United States Government Accountability Office

Report to the Chairman, Subcommittee on Government Operations, Committee on Oversight and Reform, House of Representatives

January 2022

PERSONNEL MOBILITY PROGRAM

Improved Guidance Could Help Federal Agencies Address Skills Gaps and Maximize Other Benefits

Accessible Version

GAO Highlight

PERSONNEL MOBILITY PROGRAM

Improved Guidance Could Help Federal Agencies Address Skills Gaps and Maximize Other Benefits

Why GAO Did This Study

Federal agencies need skilled personnel to address the complex social, economic, and security challenges facing the United States. The mobility program, established under the Intergovernmental Personnel Act of 1970, can help agencies address their mission critical skills gaps with temporary assignments.

GAO was asked to review OPM's oversight over the personnel mobility program. This report examines, among other things, the frequency with which selected agencies used the mobility program from fiscal years 2016 – 2020; selected agencies' management of the program's costs; and OPM's tracking of agencies' use of the program.

GAO selected four agencies for review. These agencies were selected as potential frequent users of the program based on a literature review and interviews with agency officials. For the selected agencies, GAO (1) reviewed a selection of 53 program agreements; (2) reviewed policies, procedures, and guidance documents; (3) analyzed mobility program data in OPM's database; and (4) interviewed officials.

What GAO Recommends

GAO recommends that OPM (1) update its guidance regarding participants supervising federal employees and (2) establish a process and guidance to obtain complete and accurate mobility program data. OPM agreed with the first recommendation and disagreed with the second. GAO maintains the recommendation is still warranted, as discussed in this report.

What GAO Found

The personnel mobility program can address skills gaps by providing temporary assignments for purposes that benefit both federal agencies and certain non-federal organizations. The four agencies GAO selected for review—the Departments of Defense and Energy, General Services Administration, and National Aeronautics and Space Administration—used the mobility program to bring top scientists, researchers, and professors into the federal government to lead complex and highly technical projects and address emerging issues. Officials also identified a number of other benefits of the program—flexible time commitments for participants of up to 2 years, ease of administration, and lower costs—compared with other means of gaining skills or expertise.

Despite these benefits, GAO found these agencies used the mobility program infrequently. The number of non-federal participants at selected agencies represented less than 1 percent of their total civilian workforce in a given fiscal year. Agency officials attributed this to certain limitations, as shown below.

Selected Agencies Identified Personnel Mobility Program Benefits and Limitations

Benefits	Limitations
Quickly fill skills gaps in technical areas	Lack of program awareness
Temporary and flexible time commitment	Reluctance of home agency/organization to temporarily lose employees
Administrative ease and cost efficiency	Salary limits for participants

Source: GAO analysis of selected agency data. | GAO-22-104414

The Office of Personnel Management's (OPM) written mobility program guidance states that "non-federal [participants]…may exercise supervision over federal employees." However, this guidance does not fully reflect advice OPM provides agencies that have sought clarity about the supervisory duties allowed, such as those related to performance management and relevant training. Without clear written guidance regarding supervisory activities, mobility program participants may take performance management actions that could pose risks to the agency.

The agencies in GAO's review managed mobility program-related costs by negotiating cost-sharing agreements with the participant's home organization. Officials at selected agencies described key considerations that may affect the proportion of the participant's costs selected agencies would reimburse the home organization. These considerations include time commitment, the distribution of benefits to both the federal government and the participant's home organization, and salary limits. The selected agencies also vetted mobility program candidates for eligibility, technical qualifications, security, and conflicts of interest.

In addition, OPM does not have complete and accurate data needed to track mobility program use. Thus, OPM does not know how often the program is being used across the federal government. Without a process to obtain complete and accurate data, OPM does not have the information needed to reliably inform its strategic decisions to oversee, provide guidance, promote, or more generally understand how federal agencies are using the mobility program to meet their mission and address critical skills gaps.

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Abbreviations

Army	Department of the Army
DARPA	Defense Advanced Research Projects Agency
DOD	Department of Defense
DOE	Department of Energy
EHRI	Enterprise Human Resources Integration
GSA	General Services Administration
NASA	National Aeronautics and Space Administration
NSF	National Science Foundation
OPM	Office of Personnel Management
STEM	science, technology, engineering, and mathematics

GAO

U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
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January 27, 2022

The Honorable Gerald E. Connolly
Chairman
Subcommittee on Government Operations
Committee on Oversight and Reform
House of Representatives

Dear Mr. Chairman:

Federal agencies need skilled personnel to address the complex social, economic, and security challenges facing the United States. However, across the federal government, mission critical skills gaps are undermining the ability of agencies to carry out their missions. Agencies must often compete with the private sector, universities, and nonprofit research centers to find personnel with the needed skills to help the federal government keep up with advances in science and technology in particular. We have included federal agencies' strategic human capital management, specifically the persistence of skills gaps within the federal workforce, on our High Risk Report since 2001.[1]

The Intergovernmental Personnel Act Mobility Program (mobility program) is one way agencies can address skills gaps. The mobility program provides for the temporary assignment of personnel between federal agencies, state, local, and Indian tribal governments, institutions of higher

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[1]GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas,* GAO-21-119SP (Washington, D.C.: Mar. 2, 2021).

education, and other eligible organizations.[2] Assignments are intended to benefit both the federal agency and the other eligible organization.

The Office of Personnel Management (OPM) states the purposes of the mobility program as including (1) strengthening management capabilities, (2) assisting with the transfer and use of new technologies and approaches, (3) facilitating an effective means of involving state and local officials in developing and implementing federal policies and programs, and (4) providing program and developmental experiences for participants. We have previously reported that lateral mobility opportunities such as rotations, details, and opportunities can help employees gain new skills more cost effectively than training, particularly for rapidly changing skill sets such as those related to the sciences.[3]

In 2010, OPM convened a forum to determine if agencies could more effectively use the mobility program to address shortages among nurses.[4] The forum recommended, among other things, that OPM increase outreach and awareness of the mobility program among agencies, highlight the benefits and limitations of the program to agencies, and develop incentives for agency use of the program. Recommendations to agencies included building strong relationships with universities and hospitals to create partnerships.

However, federal agencies have not always followed the program's requirements nor tracked how the program was used to strategically address skills gaps. For example, in August 2020, the Environmental

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[2]Intergovernmental Personnel Act of 1970, Pub. L. No. 91-648, tit. IV, 84 Stat. 1909, 1920 (1971) (codified as amended, at 5 U.S.C. §§ 3371-76). Office of Personnel Management (OPM) regulations define what an "Indian tribal government" is at section 334.102 of title 5, Code of Federal Regulations. According to OPM regulations, noncareer federal employees are excluded from serving on an Intergovernmental Personnel Act assignment as well as individuals who have not been employed for at least 90 days in a career position with a state, local, or Indian tribal government, institution of higher education, or other eligible organization. Other eligible organizations include organizations representing member State or local governments, associations of State or local public officials, federally funded research and development centers, and certain other nonprofit organizations. Members of the uniformed military service are not covered under this program. 5 C.F.R. § 334.102.

[3]GAO, *Federal Workforce: Key Talent Management Strategies for Agencies to Better Meet Their Missions,* GAO-19-181 (Washington, D.C.: Mar. 28, 2019).

[4]OPM, *Report to Congress on Nursing Faculty and the Intergovernmental Personnel Act Mobility Program: The Forum, Findings, and Recommendations* (2010).

Protection Agency Inspector General found the agency could not accurately determine the number of employees on mobility program assignments at any given time.[5] In 2017, the National Science Foundation (NSF) Inspector General found the agency needed to improve conflict-of-interest controls for staff on assignments.[6] In 2018, we reported that NSF could do more to assess the effectiveness of its use of the program toward meeting its mission.[7]

You asked us to review the mobility program. This report examines (1) the frequency with which selected agencies used the mobility program from fiscal years 2016 through 2020 and officials' views of program benefits and limitations, (2) selected agencies' management of the program's costs, (3) selected agencies' steps to vet and oversee non-federal participants on a mobility program assignment to their agency, and (4) OPM's oversight and tracking of federal agencies' use of the mobility program.

For each of our objectives, we determined that selected agency reviews were the most effective and efficient method for illustrating a range of approaches agencies take to use and manage participants on the mobility program. To select agencies with mobility program activity, we conducted a literature search, reviewed agency web pages, interviewed human capital subject matter experts at organizations that had used the mobility program, and interviewed agency Offices of the Inspector General for evidence of mobility program activity at the 24 major federal agencies.[8]

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[5]U.S. Environmental Protection Agency Office of Inspector General, *EPA Needs to Strengthen Controls Over Required Documentation and Tracking of Intergovernmental Personnel Act Assignments*, Report No. 20-P-0245 (Washington, D.C.: Aug. 10, 2020).

[6]National Science Foundation Office of Inspector General, *NSF Controls to Mitigate IPA Conflicts of Interest*, OIG 17-2-008 (Alexandria, VA: June 8, 2017).

[7]GAO, *National Science Foundation: A Workforce Strategy and Evaluation of Results Could Improve Use of Rotating Scientists, Engineers, and Educators*, GAO-18-533 (Washington, D.C.: Sept. 5, 2018). We recommended that the NSF Director of Human Resource Management complete the development of an agency-wide workforce strategy for using mobility programs alongside permanent staff and evaluate the contributions of participants toward NSF's human capital goals and programmatic results. As of May 2021, NSF has not fully addressed the recommendations.

[8]The Chief Financial Officers Act of 1990, as amended, lists 24 major federal agencies, generally the largest in the federal government. 31 U.S.C. § 901(b).

We selected the following agencies for review as potentially having frequent mobility program activity:

- Department of Defense (DOD)

  - For DOD, we focused on the Department of the Army and commands that were using the mobility program (i.e., U.S. Army Corps of Engineers, the U.S. Army War College, the U.S. Army Futures Command, and the U.S. Military Academy) and the Defense Advanced Research Projects Agency,[9]

- Department of Energy

- General Services Administration

- National Aeronautics and Space Administration

For all four objectives, we reviewed information from fiscal years 2016 through 2020. Among other reasons, this 5-year time frame allowed us to collect mobility program information that accounted for the full 2 years of a given mobility program assignment, as well the 2 additional years if the agency extended the assignment as allowed under the program.[10] Fiscal year 2020 was the last full year of agency data available at the time of our review. June 2019 was the latest complete data available in OPM's Enterprise Human Resources Integration (EHRI) system. In addition, non-federal participants may participate in the mobility program on a temporary detail or appointment. When discussing assignments involving non-federal participants, this report focuses on participants on detail because appointments were not used by the selected agencies in our review.

