

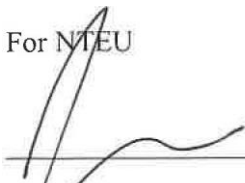
**Memorandum of Understanding (MOU) between US EPA and National Treasury Employees Union: US EPA Telework and Remote Work Article**

This agreement is entered into between the United States Environmental Protection Agency ("EPA") and National Treasury Employees Union ("NTEU" or "the Union"), regarding implementation of the EPA's Telework and Remote Work Policies. The Telework and the Remote Work Policies dated March 8, 2022, (and attached as Appendix A), were developed in part from employee listening sessions and pre-decisional involvement with the Union.

Terms of this MOU including existing agreements that the Parties agree to modify are as follows:

1. **Telework Policy.** The Parties agree the Telework Policy referenced above is adopted in its entirety and in conjunction with the Remote Work Policy referenced above, supersedes Article 54 of NTEU's October 8, 2015, Collective Bargaining Agreement with EPA ("the Union's CBA").
2. **Remote Work Policy.** The Parties agree the Remote Work Policy referenced above also is adopted in its entirety, and in conjunction with the Telework Policy referenced above, supersedes Article 54 of the Union's CBA.
3. Agency Head Review has already occurred for the Telework Policy and Remote Work Policy, and EPA approved each policy. The Parties reiterate their agreement signed on March 31, 2022, regarding the staged physical return to office.
4. The Agency will promptly review and update any telework and remote work forms, as may be necessary to ensure they reflect terms contained in Appendix A and this MOU.
5. Employees on remote work who wish to come to the office periodically for work-related reasons may do so with supervisory approval.
6. The Agency will meet with NTEU, upon request, to discuss issues or concerns with the telework and/or remote work policies.
7. The Parties will continue negotiating over work schedules with the goal of expediting those negotiations to reach agreement for a new article in the Union's CBA addressing such matters.
8. This MOU will be in effect concurrent with the Union's CBA, unless otherwise agreed to.

For NTEU

  
\_\_\_\_\_  
Name

4/12/22  
\_\_\_\_\_  
Date

For the Agency:

DENISE CASTRO  
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# Appendix A



# Remote Work Policy

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## I. PURPOSE

The Telework Enhancement Act of 2010 requires the head of each executive agency to establish a telework policy for eligible employees. A successful telework

program can yield many benefits, including cost savings, increased productivity and performance, enhanced recruitment and retention, heightened employee morale, improved emergency preparedness and reduced energy use.

## II. SCOPE

This policy addresses remote work (i.e., full-time telework). Remote work is a non-temporary arrangement where an employee is not expected to report to the agency worksite on a regular and recurring basis. This policy covers U.S. Environmental Protection Agency employees, supervisors and managers in the competitive, excepted, and Senior Executive Service. This policy also covers Public Health Service Officers, Schedule C, Administratively Determined employees and non-EPA employees serving on Intergovernmental Personnel Act assignments to the EPA. This policy does not cover employees of the Office of Inspector General or agency employees on details or IPAs to other agencies, departments or organizations.

Please refer to the agency's telework policy for guidance on regular, situational, medical telework and telework when used to accommodate employees with disabilities under the agency's reasonable accommodation process.

When this policy and a collective bargaining agreement conflict, the CBA shall govern unless the parties mutually agree otherwise.

## III. POLICY

The EPA supports the use of telework, including remote work. The eligibility of employees to participate in remote work is based on: 1) the work of their position being fully portable; and 2) the employee eligibility requirements outlined in this policy. Because remote work requires collaboration between management and employees, both parties have responsibilities in its successful implementation and operation. An employee's participation in any form of telework is voluntary. Remote workers will receive the same treatment and opportunities as non-teleworkers and teleworkers in similar positions (e.g., work assignments, awards and recognition, development opportunities, promotions, etc.).

## IV. DEFINITIONS

**Telework** – An arrangement where eligible employees perform the duties and responsibilities of their position during regular, paid hours from an approved worksite other than the official worksite.

**Remote Work** – Is a type of telework when an employee is scheduled to work within or outside the local commuting area of an agency worksite and is not expected to report to the agency worksite on a regular and recurring basis (also known as full-time telework).

**Remote Work Location (RWL)** – The RWL is an approved work location other than the employee’s agency worksite. A RWL will generally be an employee’s residence, a telecenter or other approved worksite. A RWL may be within or outside of the local commuting area of the agency worksite. An employee may have more than one approved RWL at a time.

**Local Commuting Area** – The geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their official worksite.

**Portable Work** – Work that is normally performed at the employee’s official worksite, which can be performed at another location with equal effectiveness with respect to quality, quantity, timeliness, customer service, and other aspects of accomplishing the EPA’s mission. Such work is part of the employee’s regular assignments and does not involve a significant change in duties or the way in which assignments are performed, without supervisory approval.

**Official Worksite** – The official location of an employee’s position of record as determined under 5 CFR 531.605. Official worksite is the “official duty station” as that term is used in 5 United States Code, Section 5305(i). The official worksite for remote workers is the RWL.

**Position of Record** – An employee’s official position defined by grade, occupational series, employing agency, law enforcement officer status and any other condition that determines coverage under a pay schedule (other than official worksite), as documented on the employee’s most recent Notification of Personnel Action (Standard Form 50 or equivalent) and current position description, excluding any position to which the employee is temporarily detailed.

