U.S. DEPARTMENT OF COMMERCE
TELEWORK PROGRAM

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(For Non-Bargaining Unit Employees Only)

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Definitions

Alternative Worksite – The employee's residence or another location (i.e., telework center), other than the employee's conventional agency worksite, that is approved by the agency for the performance of the employee's official duties. For purposes of telework, the alternative worksite is considered to be an official Government worksite. The work location may be the employee's residence, a telework center, an office closer to the employee's residence, or another approved location.

Essential Function – Functions that enable the Federal Government to provide vital services, exercise civil authority, maintain the safety and well-being of the general populace and sustain the industrial/economic base in an emergency.

ERG Member – Emergency Response Group member. A person assigned responsibility to report to an alternate site, as required, to perform agency essential functions or other COOP related operations.

Episodic/Situational Telework – Approved telework performed on an occasional, one-time, or irregular basis. An employee can be approved to telework on an episodic basis even if they are not part of a formalized, regular and recurring telework program, but must have a telework agreement in place before participating in episodic/situational telework.

Hoteling – A telework arrangement in which employees are not assigned permanent space in a central office, but rather share offices and conference space as necessary when on-site. Such space is assigned by reservation, much like a hotel. Employees teleworking under this program are required to visit the regular worksite twice every pay period for the purpose of maintaining their duty station as their originally designated agency worksite.

Mobility – Some agencies have employees who, by the nature of their jobs, are generally off-site, and may even use their home as their 'home base.' Because their work requires this setup and they travel much of the time, they **are not** considered teleworkers. This is different from 'hoteling' arrangements, in which frequent teleworkers use shared space when they are on site.

Official Duty Station – An employee's duty station determines eligibility for locality pay whether working on-site or participating in telecommuting/telework.

Telework-Ready – Employees with signed and approved telework agreements.

STATEMENT OF PURPOSE

The purpose of this Department of Commerce (Department) Telework Policy is to provide guidance for designing, developing, and implementing telework programs at Department bureaus/operating units. It is intended that the policy promote: (1) recruiting and retaining the best possible workforce; (2) continuing operations during emergency conditions; (3) successful management effectiveness by reducing management costs related to employee turnover and absenteeism along with real estate and transit costs; and (4) enhancing work-life balance by allowing employees to better manage their work and family obligations. While this policy is intended to be a foundation for bureau/operating unit-designed programs, it does not modify any telework practice or agreement between the individual bureau/operating unit and its unions, or constrain future telework agreements between the bureau/operating unit and its unions.

All Department employees are encouraged to support the voluntary telework program enacted by the 111th Congress. The Department recognizes that a well-managed telework program has the potential to lead to such benefits as improved marketability (as a more competitive and inclusive employer); reduced commuting time that can contribute to an improved quality of work-life balance; cost savings in such areas as recruitment and retention of employees; and improved Continuity of Operations (COOP). In addition to the benefits of reduced commuting time and costs that accrue to employees and more effective accomplishments of the Department's mission, the Department supports telework as a major element in its efforts to reduce its facility space requirements, thereby, energy consumption, greenhouse gas emissions, surface ozone, rent, and other operating costs.

INTRODUCTION

Telework, known as "telecommuting," refers to a paid, flexible work arrangement under which an employee performs the duties and responsibilities of his/her position, and other authorized activities, from an alternative work environment and not the traditional worksite. There are three types of telework: (1) routine telework in which telework occurs as part of an ongoing, regular schedule, (2) situational/ad-hoc/occasional telework that is approved on a case-by-case basis, where the hours worked are not part of a previously approved, ongoing and regular telework schedule and (3) unscheduled telework (where Federal Government offices are closed to the public in accordance with instructions from the Office of Personnel Management (OPM), or specific Department of Commerce office locations are closed). All eligible employees new to telework and interested in teleworking must first complete the interactive telework training program on the Commerce Learning Center and must enter into a written agreement with their supervisors. Supervisors and managers are also required to complete the telework on-line training prior to entering into the written agreement.

In bureaus/operating units where employees are represented by a labor organization with the right of exclusive representation, bureaus/operating units are encouraged to involve labor unions pre-decisionally in the development and implementation of telework arrangements. Management is obligated to notify the labor organization and upon request, negotiate over implementation of changes in working conditions as required by law.

Particulars of a telework arrangement that are the subject of a collective bargaining agreement may not be modified or terminated in a manner inconsistent with the terms of the agreement. Nothing in this policy shall abrogate or override any collective bargaining agreements in effect on the date this policy is issued.

LEGISLATIVE BACKGROUND

On December 9, 2010, President Barack Obama signed into law H.R. 1722, the Telework Enhancement Act of 2010. The general purpose of the Act is to expand participation in telework. The Act is a key factor in the Federal Government's ability to achieve greater flexibility in managing its workforce through the use of telework. It requires agencies to establish a policy under which eligible employees of the agency may be authorized to telework; to determine the eligibility for all employees of the agency to participate in telework; and to notify all employees of the agency of their eligibility. The Act outlines three preconditions for participation: the employee (1) is deemed eligible, (2) is trained in telework, and (3) has a written agreement with his/her manager.

In addition, the Act makes a clear distinction between "eligibility" and "participation." To participate in telework, an employee must first be identified as eligible. Any employee is assumed eligible under the Act unless he/she has been officially disciplined for being absent without permission for more than (5) five days in any calendar year; or the employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct of Employees of the Executive Branch for reviewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties (Telework Enhancement Act, 6502(a)(2)(A)(B)).

