

# TELEWORK PROGRAM



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**Supersedes June 9, 2011 policy**

Approved by:

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Date

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## **I. SCOPE**

The Department of Commerce Telework Program policy was signed and became effective on October 15, 2014. The Economics and Statistics Administration (ESA), headed by the Under Secretary for Economic Affairs, is comprised of three operating units: Commerce's Office of Chief Economist (OCE), the Bureau of the Census, and the Bureau of Economic Analysis (BEA). The provisions of the Department's policy are applicable to all ESA employees. This ESA Telework Program policy implements the Department's telework program for the immediate Office of the Under Secretary and the Office of the Chief Economist. Throughout this document, these groups of employees will collectively be referred to as ESA Headquarters. The scope of this ESA Telework Program policy does not include employees at BEA or the Bureau of the Census. Exceptions to policy must be approved by the Deputy Under Secretary for Economic Affairs.

## **II. PURPOSE**

The purpose of this ESA Headquarters "Telework Program" is to implement the Department's Telework Program policy for ESA Headquarters. Thus, this policy incorporates the Department's Telework Program policy, tailoring the Department's policy to meet ESA Headquarters' specific needs and operational requirements. To fully understand the telework policy, employees must read both the Department and ESA Headquarters Telework Program policies. Like the Commerce-wide policy, this ESA Headquarters policy recognizes and supports the need for continuous communication between the employee and his/her management on all aspects of any telework arrangements. This policy recognizes that employees and their management are mutually responsible for contributing to the success of our telework program.

## **III. TYPES OF TELEWORK**

There are three types of telework: (1) routine telework in which telework occurs as part of an ongoing, regular schedule; (2) Ad-hoc/Episodic 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 in which Federal/Department offices are open but under an announcement of "Unscheduled Telework" by the Office of Personnel Management (OPM) or other appropriate authority.

## **IV. DEFINITIONS**

**AD HOC/EPISODIC TELEWORK (AD HOC)** – Approved telework performed on an ad hoc or occasional, one-time, or irregular basis.

**APPROVING OFFICIAL** – The Deputy Under Secretary, the Deputy Chief Economist, and the Chief Financial Officer & Director of Administration (CFO&DA) serve as approving officials for the employees who report to them. Additionally, the Deputy Under Secretary may designate in writing other managers to serve as approving officials. In some cases, the approving official and the supervisor may be the same person.

**ALTERNATE WORKSITE** – The employee’s residence or another location other than the employee’s traditional worksite that has been approved by the approving official for the performance of the employee’s official duties. For purposes of telework, the alternate worksite is considered an official Government worksite.

**ELIGIBLE TO TELEWORK** – All employees are considered eligible to telework unless: (1) the employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year (5 U.S.C. § 6502(a)(2)(A)) (there are no exceptions); (2) the employee has been officially disciplined for violations of 5 CFR Part 2635 (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 (5 U.S.C. § 6502(a)(2)(B)) (there are no exceptions); or (3) the employee’s performance does not comply with the terms of the written telework agreement between the supervisor and the employee (5 U.S.C. § 6502(b)(3)).

**ELIGIBLE POSITION** – A position is an eligible position unless the official duties require on a daily basis (every workday) the 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 activities that cannot be handled at an alternate worksite.

**ERG MEMBER** – Emergency Response Group member. A person assigned responsibility to report to an alternate site either as on call or as a backup, as required, in order to perform agency-essential functions or other continuity-related operations.

**ESSENTIAL FUNCTIONS** – 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.

**HOTELING** – A telework arrangement in which employees are not assigned permanent space in their designated traditional worksite, but share offices and conference space as necessary when working at the traditional worksite. Such space is assigned by reservation, much like a hotel.

**OFFICIAL DUTY STATION** – The location of an employee’s position of record where the employee regularly performs his or her duties. If the employee’s work involves recurring travel or their work location varies on a recurring basis, the duty station is the location where the work activities of the employee’s position of record are based. An employee’s official duty station determines the appropriate locality area for pay purposes for General Schedule or equivalent employees. In most cases, ESA Headquarters employees’ official duty station is Washington, D.C.

**REGULAR/RECURRING TELEWORK** – Telework that is performed on the same day(s) of the week on the employee’s regularly scheduled tour of duty.

**REMOTE WORKER** – The employee is teleworking full-time from an alternate work site. The alternate work site becomes the employee’s official duty station for pay purposes.

TELEWORK – Telework, known as “telecommuting,” 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.

TELEWORK-READY EMPLOYEE – An employee who has completed the required telework training program; has a signed individual telework agreement; and has the required necessities to work their planned period of telework.

TRADITIONAL WORKSITE – The traditional worksite is where the employee would work absent a telework arrangement.

TELEWORK TRAINING – All ESA employees who wish to participate in the telework program must complete Telework 101 for Employees via the Computer Learning Center. All supervisors must complete Telework 101 for Supervisors via the Computer Learning Center.

## **V. 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. The Act outlines three preconditions for participation: the employee (1) is deemed eligible, (2) is trained in telework, and (3) has an approved written telework agreement (written agreement).

The Act 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 agency employees of their eligibility. The October 2014 Department of Commerce policy fulfills these requirements, however, ESA Headquarters is issuing additional guidance regarding eligibility and participation criteria because of the small size and nature of operations within the ESA Headquarters (See Section VII).

The Act makes a clear distinction between “eligibility” and “participation.” To participate in telework, an employee must first be identified as eligible. While an employee can meet the eligibility criteria in accordance with the Act, the duties of his/her position may not be conducive or appropriate for teleworking; therefore, he/she is not eligible to telework based upon the duties of their current position.

## **VI. POLICY**

A. General. ESA Headquarters supports and encourages the use of telework in accordance with Departmental policy and the Telework Enhancement Act of 2010. Employees may telework provided they:

1. Occupy an eligible position, based on the type and nature of duties;
2. Are eligible to telework;
3. Successfully complete Telework 101 – Employee;

4. Received a Level 3 or above on their most recent performance evaluation and continue to perform at or above that level (employees new to ESA may participate in the telework program 90 days after they enter on duty; supervisors can authorize exceptions on a case-by-case basis); and
5. Have a telework agreement signed by both the employee and the supervisor and abide by the terms of that agreement.

Employees participating in Plan B, as described below, may telework up to two days per week.

- B. Conformance to Terms of Written Agreement. Employees must comply with the terms of their written telework agreements to continue participating in the telework program. It is imperative that manager and employee carefully document all the agreed-upon expectations (e.g., location of the alternate worksite, established days and core hours of telework, frequency and modes of communication, speed for returning messages, required file/data access, and work product requirements). See sections IX and X for additional guidance.
- C. Telework May Not be Used to Care For Elders, Children, or Other Dependents. Except in very unusual circumstances, most telework agreements will specify telework will be performed from home only. This presents special challenges when dependents are present in the home at the same time and the employee is the normal caregiver. If the elders, children, or other dependents are able to care for themselves in a setting that is separate and distinct from the employee's home telework environment, then the presence of these dependents in the same residence as the home telework location should not typically interfere with the employee performing his/her telework duties. If a supervisor has concerns that telework hours claimed are being used to care for elders, children, or other dependents (including pets), then the manager should address it directly with the employee and, if necessary, consult appropriate human resources or legal personnel for further guidance.
- D. Levels of Telework. ESA recognizes that some employees will decide not to telework at all, while others will chose to telework only on a limited ad hoc basis, and others will telework to the maximum extent possible. A few employees may be directed to telework in support of continuity of operations (COOP) or other emergency-related functions (see below subparagraph F). To accommodate employees desiring to voluntarily telework, ESA offers two telework plans:
  1. **Plan A**
    - a. Ad hoc/episodic teleworking no more than 80 hours during a term of 12 months beginning on the date of the initial Plan A agreement.
    - b. Employees performing unscheduled telework under an OPM or other appropriate authority announcement may do so without prior supervisory permission. However, the employee must notify his/her supervisor in accordance with the terms of the written agreement. Unscheduled telework in such circumstances counts toward the 80-hour annual limit.

- c. During normal operating environments (*i.e.*, no OPM announcement regarding unscheduled telework), the employee must obtain supervisory approval before performing ad hoc telework.
- d. Sufficient work. Employees are responsible for ensuring they have sufficient work that can be performed from the alternate worksite for the telework period.
- e. The employee is not required to telework when the office is closed for reasons other than Federal law or Executive order (*e.g.*, OPM announces Federal offices are closed in Washington, D.C. because of inclement weather).
- f. Upgrading to Plan B. Employees may switch to Plan B at any time prior to reaching the 80-hour limitation. Employees desiring to switch to Plan B must first obtain their supervisors' approval and their telework agreements must be modified accordingly.

**2. Plan B**

- a. Allows employees to telework on a regular/recurring schedule up to two days of telework (or 16 hours) per week, for a total of no more than four days of telework (or 32 hours) per pay period.
- b. Employees participating in Plan B may telework more than 80 hours of ad hoc /episodic telework in a 12-month period. The same two days per week/four days per pay period limitations articulated above apply to ad hoc/episodic telework.
- c. Employees must obtain supervisory approval before ad hoc telework.
- d. Employees performing unscheduled telework under an OPM or other appropriate authority announcement may do so without prior supervisory permission. However, the employee must notify his/her supervisor in accordance with the terms of the written agreement.
- e. Sufficient work. The employee is responsible for ensuring that he/she has sufficient work that can be performed from the alternate worksite for the period of telework scheduled to be performed.
- f. Performing less than 80 hours of ad hoc/episodic telework does not change the employee's election of Plan B.
- g. The employee must telework when his or her office is closed for reasons other than Federal law or Executive Order (*e.g.*, OPM announces Federal offices are closed in Washington, D.C. because of inclement weather).
- h. Departmental policy places no restrictions on converting from Plan A to Plan B, but the reverse is not true in all cases. Employees may not convert to Plan A from Plan B if it appears they are doing so for the sole purpose of evading having to telework during periods of office closures. In such cases, a manager may exercise discretion to deny the requested conversion to Plan A. Of course, an employee could always elect to terminate a telework agreement unless telework is a required condition of his/her employment.

**E. Teleworking During Traditional Worksite Closure, Including Emergencies.**

- 1. Written agreements must indicate, in accordance with ESA policy, that telework-ready employees on Plan B are required to telework from home or an alternate worksite when their office is closed for other than Federal law/Executive order. Telework-ready

employees must follow their written agreements. Within ESA Headquarters, the following specific guidelines apply to all Plan B written agreements:

- a. When traditional worksite offices are closed by OPM or other appropriate authority, then Plan B teleworkers must telework or take leave if it is a regularly-scheduled workday for them. This includes when the office is closed for an entire day, or offices are closed and early dismissal procedures are implemented. On days when Plan B teleworkers are performing duties at the traditional worksite and early office closure occurs, Plan B teleworkers will be granted excused absence for the period of commuting home and then must resume telework for any time remaining in the scheduled workday after they arrive safely at their home telework environment.
  - b. On days when Plan B teleworkers are teleworking, they generally will not be authorized to take advantage of excused absences authorized by relevant authorities for weather-related reasons or other travel/commuting concerns (e.g., 2-hour delayed arrival weather procedures or early dismissal procedures for road/commuting conditions). The same is true for closures related to safety or other emergency conditions at the traditional worksite. This is because the reasons for the excused absence do not impact the employee who is teleworking from home.
2. On a case-by-case basis, the supervisor may excuse a telework-ready employee from duty without charge to paid personal leave or loss of pay during an emergency situation if: (1) the emergency adversely affects the telework site (e.g., disruption of electricity, or network connection problems that prevent telework); or (2) the telework-ready employee's duties are such that he/she cannot continue to work without contact with the regular worksite.
  3. Telework-ready employees who cannot telework because they must care for dependents (or who have other personal reasons that prevent them from working successfully at the alternate worksite) may request appropriate time off (annual, sick, compensatory, credit hours, compensatory time for travel) in lieu of teleworking. Such employees also may request to change their alternative work schedule, if applicable.
  4. ERG members will be notified of their specific work requirements during emergency situations in accordance with ESA and Departmental policy.
  5. Telework-ready employees scheduled to telework during their regular tour of duty on a day when their office is closed (or when other employees are dismissed early) are not entitled to receive overtime pay, credit hours, or compensatory time off in lieu of overtime payment for performing work during their regularly scheduled hours.

F. Telework Agreement Process and Basic Rules.

1. All written telework agreements will contain a termination date that is no later than 12 months from the signature of written agreement. Accordingly, all written telework agreements must be updated and re-approved at least annually.