**Agency Worksite** – For remote workers, the office (program, region, lab, HR Shared Service Center) from which the employee receives direction or reports to if the supervisor or manager recalls the employee or terminates the remote work agreement.

**Domestic Employee Teleworking Overseas (DETO)** – Is an overseas remote work arrangement wherein an EPA employee temporarily performs the work requirements and duties their domestic position from an approved overseas location via a DETO Agreement.

## V. ROLES AND RESPONSIBILITIES

EPA Telework Managing Officer: The Assistant Administrator for the Office of Mission Support (or designated representative) shall serve as the TMO. The TMO serves as the primary telework point of contact between the agency and the Office of Personnel Management. The TMO is responsible for overall policy development and implementation of the agency’s remote work policy and programs and serves as an advisor for agency leadership on the full range of telework issues as well as a resource for managers and employees. The AA of OMS also provides review and concurrence on DETO requests.

Agency Telework Coordinator: The Office of Human Resources in the Office of Mission Support executes the duties of the agency telework coordinator, who is responsible for overseeing the agency telework program. The coordinator may periodically review telework approvals and disapprovals to ensure consistency of application, direct changes as necessary, and ensure any necessary training is provided as required.

Program/Regional Office Telework Coordinators: Are responsible for ensuring all participants are aware of their responsibilities, have taken appropriate training, and have agreements in place. Upon request, these telework coordinators are required to provide participation data including documented approvals and disapprovals to allow monitoring of the program.

Assistant Administrators, the Chief Financial Officer, the Inspector General, the Chief of Staff to the Administrator, the General Counsel, and Regional Administrators or their equivalents or designated representatives: These executives are responsible for selecting program/regional office telework coordinators (or other designated point of contact) and may assign and locate telework coordinator duties anywhere in their respective organizations. The AA/RA (or designated representative) is responsible for approving DETO agreements.

Human Resources Shared Service Centers: HR SSCs are responsible for ensuring all position descriptions are checked for telework eligibility prior to initiating recruitment and reassignment actions and are so noted in job advertisements.

Supervisors and Managers: Supervisors and managers are responsible for the overall management of teleworking and remote work within their work units, including:

- Working with their regional human resources officer, HR SSC, and program management officer to identify positions eligible for telework and ensuring such designations are identified on position descriptions and in job announcements;
- Taking into account work-related needs, recommending approval or disapproval of new or revised remote work requests and forwarding for senior management approval, and in cases of disapproval, providing the rationale to the employee, if requested;
- Reviewing and recertifying employee telework agreements when revisions are necessary;
- Overseeing day-to-day telework operations, modifying individual telework agreements to meet mission needs, accomplish workload, or changing circumstances, and maintaining records and information necessary for evaluation of the program;
- Ensuring remote workers agree to comply with all existing security policies and procedures, including IT security, personally identifiable information and confidential business information;
- Ensuring proper use of appropriate time reporting codes to document hours worked; and
- Monitoring performance by ensuring appropriate management controls are in place before employees begin remote work. Remote teleworkers and non-teleworkers are treated identically for the purposes of monitoring and assessing job performance; however, supervisors and managers may need to utilize different mechanisms for communicating with teleworking employees;
- Being available during scheduled work hours by telephone, email, and other applicable agency-approved technology and communication methods (e.g. Teams, etc.) in order to communicate with the employee

Employees: Employees are responsible for the following:

- Completing a remote work agreement and waiting for concurrence from their supervisor and approval from the DRA (or designee) prior to assuming a remote work schedule;
- Performing an assessment of the RWL and answering the required questions on the Self-Certification Safety Checklist;
- Adhering to the remote work policy, procedures, terms and conditions of the approved remote work agreement;
- Complying with EPA policies for information technology security and use of government equipment/materials;
- Notifying their supervisor if modifications are necessary or potentially necessary to their remote work agreement;
- Being available during scheduled work hours by telephone, email, and other applicable agency-approved technology and communication methods (e.g. Teams, etc.) in order to communicate with their supervisor and to be accessible to co-workers and customers;
- Maintaining communication with the supervisor while teleworking and working with the supervisor to overcome problems or obstacles as they occur;
- Complying with all existing agency security policies and procedures, including those relating to personally identifiable information and confidential business information;
- Arranging for dependent or elder care, if dependent care or elder care would otherwise interrupt or interfere with the employee's work duties during the tour of duty. Requesting leave or work schedule adjustments for periods when the employee is not able to work due to dependent or elder care responsibilities.

## **VI. TYPES OF REMOTE WORK**

The following types of remote work may be authorized based on organizational or employee needs:

Remote Work: The employee teleworks full-time and is not expected to report to the agency worksite on a regular and recurring basis. An RWL may be approved for within or outside the local commuting area, but is limited to the States, commonwealths, territories, and possessions of the United States (see 5 CFR 591.205 for a list of non-foreign areas).

Domestic Employee Teleworking Overseas (DETO): This is a rare type of telework arrangement where an employee is allowed to perform their domestic duties from an RWL overseas. These arrangements require senior management and State Department approval.

EPA Continuity of Operations Plan: Enables employees to work from RWLs during emergencies such as a natural disaster, a terrorist attack, disruption to facilities or a pandemic health crisis. If COOP is activated, any employee—with or without a telework agreement—may be required to telework. During any period the EPA is operating under a COOP, the COOP shall supersede this policy.