POLICY

It is Department policy to allow eligible employees to work at alternative work sites away from their official workplaces during an agreed upon time of their regular workweek. All employees of the agency that meet the definition of "employee" as defined in Section 2105 of Title 5 of the United States Code (U.S.C.) are covered by the policy, in accordance with Public Law 111-292, the Telework Enhancement Act of 2010. To implement this policy to the fullest extent possible, the bureaus and operating units will each establish a Telework Implementation Plan that:

- Indicates procedures for notifying each employee of his/her eligibility or ineligibility to telework. All employees are assumed eligible to telework unless they fall under either of the ineligible conditions specified in the Act;
- Advises employees that participation in a telework arrangement is voluntary unless telework is a condition of employment to continue Government operations in times of emergency;
- Advises employees that although participation in a telework arrangement is voluntary, telework ready employees are required to work on days when due to inclement weather

or an emergency the Office of Personnel Management (OPM) announces the Federal government is closed to the public;

- Establishes a communications process to notify employees designated as emergency response group members or essential personnel for Continuity of Operations (COOP) on telework flexibilities; includes COOP responsibilities in applicable telework agreement.
- Establishes and includes a process for approving telework arrangements (e.g., application, approval levels, timeline for approval/denial, training requirements, and written agreements);
- Identifies the process for changing or modifying telework arrangements (e.g., schedules or locations);
- Requires all supervisors and approved teleworkers to sign a telework agreement that includes a description of specific work arrangements and performance expectations. All teleworkers will be evaluated consistent with the bureau/operating unit expectations and the regular performance management system.
- Describes the process for authorizing or obtaining authorization for the expenditure of funds to cover expenses associated with approved telework arrangements;
- States that teleworkers will receive the same treatment and opportunities as non-teleworkers (e.g., work assignments, awards and recognition, development opportunities, promotions, etc.)
- Requires all hours teleworked to be recorded each pay period in the electronic time and attendance system, webTA;
- Includes a process for providing orientation and training for new teleworkers and their supervisors regarding policy, bureau/operating unit specific programs, and their responsibilities;
- Specifies how to contact the bureau/operating unit telework coordinator;
- Incorporates telework into Continuity of Operations (COOP) plans;
- Includes bureau/operating unit information technology (IT) and cybersecurity guidelines; and
- Establishes procedures for administering and evaluating the telework program.

SCOPE

The provisions of this document apply to all supervisory and non-supervisory employees within the Department of Commerce.

ELIGIBILITY CRITERIA

Employees may telework under this policy as per H.R. 1722, unless they fall within the following exceptions:

- The employee has been officially disciplined for being absent without permission for more than (5) five days in any calendar year; *or* the employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging

pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

Definition of Officially Disciplined – Means a disciplinary action that results in the placement of a document in an employee's official personnel file (OPF); the bar on participation would remain in effect as long as the document stays in an employee's OPF. A suspension or termination related to the items mentioned in H.R. 1722 that results in a document (standard form 50) that permanently remains in the OPF would result in permanent prohibition on telework participation;

- The employee's official duties require on a daily basis (every workday) direct handling of secure materials determined to be inappropriate for telework by the head of the bureau/operating unit; *or* the employee performs on-site activity that cannot be handled remotely or at an alternative worksite.

- Bureau/operating units have the discretion to determine additional telework eligibility criteria for their employees, subject to the requirements of this policy, and the limitations of Public Law 111-292.

- Voluntary Participation – Employee participation in telework is voluntary unless telework is a condition of employment or is required to continue Government operations in times of emergency. In these instances, an employee may be required to work at home, at a telework center, or at an approved alternative worksite.

Equal Opportunity – Participation in telework is open to all eligible employees without regard to race, color, gender, religion, national origin, marital status, age, disability, or sexual orientation. Teleworkers and non-teleworkers shall be treated the same for purposes of:

- Periodic appraisals of job performance of employees,
- Training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees,
- Work requirements, and
- Other acts involving managerial discretion.

Standards of Conduct and Ethics – Employees who telework are expected to comply with the Department's standards of conduct and ethics contained in the "Employee Responsibilities and Conduct," Department Administrative Order (DAO) 202-735-A, located at http://www.osec.doc.gov/opog/dmp. Employees are to ensure that telework does not diminish performance or bureau/operating unit operations. Failure to comply may result in termination of the telework agreement as well as disciplinary action for misconduct.

ACCOMMODATIONS FOR EMPLOYEES WITH DISABILITIES

It is important to distinguish between ordinary requests to telework and requests from persons with disabilities for reasonable accommodation. Approving officials/supervisors should consult DAO-215-10, "Reasonable Accommodation Policy," and the Disability Program Manager as part of the interactive process established by the Rehabilitation Act, in order to fully understand supervisors' responsibilities under the law.

As governed by Section 501 of the Rehabilitation Act of 1973, as amended, Title 29, U.S.C. 791 et seq., the Rehabilitation Act and DAO 215-10, the determination as to whether an employee may be granted an accommodation due to a disability should be made through a flexible interactive process between the Reasonable Accommodation Coordinator, the Employee's first line Supervisor and the employee.

PROGRAM OVERSIGHT AND RESPONSIBILITIES

Telework refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work. In practice, telework is a work arrangement that allows an employee to perform work, during any part of regular, paid hours, at an approved alternative worksite (e.g., home, telework center). This definition includes what is generally referred to as remote work but does not include any part of work done while on official travel or mobile work.

The Departmental Office of Human Resources Management (OHRM) is responsible for oversight of the Department Telework Program and for any reporting requirements to the Office of Personnel Management (OPM). OHRM will review and monitor the various plans to assure consistency across the bureaus and operating units in implementing the program.

Each Bureau/Operating Unit is responsible for the development, funding, administration (including naming a bureau telework coordinator), operation, and the evaluation of its telework implementation plan. Each bureau/operating unit will provide a copy of its initial or modified telework policy and implementation plan to OHRM by September 30, 2011.

Approving Officials/Supervisors authorize participation in the telework program and are responsible for the overall management and success of teleworking within their work units, including day-to-day operations.

Telework agreements must indicate, in accordance with bureau/operating unit and collective bargaining agreements, whether teleworking employees are required to continue to telework from home or an alternative worksite on days they are regularly scheduled to telework as well as when OPM has announced unscheduled leave/unscheduled telework, delayed arrival, early departure, or that Federal offices are closed to the public and telework ready employees must follow their agency policy. It is the Department policy that telework ready employees must

work on the above described days the offices are to closed the public.