To address our first and second objectives, we sent written questions to and interviewed the selected agencies on their use of the mobility program. We conducted data reliability checks of information that selected agencies provided about the individuals who had started assignments during the period of our review, including reviewing agency policies related to collecting and maintaining it, and interviewed relevant agency officials. We determined this information was reliable for the purposes of describing how frequently selected agencies used the mobility program. We also reviewed a nongeneralizable sample of 53 mobility program agreements across the selected agencies. We

[9]Members of the uniformed military service are not covered under this program. Therefore, our review of DOD included only civilian personnel.

[10]5 U.S.C. § 3372(a).

developed a data collection instrument to ensure we consistently determined the purpose, requirements, roles and responsibilities, expected outcomes, duration, and non-federal organizations party to the agreements. We also reviewed *Standards for Internal Control in the Federal Government*.[11]

To address our third objective, we reviewed policies, procedures, and guidance documents for vetting and overseeing non-federal participants at selected agencies, and interviewed relevant officials from the selected agencies.

To address our fourth objective, we compared mobility program frequency data (fiscal year 2016 through June 2019) in OPM's EHRI database with frequency information we received from the selected agencies. We did this to determine if EHRI accurately and completely reflected assignment activity at selected agencies. In addition, we requested that OPM conduct manual and electronic tests of EHRI data to compare information received from the selected agencies to check for errors, inconsistencies, and missing data. We also reviewed OPM's written mobility program guidance to agencies, including OPM's *Guide to Human Resources Reporting* and relevant chapters in OPM's Guide to Processing Personnel Actions for data submission requirements. Finally, we interviewed OPM officials responsible for managing EHRI and overseeing the mobility program for additional information on data reliability measures in EHRI and trends in agencies' data submissions. See appendix I for more details on our scope and methodology.

We conducted this performance audit from June 2020 to January 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The mobility program, established under the Intergovernmental Personnel Act of 1970, can help agencies address their mission critical skills gaps

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[11]GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

with temporary assignments. Federal agency use of the mobility program is directed by requirements and provisions provided in statute, regulation, and guidance. The statutory and regulatory provisions of the mobility program set the following specific requirements:[12]

- Length of a mobility program assignment
- Term of obligated service, whereby an employee who has completed a mobility program assignment remains with the federal government for a period equal to the length of the assignment[13]
- Written agreement between the federal and non-federal organization
- Termination of the agreement if certain requirements are not met
- Reporting to OPM, as requested by OPM[14]

The president delegated the authority to issue regulations necessary to administer these provisions to OPM.[15] Figure 1 provides additional details about the mobility program, including the purpose, requirements, and other provisions provided in statute, regulation, or OPM guidance.

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[12]5 U.S.C. §§ 3371–3376; 5 C.F.R. pt. 334.

[13]As a condition of accepting an assignment, a federal employee must agree to serve with the federal government upon completion of the assignment for a period equal to the length of the assignment. 5 U.S.C. § 3372(c); 5 C.F.R. § 334.105.

[14]5 CFR 334.108. A federal agency which assigns an employee to or receives an employee from a State, local, Indian tribal government, institution of higher education, or other eligible organization in accordance with the mobility program must submit reports as requested by OPM.

[15]Executive Order No. 11589, *Delegation of Function to Office of Personnel Management*, 36 Fed. Reg. 6343 (1971), as amended by Executive Order No. 12107, *Relating to the Civil Service Commission and labor-management in the Federal Service*, 44 Fed. Reg. 1055 (1978).

Figure 1: Mobility Program Purpose, Requirements, and Other Provisions

What is the Intergovernmental Personnel Act Mobility Program (mobility program)?
The mobility program allows for the temporary assignment of personnel for work of mutual concern and benefit between the federal government and state, local and Indian tribal governments, institutions of higher education, and other organizations.[a]

Why is it used?
The mobility program can be used to (1) strengthen management capabilities, (2) assist the transfer and use of new technologies and approaches, (3) facilitate an effective means of involving state and local officials in developing and implementing federal policies and programs, and (4) provide program and developmental experiences for participants.

What are the eligibility requirements for participation?
Federal employees must be in a career position and employees of non-federal organizations must be employed for at least 90 days in a career position. Federal agencies are required to certify the eligibility of certain non-federal organizations.[b]

How long are the assignments?
Agreements can be made for up to 2 years, and may be intermittent, part time, or full time and may be extended for an additional 2 years or terminated at any time by either party.

What are the costs associated with mobility program assignments?
Costs may include the assignee's basic pay, fringe benefits, travel, relocation, and supplemental pay. Federal agencies can enter into cost-sharing arrangements with the non-federal organization party to the assignment.

What is the Office of Personnel Management's (OPM) role?
OPM's responsibilities include administering and overseeing the mobility program. In addition, OPM's Office of Merit Systems Accountability and Compliance may conduct, as appropriate, reviews of federal agencies' administration of the program.

Source: GAO analysis of statutes, regulations, and the Office of Personnel Management's Intergovernmental Personnel Act Mobility Program guidance. | GAO-22-104414

[a]"State" is defined to include a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, a territory or possession of the United States, an instrumentality or authority of a State or States, and a Federal-State authority or instrumentality. 5 C.F.R. § 334.102.

[b]State or local government instrumentalities or authorities, along with other organizations, must be certified as eligible. 5 C.F.R. § 334.103.

Eligibility requirements. Both the participating organization and the employee are to meet the eligibility requirements for inclusion in the program. Agencies determine an organization's eligibility by reviewing (1) the organization's articles of incorporation, (2) bylaws, (3) Internal Revenue Service letter of nonprofit status, and (4) any other information describing the organization's activities as they relate to the public

management concerns of governments or universities. Each federal agency may certify a non-federal organization for participation. The National Science Foundation maintains the list of eligible federally funded research and development centers. Once one agency has certified a non-federal organization, that organization does not need to be recertified, according to OPM's guidance.

To be eligible to participate in an assignment, a federal employee must be serving in a career position and a non-federal employee must have been employed by their home organization for at least 90 days in a career position.

Provisions for federal employees on assignment to non-federal organizations. According to statute, federal employees entering into assignments with a non-federal organization are deemed either on detail to a regular work assignment at their agencies or on leave without pay from their positions. In either case, they remain an employee of their agency.[16] Federal participants on details continue to receive their regular pay from the agency, which may arrange to share costs with the non-federal organization. In the case of employees on leave without pay, the agency must pay or reimburse for supplemental pay if the non-federal rate of pay is less than the federal employee's normal salary. An employee assigned to a federally funded research and development center may not earn a rate of pay greater than their federal salary.[17] Finally, federal employees assigned to a non-federal organization, whether on leave without pay or on detail, continue to be subject to all federal ethics laws and regulations.[18]

Provisions for non-federal employees on assignment to federal agencies. Non-federal participants on detail remain employees of the

[16]5 U.S.C. § 3373(a).

[17]5 U.S.C. § 3372(e)(1).

[18]5 U.S.C. § 3373; OGE Legal Advisory, *Intergovernmental Personnel Act Summary*, DO-06-031 (Oct. 19, 2006).

non-federal organization for most purposes.[19] For example, the home organization continues to pay for the non-federal participant's salary and benefits while they are on assignment to the federal agency.[20] OPM guidance states the federal agency may reimburse the non-federal organization for all, some, or none of the non-federal participant's basic pay, benefits, travel and relocation, and supplemental pay.[21]

As it pertains to ethics requirements, however, non-federal participants are deemed employees of the agency to which they are assigned for purposes of many specified ethics requirements.[22] For example, a non-federal participant is subject to a number of provisions of law under title 18 of the United States Code, including prohibitions on:

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[19]Non-federal employees who participate in the mobility program may be on detail or temporary assignment. As noted earlier, this report focuses on non-federal employees who are on detail because appointments were not used by the selected agencies. When the assignment of a non-federal employee to a federal agency is by temporary appointment (rather than a detail), there are important distinctions. For example, a non-federal employee participating under appointment is to be regarded as a federal employee for all purposes. 5 U.S.C. § 3374(b).

[20]5 U.S.C. § 3374(c). Participants on detail are ineligible to enroll in federal health benefits programs, group life insurance, or the Federal Employee Retirement System. Participants on detail are considered agency employees for purposes of federal tort liability. In the case of a non-federal participant whose non-federal pay is less than warranted for duties to be performed, the agency must supplement the salary to make up the difference.

[21]In the case of a participant who is on an appointment (rather than a detail), the ability of the federal agency to reimburse for costs is more limited. Here, the federal agency may not reimburse the non-federal organization for pay, but is required to pay the participant at the rate provided for the position into which the participant is appointed. However, if the non-federal organization fails to continue contributing to this employee's retirement, life insurance, and health benefit plans, these contributions may be paid by the agency. 5 U.S.C. 3374(b), (e). Given the limitation on pay reimbursement, if the federal pay would be less than the non-federal employee's normal pay, a detail may be considered so that the non-federal participant may continue to receive pay at their normal rate and the federal agency may reimburse for some or all of that pay.

[22]5 U.S.C. § 3374(c)(2). The ethics provisions specified under the act include: chapter 73 of title 5 of the United States Code, the Ethics in Government Act of 1978, chapter 21 of title 41 of the United States Code, sections 203, 205, 207, 208, 209, 602, 603, 606, 607, 643, 654, 1905, and 1913 of title 18 of the United States Code, and sections 1343, 1344, and 1349(b) of title 31 of the United States Code.

- participating in matters with which the employee has a financial conflict of interest,[23]

- receiving compensation from outside sources for representational services in particular matters affecting the federal government,[24]

- soliciting political contributions,[25] and

- lobbying with appropriated funds.[26]

OPM guidance instructs agencies to review conflict-of-interest rules with non-federal participants to help ensure that potential conflicts-of-interest situations do not arise during the assignment. Non-federal participants

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[23]18 U.S.C. § 208. This criminal conflict of interest provision prohibits an employee from participating personally and substantially in any particular matter that would have a direct and predictable effect on the employee's financial interest or the financial interest of those imputed to the employee, including an outside organization with whom employed.