2. Supervisors are strongly encouraged to allow telework-ready employees to participate in regular/recurring telework at least two days (or 16 hours) per pay period.
3. Supervisors will notify each employee of his/her eligibility or ineligibility to telework. At a minimum, this will be done in conjunction with executing annual individual performance agreements. All employees are assumed eligible to telework unless they either fall under one of the three statutory bars to telework, or are determined to be precluded from teleworking due to the nature of their position.
4. Telework agreements are voluntary, with the exception of ERG members and continuity of operations (COOP) or other emergency-related duties. Employees with “emergency” or COOP duties must have a telework agreement in place.
5. Failure to comply with the terms of the written telework agreement can result in termination from the telework program. This could include the employee failing to follow any established sign-in or check-in procedures required for employees working for that particular supervisor.
6. Depending on the specifics of the written agreement, advise telework-ready employees whether they are required to work when their traditional worksite is closed for any reason (e.g., hazardous weather, damage to worksite) even if it is not their normal telework day.
7. The ESA Chief Financial Officer & Director of Administration (CFO&DA) will specifically notify those employees designated as emergency response group (ERG) members or essential personnel for COOP about telework flexibilities. All ERG and COOP personnel must have an approved individual telework agreement.
8. At a minimum, all telework agreements must address all the mandatory provisions of the October 2014 Department of Commerce policy, to include those listed in Section XIII of that policy.
9. Written telework agreements must be approved by the Deputy Under Secretary, the Deputy Chief Economist, or the CFO&DA (or other approving officials so designated in writing by the Deputy Under Secretary) and they should endeavor to sign those agreements within 2 workdays of receiving them from the appropriate supervisor who is recommending approval. All changes and/or modifications to telework agreements (such as changes in Plan, schedule, or appropriate telework location) must be similarly approved. The Deputy Under Secretary or the CFO&DA must be the signatory on any agreements requiring the expenditure of government funds to cover the telework arrangement.
10. All approved telework agreements (and supporting documentation) will be provided to the ESA Telework Coordinator (Ms. Maria Contreras) to ensure appropriate accounting and reporting of participating employees. If necessary, the Telework Coordinator will provide any necessary orientation and training for new telework-ready employees and their supervisors regarding policy, bureau/operating unit specific programs, and their responsibilities. The ESA Headquarters Telework Coordinator may be reached by office telephone, email, or in person.
11. All hours teleworked must be appropriately recorded each pay period in the time and attendance system.
12. Telework-ready employees will receive the same treatment and opportunities as non-telework-ready employees (e.g., work assignments, awards and recognition, development opportunities, promotions, etc.).

13. To ensure compliance with all Department of Commerce information technology (IT) and cybersecurity guidelines and safeguards, employees may only use government-furnished laptops or other government-furnished mobile devices in support of their telework duties.
14. The ESA CFO&DA and the ESA Telework Coordinator will ensure the ESA Headquarters Telework Program is administered and evaluated in accordance with established requirements.

## **VII. ELIGIBILITY CRITERIA**

As indicated elsewhere in this policy, all the eligibility criteria articulated in the October 2014 Department of Commerce policy is applicable to ESA Headquarters (See Sections I, II, and VI). However, the small size of ESA Headquarters and the nature of duties required in some positions may limit some otherwise eligible employees from participating in telework to the extent desirable or allowable under this policy. In some cases, the nature of duties may preclude telework participation altogether. An employee will be precluded from participating in telework if the official duties of the position require on a daily basis (every workday):

- A. Direct handling of secure materials determined to be inappropriate for telework by the Under Secretary for Economic Affairs;
- B. On-site activity that cannot be handled remotely or at an alternate worksite; or
- C. Being an intern or extern (paid or unpaid) where the nature of duties requires close, personal supervision or mentoring on a daily basis and they must be immediately available to augment customer/client reception areas, visitor escort duties, and other administrative duties at the traditional worksite.

Also, an employee may not be able to participate in teleworking the maximum allowable number of hours per pay period under this policy if any of the above-referenced conditions apply to his/her duties for significant periods of time during the pay period.

## **VIII. EVALUATING SUITABILITY FOR TELEWORK PARTICIPATION**

The decision to allow telework must be based on the ability of an employee to work in a setting that may be in his/her home or a Federal facility other than the regular office, without immediate supervision. Supervisors/managers and employees must have candid discussions about the appropriateness of telework options for each ESA Headquarters employee, considering the employee's particular duties and circumstances and organizational/mission requirements. Employees are required to use the assessment tool at Appendix B to help facilitate a discussion with his/her supervisor. If a telework agreement is approved, the assessment tool must be signed by the employee and attached to the telework agreement, along with the safety checklist. The following considerations must be discussed between employee and supervisor before a telework agreement will be approved:

- A. How well does the employee work without regular monitoring/supervision?

- B. How often do the employee's duties require in-person collaboration/contact with others at the traditional worksite?
- C. Can the employee independently identify work products that are needed to support organizational missions, goals, and objectives?
- D. Can the employee independently plan work production schedules?
- E. Does the employee effectively communicate hindrances to successful completion of a task or project in sufficient time to allow for alterations that improve the opportunity for success?
- F. How knowledgeable is the employee about organizational procedures/policies or must he/she rely upon others to identify or explain them?
- G. Does the employee maintain full awareness of Commerce IT security policies?
- H. How well does the employee meet deadlines?
- I. Are the conditions of the home telework environment suitable for and conducive to work productivity?
- J. Does the employee have the ability to resolve and/or seek appropriate assistance in resolving any computer/technology challenges that could arise in the independent telework environment?