## **VII. PORTABLE WORK**

Work Suitable for Telework: Portable work that can be performed at another location with equal effectiveness with respect to quality, quantity, timeliness, customer service, and other aspects of accomplishing the EPA's mission. Work suitable for telework depends on job content, rather than job series or title, type of appointment, or work schedule. It is possible within identical or related occupational series, one position or portion thereof may be determined to be eligible for remote work, and another may not, depending on individual job requirements.

Duties Not Suitable for Telework: Includes functions and tasks not suitable to be performed away from the agency worksite. Examples include, but are not limited to duties:

- Requiring in-person contact with the supervisor, colleagues, clients or the general public in order to perform the job effectively, and which cannot otherwise be achieved by e-mail, telephone, video calls, collaboration technology, or other electronic means;
- Accessing classified information or a classified installation [including those materials subject to a written policy, at the government, agency or organizational level, restricting use/access outside of a specific government installation or area within a government installation];
- Involving the construction, installation, maintenance or repair of EPA facilities;
- Involving the physical protection of EPA facilities or employees; or
- Involving other physical presence/site-dependent activity (e.g., emissions testing, laboratory trials).

## **VIII. EMPLOYEE ELIGIBILITY REQUIREMENTS**

Basic Eligibility Requirements: An EPA employee may be authorized to telework if:

- The employee has sufficient portable work for the amount of telework requested;
- The telework arrangement does not create any impediment to the effective accomplishment of the employee's and their organization's work;
- The employee agrees to report to the agency worksite if required to do so by their supervisor in accordance with this policy;
- The employee continues to comply with the terms of their written and approved telework agreement; and
- Arrangements are in place for dependent/elder care, if dependent care or elder care would otherwise interrupt or interfere with the employee's work duties during the time the employee is working at an RWL.

Eligibility for Remote Work: In addition to meeting the basic eligibility requirements, employees seeking approval for remote work must meet additional criteria. As with all telework, management will determine if authorizing an employee to perform remote work is appropriate in accordance with this policy and based on equitable function-based criteria, including job functions and not managerial preference.

Approval for remote work should only be authorized when all of the following criteria are met:

- All of the employee's work is portable;
- Tasks or work assignments can be performed at least equally effectively at the RWL;
- There will be no foreseen disruption to customer service with any agency customers or

stakeholders (e.g., public, states, industry);

- The employee does not have duties or work assignments requiring regular in-person face-to-face customer service or coworker interface except in potentially rare situations; and
- The employee has the ability to meet performance plan objectives working remotely.

Employees may not remote work if:

- The employee has been officially disciplined (i.e. a disciplinary action that results in the placement of a document in an employee's official personnel file) for being absent without permission for more than five days in any calendar year;
- The employee has any documented performance or conduct deficiencies related to telework within the preceding 12 months, such as letters of reprimand, or leave restrictions;
- The employee has been officially disciplined for viewing, downloading, or exchanging pornography, including child pornography, on a federal government computer or while performing official federal government duties; or
- The employee has been officially disciplined for misuse of a government computer in the preceding 12 months.

Remote Work for New Employees: The approval of remote work for new employees is at management's discretion. The basic telework and remote work eligibility criteria must be met, required training and forms completed and appropriate senior management approvals obtained prior to the commencement of remote work. At a minimum, management should consider the employee's:

- Previous federal service, if any;
- Length and nature of previous work experience; and
- Any previous experience teleworking.

## **IX. AUTHORIZING REMOTE WORK**

The immediate supervisor must initiate and the employee's DRA (or their designee) must approve the remote work request based on a determination the employee meets all required criteria of this Policy. If the request is not approved, the DRA (or their designee) will respond in writing specifically identifying the reason the request was denied. Such decision will be subject to existing Agency or negotiated grievance procedures.

For all remote work, the official worksite is the RWL. Supervisors or managers must prepare and submit to the appropriate servicing HR SSC at least 30 calendar days prior to the effective date, the required personnel documentation (i.e., Request for Personnel Action, Standard Form 52) to change an employee's official worksite to their RWL. The SF-52 must include a copy of the employee's approved remote telework agreement and the following information:

- **Employee Information**
  - The full name, series, grade and title of the employee.
  - A copy of the employee's current position description.
- **Position Information**
  - The position's current official duty station.



- The position's proposed official duty station.

Remote Work Outside the Local Commuting Area: Any request by an employee for remote work outside the LCA is voluntary on the part of the employee. If approved, the relocation is for the convenience and benefit of the employee and the agency will neither pay for nor reimburse any relocation costs incurred by the employee. However, if the supervisor or manager recalls an employee on approved remote work to the office, then the employee is entitled to reimbursement of travel related expenses according to travel policy.

If an employee wants to perform remote work outside of the LCA the employee must meet all requirements for remote work and must receive a written recommendation for doing so, in advance, from their supervisor or manager. The written recommendation must clearly explain how the employee is fully able to perform all of their duties effectively from the remote location, so approval of the request will not, under any circumstances, diminish the agency's ability to accomplish its mission and meet its operational goals.