[24]18 U.S.C. § 203. This criminal conflict of interest provision prohibits an employee from receiving (or agreeing to receive or soliciting) compensation related to representational services before a court, federal agency, or other specified federal entity in connection with a particular matter in which the United States is a party or has a direct and substantial interest, including when those services are provided either personally or by another.

[25]18 U.S.C. § 602.

[26]18 U.S.C. § 1913, this criminal provision prohibits the use of appropriated funds to pay for a personal service or other thing intended (or designed) to influence a Member of Congress, a jurisdiction, or an official of any government to favor or oppose any legislation, law, ratification, policy, or appropriation.

may be required to file either a public or confidential financial disclosure report.[27]

Selected Agencies Used the Mobility Program Infrequently and Identified Program Benefits and Limitations

Mobility Program Participants Represented a Small Portion of the Selected Agencies' Total Workforce

The number of non-federal participants at selected agencies represented less than 1 percent of their total civilian workforce in a given fiscal year. Figure 2 shows for each fiscal year from 2016 through 2020, fewer than 100 non-federal participants began a mobility program assignment at each selected agency.

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[27]Non-federal participants on detail are considered "employees" under the Ethics in Government Act of 1978, as amended, 5 U.S.C. § 3374(c). The Ethics in Government Act covers public and confidential financial disclosure requirements, among other things. Whether a detailee is required to file a public financial disclosure report (SF 278) depends upon whether the position in which the detailee serves is a position which has been designated as a public filer position. If a detailee is assigned to a position which is so designated, and is expected to serve more than 60 days in a calendar year, the detailee must file a SF 278. 5 U.S.C. app. 4, § 101(f)(3). However, a detailee who is given a set of ad hoc, unclassified duties, relevant only to the specific assignment project, is not generally required to file a public disclosure report. OGE, DO-06-031, at 10-11. Any detailee who is not required to file a public disclosure report may be required to file a confidential financial disclosure report (OGE Form 450) if the agency concludes the duties and responsibilities of the detailee's position warrant it under criteria in OGE regulations (e.g., detailee participates personally and substantially through decision or the exercise of significant judgment, and without substantial supervision or review, in taking action regarding contracting or procurement, administering or monitoring federal financial or operational benefits, regulating non-federal entity, or in other activities in which the final decision or action will have a direct and substantial economic effect on the interests of any non-federal entity). 5 C.F.R. § 2634.904(a)(1).

Figure 2: Number of Non-Federal Participants that Began a Mobility Program Assignment at Selected Agencies, Fiscal Years 2016 through 2020

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Total
Department of Defense (DOD)[a]						
Air Force	—	1	1	8	2	**12**
Army	37	44	27	30	36	**174**
Navy	16	19	15	15	19	**84**
DARPA	12	5	5	4	7	**33**
Department of Energy	**14**	**13**	**13**	**13**	**17**	70
General Services Administration	**13**	**18**	**19**	**19**	**23**	92
National Aeronautics and Space Administration	**13**	**13**	**8**	**10**	**10**	54

— Agency data unavailable

Source: GAO analysis of selected agency data. | GAO-22-104414

Accessible Data Table for Figure 2

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	TOTAL
DOD [a]						
Air Force	-	1	1	8	2	12
Army	37	44	27	30	36	174
Navy	16	19	15	15	19	84
DARPA	12	5	5	4	7	33
DOE	14	13	13	13	17	70
GSA	13	18	19	19	23	92
NASA	13	13	8	10	10	54

[a]DOD could not determine if there were mobility program assignments at some components. DOD provided us with data on mobility program assignments for the Departments of Air Force (which includes U.S. Space Force), Army, Navy (which includes the U.S. Marine Corps), and Defense Advanced Research Projects Agency (DARPA). Members of the uniformed military service are not covered under this program.

All of the selected agencies in our review brought in more participants than they sent out to non-federal organizations. One reason outgoing

assignments were rare, according to agency officials, is they could not afford to lose an employee for multiple years, particularly when that position would remain vacant. As shown in figure 3, selected agencies had less than 10 federal participants go to a non-federal organization in each fiscal year, 2016 through 2020, except the General Services Administration (GSA) in fiscal year 2016.

Figure 3: Number of Federal Participants at Selected Agencies that Began a Mobility Program Assignment with a Non-Federal Organization, Fiscal Years 2016 through 2020

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Total
Department of Defense (DOD)[a]						
Air Force	—	—	0	0	0	0
Army	0	0	0	1	0	1
Navy	0	0	0	0	0	0
DARPA	0	0	0	0	0	0
Department of Energy	0	1	0	0	0	1
General Services Administration	15	7	5	1	1	29
National Aeronautics and Space Administration	1	3	2	2	2	10

— Agency data unavailable

Source: GAO analysis of selected agency data. | GAO-22-104414

Accessible Data Table for Figure 3

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	TOTAL
DOD [a]						
Air Force	-	-	0	0	0	0
Army	0	0	0	1	0	1
Navy	0	0	0	0	0	0
DARPA	0	0	0	0	0	0
DOE	0	1	0	0	0	1
GSA	15	7	5	1	1	29
NASA	1	3	2	2	2	10

[a]DOD could not determine if there were mobility program assignments at some components. DOD provided us with data on mobility program assignments for the Departments of Air Force (which includes U.S. Space Force), Army, Navy (which includes the U.S. Marine Corps), and the Defense Advanced Research Projects Agency (DARPA). Members of the uniformed military service are not covered under this program.

Selected Agencies Identified Mobility Program Benefits

Officials at the selected agencies named three chief benefits to using the mobility program: (1) addressing agency skills gaps in highly technical or complex mission areas and programs, (2) temporary and flexible time commitment, and (3) administrative ease.

Addressing agency skills gaps in highly technical or complex mission areas and programs. Officials from each agency told us that the mobility program has helped them bring in participants with technical skills that they otherwise have trouble acquiring, particularly from those individuals who were among the top professionals in their field. The mobility program agreements we reviewed described the participant's qualifications and accomplishments. We found participants had experience in the government and military, producing academic publications, and had advanced education in related fields These participants were brought in to conduct duties or work on projects that included leading research efforts in emerging technologies and preparing testimonial evidence for Congress. Specific examples of purposes of mobility program assignments include the following:

- The U.S. Army War College and U.S. Military Academy brought in visiting professors to teach specialized subjects, such as military history, physics, nuclear engineering, and policymaking for both civilian and military personnel. Some participants were also expected to help foster the development and personal growth of cadets by serving in a mentor capacity.

- At the Defense Advanced Research Projects Agency (DARPA), a participant was brought in as a program manager to develop, execute, and transition programs in Artificial Intelligence and manage research and development efforts of promising technologies across a broad range of science and engineering research communities. One result of the project was major innovations in voice recognition technology used for a range of national security and public communications purposes, according to DARPA officials.

- The Department of Energy's (DOE) Office of Fossil Energy brought in a Senior Executive Service-level participant to manage research on new technology for lowering carbon emissions and to provide executive and managerial guidance. This participant also interacted with the administration, Congress, and the public on various policies.

- The National Aeronautics and Space Administration (NASA) brought a participant into the Goddard Space Flight Center to provide the overall direction and leadership for analyzing and evaluating operational concepts, requirements, plans, and schedules for spaceflight mission operations.

- At GSA, a participant completed a project focused on increasing vaccinations in adults in the U.S. through collaboration with the National Vaccines Program Office within the Department of Health and Human Services, Center for Healthcare Delivery Sciences (Brigham and Women's Hospital), and Harvard Medical School.

For more details about assignments that we reviewed at each of the selected agencies, see appendixes II through VI.

Temporary and flexible time commitment. The temporary nature of assignments was both beneficial to the agency and attractive to non-federal mobility program candidates, according to agency officials. DARPA officials told us, for example, that researchers from universities and colleges like the opportunity to work on major federal projects in their field for a limited time without giving up their tenure at their home organization. Some agencies told us the temporary nature of the assignments was useful for accessing needed skills when funding was available, but where future funding was uncertain.

A related benefit of the program was time commitment flexibility. In most cases in our sample, incoming assignments were full time, but selected agencies also had part-time or intermittent assignments. This flexibility allowed the agencies to tailor the participants' time commitment to the day-to-day level of effort required and their availability. For example:

- DARPA officials told us their assignments were typically full time because the scope of work for assignments warranted a full-time commitment.

- At GSA, an agency employee was assigned part time to the Government of the District of Columbia, Office of the City Administrator, to provide advice and expertise on how to spur innovation and evaluation within the district government's policies, programs, and operations.

- The U.S. Army Corps of Engineers brought in a professor from a university on an as-needed basis to participate in research on developing guidance on camouflage and concealment of facilities and critical military infrastructure.

Administrative ease and cost efficiency. Officials from each selected agency told us mobility program participants could be brought on board more quickly and easily compared to the more time-consuming process of hiring full-time employees or procuring contractors. We found, for example, the selected agencies most often made assignments directly through ongoing collaborative relationships with non-federal organizations or individual professional relationships rather than soliciting applicants via a formal announcement process.[28] Officials from each selected agency also told us using a mobility program participant was often more cost effective than hiring a full-time employee when the need was likely to be short term or temporary

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[28]The government-wide direct-hire authority approved by OPM for science, technology, engineering, and mathematics personnel was routinely used by federal agencies. DOD also has direct-hire authority to hire science and technology personnel at defense research labs. For more information, see GAO, *Science and Technology: Strengthening and Sustaining the Federal Science and Technology Workforce,* GAO-21-461T (Washington, D.C.: Mar. 17, 2021). For more information about DOD's use of direct-hire authority, see GAO, *DOD Personnel: Further Actions Needed to Strengthen Oversight and Coordination of Defense Laboratories' Hiring Efforts,* GAO-18-417 (Washington, D.C.: May 30, 2018).

Selected Agencies Said Several Factors Limited Their Use of the Mobility Program

Officials at selected agencies described the following factors that had limited or would limit their agency's use of the mobility program:

Lack of program awareness. Officials at all selected agencies told us that the mobility program is generally not well known and program offices may be unaware that it is available as a potential means of bringing skills or expertise into the agency.

