

**MINORITY BUSINESS DEVELOPMENT  
AGENCY  
TELEWORK PLAN**



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**Supersedes**

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Approved by: \_\_\_\_\_

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Date \_\_\_\_\_

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## SCOPE

The provisions of this document apply to all MBDA employees. The official duty location is 1401 Constitution Avenue, N.W., Washington, DC, 20230.

## 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, in which Federal Government offices are open but under an announcement of “Unscheduled Telework” by the Office of Personnel Management (OPM) or other appointment authority. 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.

All MBDA employees are encouraged to support the telework program enacted by the 111<sup>th</sup> Congress and documented in the Department of Commerce (DOC) Telework Policy. MBDA 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 an improved Continuity of Operations Plan (COOP). In addition to the benefits of reduced commuting time and costs that accrue to employees and the Agency’s mission, the Agency supports telework as a major element in its efforts to reduce its facility space requirements, thereby reducing its energy consumption, greenhouse gas emissions, surface ozone, rent, and other operating costs.

This policy recognizes and supports the need for improved communication between the employee and MBDA management on all aspects of the applicable telework arrangements for the employee and MBDA. In addition, this policy recognizes that the employee and management are equally responsible for contributing to the success of telework.

The policy promotes: (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; (4) reducing real estate and transit costs; and (5) enhancing work-life balance by allowing employees to better manage their work and family obligations.

MBDA is a job creating, globally-focused and transaction-oriented agency that fosters the growth and global competitiveness of businesses owned and operated by members of our nation’s minority and diaspora communities. The MBDA mission is to enhance the growth and expansion of minority business enterprises by providing the economic inputs that stimulate new

job creation, namely, access to contract awards, capital and new international and domestic markets.

MBDA manages a national network of MBDA Business Centers staffed with business experts who provide target clients with sophisticated strategic business consulting services designed to assist the business owner in growing their businesses to size and scale. The efforts of the agency cross international, public, private, state and local governmental, business and institutional interests. The programs impact heavily on job creation, wealth creation that reduces the national wealth gap.

## **LEGISLATIVE BACKGROUND**

On December 9, 2010, President Barack Obama signed Public Law 111-292, the **Telework Enhancement Act** (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 Executive 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 an approved written telework agreement.

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 five (5) days in any calendar year (does not have to be consecutive; just within the same year) (at any time during an employee's employment with the Federal Government) (see **VIII.A.1.a.** for definition of Officially Disciplined); 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 (See **5 U.S.C. §§ 6502(a)(2)(A) and (B)**).

Note: An employee can meet the eligibility criteria in accordance with the Act, but the duties of his/her position may not be conducive or appropriate for teleworking; therefore, they are not eligible to telework based upon the duties of their current position.

## **POLICY**

It is the MBDA policy to allow eligible employees to work at alternative work sites away from their official workplaces to the maximum ability, based on business necessity, during their regular tour of duty. All employees of the agency that meet the definition of "employee" as defined in 5 U.S.C. § 2105 are covered by the policy, in accordance with the Act. This is consistent with DOC policy, and the trend in the Federal government to increase the participation of eligible teleworkers that attracts and retains talent. The MBDA may renew and update telework policy annually.

Telework is a workplace flexibility, not a legal right, and does not change the terms and conditions of employment. The operational needs of the MBDA 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 reasonable notice in writing, 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.

To implement this policy to the fullest extent possible, MBDA has established a Telework Implementation plan that:

1. Clearly states the length of the written agreement that is established by the employee and the approving official, including the terms of the agreement.
2. All employees are assumed eligible to telework unless they fall under one of the ineligible conditions specified in the Act or are precluded from telework due to the nature of the position. Includes procedures for notifying each employee of his/her eligibility or ineligibility to telework.
3. Telework is not a substitute for the care of elders, children, or other dependents.
4. 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.
5. Requires that the written agreement stipulate that the employee must be performing at the Fully Successful (or equivalent) level or better.
6. Advises employees that although participation in a telework arrangement is voluntary, only telework-ready employees (Plan B), are required to work when Federal offices or their Department work location in their local commuting area is closed.
7. Establishes a communication 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.
8. Establishes and includes a process for approving telework arrangements (e.g., application, approval levels, and timeline for approval/denial, training requirements, and written agreements).
9. