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The Impact of Telework on Personal Assistance Services



U.S. Equal Employment Opportunity Commission

Research, Evaluation, & Applied Data Division | Office of Federal Operations

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Executive Summary

Section 501 of the Rehabilitation Act of 1973 prohibits Federal agencies from discriminating against individuals with disabilities and requires affirmative actions to remove barriers to their employment. A recent amendment to that act required all agencies to implement procedures for Personal Assistance Services (PAS) by January 3, 2018. PAS help persons with targeted disabilities (such as deafness and paralysis) perform major life activities, such as eating and caring for oneself, during work hours.

In early 2020, the COVID-19 pandemic forced many agencies to adopt telework to continue operations. As a result, the share of eligible Federal employees who teleworked in 2020 increased from 56% to 90%. The U.S. Equal Employment Opportunity Commission (EEOC) expected challenges with PAS, as most accommodations were traditionally provided at the worksite by contractors or co-workers.

Main Results

In 2022, the EEOC surveyed the PAS programs of 71 Federal agencies. According to the survey, 15.5% of the sampled agencies had not adopted written PAS procedures as required by the law. The results are listed below:

- Most surveyed agencies (88.7%) provided PAS to eligible employees.
- Most agencies (84.5%) had adopted written PAS procedures.
- About 66.2% of sampled agencies did not receive any PAS requests from employees in FY 2020, as well as 63.4% of agencies in FY 2021.
- Collectively, 94.4% of sampled agencies rated their PAS programs as highly effective, effective, or moderately effective.
- The vast majority of sampled agencies (90.1%) reported that telework during the pandemic did not affect their ability to provide PAS accommodations.
- The majority of respondents cited sufficient funding (68.8%) and sufficient staff (66.7%) as factors that made their agency's PAS program highly effective.

Main Recommendations

- Federal agencies should adopt PAS procedures as required by law.
- Federal agencies should follow guidance from the U.S. Office of Management and Budget (OPM) on flexible telework and remote work for employees.
- Federal agencies should include PAS as a topic of discussion in executive management meetings.
- Federal agencies should allocate additional staffing and funding to providing PAS accommodations.

Introduction

The Federal Government has offered telework to eligible employees since the Telework Enhancement Act of 2010¹ became law. Telework gives employees more flexibility over their work schedules and frees up commuting time. Agencies also benefit, since employees can continue to deliver mission-critical services safely and efficiently—even during emergencies like the COVID-19 pandemic.

According to the U.S. Office of Personnel Management (OPM), the share of eligible Federal employees who teleworked in 2020 increased from 56 to 90% due to the pandemic.² This affected many employees with approved Personal Accommodation Services (PAS) accommodations at their worksites, who then needed similar accommodations at their telework locations. PAS help persons with targeted disabilities³ perform major life activities during work hours. PAS are usually provided at the worksite, person-to-person. For example, a PAS provider may assist an employee with removing and putting on clothing, eating, and using the restroom.

Section 501 of the Rehabilitation Act of 1973 prohibits Federal agencies from discriminating against individuals with disabilities and requires affirmative actions to remove barriers to their employment.⁴ A recent amendment to this act required all agencies to implement PAS procedures by January 3, 2018.

In the regulation it issued following the amendment,⁵ the U.S. Equal Employment Opportunity Commission (EEOC) required that Federal agencies provide PAS as a form of affirmative action. This enables employees with disabilities to enjoy the benefits and privileges of employment equally to those enjoyed by similarly situated employees without disabilities. Benefits and privileges of employment include physical access to spaces available to all employees—such as cafeterias, break rooms, and employer-sponsored trainings and social events.

Under the new regulations, agencies must provide PAS if:

1. Employees require PAS due to targeted disabilities.

¹ Public Law 111-292 (<https://www.congress.gov/111/plaws/publ292/PLAW-111publ292.pdf>).

² Future of Work (<https://www.opm.gov/policy-data-oversight/future-of-work/>).

³ Targeted disabilities include deafness, blindness, missing extremities, partial or complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of a limb and/or spine.

⁴ Rehabilitation Act of 1973 (<https://www.eeoc.gov/statutes/rehabilitation-act-1973>).

⁵ A final rule provides clear procedures and guidance readily available to the public. It also ensures that guidance is treated as non-binding and does not overstep legal authority.

2. Provision of these PAS would enable an employee to perform the essential duties of a position the individual holds or desires.
3. Provision of these PAS would not impose an undue hardship on the agency.

Agencies are prohibited from taking any adverse action against job applicants or employees based on their need or perceived need for PAS. Employees who previously arranged their own PAS at different agencies are also entitled to PAS at their current agencies.

In addition, agencies must provide PAS to eligible employees on work-related travel during both work and non-work hours, unless this would present an undue hardship to the agency.⁶ If employees' usual PAS providers are available during work-related travel, agencies must pay any additional costs, such as transportation and lodging costs. However, employees with PAS accommodations must separately request PAS for work-related travel. An agency is not expected to know that an employee needs PAS for travel simply because an employee regularly receives PAS while at the worksite or while teleworking.

Employees in need of a reasonable accommodation (RA) or PAS should contact the agency's RA coordinator, who will assist with determining effective RAs or PAS. PAS provide eligible employees with disabilities greater assistance than an RAs. For example, PAS may include personal assistance to employees at their home worksites during duty hours, whereas RAs are not required in most cases. For work-related travel, PAS are processed as a form of RA. Agencies may include PAS procedures with their RA procedures or publish them as standalone procedures.

Methodology

The EEOC has not discovered trends or indicators to suggest major problems with providing PAS to employees teleworking during the pandemic. The purpose of this research is to assist with finding issues before they materialize. Specifically, this report examines the following research questions:

1. How many agencies have not yet implemented a PAS policy?
2. What impact did telework have on PAS during the pandemic in 2020 and 2021?
3. How many PAS requests were made during that period?
4. What have been the successes and challenges of providing PAS to employees teleworking during the pandemic?

⁶ An undue hardship might include unduly extensive, costly, substantial, or disruptive changes that would fundamentally alter the nature or operation of the agency's work.

5. What best practices have agencies used to facilitate the needs of employees who request PAS?

To answer these questions, the EEOC administered an electronic survey to 71 Federal agencies of various sizes on June 7, 2022. The survey was open for three weeks. Although 71 agencies responded, the survey was sent to EEO officers governmentwide, who could delegate completion of the survey to the heads of their RA offices. The EEOC did not survey users of the PAS process due to their right to privacy and the agencies' responsibility to protect medical information and documentation. To understand the user's perspective, the EEOC used the information it received from the annual submission of the EEOC Management Directive 715 (MD-715) report and disability program managers governmentwide. The MD-715 report contains policy guidelines and standards for establishing and maintaining effective affirmative employment programs.

The EEOC used the following guidance, policies, and regulations:

- Rehabilitation Act of 1973, as amended
- Code of Federal Regulations, 29 C.F.R. Part 1614⁷
- OPM's 2021 Guide to Telework and Remote Work in the Federal Government⁸
- MD-715 reports (information on hand from 2019 to 2021)
- EEOC's Survey Policy
- Survey Monkey

Survey of PAS

Federal Agencies' PAS Procedures Implementation

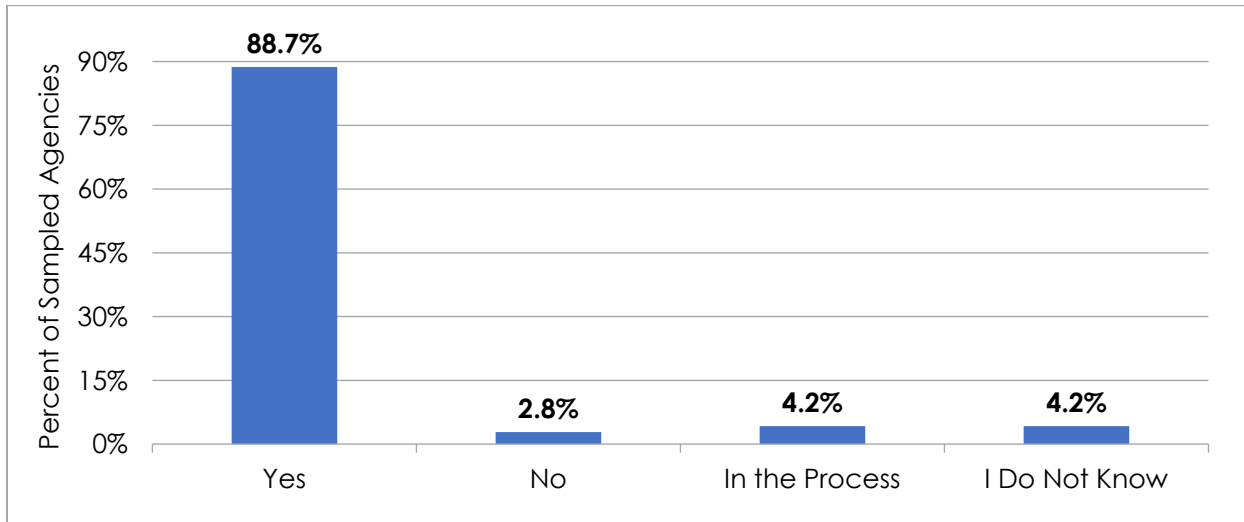
Comprehensive PAS procedures are critical to successfully providing PAS to persons with disabilities who telework. By law, all employees must have access to the agency's PAS procedures. The EEOC developed a timeframe for all agencies to become compliant by creating PAS procedures in 2017. The following three figures show the results of these efforts to adopt and implement PAS procedures.

Figure 1 shows that most of the sampled agencies (88.7%) met the requirements for providing PAS to eligible employees. Another 4.2% of sampled agencies were in the process of meeting those requirements. Only 2.8% of agencies in the sample did not meet the requirements.

⁷ 29 C.F.R. Part 1614 (<https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XIV/part-1614>).