Reluctance of the home agency/organization to temporarily lose employees. As described earlier, officials at all selected agencies told us they did not send their employees on assignment to a non-federal organization because they could not afford to lose the skills and expertise of their own employees for multiple years. Additionally, OPM officials told us tighter budgets and decreasing staff allocations were often barriers cited by agencies to using detail and rotational programs in general.

Post-assignment restrictions. DOE officials told us postemployment restrictions, such as those contained in the conflict-of-interest statute, have sometimes resulted in non-federal mobility program candidates declining program offers.[29] The officials said, however, that these restrictions are not unique to the mobility program and are characteristic of any federal employment. In addition, limitations on how data, intellectual property, and research conducted by non-federal participants could be used during and after the end of the assignment were usually part of the mobility program agreement, when applicable.

Cost and reimbursement. DARPA officials told us one of the most significant barriers for use of the program is their agency-imposed salary limits. Further, NASA officials told us some universities with whom they

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[29]18 U.S.C. § 207, this criminal conflict of interest provision generally prohibits certain acts by former employees which involve, or may appear to involve, the unfair use of prior federal government employment. 5 C.F.R. § 2641.101. For example, section 207 prohibits a former employee from knowingly, with the intent to influence, making any communication to or appearance before a federal employee on behalf of another in connection with a particular matter involving a specific party (or parties) in which the former employee participated personally and substantially as an employee, and in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 207(a)(1). As noted earlier, non-federal employees on detail to an agency are deemed to be employees of that agency for purposes of section 207.

worked did not have available funding to allow each non-federal organization to pay a proportion of the associated costs of the assignment. We will discuss how the selected agencies have managed mobility program-related costs later in this report.

Uniformed military eligibility. Use of the mobility program is limited for DOD because uniformed military are not included under the program.[30]

OPM's Written Guidance Is Incomplete for Mobility Program Participants Who Supervise Federal Employees

Agency officials at two selected agencies told us the ability for incoming non-federal participants to supervise federal employees was a key benefit to the program. OPM's written mobility program guidance states that "non-federal [participants]…may exercise supervision over federal employees." However, this written guidance does not fully reflect advice OPM provides agencies that have sought clarity about the supervisory duties allowed under the program. We found selected agency policies used OPM's written guidance to inform their administration of the mobility program. However, OPM officials told us that when agencies have contacted them in the past with additional questions, they usually advised against allowing non-federal participants to provide performance management activities as part of their supervisory duties.

We found selected agencies varied in their mobility program supervisory practices. For example, NASA officials told us participants in supervisory positions are responsible for the performance management process to include planning, developing, monitoring, assessing, and rewarding of their subordinate employees. DARPA officials told us that their flexibility to have non-federal participants supervise was an important benefit of the program since some of their participants lead major research projects and need authority to direct employees. GSA officials told us, however, that they do not allow participants to supervise because they believe that doing so would be inconsistent with the purposes and goals of the mobility program given the temporary nature of each assignment.

OPM officials told us they believe that non-federal participants that conduct performance management activities could create risks for the agency. For example, OPM officials told us non-federal participants on a detail are not allowed to conduct certain performance management

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[30]5 U.S.C. § 3372(a)(1).

activities, such as performance reviews, engaging in performance based or adverse action procedures, and rewarding employees, because detailees are not federal employees. Further, the officials told us they have informally advised agencies to ensure non-federal participants receive necessary training and briefings to fully understand their performance management responsibilities as supervisors. We have previously reported that without effective performance management, agencies risk losing (or failing to utilize) the skills of top talent.[31]

In recognition of the importance of training for supervisors, OPM regulations require agencies to provide training when federal employees make critical career transitions, such as from non-supervisory to supervisory roles, which is consistent with the individual's needs.[32] Specifically, training is required for federal employees within 1 year of their initial appointments to supervisory positions. Such training should address basic supervisory tasks, including mentoring, improving employee performance and productivity, conducting performance appraisal responsibilities, and handling performance problems.[33]

Federal internal control standards state documentation is a necessary part of an effective internal control system.[34] In this case, OPM has not documented key considerations and risk mitigation steps in its written guidance that OPM officials have otherwise conveyed when agencies have contacted them with questions about non-federal participants supervising federal employees. Without clear written guidance regarding supervisory activities, participants may engage in performance management activities when not permitted or may not receive sufficient training. This, in turn, could pose risks to the agency.

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[31]GAO, *Federal Workforce: Improved Supervision and Better Use of Probationary Periods Are Needed to Address Substandard Employee Performance,* GAO-15-191 (Washington, D.C.: Feb. 6, 2015).

[32]5 C.F.R. § 412.202(c).

[33]5 C.F.R. § 412.202(b). Agencies are further required to periodically follow up with additional training for supervisors at least once every 3 years.

[34]GAO-14-704G.

Selected Agencies Actively Managed Mobility Program-Related Costs

We found that selected agencies in our review managed mobility program-related costs by negotiating cost-sharing agreements with the participant's home organization, as required under OPM guidance. Cost-sharing agreements identify which costs the party receiving the participant will reimburse to the home organization. All selected agencies had a process where the budget or relevant financial office reviewed and approved each cost-sharing agreement. For example, Army and NASA officials described processes in which these offices verified funding availability and reviewed for appropriate cost-sharing arrangements and compliance with policy. The agencies also included stipulations in the cost-sharing agreements for how to make reimbursements to the home organization if the participant's pay or fringe benefits costs were expected to increase during the course of the assignment.

We found the selected agencies in our review most often reimbursed the non-federal organization for all or most of the participant's base salary, fringe benefits, and travel and relocation expenses.[35] OPM guidance directs agencies to pay either the costs of per diem or relocation, but not both. Before establishing the amount to be reimbursed, most of the selected agencies required consideration be given to whether per diem or relocation would be a lower cost to the agency. In most cases, we found the agency opted to pay travel and per diem costs.[36]

Officials at selected agencies described four considerations that may affect the proportion of the participant's costs selected agencies would

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[35]Federal agencies are authorized to reimburse for all or a part of pay and employer benefit contributions when a non-federal participant is on detail. 5 U.S.C. § 3374(c). As noted previously, when a non-federal participant is appointed (rather than on detail), the federal agency is not authorized to reimburse the non-federal organization for pay. However, if the non-federal organization fails to continue contributing to this employee's retirement, life insurance, and health benefit plans, these contributions may be paid by the agency. 5 U.S.C. § 3374(e).

[36]Federal agencies are authorized to pay (or reimburse) specified travel expenses associated with assignments of federal or non-federal employees. 5 U.S.C. § 3375. Except for expenses associated with official business, expenses may not be allowed until the employee agrees in writing to complete the entire period of assignment or 1 year, whichever is shorter. If the employee violates this condition, money spent by the agency for the employee's expenses may be recoverable from the employee unless the agency head waives this debt. 5 U.S.C. § 3375(b).

reimburse the home organization: (1) time commitment, (2) the distribution of benefits to both the federal government and the participant's home organization, (3) ability to recruit mobility program candidates, and (4) salary limits, as shown in figure 4.

Figure 4: Agency Considerations that May Affect Cost-Sharing Arrangements for Mobility Program Agreements
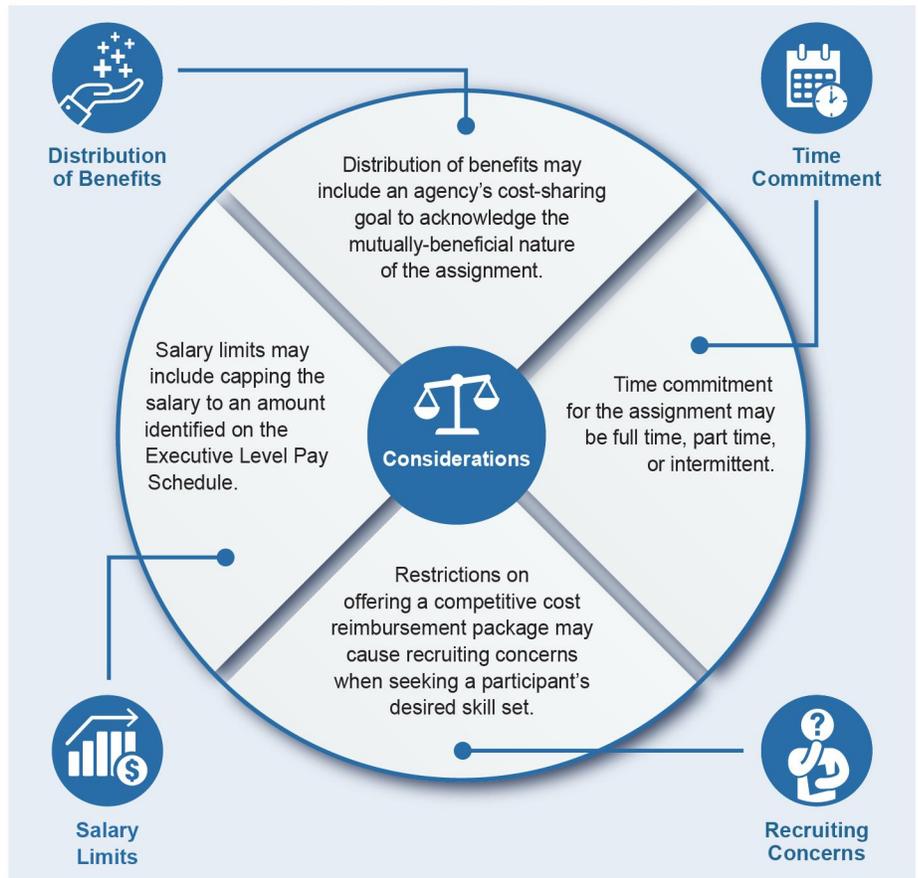
Source: GAO. | GAO-22-104414

Accessible Data Table for Figure 4

	Considerations
Time Commitment	Time commitment for the assignment may be full time, part time, or intermittent.
Distribution of Benefits	Distribution of benefits may include an agency's cost-sharing goal to acknowledge the mutually-beneficial nature of the assignment.
Recruiting Concerns	Restrictions on offering a competitive cost reimbursement package may cause recruiting concerns when seeking a participant's desired skill set.
Salary Limits	Salary limits may include capping the salary to an amount identified on the Executive Level Pay schedule.