## **IX. ESTABLISHING THE WORK SCHEDULE**

Work schedules identify the days and times an employee will work while teleworking. Before approving specific telework agreements, supervisors will ensure they balance out the availability of employees to ensure mission needs are met. Work schedules are also important because they establish when the employee will definitively be available to support the mission needs of the Office of the Under Secretary and the Office of the Chief Economist. Normally, telework schedules should parallel those at the traditional worksite; however, they can differ so long as they meet the needs of both the organization and participating employee. In any case, the telework agreement must document the agreed-upon work schedule. Work schedules may also include fixed times during the day for supervisor/employee telephone conversations or other modes of dialogue, which may be helpful to ensure continuous and ongoing communication. Just as a supervisor is responsible for accounting for the time and attendance of traditional worksite employees, he/she must establish similar mechanisms to properly account for his/her teleworking employees.

## **X. INDIVIDUAL TELEWORK AGREEMENTS**

The written agreement is critical for setting mutual expectations and conditions to make the telework arrangement as productive as possible for both the organization and the employee. Supervisors and employees will use the written telework agreement template set out in Appendix A to document the requirements for telework. While this template was developed in an attempt to incorporate all of the mandatory requirements set forth in the October 2014 Departmental policy, supervisors and employees must review those mandatory requirements (set out in Section XIII of the DOC policy) in conjunction with preparing an individual telework agreement. Any additional requirements agreed to by the supervisor and employee must also be incorporated into the written agreement.

- A. Telework is a workplace flexibility (unless it is actually designated as a condition of employment), not a legal right, and does not change the terms and conditions of employment. The operational needs of ESA Headquarters are paramount and employees who telework do not have an automatic right to continue to telework. Employees will not be authorized to continue teleworking if they fail to comply with the terms of the written telework agreement.
- B. Supervisors shall provide sufficient notice, when feasible, before modifying or terminating a written agreement to allow the affected employee to make necessary arrangements. The reason for termination **must** be documented, signed by the supervisor, and provided to the affected employee. Supervisors will consult with the Deputy Under Secretary for Economic Affairs (or designee) before terminating an employee from the telework program. Consent or acknowledgement via signature by the affected employee is not required for telework termination to take effect.
- C. The employee may request to modify the current agreement (e.g., change the regular teleworking day) by submitting a new “Telework Application/Agreement.”
- D. Agreements may be terminated based on operational needs or issues concerning employee conduct or performance. Supervisors must deny or immediately terminate the telework agreement, as applicable, if the employee fails to be eligible to telework due to the employee’s failure to meet the eligibility requirements under 5 U.S.C. §§ 6502(a)(2) or (b)(3).
- E. 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 future approval. Supervisors are to provide employees, and maintain copies of, signed written denials or terminations of telework agreements.
- F. An employee may terminate his/her written agreement by written notice to the approving official.

## **XI. PROCESS**

Employees desiring to telework (as well as all ERG and COOP members) must complete Section I of the Telework Agreement (Appendix A), the Assessment Tool and Safety Checklist (Appendix B & C) and submit these documents to their immediate supervisors. Supervisors will review the employee’s application in a timely manner and then discuss the telework application and suitability of the proposed telework agreement with the employee.

Supervisors will complete Section II of the Telework Agreement. If the employee is not eligible for telework or the employee’s position is not appropriate for telework, the supervisor will disapprove the application. If telework is appropriate, supervisors will then complete the “Specific Requirements” and “Telework Schedule and Hours” portions of Section II and review the entire application carefully with the employee.

Once both the supervisor and employee are clear as to the terms of the Telework Agreement, they will both sign and, if necessary, seek formal approval from the designated approving official. Telework can commence immediately after a designated approving official signs. Employees will record all telework hours appropriately in their time and attendance records.

## APPENDIX A: ESA TELEWORK APPLICATION/AGREEMENT

### SECTION I – TO BE COMPLETED BY THE EMPLOYEE

Name:

Job Title:

Work Unit:

Grade:

Supervisor's Name and Title:

Less than 6 months with the Federal government? (Yes/No):

Less than 3 months with ESA? (Yes/No):

Government Laptop number:

RSN Secure Access Token number:

Work Schedule (e.g., 8-hour day, 5 days per week; AWS; other):

If AWS, indicate regularly-scheduled day off:

Part-time or full-time employee?