Managers/supervisors may excuse a telework employee from duty during an emergency situation if the emergency adversely affects the telework site (e.g., disruption of electricity, loss of heat, childcare or eldercare service interruption, etc.); if the teleworker faces a personal hardship that prevents him/her from working successfully at the telework site; or if the teleworker's duties are such that he/she cannot continue to work without contact with the regular worksite. In such cases an employee may request and a supervisor may grant annual leave, sick leave, leave without pay, or administrative leave as appropriate.

Systems should be in place to support telework in an emergency, including a communication process to notify COOP personnel, emergency and non-emergency employees of the activation of the agency's emergency plan, and the agency operating status during the emergency.

Employees who are telework ready are scheduled to work during their regular tour of duty on a day when their bureau/operating unit is closed to the public (or when other employees are dismissed early) are not entitled to receive overtime pay, credit hours, or compensatory time off for performing work during their regularly scheduled hours. It is Departmental policy that during an emergency closure, e.g., floods, power outage or hazardous weather, supervisors/managers and employees should utilize unscheduled telework or unscheduled leave to the fullest extent possible.

Regarding work location, clarify any assumptions (e.g., if expected to work only from home) and the frequency and modes of communication (e.g., e-mail vs. telephone, core hours for contact, speed for returning calls). Determine and specify what equipment and other/or expenses that will be covered by the bureau/operating unit, employee, or will be shared.

Provide a self-certification safety checklist to telework employees as a guide when preparing the alternative work location for telework (see Appendix C).

Performance standards for teleworking employees must be the same as performance standards for non-teleworking employees. Expectations for performance should be clearly addressed in each employee's performance plan, and the performance plan should be reviewed to ensure the standards do not create inequities or inconsistencies between teleworking and non-teleworking employees. Like non-teleworking employees, teleworkers are held accountable for the results they produce. Resources for performance management are available from OPM at www.opm.gov/perform.

Teleworkers along with supervisors/managers are responsible for maintaining a current telework agreement that clearly states that the teleworker is required to work in case of a continuity/pandemic, such as a National or local emergency. Employees have a responsibility to be familiar with the bureau/operating unit emergency plans (continuity plan, pandemic plan, etc.). All teleworked hours must be recorded each pay period in the automated timekeeping system, webTA.

Principal and servicing human resources managers are responsible for the overall management and success of teleworking within their work units, including day-to-day operations, modifications to individual telework agreements to meet mission needs or changing circumstances, and maintaining records and information necessary for evaluation of the program.

Telework Managing Officer (TMO)
The Telework Managing Officer (TMO) has policy and program oversight and implementation of the agency telework program. The TMO serves as an advisor for agency leadership, including the Chief Human Capital Officer.

Telework Program Manager (TPM)
The Telework Program Manager (TPM) is a resource for telework coordinators and approving officials/supervisors and employees. The TPM will hold regular telework coordinator meetings, training opportunities, and brown bag sessions throughout the Department to discuss hot topics or concerns. The TPM is responsible for all Department-level d inquiries from organizations such as OPM and the Office of Management and Budget (OMB). The TPM is to provide ongoing advice and assistance to all bureau/operating unit-level personnel tasked with policy and implementation plan development, including working with senior-level managers in establishing and obtaining bureau/operating unit telework goals, objectives, and reporting requirements. The TPM will maintain and forward data from all bureaus to the TMO, including an explanation of whether or not the bureau/operating unit is working satisfactorily towards the requirements detailed in this policy and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework.

Telework Coordinators (TC)
The Telework Coordinator (TC) provides bureau/operating unit policy and procedural program guidance. The TC will, in partnership with approving officials/supervisors, establish a procedure for notifying each employee of his/her eligibility or ineligibility to telework, and coordinate a process for approving and tracking telework arrangements. The TC will answer questions and provide guidance and training to employees and supervisors as well as orientation to new teleworkers. Training will include policy and program overview as well as information on employee and supervisor roles and responsibilities. The TC will develop and implement a reporting system capturing telework participation, hours teleworked, terminations, and denials. Reports providing the following information are to be provided to OHRM on a quarterly basis, effective September 30, 2011:

- The degree of participation by employees of each agency during the period covered by the report;
- The method for gathering telework data in each bureau/operating unit;
- The reasons for positive or negative variations in telework participation if the total number of employees teleworking is 10 percent higher or lower than the previous year of the reporting activity;
- The bureau/operating unit goal for increasing telework participation if applicable;

- An explanation of whether or not a bureau/operating unit met its established goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers;
- An assessment of the progress made in meeting bureau/operating unit participation rate goals and other goals related to telework, e.g., the impact of telework on recruitment and retention, performance, etc; and
- A description of best practices.

PREPARING FOR THE TELEWORK ARRANGEMENT

The following actions are to be taken when establishing a telework arrangement:

- The interested employee submits a completed application in accordance with his/her bureau/operating unit policies or applicable collective bargaining agreement (see Appendix A, Telework Application and Agreement). *Please note the telework agreement in Appendix A may be modified to meet organizational needs.*
- The employee and supervisor discuss the proposed telework agreement and the type of work to be completed by the employee at an alternative worksite.

- If a suitable arrangement is reached, the employee is required to complete telework on-line training. Supervisors and managers of teleworking employees must also complete the telework on-line training prior to entering into the written agreement.

TELEWORK AGREEMENTS

Recommendations:

Term of the agreement: An annual telework agreement is encouraged but not required; a longer term telework arrangement is permissible. Consider a six-month agreement in telework situations that may need to be revised more frequently.

Type of telework specified by the agreement: Describe if the agreement is for regular, recurring telework, or situational/ad-hoc/episodic telework.

Schedule: Days may be specified or flexible due to business necessity or an employee's request. Hours to be worked will be annotated and in concurrence with the traditional worksite reporting times.