When assessing relocation requests the supervisor or manager must document and consider the following:

- 1) Evaluating relocation costs by working with the Federal Employee Relocation Center Office of the Chief Financial Officer, if applicable; and
- 2) Whether or not the employee's work is tied to a specific geographic location or the proposed RWL will better serve the employee's work assignments (e.g., an On Scene Coordinator with an RWL in a specific location which would decrease response times to a location with documented high emergency response needs);

Directed Remote Work: A program or region may have a mission need for a position or employee to remote work from a specific location (e.g., to be closer to inspection sites). Thus, such arrangements aren't solely for the convenience or at the request of the employee. Generally, directed remote work arrangements are allowed provided eligibility, approval and other documentation requirements are met. Please note, telework is voluntary except in the case of COOP or evacuation (5 CFR 550 Subpart D). Management needs to consider the voluntary nature of telework before implementing a directed telework arrangement with an already encumbered position. Remember, remote workers aren't expected to report to the agency worksite on a regular or recurring basis and the RWL will usually be the employee's residence or a telecenter. If the program or region wants to establish a worksite at another EPA location or federal, state, local or Tribal government office, and the employee will report to the other location on a regular and recurring basis, please refer to [HR Bulletin 20-003B](#), *Worksites Away from the Position of Record*.

Designating Positions for Remote Work: For recruitment and retention purposes, program or regional management may designate certain positions as a remote position or remote work eligible in vacancy announcements if eligibility criteria are met and senior management approval is obtained prior to posting. The program or region should carefully analyze and document in writing the need, costs, consequences and benefit to the agency's mission or goals for allowing remote work. The written documentation justifying the designation will be kept in the case file for the action. As noted previously, telework is voluntary. However, if the agency advertises the position as a "remote position" as a condition of accepting the position the employee will need to complete the telework agreement to work remotely. Or the agency may advertise the position as "remote work eligible" so

whoever is selected may choose to work remotely or at the agency worksite. Required telework forms and trainings must be completed prior to the commencement of remote work.

## **X. TELEWORK/REMOTE WORK TRAINING**

Standardized training sessions for supervisors and employees will be jointly developed by the unions and management on the basics of telework and remote work to ensure a common understanding of the requirements. Participating employees must complete the agency-approved training and obtain a certificate of training before participation. The employee's record of the required training must be attached to the remote work agreement. Supervisors or managers must also complete agency-approved telework and remote work training and obtain a certificate of training.

## **XI. REMOTE WORK AGREEMENTS**

The remote work agreement covers the terms and conditions of the remote work arrangement. It also constitutes an agreement by the employee to adhere to applicable guidelines and policies. The agreement includes items such as the voluntary nature of the arrangement; hours and days of duty at the RWL; responsibilities for timekeeping, leave approval and requests for overtime and compensatory time; performance requirements; and proper use and safeguards of government property and records. When any aspect of the employee's position related to remote work eligibility changes, the employee and supervisor or manager will review the employee's remote work agreement to determine continued approval.

The supervisor or manager must retain a copy of the signed remote work agreement and a copy must be provided to the employee. A copy of the signed remote work agreement must also be provided to the program or regional office telework coordinator who is responsible for maintaining telework records in the organization.

The following actions are to be taken when establishing a remote work agreement:

- The employee submits a completed application to their immediate supervisor.
- The employee and supervisor discuss the proposed telework agreement and the type of work the employee performs, which will be completed by the employee at an RWL.
- The employee and supervisor complete the application and agreement, safety checklist, and the required training.
- The employee and the supervisor will discuss any necessary procedures for accessing the secured operations of the agency worksite (i.e. a Secure Access Facility or a Sensitive Compartmented Information Facility).

## **XII. TIME, ATTENDANCE AND OTHER MISCELLANEOUS ISSUES**

Recording Telework Hours and Control of Time and Attendance: Proper recording, monitoring and certification of employee work time are critical to the success of the program. Employees are responsible for recording all telework time into the time and attendance system using the appropriate telework time reporting codes.

Telework Time Reporting Codes: The time reporting codes all remote work employees must use to document and certify their work hours are as follows:

- **TOHRW:** Telework Overtime Hours;
- **TWRAC:** Telework for Reasonable Accommodation;
- **TWFUL:** Telework – Full-time (i.e., Remote Work);
- **TWCTU:** Telework Comp Time Used; and
- **TWCTE:** Telework Comp Time Earned.

Work Schedules: Employees who remote work will have the same schedule options as those who work at the agency worksite, including compressed or flexible schedules. Circumstances may warrant work schedules to be changed with the supervisor’s approval and in accordance with established procedures. Employees should refer to the agency’s work schedules policy or applicable CBA for more information.

Overtime during Remote Work - Eligibility Requirements: Approval in advance of overtime work is required; overtime work not ordered and approved in advance by the supervisor, in writing, will not be compensated. Detailed information on overtime can be found in the *EPA Pay Administration Manual* (EPA Order 3155) and applicable CBAs.

Leave: Procedures for requesting leave are the same for remote work employees and employees working at the agency worksite. Employees are responsible for reporting leave usage appropriately on their timecards. Remote workers may utilize leave for a portion of the workday and work from the RWL for the remainder of the workday.

Workers’ Compensation: Employees who remote work are covered by the Federal Tort Claims Act and the Federal Employees Compensation Act, and qualify for continuation of pay for workers’ compensation for injuries sustained while performing their official duties.

The supervisor’s signature on the request for compensation attests only to what the supervisor can reasonably know, specifically whether the event occurred at the agency worksite or at an AWL during official duty. Typically, supervisors are not present when an employee sustains an injury. Employees, in all situations, bear responsibility for informing their immediate supervisor of an injury at the earliest time possible, seeking appropriate medical attention and filing the appropriate workers’ compensation claim form.

Remote work arrangements can result in employees who are currently receiving continuation of pay or worker’s compensation returning to work, taking them off the workers’ compensation rolls. Supervisors may be able to find work such employees are able to perform at home or restructure existing work so some of it may be completed at home.