Employee is member of Emergency Response Group (ERG) or is responsible for Continuity of Operations (COOP) (Yes/No):

Alternate Worksite Address:

Is this alternate worksite a private residence? (Yes/No):

Describe the alternate worksite location in detail (should include a description of the appropriateness for telework - internet access, general environment, freedom from potential disturbances, quiet, conduciveness to protecting government information and PII, etc.):

Alternate worksite telephone numbers (must provide at least one number, usually a cell phone number):

Proposed working hours at alternate worksite (specify in detail; if different on different days, provide details – note: working hours must accommodate communication during normal ESA Headquarters office hours):

Proposed notice to customers and method to ensure seamless customer service (e.g. providing currently dated voice message with contact information to those who call the traditional worksite):

Identify the specific network drives, files, or subscription services you will need to access from the alternate worksite:

Telework Level Requested (employee initial requested choice):

( ) For ERG, COOP, or other emergency purposes only

( ) Plan A – less than 80 hours of ad hoc/episodic or unscheduled telework per year

( ) Plan B – Type of Telework: ( ) Regularly Scheduled ( ) Ad Hoc – can exceed 80 hours per year

If regularly scheduled, indicate frequency and specify the telework days (e.g., “2 days per week – Tuesday and Friday,” “1 day per pay period, second Wednesday of every pay period,” etc.):

**Employee Representations (initial all that apply):**

\_\_\_\_\_ I understand that I will no longer be eligible to telework if I fail comply with the terms of this written telework agreement.

\_\_\_\_\_ I understand that my participation in the ESA Headquarters telework program will be terminated immediately if I am disciplined for absence without leave for more than five days in any calendar year (the days do not have to be consecutive) or if I violate subpart G of the Standards for 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.

\_\_\_\_\_ I request Plan A. I understand that I may not telework more than 80 hours of ad hoc/episodic or unscheduled telework during any 12-month period beginning on the date this agreement is approved. I will not be required to telework when ESA Headquarters is closed due to unforeseen circumstances. I understand that at any time during the term of this agreement I may elect to switch from Plan A to Plan B and will execute the change above on this agreement with supervisor concurrence (initials).

\_\_\_\_\_ I request Plan B. I understand that I must telework **even when ESA Headquarters is closed due to unforeseen circumstances (e.g., inclement weather) and even when it is not my regularly scheduled telework day** unless otherwise excused by my supervisor for each particular office closure. I may perform regular/recurring and/or ad hoc/episodic telework for more than 80 hours during any 12-month period beginning on the date this agreement is approved. Working less than 80 hours of ad hoc/episodic telework does not change my election of Plan B.

\_\_\_\_\_ I understand that I must perform at a minimum Level 3 to continue teleworking. I further understand that my supervisor may suspend or revoke my participation in the telework program if my performance declines below Level 3 and my supervisor believes I can best correct my performance deficiencies by working solely in the office at ESA Headquarters.

\_\_\_\_\_ I understand that I must adhere to the employee standards of ethical conduct found at 5 CFR 2635<sup>1</sup>, failure to do so may result in losing my eligibility to telework.

\_\_\_\_\_ I certify that I have completed Telework 101 for Employees, the Telework Assessment Tool, and the Telework Safety Checklist (if the worksite is a private residence).

\_\_\_\_\_ I understand that I may not care for children, elders, or other dependents while I am in a duty status and teleworking. If a situation arises that requires this care I must request the appropriate leave from my supervisor. At my supervisor's discretion, my supervisor may approve a temporary change of established work hours.

\_\_\_\_\_ I understand that I must abide by the IT Security requirements conveyed in the DOC Information Technology Security Program Policy (ITSPP), Commerce Information Technology Requirements (CITRs), Frequently Asked Questions (FAQs), and IT Security Policy memos.

\_\_\_\_\_ When OPM or other appropriate authorities announce unscheduled leave or telework, I understand that I may elect to take leave or telework, provided I have sufficient work to occupy a full workday. If I have less than sufficient work to occupy the duration of the workday, I must take leave for the remainder of the day. I understand that I must notify my supervisor of my election.

\_\_\_\_\_ I understand the Government will not be responsible for any operating costs associated with the use of my home as a telework home worksite, for example, home maintenance, insurance, or utilities. I understand 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.

\_\_\_\_\_ I understand the Government will not be liable for damages to my personal or real property while I am working at the approved home worksite, except to the extent the Government is held liable under the Military Personnel and Civilian Employees Claims Act and the Federal Tort Claims Act.

\_\_\_\_\_ I understand that I am covered under the Federal Employees Compensation Act if injured in the course of actually performing official duties at the home worksite. I agree to notify my supervisor immediately of any accident or injury that occurs at the alternate workplace and to complete any required forms.