Requirements: Outline any additional requirements (e.g., technology, specific software, data security).

Expectations: Clarify any assumptions, for example, regarding work locations (e.g., if expected to work only from home) and frequency and modes of communication (e.g., e-mail vs. telephone, core hours for contact, speed for returning calls).

- Expectations for emergency telework: Be clear if the employee is designated and expected to work in the case of a COOP event such as a national or local emergency. Be clear that the employee is required to telework during an emergency event involving inclement weather or other situations that may result in a disruption to normal office operations. All COOP and Emergency Relocation Group (ERG) members must have a telework agreement on file and be prepared to telework at any time.

Modification and Termination – Telework is a workplace flexibility, not a legal right, and does not change the terms and conditions of employment. The operational needs of the bureau/operating unit are paramount and employees who telework do not have an automatic right to continue to telework. In accordance with the Act, an employee may not be authorized to continue teleworking if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee.

Management shall provide sufficient notice, when feasible, before modifying or terminating a telework agreement to allow the affected employee to make necessary arrangements. The reason for termination will be documented, signed by the approving official, and provided to the affected employee. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.

Labor-Management Relations – In bureaus/operating units where employees are represented by a labor organization accorded exclusive recognition, management is obligated to notify the labor organization of its intent to implement this policy and negotiate in good faith, as appropriate. Bureaus/operating units are encouraged to involve labor unions in the pre-decisional stages of planning and implementation. Nothing in this policy shall abrogate or override any collective bargaining agreements in effect on the date this policy is issued.

APPEALS PROCESS

Teleworkers may use appropriate grievance procedures if they believe their telework request or agreement was wrongfully denied or terminated. Telework requests and agreements may be terminated or denied as long as the denial or termination decision is based on operational needs, conduct, or performance in accordance with the law and any applicable collective bargaining agreements, not personal reasons. Managers and/or supervisors must provide written justification to the affected employee to include information about when or if the employee would be eligible to reapply, and if applicable, what actions the employee should take to improve his/her chance of approval. Managers and/or supervisors are to provide employees (and keep copies of) signed written denials or terminations of telework agreements.

For employees covered by a labor organization, the Negotiated Grievance Procedure (NGP) is the exclusive procedure for telework appeals (Title 5, U.S.C. § 71.21 (a)(1). For employees not covered by a labor organization, DAO 202.771 will be the remedy for any telework appeals.

ESTABLISHING THE WORK SCHEDULE

Work schedules may identify the days and times the employee will work in each work setting. Normally, work schedules will parallel those at the regular worksite but can be structured to meet the needs of the organizational requirements and participating employees' needs. Work schedules may also include fixed times during the day for supervisor/employee telephone conversations. Establishing such times may be helpful to ensure ongoing communication.

PAY, LEAVE, AND WORK SCHEDULE FLEXIBILITIES

Pay

An employee's pay is based on the location of the employee's official duty station (worksite). The bureau/operating unit must determine and designate the official worksite for an employee covered by a telework agreement using the following criteria:

- The official worksite for an employee covered by a telework agreement is the location of the regular worksite of the employee's position (i.e., the place where the employee would normally work absent a telework agreement), as long as the employee is scheduled to report physically at least twice each biweekly pay period on a regular and recurring basis to that regular worksite.

- The official worksite for an employee covered by a telework agreement who is ***not*** scheduled to report at least twice each biweekly pay period on a regular and recurring basis to the regular worksite is the location of the telework site (i.e., home or other alternative worksite).

- If a telework employee with a varying work location works at least twice each biweekly pay period on a regularly and recurring basis in the same locality pay area in which the established official worksite is located, the employee **does not** have to report twice each pay period to the official worksite to maintain the locality payment for that area.

Pay During Temporary Telework Arrangements

In certain temporary situations, an agency may designate the location of the regular worksite as the official worksite of an employee who teleworks on a regular basis at an alternative worksite, even though the employee is not able to report at least twice each biweekly pay period on a regular and recurring basis to the regular worksite. The intent of this exception is to address certain situations where the employee is retaining a residence in the commuting area for the regular worksite but is temporarily unable to report to the regular worksite for reasons beyond the employee's control.

One key consideration is the need to preserve equity between telework employees and non-telework employees working in the same areas as the telework location. Also, the temporary exception should generally be used only in cases where (1) the employee is expected

to stop teleworking and return to work at the regular worksite in the near future, or (2) the employee is expected to continue teleworking but will be able to report to the regular worksite at least twice each biweekly pay period on a regular and recurring basis in the near future.

For additional information on official duty stations, please see http://www.opm.gov/oca/pay/html/Official_Duty_Station.asp.

Premium Pay

The same premium pay rules apply to employees who telework versus those who report to their regular worksites.

For more information on Sunday premium pay if working an eight-hour tour of duty, please see http://www.opm.gov/oca/WORKSCH/HTML/sunday.htm, or if working an AWS or CWS, see http://www.opm.gov/oca/worksch/html/awscws.asp#SundayPremiumPay

Leave and Work Scheduling Flexibilities

Teleworking employees are bound by the same procedures as non-teleworking employees for requesting and obtaining leave approval. See the Department's Handbook on Hours of Duty and Leave Administration, Leave Policies at: http://hr.commerce.gov/Practitioners/CompensationAndLeave/index.htm.

For additional information on leave administration, please visit http://www.opm.gov/oca/leave/index.asp. For additional information on pay administration, premiums pay, and work scheduling, visit http://www.opm.gov/oca/pay/HTML/factindx.asp.

IDENTIFYING THE OFFICIAL DUTY STATION

Duty Station – The teleworking employee's "official duty station," associated with the employee's position of record, serves as the basis for determining certain location-based pay entitlements (such as locality payments, special rate supplements, and non-foreign area cost-of-living allowances). For pay purposes, the official duty station associated with the employee's position of record is usually the employee's traditional worksite. Specifically, if the employee is scheduled to work at least twice each pay period on a regular and recurring basis at the traditional worksite, the traditional worksite is the employee's official duty station. If the employee does not meet the twice-a-pay-period standard, the official duty station is the location of the telework site. The official work site must be documented on the employee's Notification of Personnel Action (SF-50) or equivalent.