⁸ Future of Work (<https://www.opm.gov/policy-data-oversight/future-of-work>).

Figure 1. Has Your Agency Met its Affirmative Action Obligation to Provide Personal Assistance Services to Eligible Employees?

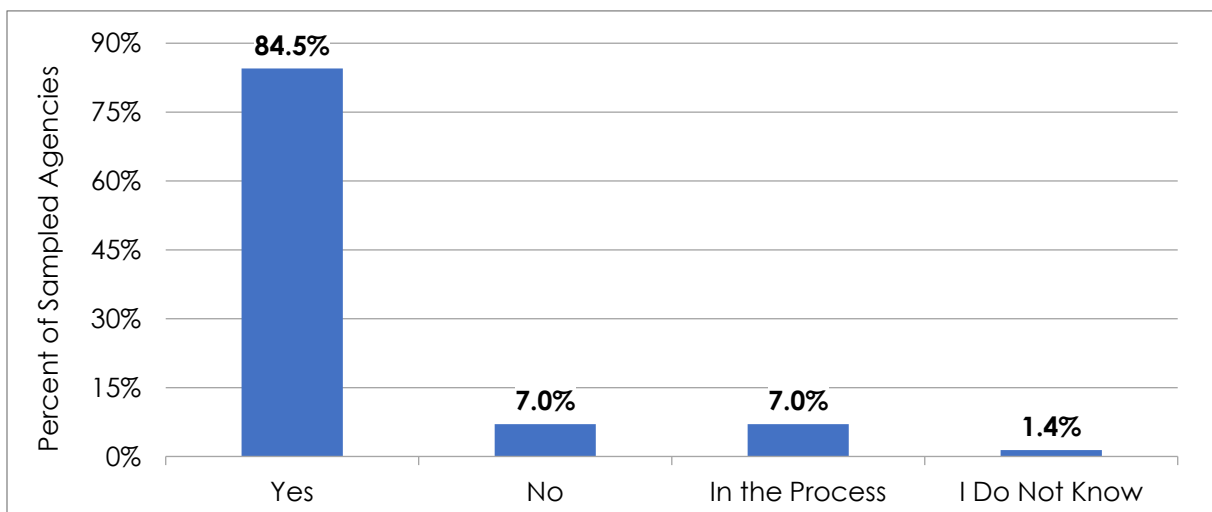


Note: Data may not add up to 100% due to rounding.

Source: U.S. Equal Employment Opportunity Commission.

Although responding agencies demonstrated a high rate of affirmative action compliance, the rate must be higher to improve equal opportunity. Figure 2 shows that 84.5% of sampled agencies had adopted and implemented written PAS procedures. Another 7.0% were in the process of adopting written procedures. In contrast, 7.0% had no written PAS procedures. Collectively, 14.0% of agencies had not adopted PAS procedures.

Figure 2. Has the Agency Adopted Written Procedures for Personal Assistance Services?

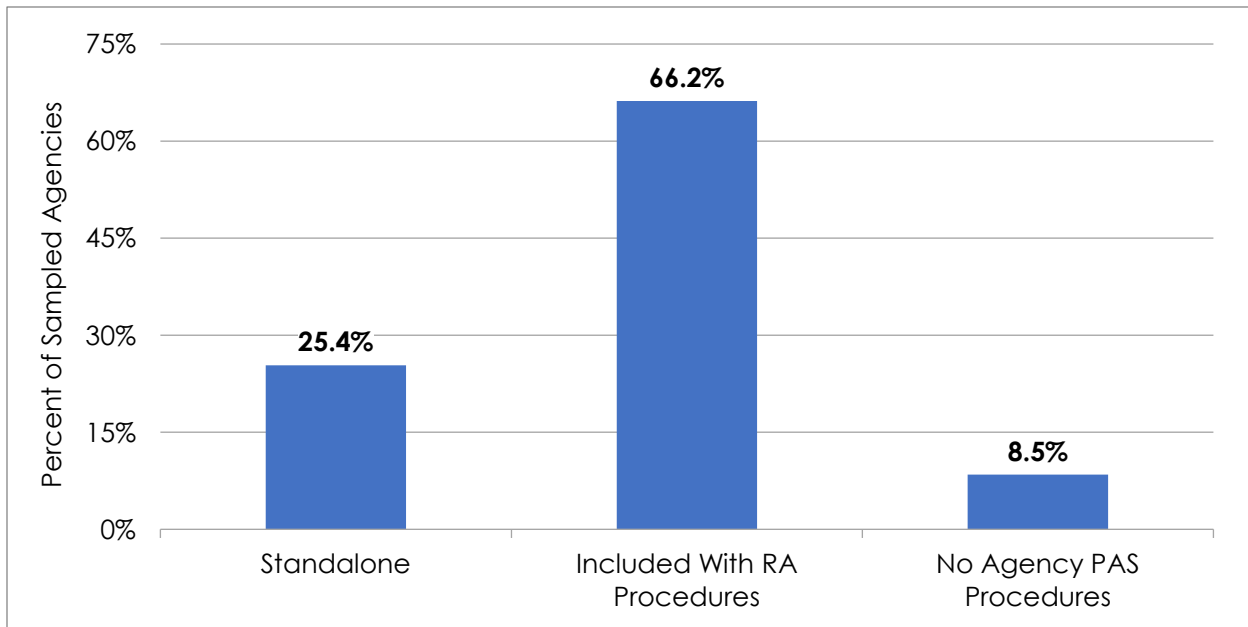


Note: Data may not add up to 100% due to rounding.