Time commitment. For 22 of the 25 assignments in which agencies fully reimbursed the non-federal organization, the assignment was for full-time work.

When assignments were for less than full-time work, agencies reimbursed non-federal organizations for a portion of the participant's costs in most cases. For example, DOE brought in a participant from a university whose availability fluctuated with the academic calendar. The agency agreed to reimburse a portion of the participant's salary during the academic year. This agreement left time for the participant to complete research, student supervision, and proposal submissions at their university, and then draw a full salary during the summer.

Distribution of benefits. We found instances of agencies considering the extent to which their agency would benefit from the assignment, as directed by OPM guidance. For example, the U.S. Army Futures Command brought in an individual to support research, including designing and prototyping, aimed at adapting emerging robotic technologies for military medical application. The agreement documented that the non-federal organization would benefit from the participant's expanded experience and increased capability in government research leadership, evaluation, and reporting. Accordingly, the agency and non-federal organization agreed to share costs.

DOE's mobility program policy has a cost-sharing goal with the participant's home organization to reflect the shared benefits of the assignment. The goal calls for the non-federal organization to cover at least 15 percent of the incoming participant's salary and benefits. For the nine incoming DOE agreements in our sample, the home organization paid at least 15 percent of the participant's costs in seven of nine cases while DOE reimbursed the full cost in the other two cases. For these seven assignments, we found DOE saved a total of around $230,000—an

average of $33,000—compared to reimbursing the full cost to the participant's home organization.

We previously reported that the National Science Foundation (NSF) established a cost-sharing policy whereby it sought to obtain a minimum 10 percent cost-share from each participant's home organization.[37] NSF adopted this and other cost-management strategies because it expected this strategy to achieve the greatest savings with the least harm to recruitment. Although NSF had not determined the effectiveness of the cost-sharing strategy, we concluded it was a positive step to help it manage its use of the mobility program.

Recruiting concerns. Other agencies in our review considered the competitiveness of their respective reimbursement packages to non-federal participants and how that may affect their ability to recruit participants. Although DOE used cost-sharing as a cost-management strategy, other agencies determined cost-sharing goals negatively affected their ability to recruit non-federal participants. For example, NASA initiated a cost-sharing goal in 2008 in which it would reimburse no more than 90 percent of the participant's costs. However, NASA found that most of the universities with whom it worked were not funded in a way that allowed it to share costs. As a result, NASA removed this requirement from its policy in 2010. DARPA officials also stated that they compete with other agencies for participants, and that reimbursement restrictions in their policy could put them at a recruiting disadvantage.

Executive Level Pay Schedule Salary Limits

(2020)

Level I: $219,200

Level II: $197,300

Level III: $181,500

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[37]GAO-18-533.

Source: GAO and Office of Personnel
Management. │ GAO-22-104414

Salary Limits. Army, DARPA, and DOE had salary limits for participants
tied to the Executive Level Pay Schedule. Army and DOE's policies
limited salary reimbursement to Executive Level I without approval for a
higher salary. DARPA limited salary reimbursement to Executive Level III,
according to officials (see sidebar for specific amounts of salary limits).
For cases in which the participant's base salary exceeded these limits,
these agencies could negotiate for the home organization to pay the
difference or the agencies could exceed those limits as circumstances
warranted, according to agencies' policies or officials. None of the Army
agreements we reviewed exceeded the Level I limit. DOE exceeded this
amount in two of its nine assignments we reviewed. DOE provided us
with the related approvals required by its agency policy.

DARPA exceeded the salary limit in two of its 11 agreements we
reviewed. It used supplemental pay to cover the salary costs above the
limit. DARPA officials exceeded the salary limits in these cases to match
the individuals' higher home salary. They told us losing potential mobility
program participants could compromise national security. In one other
instance, DARPA could not cover additional costs with supplemental pay
and negotiated a cost-sharing arrangement with the non-federal
organization.

GSA and NASA policies do not have salary limits for mobility program
assignments.

Selected Agencies Had Processes to Vet and Oversee Mobility Program Participants

Candidates Vetted for Eligibility, Technical Qualifications, Security, and Conflicts of Interest

The selected agencies in our review generally had a two-step process to vet non-federal mobility program candidates prior to their assignment. First, the agencies determined if the candidate and their home organization were eligible to participate in the program. Specifically, agencies checked for:

> **Eligibility of the non-federal organization.** Certain non-federal organizations interested in participating in the program are to have their eligibility certified by the federal agency with which they are entering into an assignment.[38] Selected agency officials described processes for certifying the eligibility of organizations by reviewing documents such as the non-federal organization's articles of incorporation, bylaws, and Internal Revenue Service nonprofit statements, which is consistent with documents listed in OPM regulations.[39]
>
> OPM guidance also allows agencies to work with organizations that have been previously certified by another federal agency or federally funded research and development centers on a list maintained by NSF. Selected agency officials said they consulted lists of previously-certified organizations developed by other agencies. Army, for example, developed its own list of certified organizations. It also used the lists of previously-certified organizations developed by OPM and

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[38]Instrumentalities or authorities of state or local governments and other organizations (as defined in 5 C.F.R. § 334.102) must have their eligibility certified. However, federally funded research and development centers which appear on NSF's master list are eligible to participate. 5 C.F.R. § 334.103.

[39]Other information may need to be reviewed, including information which indicates the organization is principally involved in offering services to governments or universities concerned with public management. 5 C.F.R. § 334.103(b).

the Department of Agriculture, the latter of which contained more than 1,000 certified non-federal organizations.[40]

Eligibility of mobility program candidates. According to OPM's guidance, the mobility program candidate is to be employed by the home organization for at least 90 days in a career position before entering into a mobility program agreement. We found the selected agencies documented this information when vetting a mobility program candidate.[41] DARPA officials told us they took additional steps to determine candidates' eligibility, including requiring the non-federal organization to verify the candidate's start date on official letterhead, signed by an authority.

Next, selected agencies took various steps to vet candidates for technical qualifications, background checks, and financial conflicts of interest. Agency officials described these processes as generally the same vetting the agency conducts for other federal employment candidates. Specifically, selected agencies vetted candidates by:

Reviewing technical qualifications. Officials at each of the selected agencies told us they reviewed resumes or curricula vitae, transcripts, licensures, and recommendations for alignment with the purpose and goals of the assignment. Agencies also interviewed the candidates. For example, DOE officials described analyzing work experience and education background, as well as conducting multiple technical phone screenings and technical interviews. Some agencies told us that they leveraged ongoing collaborative partnerships with colleges and other research organizations to identify and recruit candidates with needed skills and qualifications.

Conducting background checks. Officials from each of the selected agencies stated they conducted background checks of mobility program candidates in the same manner that they do for candidates for permanent federal employment.

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[40]OPM's guidance states that if an organization has already been certified by an agency, this certification is permanent and may apply throughout the federal government. Another agency can accept this certification or require an organization to submit the appropriate paperwork for review.

[41]All of the selected agencies used OPM's Optional Form 69 when establishing an Intergovernmental Personnel Act agreement. The form collects information such as data needed to establish employee eligibility, the federal agency and non-federal organization parties to the agreement, the reason for the assignment, position description, and fiscal obligations of involved parties.

Reviewing financial disclosures for conflicts of interest. Officials at each of the selected agencies told us they used the same process for identifying and addressing financial conflicts of interest as they did for permanent federal employees. For example, NASA officials said ethics attorneys review participants' financial disclosure reports to identify and address any potential violations of applicable provisions of the conflict of interest laws, any Standards of Conduct provisions, or any other agency-specific statute or regulation that governs the participants.

Selected agencies assigned various offices with vetting mobility program candidates and assignments. These offices typically included budget, human capital, general counsel, program, and security, as shown in figure 5.

Figure 5: Selected Agency Offices' Roles and Responsibilities for Initiating Mobility Program Assignments

Agency offices and responsibilities in vetting mobility program candidates may include:

Budget Office	Human Capital Office	Office of General Counsel	Program Office	Security Office
• Ensures costs are allowable according to agency policy. • Determines the appropriate funding sources. • Recommends travel and transportation allowances within rules and regulations.	• Ensures the non-federal organization is eligible for participation. • Ensures all reviews and approvals obtained for complete agreement (e.g., Office of General Counsel or the Budget Office).	• Certifies the eligibility of "other organizations" for participation, if necessary. • Reviews participants' financial disclosure forms for conflicts of interest. • Provides ethics training for participants and supervisors.	• Reviews technical qualifications and eligibility of candidates. • Assigns supervisor for duration of assignment.	• Conducts any necessary background investigations of candidate.

Source: GAO analysis of selected agency mobility program policies and procedures. | GAO-22-104414

Selected Agencies Provided Mobility Program Participant Oversight by Conducting Ethics Briefings and Designating Supervisors

Ethics briefings may help to ensure incoming participants understand and follow applicable federal statutory, regulatory, and agency-specific requirements concerning ethics. Participants at the selected agencies were also required to complete annual ethics trainings similar to

permanent federal employees.[42] For example, GSA officials said participants are required to complete two GSA ethics briefings—one prior to joining GSA and one upon joining—as well as annual trainings.

In our review of selected agencies' documentation, we found that all participants were assigned a supervisor responsible for oversight of their performance and other activities. DOE's policy, for example, requires a supervisor be appointed to each incoming participant. The DOE supervisor's responsibilities include periodically discussing the participant's performance with them and approving leave. Supervisors at Army and DARPA were generally responsible for day-to-day performance feedback and ensuring the agency and participant followed the terms of the agreement.

We found that none of the selected agencies conducted and documented performance evaluations for their detailed participants as they would for permanent federal employees, according to officials, and were not required to do so as their mobility program participants were on detail.[43] DARPA officials said participants receive weekly feedback and program progress reviews from their supervisors, typically the technical office directors or deputy directors, who also help to monitor progress toward the program goals for the assignment. Officials from all the selected agencies told us they could terminate the agreement if there is misconduct or the participant otherwise failed to meet the terms of the agreement (e.g., poor performance). Our sample did not include instances when terminations happened for these reasons.