Employees whose work involves regular travel or where the employee's work location varies on a daily basis, the official duty station is the location serving as the base for the employee's work activities as determined by the employing bureau/operating unit. These employees are considered "mobile workers," not "teleworkers."

For employees temporarily detailed to a position in a different location without a change in the position of record, the official duty station and associated pay entitlements are not affected.

TELEWORK TRAINING

All eligible employees and supervisors new to telework must first successfully complete the interactive telework training program prior to completing and approving the telework agreement for approval. Newly eligible employees must complete on-line training course "Telework 101 for Employees" available at http://www.telework.gov/ or via the Commerce Learning Center at http://www.hr.commerce.gov/Employees/TrainingandDevelopment/DEV01_006037, which outlines the basic concepts, skills, and processes in the telework program, and obtain a certificate of training prior to participation. It is recommended that supervisors and managers of teleworking employees complete "Telework 101 for Managers" (see above sites) and obtain a certificate of training prior to entering into the written agreement.
Employees, supervisors and managers are also required to complete IT Security and Awareness Training on an annual basis.

REPORTING REQUIREMENTS

Each year, the Department will prepare and submit a report to OPM that will be consolidated and reported to Congress as the "Status of Telework in the Federal Government, Report to the Congress." The report includes, as provided by the bureaus/operating units, various types of information important to understanding progress in their telework programs including:

- The degree of participation by employees of each agency in teleworking during the period covered by the report;
- The method for gathering telework data in each agency;
- The reasons for positive or negative variations in telework participation if the total number of employees teleworking is 10 percent higher or lower than the previous year in any agency;
- The bureau/operating unit goal for increasing telework participation to the extent practicable or necessary;
- An explanation of whether or not a bureau/operating unit met its goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers;
- An assessment of the progress made in meeting bureau/operating unit participation-rate goals and other goals related to telework, such as the impact of telework on emergency readiness, energy use, recruitment and retention, performance, productivity, and employee attitudes and opinions regarding telework; and
- Best practices in the bureau/operating unit.

GOVERNMENT-FURNISHED EQUIPMENT (GFE)

The purpose of this policy is to provide guidance to Information System Owners regarding requirements for bureau/operating unit-provided information technology (IT) equipment used to support telework, as well as requirements for teleworkers who use IT equipment.

Bureaus/operating units are not required to, but may provide employees with computer equipment, associated peripheral equipment (e.g., printer, copier, scanner, facsimile), telecommunications, and associated technical support for implementing and expanding telework in the Government. The bureau/operating unit may provide the level and configuration of these resources that it deems necessary for mission accomplishment. To make this determination, a bureau/operating unit may consider factors such as the teleworker's job requirements, frequency of telework, and other work-related parameters.

This policy applies to bureau/operating unit information systems, information technology equipment, and teleworkers with access to IT equipment and information.

Legal Authorities

Public Law 104-52, section 620, and Title 31, U.S.C. § 1348 authorize agencies to use appropriated funds to install telephone lines and necessary equipment, and to pay monthly charges, in any private residence of an employee who has been authorized to work at home in accordance with the guidelines issued by OPM. Bureaus/operating units must certify that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

Information Technology (IT) Equipment to Support Telework

Equipment required to support telework include, but are not limited to, facsimile machines, Internet services, broadband access, e-mail services, voice over IP equipment and services, desktop videoconference equipment and other services the bureau/operating unit deems necessary by those working in alternative worksite arrangements.

IT Requirements for Teleworkers

Teleworkers with No Access to Centralized IT Systems or Sensitive Agency Information

Teleworkers who do not require interaction with centralized IT systems, or access to sensitive agency information, may be able to telework successfully using only e-mail and telephone contact with the office, without logging into the bureau/operating unit's centralized IT systems. For example, a user who teleworks one or two days per week, and whose job consists largely of writing and preparing documents, may never need to log in to agency systems from an alternative worksite.

Teleworkers with Limited Access to Centralized IT Systems or Sensitive Agency Information

Teleworkers who need access to the bureau/operating unit's centralized IT system must, at a minimum, allow for remote logins from the alternate worksite computer. In this case, strong authentication (at least "two-factor authentication") is required to minimize the vulnerabilities in providing external access. This solution is sufficient for teleworkers requiring minimal access to internal resources, such as some types of intranet access. Antivirus software should be loaded and maintained on the alternate worksite computer.

Teleworkers with Internal Access to Centralized IT Systems or Sensitive Agency Information

For teleworkers who require internal access to internal resources, a more secure solution, such as a virtual private network (VPN) with two-factor authentication, should be used. A VPN can provide a high level of security and convenience for the teleworker. Encryption protects all interaction between the offsite computer and the main office. This approach makes it possible to allow offsite users to operate applications such as scheduling, budget analysis, or other complex systems from the alternate worksite. The VPN does not guarantee protection from viruses and e-mail worms. For a checklist on protection of remote information, see http://www.whitehouse.gov/omb/memoranda/fy2006/m06-16.pdf

Moderate Impact System Configuration/Technical Control Requirements

Systems administration functions and access to high risk systems and data are prohibited.

1. Two-factor authentication is required.
2. A FIPS 140-2 validated mechanism must be used for encrypting remote access sessions.
3. Personally-owned computers and other non-Department-provided equipment can be used to gain access to Department-provided Web Mail and secure Web portals using clientless (e.g., SSL1TLS), providing web access only.
4. Equipment must be configured to prevent split-tunneling or dual homing.
5. Full Client systems that make use of a hard-drive must be encrypted.
6. Thin/Zero Client (Virtual Desktop Initiative (VDI)) systems must ensure that the hard-drive and other media cannot be accessed.
7. Printing is prohibited.
8. Third-party remote control/direct access services (e.g., "*lVll'lv.gotomypc.com*") used for access to the Department infrastructure is strictly prohibited.