Requirement to Report to the Agency Worksite or a Location other than the RWL: Employees participating in remote work may be directed to report to their agency worksite or a location other than the RWL for limited reasons such as, but not limited to: special assignments, training, travel, emergencies or other situations deemed necessary by the supervisor or manager to meet mission requirements. Under these rare circumstances, the supervisor shall notify the employee as early as possible, but not less than 48 hours in advance, in an effort to provide the employee sufficient time to make necessary arrangements.

Relocation: When employee requested remote work is approved, the agency will not pay relocation costs for the employee to move to the RWL. If the remote work agreement is terminated, the employee is responsible for all costs associated with returning to the agency worksite. If the remote work is directed, the region or program may have to pay relocation costs to move the employee to the RWL or return to the agency worksite if the remote work is terminated.

Travel: The travel provisions applying to employees working at the official worksite also apply to employees who remote work. In addition, when remote work employees are directed to report to the agency worksite, they are entitled to travel expenses.

Dependent and Elder Care: Remote work may be used as a flexibility to help employees with dependent or elder care responsibilities meet their family obligations and work responsibilities. However, it is not appropriate to use remote work if the employee is unable to work due to dependent or elder care responsibilities. If dependent care or elder care would otherwise interrupt or interfere with the employee's work duties during the time the employee is working at an RWL, they must arrange for dependent or elder care. The employee must request leave or work schedule adjustments, as appropriate, for periods when the employee is not able to work due to dependent or elder care responsibilities.

**Example 1**: An employee has children in the home due to a school closure. Other than general oversight and occasional brief breaks to tend to family matters, the employee is able to complete work assignments during the daily tour of duty. Leave or work schedule adjustments aren't necessary.

**Example 2**: An employee has children in the home due to a school closure. One child needs more than minimal assistance with a school assignment during the employee's tour of duty. The employee will need to request leave or adjust their work schedule for the time they were unable to work.

Monitoring Performance: Appropriate management controls and reporting procedures must be in place before employees begin remote work assignments. Teleworkers and non-teleworkers should be treated identically for the purposes of monitoring and assessing job performance by the following methods:

- Supervisory telephone calls, video calls, or e-mail messages to an employee during times the employee is scheduled to be on duty;  
and
- Use of performance management systems, including regular workload/accomplishments reports for teleworking and non-teleworking employees, to determine reasonableness of work output for time spent, project schedules, key milestones, and quality of the work performed.  
Routine performance monitoring will not include use of video or audio recording of employee activities at their work stations, keystroke counting, or monitoring of "availability" status on Teams.

### **XIII. EMERGENCIES: DISMISSALS/CLOSURES**

Closures: In the event of an agency worksite closure, remote workers are required to telework if

able to do so. Employees required to work during their regular tour of duty on a day when federal offices are closed to the public (or during delayed arrivals or early dismissals) are not entitled to overtime pay, credit hours, or compensatory time off for performing work during their regularly scheduled hours.

Late Arrivals/Early Dismissals at the Agency Worksite: When the agency announces early closure or late arrival of the agency worksite, remote workers are required to telework their regularly scheduled non-overtime hours. Early release for the holidays has to be granted to remote workers to the same extent as granted to employees working at the agency worksite.

Other Emergencies or Disruptions to the Agency Worksite: In the event of a disruption to normal office operations (e.g., national or local emergency, emergency event involving inclement weather, or any situation that may result in a disruption to normal office operations), remote workers will continue to work their normal hours unless directed otherwise by the supervisor or management, or the employees are unable to do so due to the emergency (e.g., a hurricane knocks out electricity at the remote workers RWL). Remote workers prevented from working due to an emergency may be granted safety and weather leave or administrative leave based on the circumstances of the emergency (e.g., loss of electricity, employee must evacuate, infrastructure or connectivity and child or elder care issues).

#### **XIV. MODIFICATION AND TERMINATION OF THE REMOTE WORK AGREEMENT**

- a. By the Employee
  - i. Employees may request to modify or adjust Remote Work arrangements.
  - ii. Employees may withdraw an application for Remote Work or terminate an approved Remote Work Agreement without prejudice at any time and return to the Official Agency Worksite. To ensure clarity, the employee must notify the supervisor in writing and identify the expected date of change and the supervisor should confirm receipt of the notice in writing.
  - iii. If an employee terminates a Remote Work agreement, the employee is responsible for all costs associated with returning to the commuting area of the Official Agency Worksite.
  
- b. By the Agency
  - i. Remote Work arrangements may be modified, adjusted, or terminated by management in the following circumstances:
    - 1. The employee no longer meets the eligibility criteria;
    - 2. the employee fails to comply with this Article or the employee's Remote Work agreement;
    - 3. As otherwise required by law

Remote work is a voluntary program and not an employee entitlement. The operational needs of the agency are paramount. Employees who are remote workers do not have an automatic right to continue remote working. Remote work agreements may be modified, adjusted or terminated by management based upon an employee's failure to adhere to remote work requirements or based upon any other consideration affecting employee eligibility. Remote work agreements may also be modified, adjusted or terminated at any time when requested by the employee and approved by the

appropriate management official. Management has the right at any time to end an employee's use of remote work, if the employee fails to comply with the terms of the employee's remote work agreement, or if the remote work arrangement no longer meets mission needs. Participation in remote work will be terminated if the employee no longer meets the eligibility criteria. Before removing an employee from remote work involuntarily, supervisors should consult their servicing labor and employee relations office for guidance.