In the event that an assignment is no longer needed or beneficial to the federal agency or the non-federal organization, either party may terminate the agreement at any time, according to OPM guidance. Where possible, the party terminating the assignment should provide 30 days' advance

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[42]Under Office of Government Ethics regulations, annual ethics training is required for those employees who are required to file public or confidential disclosure reports. 5 C.F.R. §§ 2638.307-308. New federal agency employees subject to the standards of conduct are generally required to complete initial ethics training within 3 months of appointment. 5 C.F.R. § 2638.304. Non-federal employees on detail to federal agencies are subject to the standards of conduct. 5 C.F.R. § 2635.102(h). Agencies may also require additional training. 5 C.F.R. § 2638.309.

[43]A non-federal employee on detail is not considered an employee of the agency for purposes of performance management requirements, such as performance evaluations. 5 U.S.C. § 3374(c)(2). Non-federal employees on appointment, however, are considered federal employees for all purposes. 5 U.S.C. § 3374(b).

notice and include the reasons for the termination.[44] Based on the sample of agreements we reviewed, some were terminated when the agency no longer needed that assignment. In other instances, the participant terminated the agreement upon resigning or retiring from their position at their home, non-federal organization, rendering the participant- ineligible for further participation in the program under the existing agreement.[45]

There were no terminations for performance or misconduct in our sample. However, we coordinated with relevant federal agency inspectors general for this review. NSF Inspector General officials told us the agency terminated a mobility program assignment in 2019, in part because the participant was no longer in good standing at their home organization, and was therefore ineligible to participate in the program.

OPM Does Not Have Complete and Accurate Data Needed to Track Mobility Program Use

OPM has delegated day-to-day oversight of the mobility program's use to agencies and has issued guidance to help them do so.[46] For example, the OPM guidance that states, "it is imperative that agencies maintain accurate records of all [mobility program assignments]" helps to ensure agencies maintain documents about their administration of the program. We found that, in general, agencies maintained accurate records of mobility program assignments, with some previously noted exceptions at DOD.

OPM's Office of Merit System Accountability and Compliance has the authority to review agencies' administration of the mobility program. However, OPM officials told us that such reviews or other oversight have not been needed for two reasons. First, outside of inquiries about non-federal participants supervising federal employees, federal agencies

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[44]5 C.F.R. § 334.107. OPM may also terminate an assignment or take other corrective actions when it finds assignments in violation of the Intergovernmental Personnel Act or OPM regulations.

[45]When an employee-employer relationship ceases to exist between the participant and original employer, the assignment terminates automatically. 5 C.F.R. § 334.107(c).

[46]Office of Personnel Management, *Intergovernmental Personnel Act,* accessed November 9, 2021, https://www.opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act/#url=Provisions.

rarely sought OPM's assistance with the program. In addition, data in OPM's Enterprise Human Resources Integration (EHRI) system showed federal agencies rarely used the mobility program.[47] Since these information sources indicated low use of the program, OPM officials told us they have instead directed the agency's limited resources to other higher-priority programs and therefore do not perform periodic reviews of the mobility program's use.

However, we found that OPM's EHRI data do not contain accurate or complete data for non-federal participants. We compared mobility program data in EHRI with information provided to us by the selected agencies in this review and found variances for fiscal year 2016 through June 2019.[48] EHRI data for non-federal participants beginning an assignment in the federal government were lower than data provided by selected agencies. For example, for fiscal year 2016 through June 2019, DOE reported to us a total of 53 non-federal participants coming into the agency on the mobility program, but EHRI only showed one participant.

One reason data were incomplete and inaccurate is that OPM has neither a process nor related guidance for submitting non-federal participant data to EHRI. Officials told us that federal agencies are required to submit data for non-federal participants on appointments, but not for those on details. As previously stated, all of the selected agencies used details rather than appointments when bringing in a non-federal participant. Therefore, none of the assignments in the scope of our review were required to be submitted to EHRI, and we found they were not.

The lack of complete and accurate data hinders OPM's ability to track government-wide use of the mobility program. For this review, OPM was unable to accurately provide us with the total number of mobility program assignments in the federal government, or within specific agencies, over the time frame we requested. Federal internal control standards state management should use quality information to achieve the entity's objectives.[49] Without accurate and complete data, OPM does not have

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[47]EHRI is a database that contains personnel action and onboard data submitted by most executive branch and some legislative branch agencies on behalf of federal civilian employees. Among those agencies excluded from EHRI are intelligence organizations and the U.S. Postal Service.

[48]OPM provided fiscal year data for 2014 through 2018, and partial year data for fiscal year 2019 (through June). June 2019 data were the most recent data available in EHRI at the time of our analysis. EHRI data for DARPA were not provided.

[49]GAO-14-704G.

the information needed to reliably inform its strategic decisions to oversee, provide guidance, or more generally understand how federal agencies are using the program to meet their missions and address critical skills gaps.

Conclusions

The Intergovernmental Personnel Act Mobility Program holds promise as a tool agencies can use to address skills gaps, particularly when there is a temporary and urgent near-term need. There are opportunities, however, to strengthen how agencies administer and track their use of the program. Specifically, OPM has advised federal agencies on mitigating potential risks associated with non-federal participants supervising federal employees. This important information, however, is not included in OPM's written guidance that agencies rely upon to administer the mobility program.

In addition, OPM's database lacks complete and accurate data, and likely significantly undercounts the number of non-federal participants serving in the mobility program. While selected agencies generally maintained documentation about all of their mobility program assignments, there is no process or related guidance to report non-federal participants on detail to OPM, despite OPM's authority to request this information. As a result, OPM does not have the information needed to oversee, provide guidance, and more generally promote the program's benefits.

Recommendations for Executive Action

We are making two recommendations to the Office of Personnel Management:

The Director of OPM should update its written guidance regarding non-federal mobility program participants supervising federal employees to clarify the types of supervisory activities allowed and advise agencies of the need to provide these participants with federal supervisor training or briefings in relevant performance management areas. (Recommendation 1)

The Director of OPM should establish a process and update its guidance to obtain complete and accurate data about the number of non-federal

mobility program participants on detail to federal agencies. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this report to DOD, DOE, GSA, NASA and OPM for review and comment.

DOD, DOE, GSA and NASA responded that they had no comments.

OPM provided written comments, which are reproduced in appendix VII. In its written comments, OPM concurred with our first recommendation but did not concur with our second recommendation.

In its comments on our first recommendation, OPM wrote that they will update the guidance on its website to make clear that non-federal mobility program participants on detail can serve as project leads and perform project management leadership activities such as assigning work, but that it is inappropriate for them to perform other aspects of the federal supervisory function, such as conducting an employee's annual performance rating. If implemented as planned, we agree that OPM's proposed response would clarify the types of supervisory activities allowed for non-federal mobility program participants on a detail, mitigate related risks to agencies, and address the intent of our recommendation. We will monitor the agency's progress in implementing this recommendation.

With regard to our second recommendation, OPM disagreed that it should establish a process and update its guidance to obtain complete and accurate data about the number of non-federal mobility program participants on detail to federal agencies. Among the reasons for disagreement, OPM wrote that establishing new reporting requirements for tracking (non-federal) mobility program participants will create an additional and unnecessary burden on federal agencies, as well as on OPM, and may serve as a disincentive to agencies using the IPA program.

We acknowledge that some possible approaches to capturing these data, such as updating the functionality and requirements for using the Enterprise Human Resources Integration system, could be resource intensive. However, there may be other less-resource intensive options OPM should consider. For example, when we asked agencies to provide

their data to us, the data were timely and complete, with the previously-mentioned exception of DOD, which was not able to obtain data from some of its components. OPM could take a similar approach and request the data on a defined and routine basis. Responding to OPM's request would be a low resource commitment for agencies actively managing their use of the mobility program as they are required to do, and prompt those agencies that may not have access to complete and accurate data to make necessary process improvements.

Further, OPM noted that since we found agencies already maintained accurate records of mobility program assignments, there was little need for OPM to establish a process to collect this information. We disagree. In particular, as stated in the report, the data could be used to determine where there are opportunities for agencies to more fully leverage the mobility program to address critical skills and occupation gaps, which has been a government-wide high risk area since 2001. Therefore, we continue to believe that establishing a process and updating its guidance to collect these data are essential for informing the customer service and assistance OPM provides to federal agencies, and encourage OPM to explore reasonable steps to do so.

We are sending copies of this report to the appropriate congressional committees, the Secretaries of Defense and Energy, the Administrators of the General Services Administration and the National Aeronautics and Space Administration, and the Director of the Office of Personnel Management. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

If you or your staff has any questions about this report, please contact Alissa H. Czyz at (202) 512-6806 or czyza@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of our report. Key contributors to this report are listed in appendix VIII.

Sincerely yours,
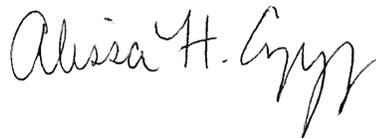
Alissa H. Czyz
Acting Director, Strategic Issues

Appendix I: Objectives, Scope, and Methodology

For each of our objectives, we determined that selected agency reviews were the most effective and efficient method for illustrating a range of approaches agencies take to use and manage mobility program assignments. To select agencies with mobility program activity, we conducted a literature search, reviewed agency web pages, interviewed human capital subject matter experts at agencies that had used the mobility program, and interviewed agency Offices of the Inspector General (OIG) for evidence of mobility program activity at the 24 major federal agencies.[1] This process identified 10 agencies that met more than half of our criteria, indicating that the agency had potentially frequent mobility program activity. Of these, we excluded two agencies because either we or their OIGs reviewed their mobility programs within the last 3 years.[2] In addition, we excluded four agencies that were the focus of our numerous other audits at the time of our selection.[3]

We selected the following agencies for review:

- Department of Defense (DOD)

  - For DOD, we focused on the Department of the Army and commands that were using the mobility program (i.e., U.S. Army Corps of Engineers, the U.S. Army War College, the U.S. Army

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[1]The Chief Financial Officers Act of 1990, as amended, lists 24 major federal agencies, generally the largest in the federal government. 31 U.S.C. § 901(b).

[2]Specifically, we reviewed the National Science Foundation's mobility program in 2018 and continue to monitor its progress on related open recommendations (GAO-18-533). We also excluded the Environmental Protection Agency, whose mobility program was reviewed in an August 2020 OIG audit. For more information, see U.S. Environmental Protection Agency Office of Inspector General, *EPA Needs to Strengthen Controls Over Required Documentation and Tracking of Intergovernmental Personnel Act Assignments*, Report No. 20-P-0245 (Washington, D.C.: Aug. 10, 2020).