High Impact System Configuration/Technical Control Requirements

1. Controls for High Impact Systems must be implemented in addition to those listed above for Moderate Impact.
2. Only Government-furnished equipment is permitted for use.
3. Two-factor authentication is required. Three-factor authentication is recommended.

4. Only necessary system administration tasks must be performed while using the root or administrator account.
5. Remote access should be limited by single IP or narrowest IP range possible.
6. The computer performing/initiating remote access must not be a server (e.g., mail, Web).
7. All operating systems installed on multi-boot computers or computers using virtual environments must be configured to meet the requirements in this policy. Logs should be reviewed on the remote host on a weekly basis.

REQUIREMENTS FOR TELEWORKERS: PRIVACY ACT, SENSITIVE, AND HIGHLY SENSITIVE INFORMATION

All teleworkers have the responsibility to take appropriate care to ensure that records subject to the Privacy Act, for Sensitive Information, and Highly Sensitive Information are not shared or disclosed to anyone except those who are authorized access to perform their official duties. Knowing misuse or release of information protected by the Privacy Act can subject an employee to fines, criminal sanctions, or both. Employees working at home should be aware of these responsibilities and individual supervisors must ensure that employees are aware of them.

Decisions regarding the proper use and handling of Sensitive Information will be made by the individual supervisors who permit employees to work at home or at an alternative worksite. A Telework Agreement will be signed by teleworkers and their supervisors that contain the specific data types allowed to be accessed. Information is generally classified into the following groups: non-sensitive information; sensitive information; and highly sensitive information.

Sending and Accepting Data While on Telework – Teleworkers may only transmit or accept Sensitive Information: (1) as an encrypted file attachment in accordance with NIST FIPS 140-2 standards; (2) through a secure file transfer protocol with a 128-bit encryption or greater; or (3) through a shared drive having group folders with limited access rights and/or with limited/temporary read abilities to copy data. (See OMB issuance M-06-19, dated July 12, 2006.) Employees may not transmit PII in unencrypted form. Employees should be aware that e-mail text that accompanies an encrypted file attachment is not encrypted. All PII should be in the encrypted attachment.

Accessing Sensitive Data While on Telework – Access to sensitive data within the Department infrastructure when teleworking may only be done using approved computer systems and security controls. Some moderate impact systems containing sensitive data, including some PII, may be accessed from Government Furnished Equipment (GFE) and Personally Owned computer systems, laptops and mobile devices provided the security controls listed above for moderate *impact systems* are fully implemented. Teleworkers requiring access to Department systems for remote systems administration, or to systems or data that are categorized as more sensitive or *higher risk*, must adhere to all of the above-referenced controls. Examples of data and systems in this category are: some PII through Departmental systems, databases, or files including, but not limited to the: (1) National Finance Center (NFC); (2) the Department's automated hiring system; (3) e-OPF; and in some cases (4) webTA.

File Storage While on Telework – Sensitive Information is not to be stored on any personal or home computer, or external or removable devices/media, including but not limited to, flash drives, memory keys, thumb drives, floppy disks, CDs, DVDs, or at any Internet Web site or other web-accessible location not controlled by a Department bureau or operating unit.

PII Incidents: Teleworkers and individual supervisors are responsible for complying with all bureau/operating unit guidelines on reporting incidents involving an unintentional release of PII. The Department of Commerce PII Breach Response and Notification Plan may be found at: http://home.commerce.gov/CIO/ITSITnew/DOC_Breach_Response_Plan_v2_final.pdf. Suspected PII loss must be reported to the bureau/operating unit Computer Incident Response Team and immediate supervisor immediately, within one hour at https://cirt.my.commerce.gov/.

Definition of Data Types

Non-Sensitive Information – This type of information is usually available without restriction or retrieval access.

Sensitive Information – Some of this information is sensitive personal information, and should be subject to the Privacy Act in the same way as other personal information. This type of information may include:

- Personally Identifiable Information (PII) that relates to an individual. OMB Memorandum M-06-19 (dated July 12, 2006) defines PII as:

  > Any information about an individual maintained by an agency, including, but not limited to: (a) education, financial transactions, medical history, and criminal or employment history; and (b) information which can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, race, gender, mother's maiden name, and biometric records, etc., including any other personal information which is linked or linkable to an individual.
  >
  > However, not all information directly or indirectly related to an individual is PII that requires protecting. Examples of information related to an individual that is not in need of special handling include office address or telephone number, business or personal email address, education history separately available in publicly released or releasable records, and employment history separately available in publicly released or releasable records.

- Under Departmental policy, information concerning a company, society, or other organization (also known as business identifiable information) is treated as sensitive information.

- Controlled Unclassified Information, Title 13, Title 26, and Title 35 information which are legally protected are covered under the Sensitive Information category.

Highly Sensitive Information – This information is subject to the most stringent security and access control rule, and can be categorized as: (1) for Official Use Only (FOUO); (2) Sensitive – Limited Official Use; and/or (3) Organizational Sensitive Information. Classified information that requires Confidential, Secret, or Top Secret security clearances for protecting National Security Information is included in this category. Highly Sensitive Information may only be transmitted or removed from official worksites by classified networks or authorized official couriers. This type of information may not be used or accessed in any manner by teleworkers.

TELEWORK INFORMATION TECHNOLOGY SECURITY POLICY

The Department's Chief Information Officer (CIO) is responsible for issuing and maintaining policies and minimum implementation standards for remote access security, which includes access to IT systems required for telework. These policies and minimum implementation standards outline responsibilities of bureau or operating unit CIOs as well as teleworkers to enable an effective working environment for the teleworker and the protection of Department systems from undue risk. Operating unit CIOs, with the support of their IT security officers, are responsible for establishing teleworking IT security procedures specific to their operating unit and providing secure telecommuting resources and operational controls commensurate with the sensitivity of the data processed and with policies and minimum implementation standards provided by the Department's CIO.