\_\_\_\_\_ I understand that I must protect Government records from unauthorized disclosure or damage and will comply with requirements of the Privacy Act of 1974, 5 U.S.C. § 552(a), and those outlined in the U.S. Department of Commerce Telework Program guidance

\_\_\_\_\_ I understand that I have a continuing obligation to ensure this agreement accurately reflects my telework situation, that I must obtain my supervisor's express permission to alter the terms of this agreement, and that any changes to the agreement must be made in writing.

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<sup>1</sup>If the hyperlink fails, you can find the standards on the Office of Government Ethics website or at [http://www.oge.gov/Laws-and-Regulations/Employee-Standards-of-Conduct/Standards-of-Ethical-Conduct-for-Employees-of-the-Executive-Branch-\(PDF\)/](http://www.oge.gov/Laws-and-Regulations/Employee-Standards-of-Conduct/Standards-of-Ethical-Conduct-for-Employees-of-the-Executive-Branch-(PDF)/)

Initial the following unless you are an ERG member or an employee with COOP or other emergency responsibility:

\_\_\_\_\_ When OPM or other appropriate authorities announce unscheduled leave or telework, I acknowledge that, in rare situations, management may deny my unscheduled leave/telework and require me (a “non-emergency” employee) to report to the office for an assignment that requires my presence, provided management has discussed this with me in advance of the situation giving rise to unscheduled leave/telework.

For ERG members or employees with COOP or other emergency responsibility, initial the following:

\_\_\_\_\_ I understand I am an ERG member or an employee with COOP or other emergency responsibility and must telework or return to the office, as required by the specific incident, during an emergency or a COOP exercise.

**SECTION II – TO BE INITIALED/COMPLETED BY THE SUPERVISOR**

\_\_\_\_\_ Employee has shown completion of Telework 101 for Employees training

\_\_\_\_\_ I have completed Telework 101 for Supervisors

\_\_\_\_\_ I have reviewed the employee’s Assessment Tool and Safety Checklist

\_\_\_\_\_ Employee’s most recent performance review is Level 3 (fully effective) or above

\_\_\_\_\_ Employee meets the telework eligibility criteria (If not, provide details):

\_\_\_\_\_ Employee occupies a position that is appropriate for telework (If not, provide details):

If the employee has worked for the Federal Government for less than 6 months or for ESA Headquarters for less than 3 months, explain why telework is appropriate at this time:

**Specific Requirements:** Indicate any specific requirements the employee must meet while teleworking, including agreed upon primary and secondary contact information, frequency of contact with supervisors, start and end times, availability to colleagues and other customers, including responsiveness to their calls and emails (e.g., return calls within x hours), and identify projects employee will work and how to measure progress, etc. **Be specific:**

**Telework Schedule and Hours:** Include exact days/times for regularly-scheduled telework and note any requirements or restrictions for ad hoc/episodic or unscheduled telework (e.g., “telework must be done between the hours of 7 a.m. and 10 p.m;” “may be disapproved for ad hoc telework on certain days to prevent adverse impact on office coverage at the traditional worksite;” “telework may only occur on the following days during the work week”). Be specific:

**Termination Date of Agreement** (Cannot exceed 1 year from date of approval): \_\_\_\_\_

**I understand the terms of this agreement, including the “Specific Requirements” and “Telework Schedule and Hours” set out above:**

Employee’s Signature and Date: \_\_\_\_\_

Print Employee’s Name: \_\_\_\_\_

Supervisor Concurrence/Disapproval (Circle one)                      Reason If Not Approved:

Supervisor’s Signature and Date: \_\_\_\_\_

Approved: ( )              Disapproved: ( )                      Reason If Not Approved:

Approving Official’s Signature and Date: \_\_\_\_\_

**Performance not in Compliance with terms of Agreement** – The employee’s failure to comply with the terms of this agreement will result in the termination of this agreement. Failure to comply may also result in disciplinary action against the employee, if just cause exists to warrant such action.



## APPENDIX B: TELEWORK ASSESSMENT TOOL

The decision to telework should be based on the ability of an employee to work in a setting that is his/her home 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 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. How well does the employee work without regular monitoring/supervision?
2. How often do the employee's duties require in-person collaboration/contact with others at the traditional worksite?
3. Can the employee independently identify work products that are needed to support organizational missions, goals, and objectives?
4. Can the employee independently plan work production schedules?
5. Does the employee effectively communicate hindrances to successful completion of a task or project in sufficient time to allow for alterations that improve the opportunity for success?
6. How knowledgeable is the employee about your organization's procedures/policies or must he/she rely upon others to identify or explain them?
7. Does the employee maintain full awareness of Department IT security policies?
8. How well does the employee meet deadlines?
9. Are the conditions of the home telework environment suitable for and conducive to work productivity?
10. Does the employee have the ability to independently resolve and/or seek appropriate assistance in resolving any computer/technology challenges that could arise in the home telework environment?