Source: U.S. Equal Employment Opportunity Commission.

According to EEOC guidance, agencies have the option to include PAS procedures with the RA procedures or separately. Figure 3 shows that 66.2% of sampled agencies included PAS procedures with their RA procedures, compared to 25.4% that provided standalone PAS procedures. The remaining agencies (8.5%) did not have PAS procedures.

Figure 3. Are Personal Assistance Services Procedures Included With the Reasonable Accommodation Procedures?



Notes: PAS = Personal Assistance Services. RA = Reasonable Accommodation. Data may not add up to 100% due to rounding.

Source: U.S. Equal Employment Opportunity Commission.

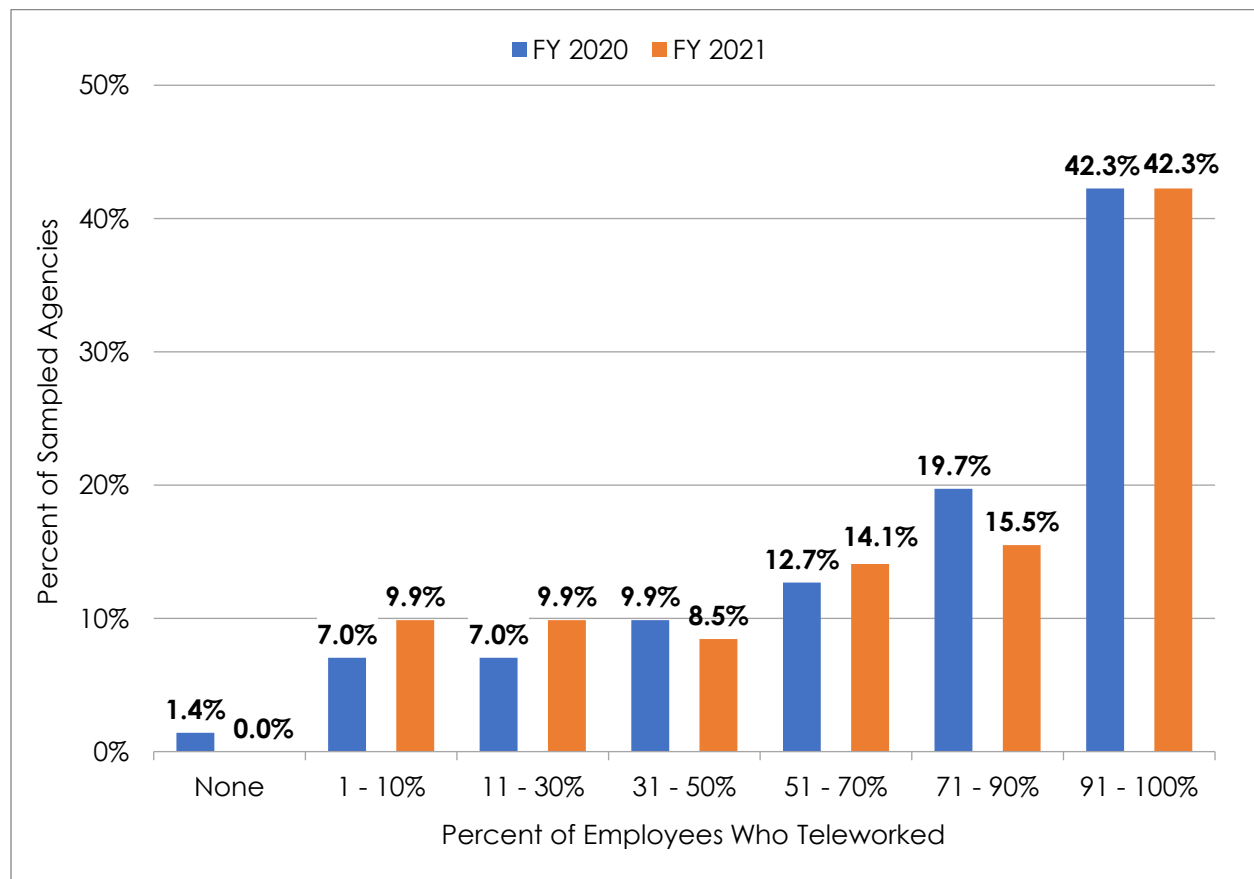
Telework and PAS During the Pandemic

The EEOC expected a significant increase in the share of employees who teleworked and the number of PAS requests due to the COVID-19 pandemic. Federal agencies encouraged telework to help mitigate the spread of the virus. OPM reported that the share of eligible Federal employees who teleworked had climbed from 56 to 90% in 2020.⁹

Figure 4 shows that telework was widely available in the Federal Government. For example, 42.3% of the sampled agencies had the vast majority of their employees (91-100%) teleworking in both FY 2020 and FY 2021. Only 1.4% of sampled agencies did not have their employees teleworking at all in FY 2020. All sampled Federal agencies had their employees teleworking in FY 2021.