For remote workers within the LCA, supervisors shall provide sufficient notice (typically one full pay period, when feasible) before modifying or terminating a remote work agreement to allow the affected employee to make necessary arrangements. After a notice of termination, the employee will typically have a minimum of 10 additional calendar days to report to the agency worksite. For remote workers outside the LCA, the supervisor shall typically provide a minimum of 30 calendar days' notice and the employee will typically have a minimum of 45 calendar days to report to the agency worksite. Also, locality pay may change. The servicing labor and employee relations office will notify the president of any applicable union of the name of the employee and the reason(s) for termination. Consent or acknowledgement via signature by the affected employee is not required for the termination of remote work to take effect. An employee whose remote work agreement was terminated may re-apply for remote work.

When any significant aspect of an employee's work changes (e.g., position, work assigned, RWL), the supervisor will reassess the portability and suitability of employee's work for continued remote work approval in accordance with this policy.

Generally, an employee may withdraw an application for remote work, or terminate an approved remote work agreement, at any time without prejudice and report to the agency worksite. The employee must notify the supervisor or manager in writing, and the supervisor or manager shall acknowledge the employee's notice in writing, to prevent misunderstandings about work location. If an employee ceases to remote work, the employee will be assigned to an office space similar or equivalent to other similarly situated employees at the agency worksite.

## **XV. DETO**

General Provisions: A DETO (Domestic Employee Teleworking Overseas) is a type of remote work arrangement allowing an agency employee to telework from an overseas location on a temporary basis. The agency may not approve permanent DETO arrangements (i.e., overseas remote work without a not-to-exceed date). The employee's overseas residence will generally be the RWL. The employee is expected to return to the agency worksite when the DETO arrangement ends. These types of arrangements are rare and additional criteria beyond normal remote work requirements must be met. Also, the arrangement must be cleared through the State Department. The Chief of Mission, State Department, has authority over Executive branch employees working overseas.

A DETO is not an entitlement. The program or regional office requesting a DETO may not take any personnel actions violating merit system principles in order to provide an advantage to an employee requesting a DETO (e.g., reassigning an employee into a position with more promotion potential because the duties of the successor position are fully portable). Every required form, approval and clearance required by EPA and the State Department must be completed before a DETO arrangement can begin.

General Criteria: A program or regional office may consider requesting a DETO arrangement when an EPA employee's spouse or domestic partner is required to temporarily report to an overseas location by order of the U.S. government (civil service or military). This is known as a "sponsored" DETO arrangement. Other types of DETO arrangements known as "independent" arrangements (i.e., an employee is not on government orders of a spouse or domestic partner) may not be approved.

Eligibility: A DETO may be approved for non-probationary/non-trial period, permanent full-time or part-time agency employees who have worked at EPA for at least one year. The employee's work must be fully portable and meet the remote work criteria in this policy.

The following positions are not eligible for DETO arrangements:

- Supervisory;
- Managerial;
- Senior Executive Service;
- Senior Level (SL) or Scientific/Professional (ST);
- Requires access to or handling of classified materials;
- Positions ineligible for telework as noted in this policy; and
- If the duties of the position require reporting on or playing a substantive role in the policy or administrative issues pertaining to the country the RWL will be located in.

Authorizing a DETO: The program or regional office is responsible for securing all necessary approvals within EPA and the State Department.

1. The employee must request a DETO arrangement with their supervisor or manager. If the supervisor or manager concurs, the employee must complete a telework agreement for the DETO arrangement.
2. DETO arrangements can be costly, and the approving region or program is responsible for these costs. The supervisor or manager of the employee requesting a DETO arrangement should consult the Office of International and Tribal Affairs as soon as practicable in the DETO process to better understand State Department procedures and potential costs.
3. The supervisor or manager must develop a justification including the following information:
  - a. The reason for the DETO.
  - b. How the DETO arrangement meets the general remote work and DETO criteria in this policy (including outside the LCA criteria).
  - c. Cost considerations for travel, recall, U.S. Embassy fees, etc.
  - d. How the supervisor or manager plans to effectively monitor the employee while the employee is overseas and in a different time zone.
  - e. The benefit to the agency for allowing a DETO arrangement.
  - f. Supporting documentation (i.e., orders from the federal organization related to the spouse/domestic partner's move overseas).
4. The DETO agreement and justification must be approved by the employee's DAA or DRA (or designee) and the AA of OMS.
  - a. The AA of OMS will consult the Administrator's Office, if necessary, and the Chief Information Officer about information security concerns related to the DETO.
5. Once the EPA remote work agreement has been approved, the program or regional office

must secure clearance through the State Department. The supervisor or manager will work with OITA to complete this process.

- a. For overseas arrangements less than one year, approval must be obtained through the e-Country Clearance process (<https://myservices.servicenow.com/ecc>).
  - b. For overseas arrangements longer than a year (including extensions of arrangements previously approved through Country Clearance), the National Security Decision Directive 38 process must be followed (<https://nsdd38.state.gov/>).
6. The employee must also meet any overseas training requirements and have proper documentation such as passports, visas, and a work permit to perform work for the federal government overseas.
  7. Once approvals from EPA and the State Department have been obtained, the documentation verifying approval and a SF-52 should be sent to the servicing HR SSC to change the employee's duty station when they arrive overseas. The HR SSC will not effect any change in duty station without a complete approval package.
    - a. The employee is responsible for notifying the supervisor of arrival at the overseas location so the personnel action can be effected timely.
    - b. The employee must complete the telework safety checklist for their overseas RWL and return it to their supervisor or local telework coordinator within two pay periods of the employee starting the DETO.

