, February 8, 2000, at AA-1. However, an employer is liable for "on the job injuries" under state workers' compensation laws. Under state law, an employer may be liable for an injury that occurs at home if the employee was injured while on the job. This is sometimes difficult to ascertain as telecommuting often allows employees to work flexible schedules and when an employee is "on the job" may be difficult to ascertain as they can e at work at any time during the day.

An employer may also be liable for sexual harassment, threats or defamatory comments made via e-mail or the internet by an employee that works from home. This may be the case even if the comments are directed to individuals outside of the organization when an employee is no longer "at work." In addition, since the company's e-mail address may contain the company's name, the employee may be seen as an agent for the company and may be seen as speaking on behalf of the company and the employer could be deemed liable.

Security

Due to the fact that the equipment used by an employee in the performance of his duties is located in the home, friends and family members may have access to the equipment. That means that individuals who are not employees of the company may have access to confidential and proprietary information. If the confidentiality of this information is compromised, the employer may face a security risk. In addition, certain industries, such as the health insurance industry, have mandates for increased security in regards to the confidentiality of information. Disclosure of such information to non-employees, even when the disclosure is inadvertent, can create liability for the company.

Management Issues

With telecommuting, employees are located at an off-site location. This makes supervision of these employees difficult. Many managers express concern about the difficulties of monitoring an individual's performance and developing a sense of teamwork in a telecommuting arrangement. On the flip side, some employees involved in telecommuting sometimes experience feelings of isolation and that they are no longer part of a company or a team.

Privacy

If an employee and members of their household are permitted to use equipment for personal use, employers risk a claim for invasion of privacy if personal communications and files are monitored along with work-related communications and files.

Solutions

Policies and guidelines should be developed that include the following:

- Criteria for participation in the program;
- Security and confidentiality guidelines;
- Hours to be worked, when an employee will need to be available and how overtime is to be handled;
- Use of vacation, sick and personal leave and how management is to be notified;
- Personal use of company equipment, use of equipment by members of the household;
- A statement that all company policies and procedures are still applicable to the employee and that telecommuting does not change the conditions of employment;

- A statement that all company policies and procedures are still applicable to the employee and that telecommuting does not change the conditions of employment;
- How overtime is to be handled; and
- Depending on your company's philosophy, it should be communicated that telecommuting is not a substitute for day care or elder care on a permanent basis.

It should also be communicated to the employee that participation in a telecommuting program is solely at the discretion of management and that the employee may be removed from the program at any time. The company should consider a Work At Home Agreement that sets forth conditions for participation in the program and outlines various requirements.

In addition, the company's policies regarding confidential and proprietary information, intra and internet e-mail and communications, monitoring of electronic communications and files and overtime should be reviewed to ensure that they adequately address telecommuting arrangements.

It is also recommended that employees receive training prior to participation in a telecommuting arrangement to explain the program's objectives, benefits to the employee and the company, conditions of the program, and how work will be handled on a daily basis.

Conclusion

In conclusion, if handled properly, telecommuting and other work at home programs are a win-win situation for both the company and the employee in addition to providing benefits to society as a whole. While there are some risks to the arrangement, the increased risks are minimal compared with the benefits that can be obtained for both the company and the employee.

This material is protected by copyright. Copyright © 2000 various authors and the American Corporate Counsel Association (ACCA).