⁹ Future of Work (<https://www.opm.gov/policy-data-oversight/future-of-work>).

Figure 4. Share of Eligible Employees Who Teleworked, FY 2020–21



Note: FY = Fiscal Year. Data may not add up to 100% due to rounding.

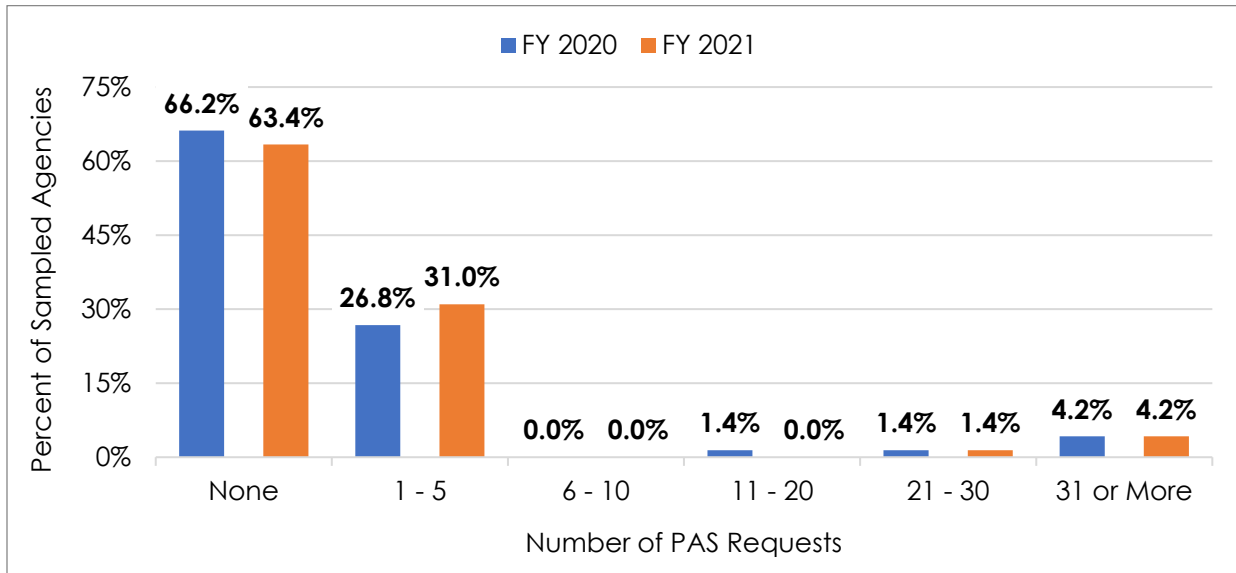
Source: U.S. Equal Employment Opportunity Commission.

The EEOC focused on the impact that telework would have on employees who had existing PAS accommodations at the workplace. PAS procedures are relatively new and a sudden change (such as teleworking) affects persons with disabilities more than those without disabilities because they may need an accommodation to perform the essential job functions.¹⁰ The EEOC expected a spike in PAS requests because most PAS accommodations are provided at the workplace.

However, Figure 5 shows that 66.2% of sampled agencies did not receive any PAS requests from employees in FY 2020, as well as 63.4% of agencies in FY 2021. Another 26.8% of sampled agencies received 1 to 5 requests in FY 2020, compared to 31.0% of agencies in FY 2021. The results were unexpected because work adjustments usually also require RAs to be adjusted.

¹⁰ The essential tasks a person holding a job absolutely must be able to do.