**Applicant's Signature and Date:** \_\_\_\_\_



## APPENDIX C: TELEWORK SAFETY CHECKLIST

This checklist is to be completed only if the telework home worksite is in a private residence. This checklist is designed to assess the overall safety of the designated work area of the home 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 Home Worksite: \_\_\_\_\_

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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 agrees to allow inspection by appropriate ESA official.

**Applicant's Signature and Date:** \_\_\_\_\_



TELEWORK – Telework, known as “telecommuting,” 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.

TELEWORK-READY EMPLOYEE – An employee who has completed the required telework training program; has a signed individual telework agreement; and has the required necessities to work their planned period of telework.

TRADITIONAL WORKSITE – The traditional worksite is where the employee would work absent a telework arrangement.

TELEWORK TRAINING – All ESA employees who wish to participate in the telework program must complete Telework 101 for Employees via the Computer Learning Center. All supervisors must complete Telework 101 for Supervisors via the Computer Learning Center.

## **V. 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. The Act outlines three preconditions for participation: the employee (1) is deemed eligible, (2) is trained in telework, and (3) has an approved written telework agreement (written agreement).

The Act 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 agency employees of their eligibility. The October 2014 Department of Commerce policy fulfills these requirements, however, ESA Headquarters is issuing additional guidance regarding eligibility and participation criteria because of the small size and nature of operations within the ESA Headquarters (See Section VII).

The Act makes a clear distinction between “eligibility” and “participation.” To participate in telework, an employee must first be identified as eligible. While an employee can meet the eligibility criteria in accordance with the Act, the duties of his/her position may not be conducive or appropriate for teleworking; therefore, he/she is not eligible to telework based upon the duties of their current position.

## **VI. POLICY**

A. General. ESA Headquarters supports and encourages the use of telework in accordance with Departmental policy and the Telework Enhancement Act of 2010. Employees may telework provided they:

1. Occupy an eligible position, based on the type and nature of duties;
2. Are eligible to telework;
3. Successfully complete Telework 101 – Employee;

4. Received a Level 3 or above on their most recent performance evaluation and continue to perform at or above that level (employees new to ESA may participate in the telework program 90 days after they enter on duty; supervisors can authorize exceptions on a case-by-case basis); and
5. Have a telework agreement signed by both the employee and the supervisor and abide by the terms of that agreement.

Employees participating in Plan B, as described below, may telework up to two days per week.

- B. Conformance to Terms of Written Agreement. Employees must comply with the terms of their written telework agreements to continue participating in the telework program. It is imperative that manager and employee carefully document all the agreed-upon expectations (e.g., location of the alternate worksite, established days and core hours of telework, frequency and modes of communication, speed for returning messages, required file/data access, and work product requirements). See sections IX and X for additional guidance.
- C. Telework May Not be Used to Care For Elders, Children, or Other Dependents. Except in very unusual circumstances, most telework agreements will specify telework will be performed from home only. This presents special challenges when dependents are present in the home at the same time and the employee is the normal caregiver. If the elders, children, or other dependents are able to care for themselves in a setting that is separate and distinct from the employee's home telework environment, then the presence of these dependents in the same residence as the home telework location should not typically interfere with the employee performing his/her telework duties. If a supervisor has concerns that telework hours claimed are being used to care for elders, children, or other dependents (including pets), then the manager should address it directly with the employee and, if necessary, consult appropriate human resources or legal personnel for further guidance.
- D. Levels of Telework. ESA recognizes that some employees will decide not to telework at all, while others will chose to telework only on a limited ad hoc basis, and others will telework to the maximum extent possible. A few employees may be directed to telework in support of continuity of operations (COOP) or other emergency-related functions (see below subparagraph F). To accommodate employees desiring to voluntarily telework, ESA offers two telework plans:
  1. **Plan A**
    - a. Ad hoc/episodic teleworking no more than 80 hours during a term of 12 months beginning on the date of the initial Plan A agreement.
    - b. Employees performing unscheduled telework under an OPM or other appropriate authority announcement may do so without prior supervisory permission. However, the employee must notify his/her supervisor in accordance with the terms of the written agreement. Unscheduled telework in such circumstances counts toward the 80-hour annual limit.