[3]These agencies included the Departments of Education, Health and Human Services, Housing and Urban Development, and Veterans Affairs.

Futures Command, and the U.S. Military Academy) and the
Defense Advanced Research Projects Agency,[4]

- Department of Energy

- General Services Administration

- National Aeronautics and Space Administration

To address all four objectives, we reviewed information from fiscal years
2016 through 2020. Among other reasons, this 5-year time frame allowed
us to collect mobility program information that accounted for the full 2
years of a given mobility program assignment, as well the 2 additional
years if the agency extended the assignment as allowed under the
program.[5] Fiscal year 2020 was the last full year of agency data available
at the time of our review. June 2019 was the most recent complete data
in the Office of Personnel Management's (OPM) Enterprise Human
Resources Integration (EHRI) system.

To address our first and second objectives, we sent written questions to
and interviewed the selected agencies on their use of the mobility
program. We conducted data reliability checks of information selected
agencies provided about the individuals who had started mobility program
assignments during the period of our review. This included reviewing
agency policies related to collecting and maintaining it and interviewing
relevant agency officials. We determined this information was reliable for
the purposes of describing how frequently selected agencies used the
mobility program.

We also reviewed a nongeneralizable sample of 53 mobility program
agreements across the selected agencies. This included 10-to-11
agreements from each of our selected agencies. To select these
agreements, we asked agencies to provide case documentation of
mobility program assignments that varied in cost-sharing arrangements
and role of the participant. We also requested documentation for
agreements that were modified or terminated prior to the initially agreed
upon end date, and agreements for participants with supervisory duties.

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[4]Members of the uniformed military service are not covered under this program. Therefore,
our review of DOD included only civilian personnel.

[5]5 U.S.C. § 3372(a).

We also reviewed *Standards for Internal Control in the Federal Government*.[6]

We developed a data collection instrument to ensure we consistently determined the purpose, requirements, roles and responsibilities, expected outcomes, duration, and non-federal organizations party to the agreements. Two analysts reviewed each mobility program agreement, with the second analyst verifying the first analyst's review. The focus of our analysis was agencies' processes for managing assignment-related costs, including any cost-sharing arrangements. After completing our reviews, we also aggregated our extracted data to examine any patterns or differences in agencies' processes. We reviewed agency policies and procedures and interviewed agency officials to determine, for example, what is needed to justify the costs of entering into an mobility program agreement, and what costs are—and are not—typically allowable and covered by the federal agency.

To address our third objective, we reviewed policies, procedures, and guidance documents for vetting and overseeing non-federal participants at selected agencies. We also interviewed human capital, general counsel, and program officials at the selected agencies. This included identifying and reviewing how agencies are to determine the eligibility and qualifications of participants, perform background checks, mitigate potential conflicts of interest and other ethics issues, and provide supervision and performance evaluations against program requirements and OPM guidance.

To address our fourth objective, we compared mobility program frequency data (fiscal years 2016 through June 2019) in OPM's EHRI database with frequency information we received from the selected agencies to determine if EHRI data accurately and completely reflected assignment activity at the selected agencies. In addition, we requested that OPM conduct manual and electronic tests of EHRI data to compare information received from the selected agencies to check for errors, inconsistencies, and missing data. We also reviewed OPM's mobility programs written guidance to agencies, including OPM's *Guide to Human Resources Reporting* and relevant chapters in OPM's Guide to Processing Personnel Actions for data submission requirements, and Standards for Internal Control in the Federal Government.[7] Finally, we interviewed OPM officials

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[6]GAO-14-704G.

[7]GAO-14-704G.

who manage EHRI and oversee the mobility program for additional
information on data reliability measures in EHRI and trends in agencies'
data submissions.

We conducted this performance audit from July 2020 to January 2022 in
accordance with generally accepted government auditing standards.
Those standards require that we plan and perform the audit to obtain
sufficient, appropriate evidence to provide a reasonable basis for our
findings and conclusions based on our audit objectives. We believe that
the evidence obtained provides a reasonable basis for our findings and
conclusions based on our audit objectives.

Appendix II: Details of Selected Mobility Program Assignments at the Department of the Army

Non-Federal Organization	Project Description
Federally funded research and development center	Teach in real and practical terms the importance of physics to the mission of the Army and provide faculty and cadets with exposure to the research opportunities at a National Laboratory. (U.S. Military Academy)
College/University	Liaison to Defense Advanced Research Projects Agency (DARPA) and assist with the development and implementation of a strategic outreach program to support the civil and mechanical engineering department. Will learn about technological innovation at other entities that could prove important to Army and DARPA. (U.S. Military Academy)
Nonprofit organization	Design a 2-day course for rising senior leaders on civil-military relations and policymaking for both civilian and military personnel in collaboration with the nonprofit organization's Executive Education program. (U.S. Army War College)
College/University	Provide subject matter expertise for the Strategic Studies Institute on all Indo-Asio issues. (U.S. Army War College)
College/University	Develop an annotated bibliography, prepare a technical white paper, and develop and provide a webinar presentation on a topic to be treated as For Official Use Only. (U.S. Army Corps of Engineers)
College/University	Research and development to satisfy Army requirements in the areas of camouflage and concealment. (U.S. Army Corps of Engineers)
Federally funded research and development center	Teach courses and actively participate in the development and personal growth of cadets; lead a year-long cadet capstone design project while exposing faculty and cadets to their areas of expertise. (U.S. Military Academy)
College/University	Teach The History of the Military Art. (U.S. Military Academy)
Nonprofit organization	Serve as lead analyst and writer during the second phase of the U.S. Army War College Multi-Domain Battle Integrated Research Project. (U.S. Army War College)
College/University	Generate bio-inspired insight into designing new interaction and routing protocols applicable to Mobile Ad-Hoc Networks to support Army research and development. (U.S. Army Corps of Engineers)
College/University	Plan, execute, and evaluate research aimed at adapting emerging robotic perception and intelligence technologies for military medical application. (U.S. Army Futures Command)

Source: GAO analysis of Department of the Army Mobility Program agreements. I GAO-22-104414

Appendix III: Details of Selected Mobility Program Assignments at the Defense Advanced Research Projects Agency

Non-Federal Organization	Project Description
College/University	Plan and execute new programs in biological technology's new framework of operational biology for national security.
College/University	Provide subject matter expertise to agency, office management, and fellow program managers on novel air-vehicle programs.
Nonprofit organization	Develop, execute, and transition programs in cyber security and manage research and development efforts of promising technologies across a broad range of science and engineering research communities to produce new capabilities for the Department of Defense.
College/University	Develop and execute programs in physical sciences to produce new capabilities for the Department of Defense.
Federally funded research and development center	Develop, execute, and transition programs in Artificial Intelligence.
Federally funded research and development center	Manage research and development efforts of promising microsystems technologies across a broad range of science and engineering research communities to produce new capabilities for the Department of Defense.
College/University	Lead an effort on ultra-low power electronics and assist in resolution of difficult technical and managerial issues.
Federally funded research and development center	Lead the Robotic Servicing of Satellites program and assist in resolution of difficult technical and managerial issues.
College/University	Guide and direct research and development efforts of promising technologies within the science and engineering research communities to produce new Department of Defense capabilities.
College/University	Develop, execute, and transition programs in cybersecurity, networking, and distributed computing and develop technologies to better predict, detect, and counter attacks.
College/University	Responsible for programs using special acoustic and radar processing techniques and will assist in resolution of difficult technical and managerial issues.

Source: GAO analysis of Defense Advanced Research Projects Agency Mobility Program agreements. I GAO-22-104414

Appendix IV: Details of Selected Mobility Program Assignments at the Department of Energy

Non-Federal Organization	Project Description
College/University	Assess research needs and opportunities of the overall DOE basic research program in accelerator science and technology and prepare the high-energy physics budget; will also represent the program and DOE on interagency committees.
Federally funded research and development center	Address new design, production, and science concerns as well as perform interagency coordination for deploying and operating the satellite sensor payloads that provide the U.S. the capability to monitor the globe for nuclear detonations.
College/University	Provide guidance and analysis on a broad range of policy issues as Assistant Director; develop reports and studies addressing issues in national security and in international affairs to include nuclear weapons, arms control, homeland security, and intelligence.
Federally funded research and development center	Provide executive and managerial guidance to a broad program of research and development activities directed toward increasing utilization of coal as an energy source by seeking and perfecting technological improvements and advancements.
College/University	Develop a program plan to overcome key technical risks that includes key milestones, metrics, schedule, and multiyear budget; once approved, will be responsible for executing the strategy.
Nonprofit organization	Manage follow-on activities stemming from the Nuclear Security Summit process, including leading DOE's participation in the Nuclear Security Contact group and facilitating international nuclear security exercises. This will involve continued interagency interaction as well as coordination with other countries and international organizations.
Federally funded research and development center	Develop and manage oversight processes and procedures for technology transfer and reporting systems across the DOE enterprise; coordinate the development of annual reporting deliverables; and interact with the administration, Congress, and other federal agencies on related initiatives.
College/University	Develop and implement the Emerging Technologies program in this supervisory position and manage the work, which includes: (1) preparing performance plans, setting goals, and providing quarterly feedback for program employees; (2) establishing the need for additional personnel based upon goals and strategies to accomplish them; and (3) preparing the appropriate documentation, posting, and filling positions. Will also have fiscal responsibility for the overall program budget and finances.
Federally funded research and development center	Advise and assist the senior management team with the development of communication strategy and will contribute to the federally funded research and development center's organizational strategic planning process. Will serve as a technical expert on strategic processes and planning of the organization. Will review, analyze, and assess critical policy and programmatic issues and provide management with recommendations pivotal to effectively carrying out the center's mission.
College/University	Work with DOE management and the scientific community to identify future research priorities, recommend proposals for possible funding, evaluate research progress carried out by universities and laboratories, and participate in interagency working groups.