Figure 5. PAS Requests Submitted, FY 2020–21



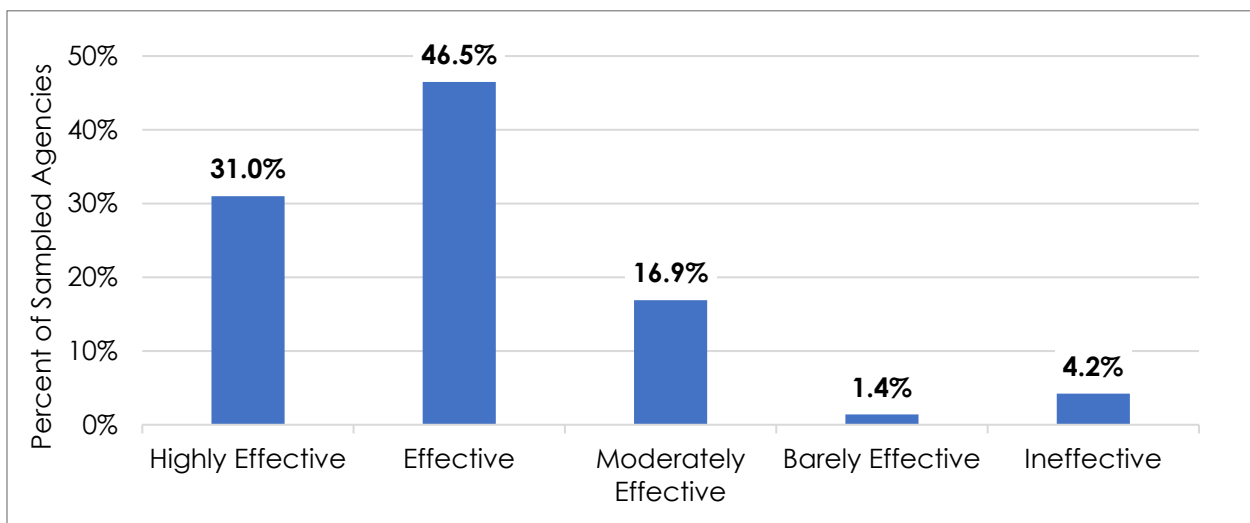
Notes: PAS = Personal Assistance Services. FY = Fiscal Year. Data may not add up to 100% due to rounding.

Source: U.S. Equal Employment Opportunity Commission.

PAS Challenges and Successes With Telework During the Pandemic

The EEOC sought to understand how the pandemic had affected the effectiveness of PAS programs at Federal agencies. Figure 6 shows that, collectively, most sampled agencies rated their PAS program well: 31.0% of agencies found it highly effective, 46.5% effective, and 16.9% moderately effective. Only 4.2% of sampled agencies rated their PAS program as ineffective.

Figure 6. How Effective is the Agency’s Personal Assistance Services Program?

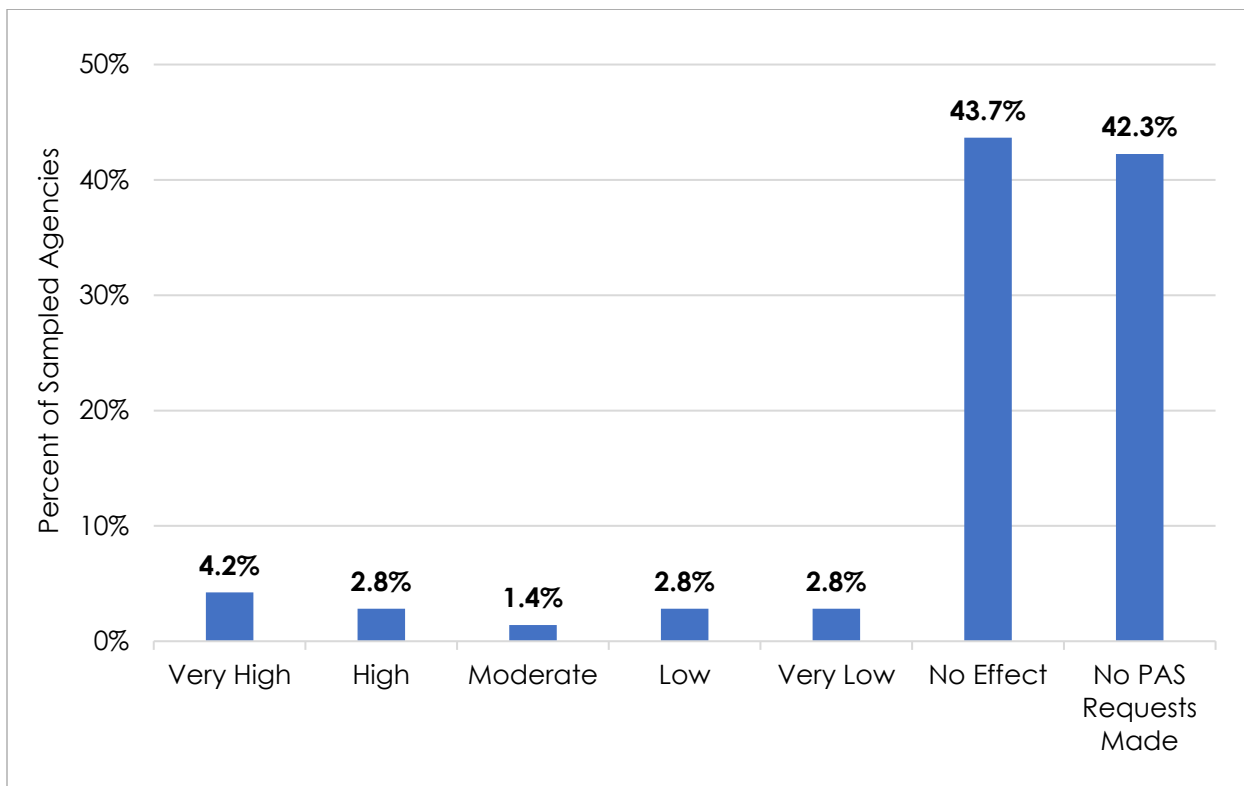


Source: U.S. Equal Employment Opportunity Commission.