Conditions of a DETO: The employee is treated like a domestic employee in regards to position duties and responsibilities related to work assignments, time and attendance and performance. The employee is expected to attend meetings, communicate with management and customers, and otherwise fulfill the duties of their position. The employee may not perform work at any other location than the approved RWL(s) in the telework agreement.

Pay and Leave:

- The base rate for the General Schedule (GS) pay scale will be used, locality pay is not applicable.
- EPA's standard policies and guidance regarding time and attendance apply. Employees must regularly communicate with their supervisor or timekeeper each pay period to ensure time and attendance is accurate.
- Overtime must be ordered and approved in writing and in advance.
- Employees are subject to the overtime and premium pay entitlements applicable to their positions (i.e., based on the position's designation as Fair Labor Standards Act exempt or non-exempt).
- Employees are only entitled to U.S. holidays and are expected to work during regular duty hours or use other paid leave (annual leave, credit hours, etc.) for local holidays of the overseas location. They are not entitled to premium pay or compensatory time when working on a local holiday.
- Employees are required to work during regular duty hours (or use other paid leave) if the domestic agency worksite has a closure (e.g., emergency, weather, etc.).
- Employees may be eligible for workers' compensation benefits for disability or death resulting from injury sustained in the performance of duty when qualifying criteria are met under the Federal Employees' Compensation Act.

Training and Travel:

- Employees traveling on official business away from the duty station reflected on their SF-50



as part of the DETO position's duties are eligible for temporary duty travel. TDY travel should be minimized, and alternate technology used instead, to the extent practicable. Travel expenses (e.g., per diem) must be documented in an official travel authorization.

- Distance learning options generally should be used as the first option to meet training needs.

#### Termination of a DETO:

- The duration of a DETO arrangement may not exceed the initial overseas assignment duration of the spouse or domestic partner's orders.
- Additional time may be requested by presenting an amended telework agreement (same approval requirements as the original) and seeking permission from the State Department through the NSDD 38 approval process.
- The supervisor may cancel or amend the DETO by providing written justification based on the needs of the office, misconduct or unacceptable performance at any time with prior notification of at least two pay periods.
- The employee may cancel the telework agreement at any time with prior notification of at least two pay periods.
- An employee may request an adjustment of the DETO agreement by providing a written justification to the supervisor or manager for consideration and approval.
- Nothing in this policy impacts the State Department's authority to determine who may telework overseas.
- Upon termination of a DETO arrangement, the employee is generally expected to return to the domestic agency worksite. However, options to accommodate the employee's circumstances may be considered (e.g., extended leave, including leave without pay or resignation). The supervisor or manager should consult their regional human resources officer or program management officer for guidance on next steps.
- The supervisor or manager is responsible for submitting a SF-52 to the servicing HR SSC to change the employee's duty station once a DETO arrangement ends

## **XVI. REPORTING**

As OPM and other federal organizations seek telework (including remote work) reports, the agency's TMO and agency telework coordinator will serve as the primary liaisons between EPA, OPM and other federal organizations. EPA's telework coordinator will serve as the agency's central coordinating point and will work with telework coordinators across the agency to prepare comprehensive telework information.

## **XVII. FACILITIES AND EQUIPMENT**

Remote Work Location Office Space: Requirements will vary depending on the nature of the work and the equipment needed to perform the work. At a minimum, employees should have adequate internet speed and be able to easily access the intranet, agency systems, communicate by telephone, email and established collaboration tools (currently Microsoft O365 suite) with the supervisor, coworkers and serviced clients when working from their RWL. In addition, employees are responsible for verifying and ensuring their work areas comply with health and safety requirements (see the "*Employee Self-Certification Safety Checklist*"). Home work areas must be clean and free of obstructions, in compliance with all building codes, and free of hazardous materials. An employee's request to remote work may be disapproved or rescinded based on safety problems or the presence of hazardous materials. In rare instances, a designated safety official may inspect the

RWL for compliance with health and safety requirements when deemed necessary.

Agency Worksite Space Sharing: The organizational unit where an employee is assigned, may implement space-saving initiatives in regard to employees who have approved remote work agreements. Such space-saving options may include shared workstations, smaller workstations or unassigned touchdown/hoteling situations. If management seeks to implement any such space-saving initiatives, they will notify the unions and bargain to the extent required by CBAs, local agreements, applicable law, rule and regulation.

Government-Furnished Equipment: The agency may provide GFE to its remote work employees equivalent to that provided to employees at the agency worksite. Supervisors may authorize purchase and distribution of additional GFE items (such as monitors, printers, etc.) as needed.

Employees who have an agency-issued laptop or mobile phone assigned to them shall take reasonable safeguards against theft and damage. All agency-issued equipment and supplies remain the property of the agency and the EPA remains responsible for service and maintenance of the equipment. The EPA is also under no obligation to service or maintain equipment belonging to the employee, even if the employee uses it for agency work.

If an employee furnishes their own equipment/workstation at the RWL, the government will not reimburse the employee for the purchasing costs of the equipment/workstation. In addition, the employee is responsible for the maintenance, repair and replacement of privately owned equipment. The agency will not reimburse the employee for such costs, including broadband.