Supervisors are responsible for ensuring that teleworkers agree to comply with all existing security policies and procedures, including IT security. Teleworkers also agree that their responsibilities, described in Section 2.1.13 of the Department's IT Security Policy and Minimum Implementation Standards, remain in effect while on telework status. Other pertinent bureau or operating unit policies on IT security may also exist and supervisors are responsible for ensuring that teleworkers agree to follow all applicable policies in place.

The workplace and workstation must be set up to accomplish secure information processing, including the proper storage of sensitive information in both electronic and paper form. The teleworker, following bureau or operating unit policies, must minimize security vulnerabilities to the workstation and the Departmental network.

TELEWORKING DURING EMERGENCY SITUATIONS

Unscheduled Telework – OPM modified its operating status language in 2010 to include "unscheduled telework" as an option for agencies and employees to continue work operations during inclement weather, or other emergencies, and ensuring the safety of the Federal workforce. This type of telework option is situational, occasional, or ad-hoc, and allows telework ready employees to work from home or at an alternate location when there is inclement weather or other emergencies that severely impacts commuting. OPM has incorporated the unscheduled telework option into various operating statuses.

Federal Offices are Closed to the Public - When OPM announces the Federal Government is operating under a *Federal Offices are Closed to the Public* status, both employees previously

scheduled to telework, as well as employees who were not previously scheduled to telework but who are telework ready when OPM makes this type of announcement, are required to telework in accordance with their individual agreement, bureau/operating unit policy, or collective bargaining agreement. *For employees who volunteer to telework but do not have a telework agreement in place, in cases of any emergency, the requirement for a telework agreement and completion of telework training may be waived by the bureau/operating unit.*

Excused absences may be granted on a case-by-case basis for employees when OPM announces Federal offices are closed or specific Department of Commerce work locations are closed for various situations (e.g., electricity, infrastructure, connectivity, and childcare or eldercare issues).

Early Dismissal/Delayed Arrival – When emergencies such as fires, chemical spills, disruptions of power and/or water, and/or interruptions of public transportation impact the regular worksite and cause an early dismissal or delayed arrival of employees, those who are working at an alternative worksite are not dismissed from duty for any part of the workday, unless the alternative worksite is also impacted by the emergency.

When an early dismissal/delayed arrival is provided due to inclement weather causing hazardous or potentially hazardous road conditions, those who are working at their home as an alternative worksite are not dismissed from duty for any part of the workday. However, supervisors or managers may grant excused absence if the employee's duties are such that he/she cannot continue to successfully work at the alternative worksite without contact with the regular office.

Emergency at the Alternative Worksite – When an emergency affects only the alternative worksite for a major portion of the workday, the employee is expected to report to the regular office, approved alternative telework site, or request supervisory approval of annual leave, compensatory time, compensatory time off for travel, if applicable, credit hours if on a flexible work schedule, or leave without pay. However, on a case-by-case basis, the bureau/operating unit may excuse, without charge to personal leave or loss of pay, a telework employee from duty during an emergency if: (1) the emergency adversely affects the telework site; (2) the teleworker is unable to access the alternative telework site or center; or (3) the teleworker's duties are such that he/she cannot continue to work without contact with the regular worksite.

TELEWORK AND THE CONTINUITY OF OPERATIONS PLAN (COOP)

If an employee occupies a position deemed essential or serves as an e*mergency response group member* (these designations may vary based on the nature of the emergency) for inclement weather or natural or man-made emergencies, he/she may be required to report to work.

If an employee is an emergency response group member for COOP purposes, management, along with the employee and supervisor, should make advance and/or situational decisions as to whether the employee must physically report for duty or can work from home or an alternative worksite. For example, if the purpose of the employee reporting for duty at the office is to provide policy guidance or to notify specific individuals of emergency requirements, this may be accomplished from home, provided the employee has access to the resources necessary to

perform the required services. However, in some cases, the only way to obtain the services of the employee may be through telework from an alternative worksite. For example, if an inclement weather or other emergency situation results in a shutdown of transportation, but phone lines remain working, the employee may have to work from home, rather than reporting to the regular office or COOP site.

Employees designated as COOP Team Members may be required to telework during emergency closures or other emergencies, including pandemics and for COOP purposes, on any day when the agency is closed by an emergency even if that day is not a regular telework day or a day with specific approval for situational/episodic telework. Teleworkers may also be required to perform duties outside of their usual or customary duties to ensure continuation of agency-essential mission or activities.

In accordance with H.R. 1722 Section 6504 (d) (2) "Continuity of Operations Plans Supersede Telework Policy - During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy."

Appendix A: EXAMPLE TELEWORK APPLICATION AND AGREEMENT

Section I – To be Completed by the Employee

Date of Request:_____ **Proposed Start Date:**_____
Employee Name:_____ **Organization:**_____ **Telephone:**_____
Grade or Pay Band:_____
Supervisor's Name and Title:_____ **Telephone:**_____
Address, Telephone, and Description of Alternative Worksite:_____
_____

Equipment Needed to Perform Work at Alternative Worksite:_____
_____

Type of Telework: ( ) Regularly Scheduled ( ) Intermittent ( ) For Continuity of Operations of Emergency Purposes

Work Schedule Including AWS Day Off (If Applicable):_____

Telework Days at Alternative Worksite:_____

_____ **I understand that I must Telework when the Federal Government or my Department of Commerce work location is closed due to unforeseen circumstances, unless otherwise excused by my supervisor.**
_____ **Initials**

I certify that I have completed Telework 101 for Employees, the Telework Safety Checklist, and the Telework Assessment Tool_____

Employee's Signature and Date:_____

Section II – To be Completed by the Approving Official

Approved: ( ) Disapproved: ( ) Reason Not Approved:_____
_____

Effective for non-bargaining unit employees only.