The EEOC found these results encouraging given that PAS requirements became effective in 2018. PAS programs were used for two years during the pandemic. The survey responses came from EEO officers and heads of RA departments. Providing PAS during the pandemic was not only a logistical matter but also a safety matter. Government officials and agencies encouraged personnel to stay at safe distances and wear masks due to the highly contagious virus. Overall, 90.1% of the sampled agencies felt that telework and remote work affected PAS.

The EEOC assessed how big of an effect telework had (Figure 7). About 43.7% of the sampled agencies said that telework had no effect on their ability to provide PAS. Another 42.3% of sampled agencies reported that no PAS requests had been made. In contrast, 4.2% of the sampled agencies reported that telework and remote work had a very high impact on PAS, and 2.8% felt that telework had a high impact.

Figure 7. What Effect Has Telework and Remote Work had on Provide PAS?



Note: PAS = Personal Assistance Services. Data may not add up to 100% due to rounding.

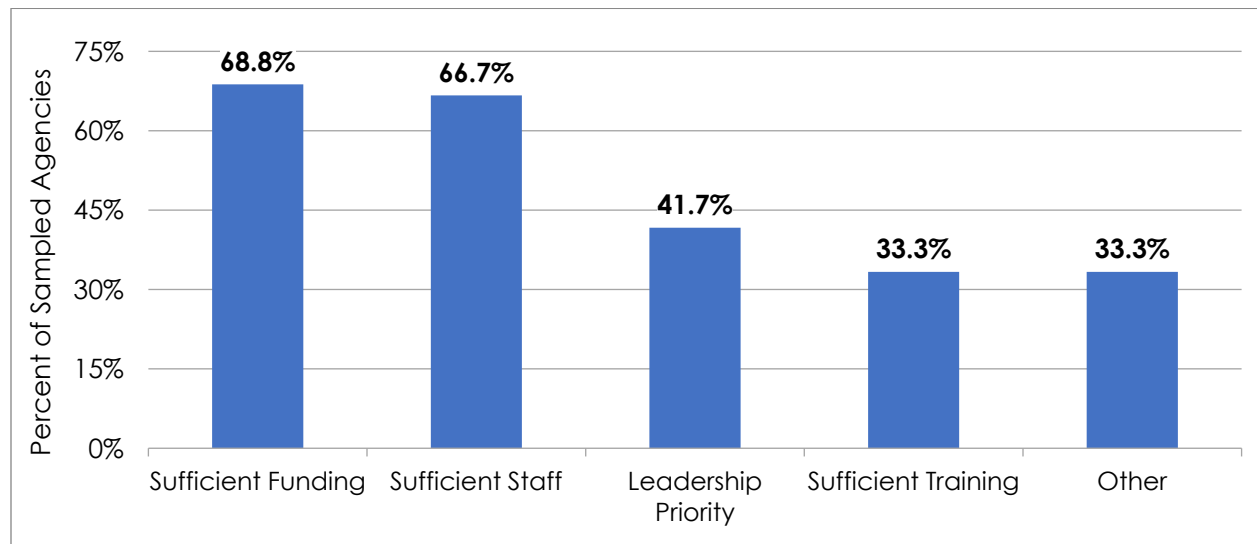
Source: U.S. Equal Employment Opportunity Commission.

Overall, most agencies received no PAS requests, had no issue with processing PAS requests during telework, or had very low to moderate issues with PAS during telework. These results show that there were no issues with providing PAS to employees teleworking during the pandemic.

Promising Practices

To identify potential best practices, the EEOC asked agency officials who rated their PAS program as highly effective which factors contributed to the program's success. Agency officials could select more than one factor. Figure 8 shows that the majority of agency officials cited sufficient funding (68.8%) and sufficient staff (66.7%) as factors in their PAS program's success. About 41.7% also cited leadership priority.

Figure 8. You Rated Your PAS Program Highly Effective. To What Factors Do You Attribute Its Success?



Notes: PAS = Personal Assistance Services. Survey respondents could select more than one option. Data may not add up to 100% due to rounding.

Source: U.S. Equal Employment Opportunity Commission.

About a third of agency officials cited other reasons for PAS success, including:

1. Regular check-ins with eligible employees to assess their needs for PAS during telework status. This process would require the managers and EEO officials to include PAS as a topic of discussion in executive staff meetings.
2. PAS procedures are incorporated into the agencies RA procedures.
3. Have committed staff who understands employees' needs and find creative ways to meet those needs. As previously stated, PAS requests should be a topic of discussion at each executive level meeting.
4. PAS contracts awarded to outside sources. If this cannot be done, the EEO office should assign a team whose main priority is to focus on PAS requests and reviews.
5. Allow workplace flexibilities (e.g., telework made PAS easier to implement). Although the Federal government already strongly encourages telework for

employees, agencies should use telework to enhance their ability to provide PAS eligible employee with targeted disabilities.