The EPA may not reimburse employees for the utility costs (e.g., heating, air conditioning, lighting and the operation of government-furnished computers) for RWLs. Utility costs include the monthly service charges for telephone or specific telephone charges. Employees should use agency meeting and conferencing tools, communication options like EC-500, or government-issued mobile phones or calling cards to conduct official government business with customers and contacts in other locations. The agency may reimburse employees for miscellaneous office supplies. Employees requiring pens, paper, paper clips, notebooks, etc., may use the supplies provided by the agency.

For employees that work at an RWL outside of the LCA, the Agency is responsible for service and maintenance of Agency equipment. In cases where Agency equipment is in need of repair and upgrade, the Agency will make all reasonable efforts to initiate repairs and upgrades remotely. However, should in-person assistance be required, managers and employees will work together to make arrangements to ensure that repairs and upgrades can be made expeditiously; this may include providing temporary equipment and enabling shipping of inoperable and repaired equipment. In consultation with the employee, supervisors will make determinations over questions such as the employee's duty status, appropriate work assignments and potential temporary equipment during the interim period between when repairs and upgrades are required and when they are completed.

Note: Consistent with the agency's Records Management Policy, official agency business should first and foremost be done on official EPA information systems. The Federal Records Act prohibits the creation or sending of a federal record using a non-EPA electronic messaging account unless the individual creating or sending the record either: (1) copies their EPA email account at the time

of initial creation or transmission of the record, or (2) forwards a complete copy of the record to their EPA email account within 20 days of the original creation or transmission of the record.

### **XVIII. INFORMATION SECURITY**

The EPA CIO issues and maintains information security directives for protecting EPA information and information systems to include when users are working remotely and accessing systems remotely. These directives outline the responsibilities of each program office, region or other organization, and users in protecting EPA systems and information. Other pertinent supporting information security directives may be issued by users' program office, region or other organization.

Users agree their responsibilities, described in the agency's information security directives, apply while on telework status. Remote workers must minimize security risks to all agency information and systems.

The RWL workplace and workstation and other devices used with agency information must be configured to ensure all agency information in any form or format is properly protected at all times and in accordance with all agency directives.

### **XIX. RECORDS MANAGEMENT**

When working at an RWL, agency employees must continue to comply with the agency's records management policy and any other applicable policies related to using, creating, maintaining and disposing of records. Employees shall also comply with the Federal Records Act, Freedom of Information Act, the terms of any litigation hold, discovery in litigation and any requests for records by the Office of the Inspector General. Employees should also be aware that Agency work maintained on an employee's personal computer may be subject to litigation discovery or the Freedom of Information Act even if it is not considered a record under the Federal Records Act. Remote workers should refrain from saving any EPA information to their personal equipment. Any record removed from the agency worksite for telework assignments remains the property of the agency and any information generated from telework assignments is the property of the agency. Employees are responsible for maintaining the integrity of their records and for producing records on demand.

Disposal of Telework Program Records: EPA Records Schedule 0039, Alternate Worksite Records, authorizes the disposal of records related to requests or applications to participate in an alternate worksite program (i.e., telework). This includes agreements between the agency and an employee, records relating to the safety of the worksite, the installation and use of equipment, hardware and software, and the use of secure, classified information or data subject to the Privacy Act.

### **XX. POLICY UPDATING PROVISION**

In accordance with the Telework Enhancement Act of 2010, this provision authorizes the assistant administrator of OMS, who has been re-delegated management authority for the agency's directives system, the ability to independently update the agency telework policy as required by other relevant federal organizations, including, but not limited to, the Office of Management and

Budget, OPM, the Federal Emergency Management Agency, the National Archives and Records Administration, and the GSA. The AA for OMS may also re-delegate the authority to update the policy to the director of the Office of Human Resources. This authority also may be re-delegated further as appropriate.

## **XXI. WAIVER**

Any request to waive the requirements of this policy must be submitted in writing to the AA/RA(or designee) for consideration by the OMS AA (or designee).

## **XXII. MATERIALS SUPERSEDED**

- EPA Order 3110.32, *Telework Policy* (July 28, 2020)

## **XXIII. REFERENCES**

- The Telework Enhancement Act of 2010
- Public Law 106-346, § 359: Requires that all Executive agencies establish telework policies
- Public Law 105-277, Omnibus Appropriation Act, Title IV, § 630: Requires that funds be set aside for Executive agency employees to use telework centers
- 5 USC 65: Telework
- 5 CFR 351.203: Definitions
- 5 CFR Part 530: Pay Rates and Systems (General)
- 5 CFR Part 531: Pay Under the General Schedule
- 5 CFR Part 550: Pay Administration
- 5 USC Section 5305(i): Special Pay Authority-New Official Duty Station
- 5 USC 5702: Per diem; employees traveling on official business
- EPA Delegation 1-17 A (September 13, 2011) *Domestic Travel*.
- EPA HR Bulletin number 08-006B (September 30, 2008) *Time Reporting Codes (TRCs) for Certifying Time and Attendance for Employees in EPA's Flexiplace (Telework) Program*
- *Guide to Telework in the Federal Government* (April 2011), OPM
- *Governmentwide Dismissal and Closure Procedures* (November 2018), OPM
- *Requirements for Executive Branch Employees Teleworking in Foreign Locations* (June 2016), U.S. State Department
- *Additional Guidance on Post-Reentry Personnel Policies and Work Environment* (July 23, 2021), OPM
- *2021 Guide to Telework and Remote Work in the Federal Government* (November 2021), OPM

## **XXIV. APPENDICES**

- Telework Agreement
- Safety Checklist
- Telework Discontinuation