Source: GAO analysis of Department of Energy Mobility Program agreements. I GAO-22-104414

Appendix V: Details of Selected Mobility Program Assignments at the General Services Administration

Non-Federal Organization	Project Description
Nonprofit organization	Identify opportunities to help federal agencies achieve goals with greater success and efficiency; then quantify the impact; provide support in design, implementation, and analysis; report the findings and results to government and public audiences. (2 positions)
College/University	Identify new program areas that could benefit from the application of behavioral insights; design, implement, and test the relevant interventions using rigorous experimental methods; support a multiagency "community of practice" to identify and share promising and common challenges.
College/University	Provide comments and advice on project documents; design an analysis plan for consultation on projects; provide feedback on projects discussed.
College/University	Identify opportunities to help federal agencies achieve goals with greater success and efficiency; then quantify the impact; provide support in design, implementation, and analysis; report the findings and results to government and public audiences. (2 positions)
College/University	Consult on and contribute to evaluation designs and statistical analysis plans; conduct and replicate statistical analyses; maintain a document of the preferred methods for handling common statistical/methodological issues.
College/University	Perform data analysis and interpretation using social and behavioral sciences to develop recommendations for improving federal programs, policies, and operations; create project reports and policy memorandums.
Nonprofit organization	Create a portfolio of projects to focus on increasing vaccinations in adults in the U.S. through collaboration with National Vaccines Program Office, Center for Healthcare Delivery Sciences (Brigham and Women's Hospital), and Harvard Medical School.
State and local government	Provide advice and expertise on how to spur innovation and evaluation within state and local government policies, programs, and operations; develop recommendations on improving relative effectiveness and efficiency; oversee evaluations that measure the outcome. (2 positions)

Source: GAO analysis of General Services Administration Mobility Program agreements. I GAO-22-104414

Appendix VI: Details of Selected Mobility Program Assignments at the National Aeronautics and Space Administration

Non-Federal Organization	Project Description
College/University	Teach in the College of Engineering and Medicine on multidisciplinary applied research topics and help inspire students to pursue careers in science, technology, engineering, art, and math.
College/University	Provide Goddard Space Flight Center with the overall direction and leadership for the conception, development, and implementation of the System Operations Plan.
College/University	Strategize with potential partners on recruiting and retaining underrepresented and underserved students in science, technology, engineering, and mathematics (STEM) fields.
College/University	Lead efforts to design, develop, and implement high-quality education activities that utilize unique human spaceflight content and center facilities; build both internal and external strategic partnerships that promote STEM literacy and awareness in both formal and informal education settings.
College/University	Provide oversight and guidance for the research and technology development portfolio to address the 'Risk of Unacceptable Health and Mission Outcomes Due to Limitations of In-Flight Medical Capabilities.'
College/University	Serve as an authority and consultant to various stakeholders within and externally in the conceptualization, development, and implementation of radiation test and analysis initiatives.
College/University	Provide scientific advice and expertise on heliophysics to NASA management, conduct peer reviews, and recommend selections of scientific investigations.
College/University	Organize the research portfolio to mitigate operationally relevant risks and to develop countermeasures and technologies that support exploration missions.
College/University	Prepare, review, edit, and analyze policy documents intended for both technical and nontechnical audiences and assist with overall policy management.
Nonprofit organization	Provide technical input to evaluate how balloon platform environment and project planning recommendations meet design needs and science requirements; contribute to development and plans for mission operations and science data management.

Source: GAO analysis of National Aeronautics and Space Administration Mobility Program agreements. I GAO-22-104414

Appendix VII: Comments from the Office of Personnel Management

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Employee Services

December 29, 2021

Mr. Shea Bader
Assistant Director
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Bader,

Thank you for providing us the opportunity to respond to the Government Accountability Office (GAO) draft report, *Personnel Mobility Program: Improved Guidance Could Help Federal Agencies Address Skills Gaps and Maximize Other Benefits*, GAO-22-104414, GAO job code 104414.

Responses to your recommendations are provided below.

Recommendation #1: The Director of OPM should update its written guidance regarding non-federal mobility program participants supervising federal employees to clarify the types of supervisory activities allowed and advise agencies of the need to provide these participants with federal supervisor training or briefings in relevant performance management areas.

Management Response: We concur.

5 USC Chapter 43 and implementing regulations in part 430, as well as 5 USC Chapter 71 and implementing regulations (Labor Management Relations) define who can supervise a Federal employee. These provisions make clear that non-Federal employees such as individuals on detail, contractors, etc., cannot supervise Federal employees for these purposes. The U.S. Office of Personnel Management has advised agencies informally over the years that Intergovernmental Personnel Act (IPA) detailees can serve as project leads and perform project management leadership activities such as assigning work, establishing project milestones, completion dates, etc., but that it is inappropriate for IPA detailees to perform other aspects of the Federal supervisory function, such as conducting an employee's annual performance rating, engaging in performance based or adverse action procedures, rewarding employees, etc. Having non-Federal employees perform these duties would violate the provisions cited above and create a significant conflict of interest issues for all parties involved.

OPM will address this with greater specificity in our IPA Questions & Answers and post them on our Hiring Information policy website at: https://www.opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act/.

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**Recommendation #2: The Director of OPM should establish a process and update its
guidance to obtain complete and accurate data about the number of non-federal mobility
program participants on detail to federal agencies.**

Management Response: We do not concur

OPM agrees with GAO's assertion on page 29 of the draft report "that, in general, agencies
maintained accurate records of Mobility Program assignments, with some previously noted
exceptions at DOD." Therefore, there is little need for OPM to establish a practice to collect this
information. Moreover, OPM already has the authority to collect this information under 5 CFR 2
340.108, which permits OPM to request relevant information for assignments pertaining to
Federal employees from agencies, and under 5 U.S.C. 3373-75 and CFR 340.106, which requires
non-federal entities to enter into written agreements that document the number of people on IPA
details from non-Federal entities, which OPM may request at any time.

Establishing new reporting requirements for tracking IPA program participants will create an
additional and unnecessary burden on Federal agencies, as well as on OPM, and may serve as a
disincentive to agencies using the IPA program.

For example, reporting the IPA data to OPM would require OPM to create a new Nature of
Action Code (NOAC) for the Enterprise Human Resources Integration (EHRI) system.
Additionally, it would require agencies to complete a Standard Form (SF) 50 (Notification of
Personnel Action) for each individual about whom they are reporting and also provide that
information to the EHRI system. Currently, agencies do not generate SF-50s for non-Federal
employees nor do they enter information about non-Federal employees into the EHRI database
(EHRI tracks Federal employees) who are working under a detail with their host agency.

If, however, a non-Federal employee enters upon an IPA on an appointment, an SF-50 will be
generated and the information is reported to EHRI the same as any other appointment. The Guide
to Processing Personnel Actions (GPPA) defines how to code this situation in Chapter 11:
Excepted Appointments. Based on GAO's findings, because most agencies place non-federal
employees on a detail rather than an appointment, these actions, which do not generate SF-50s,
are not reported to EHRI.

A new reporting requirement also has policy and privacy implications that would need to be
addressed prior to OPM collecting record-level identifiable information about individual IPA
participants on details. OPM does not currently maintain records on non-federal employees, and
does not have a Privacy Act system of records notice (SORN) that covers the information it
would have to collect under the proposed reporting requirement. The OPM/GOVT 1 SORN
includes general personnel records (housed in EHRI and elsewhere) for Federal employees only
(including an IPA on an appointment). Privacy Act coverage for records about non-Federal
employees also would need to be evaluated and developed.

In addition, if information on non-Federal employees working under a detail is to be collected
and maintained in EHRI, the GPPA would require updating to give guidance on processing such
actions and the Guide to Human Resources Reporting would have to be modified to address the

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reporting elements required to be populated for the non-federal employees. The EHRI database structure would also need modifying to delineate Federal employees from non-Federal employees and the EHRI Privacy Impact Assessment would need to be updated.

For the reasons enumerated above, we do not concur with the recommendation.

I appreciate the opportunity to respond to this draft report. If you have any questions regarding our response, please contact Ms. Janet Barnes, Director, Internal Oversight and Compliance, (202) 606-3207, janet.barnes@opm.gov.

Sincerely,

KIMBERLY HOLDEN

Digitally signed by KIMBERLY HOLDEN
Date: 2021.12.29 17:30:27 -05'00'

Robert H. Shriver, III
Associate Director
Employee Services

Agency Comment Letter

Text of Appendix VII: Comments from the Office of Personnel Management

Page 1

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Mr. Shea Bader
Assistant Director
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

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5 USC Chapter 43 and implementing regulations in part 430, as well as 5 USC Chapter 71 and implementing regulations (Labor Management Relations) define who can supervise a Federal employee. These provisions make clear that non-Federal employees such as individuals on detail, contractors, etc., cannot supervise Federal employees for these purposes. The U.S. Office of Personnel Management has advised agencies informally over the years that Intergovernmental Personnel Act (IPA) detailees can serve as project leads and perform project management leadership activities such as assigning work, establishing project milestones, completion dates, etc., but that it is inappropriate for IPA detailees to perform other

aspects of the Federal supervisory function, such as conducting an employee's annual performance rating, engaging in performance based or adverse action procedures, rewarding employees, etc. Having non-Federal employees perform these duties would violate the provisions cited above and create a significant conflict of interest issues for all parties involved.

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Page 2

Management Response: We do not concur

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For example, reporting the IPA data to OPM would require OPM to create a new Nature of Action Code (NOAC) for the Enterprise Human Resources Integration (EHRI) system.

Additionally, it would require agencies to complete a Standard Form (SF) 50 (Notification of Personnel Action) for each individual about whom they are reporting and also provide that information to the EHRI system. Currently, agencies do not generate SF-50s for non-Federal employees nor do they enter information about non-Federal employees into the EHRI database (EHRI tracks Federal employees) who are working under a detail with their host agency.

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For the reasons enumerated above, we do not concur with the recommendation.

I appreciate the opportunity to respond to this draft report. If you have any questions regarding our response, please contact Ms. Janet Barnes, Director, Internal Oversight and Compliance,

(202) 606-3207, janet.barnes@opm.gov.

Sincerely,
Robert H. Shriver, III
Associate Director
Employee Services

Appendix VIII: GAO Contact and Staff Acknowledgments

GAO Contact

Alissa H. Czyz at (202) 512-6806 or czyza@gao.gov

Staff Acknowledgments

In addition to the contact named above, Shea Bader (Assistant Director), Kimberly Washington (Analyst-in-Charge), Michael Bechetti, Jacqueline Chapin, Colleen Corcoran, Karin Fangman, Serena Lo, and Meredith Moles made significant contributions to this report.

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