6. Have a well-written policy and leadership support.

Findings

Federal law required that agencies implement compliant PAS procedures by January 3, 2018. Agencies were given notice of the requirement a year prior on January 3, 2017. This allowed agencies to modify their existing practices by implementing PAS into their RA procedures or as standalone procedures. The EEOC provided training and technical assistance to agencies during the time leading up to the 2018 deadline.

Based on the survey results, 15.5% of agencies had not yet adopted PAS procedures in 2022. An agency's lack of PAS procedures may impact its program's efficiency and its ability to provide PAS to employees, especially during emergencies such as the COVID-19 pandemic.

Other notable findings include:

- Most surveyed agencies (88.7%) provided PAS to eligible employees.
- Most agencies (84.5%) had adopted written PAS procedures.
- About 66.2% of sampled agencies did not receive any PAS requests from employees in FY 2020, and 63.4% of agencies did not receive such requests in FY 2021.
- Collectively, 94.4% of agencies rated their PAS programs as highly effective, effective, or moderately effective.
- The vast majority of agencies (90.1%) reported that telework during the pandemic did not affect their ability to provide PAS.
- The majority of respondents cited sufficient funding (68.8%) and sufficient staff (66.7%) as factors that made their agencies' PAS programs highly effective.

Recommendations

The EEOC recommends the following:

- Federal agencies should adopt PAS procedures, as required by law.
- Federal agencies should allocate additional staffing and funding to providing PAS.
- Federal agencies should follow OPM's guidance on flexible telework for employees.
- Federal agencies should include PAS as a topic of discussion in executive management meetings.

Conclusion

For this report, the EEOC used a sample size of 71 agencies that volunteered to share the impact telework had upon their PAS procedures during the pandemic. In early 2020, the spread of the pandemic required agencies to adopt telework to continue operations. The EEOC expected challenges with PAS, since most PAS are provided at the worksite. In addition, the new regulations requiring PAS procedures had only been in place for two years.

The survey results identified one finding of non-compliance with the PAS regulation—that 15.5% of sampled agencies had not adopted PAS procedures, as required by law. The survey also found that increased telework had little to no impact on agencies' ability to provide PAS to eligible employees. About 88.7% of the sampled agencies provided PAS to eligible employees and 84.5% had adopted written PAS procedures, as required. In addition, most sampled agencies rated their PAS program well: 31.0% of sampled agencies found it highly effective, 46.5% effective, and 16.9 moderately effective.

However, most sampled agencies reported receiving few or no PAS requests. For example, 66.2% of sampled agencies did not receive any PAS requests from employees in FY 2020, as well as 63.4% of sampled agencies in FY 2021. This could be a result of PAS procedures not being available or accessible to employees. The survey was only administered to EEO officials, rather than employees, to protect employees' privacy. As a result, the EEOC could not assess whether employees with disabilities were aware of their agencies' PAS programs. Future work should seek to understand the perspectives of participants in Federal PAS programs by conducting interviews with disability program managers and reviewing authorized RA statistics reported annually with the MD-715 report. Relatedly, the EEOC has conducted tandem research regarding how Federal agencies can better support and retain persons with disabilities in conjunction with their PAS programs.

PAS provides essential help to Federal employees with targeted disabilities that allows them to continue being effective at work. Improving the funding and staffing of Federal PAS programs may help Federal agencies improve their PAS programs. This can promote a more diverse Federal workforce and offer employees with disabilities equal access to the benefits and privileges of employment.

Appendix A: Abbreviations

- C.F.R. – Code of Federal Regulations
- COVID-19 – Coronavirus Disease 2019
- EEO – Equal Employment Opportunity
- EEOC – Equal Employment Opportunity Commission
- MD-715 – Management Directive 715
- OPM – Office of Personnel Management
- PAS – Personal Assistance Services
- RA – Reasonable Accommodation

Appendix B: PAS Survey Questions

Note: Multiple choice responses to each question are not provided in this appendix.

1. Under Section 501 of the Rehabilitation Act, the agency has met its affirmative action obligation to provide personal assistant services (PAS).
2. The agency has adopted written procedures for PAS.
3. Accessible PAS procedures are posted on the agency's public website.
4. The agency uses the U.S. Office of Personnel Management's Standard Form 256 on targeted disability as the guideline for determining one's eligibility for PAS.
5. The agency has a designated disability program manager(s) to conduct the reasonable accommodation (RA) ongoing interactive process.
6. On a case-by-case basis, the agency considers all resources available prior to denying PAS requests due to undue hardship.
7. The agency's PAS procedures are.
8. The agency has established time frames for processing requests for PAS.
9. The agency has adequate funding for the PAS program.
10. The agency has adequate personnel to process PAS requests.
11. The level at which telework has affected the agency's ability to provide PAS requests is.
12. The total number of agency employees who teleworked in 2020 is.
13. The total number of agency employees who teleworked in 2021 is.
14. The number PAS requests in 2020 was.
15. The number of PAS requests in 2021 was.
16. The effectiveness level of the agency's PAS program is.
17. My rating of the agency's PAS program is.