I certify that the employee is eligible and authorized to telework, that I have reviewed the employee's Safety Checklist as well as the Telework Assessment Tool:_____

Supervisor's Signature and Date: _____

TERMS AND CONDITIONS

Alternative Worksite Costs – The employee understands that the Government will not be responsible for any operating costs that are associated with the use of the employee's home as an alternative worksite, for example, home maintenance, insurance or utilities. The employee also understands that any entitlement to reimbursement for authorized expenses incurred while conducting business for the Government, as provided for by statute or regulation, is not relinquished by this agreement.

Liability – The applicant understands that the Government will not be held liable for damages to his/her personal or real property while he/she is working at the approved alternative worksite, except to the extend the Government is held liable under the Military Personnel and Civilian Employees Claims Act and the Federal Tort Claims Act.

Injury Compensation – The applicant understands that he/she is covered under the Federal Employees Compensation Act if injured in the course of actually performing official duties at the alternative worksite. The applicant agrees to notify his/her supervisor immediately of any accident or injury that occurs at the alternative workplace and to complete any required forms. The supervisor agrees to investigate such a report as soon as possible.

Disclosure – The applicant agrees to protect Government records from unauthorized disclosure or damage and will comply with requirements of the Privacy Act of 1974, Title 5, U.S.C. 552(a), and those outlined in the Department Telework Program section, "Privacy Act, Sensitive Information, and Highly Sensitive Information."

Compliance with This Agreement – The employee's failure to comply with the terms of this agreement may result in the termination of this agreement and the telework arrangement. Failure to comply also may result in disciplinary action against the employee if just cause exists to warrant such action.

Term – Unless canceled or terminated earlier by either the employee or the employer, this agreement shall expire on _____, unless renewed by agreement of the employee and the employer.

Appendix B: *OPTIONAL* TELEWORK ASSESSMENT TOOL

The decision to telework should be based on the ability of an employee to work in a setting that may be in his/her home, a telework center, or a Federal facility other than the regular office, without immediate supervision. The following tool is to be used by the supervisor as a basis for discussing the option and appropriateness of telework for a particular employee. Employees are also required to use the assessment tool to help in determining if telework is suitable for their positions.

Please rate yourself or your employee, using the following scale:

5 – Always 4 – Usually 3 – Sometimes 2 – Rarely 1 – Never

1. Employee works without regular monitoring/supervision ☐
2. Employee is comfortable working alone. ☐
3. Employee independently identified required work products. ☐
4. Employee successfully plans work production schedule. ☐
5. Employee communicates hindrances to successful completion of a task or project in sufficient time to allow for alterations that improve the opportunity for success. ☐
6. Employee is knowledgeable about your organization's procedures/policies. ☐
7. Employee is fully aware of Department information technology security. ☐
8. Employee meets deadlines. ☐
9. If telework will be in the employee's residence, the residence has an appropriate work environment. ☐
10. Employee is willing to provide his/her own equipment if Government-furnished equipment is not available. ☐
11. Employee is computer literate. ☐
12. Employee has successfully completed the Office of Personnel Management's online teleworking training course. ☐

Appendix C: *OPTIONAL* TELEWORK SAFETY CHECKLIST

This checklist is to be completed only if the proposed alternative worksite is in a private residence. This checklist is designed to assess the overall safety of the designated work area of the alternative worksite. Each applicant should read and complete the self-certification safety checklist. Upon completion, the checklist should be signed and dated by the applicant and submitted to the immediate supervisor.

Applicant Name: _____ Date: _____ Telephone: _____

Address, Telephone, and Location of Alternative Worksite: _____

_____

_____

_____

Describe the Designated Work Area:

1. Are stairs with four or more steps equipped with handrails? ( ) Yes ( ) No ( ) N/A
2. Are aisles, doorways, and corners free of obstruction? ( ) Yes ( ) No ( ) N/A
3. Are file/storage cabinets arranged so that open doors/drawers do not create obstacles? ( ) Yes ( ) No ( ) N/A
4. Is the office space neat, clean, and free of combustibles? ( ) Yes ( ) No ( ) N/A
5. Are phone lines, electrical cords, and surge protectors secured under a desk or alongside a baseboard? ( ) Yes ( ) No ( ) N/A
6. Are circuit breakers/hoses in the electrical panel properly labeled? ( ) Yes ( ) No ( ) N/A
7. Is electrical equipment free of recognized hazards that could cause physical harm (e.g., frayed, loose and/or exposed wires, bare conductors, etc.)? ( ) Yes ( ) No ( ) N/A
8. Does the building electrical system permit grounding of equipment (i.e., have three-prong receptacles)? ( ) Yes ( ) No ( ) N/A
9. Is there a smoke alarm and clear access to a fire extinguisher? ( ) Yes ( ) No ( ) N/A

By signing this document, the applicant certifies that all of the above applicable questions were answered in the affirmative, or, if answered in the negative, that the applicant will take all necessary corrective actions to eliminate any hazard prior to beginning telework.

Applicant's Signature and Date: _____

Appendix D: *OPTIONAL* TELEWORK TERMINATION FORM

The telework option is a privilege and not an employee right. As such, it falls under the supervisor's discretion to determine how work should be accomplished with the organization. Termination from the telework agreement can be either voluntary or involuntary.

This is notification that the telework agreement, which was signed on _____ is no longer in effect and is hereby terminated.

Termination is based on (check one):

- Voluntary Withdrawal ☐
- Involuntary Withdrawal ☐

If telework is involuntarily terminated, the decision is based on:

- Requirements of the current work assignment ☐
- Reassignment or change in duties ☐
- Lack of sufficient office coverage ☐
- Failure to maintain employee eligibility standards ☐
- Breach in Information Technology Security policies and/or procedures ☐
- Other (please specify): ☐

_____

_____

_____

Receipt Acknowledged

Employee's Signature and Date: _____

Supervisor's Signature and Date:_____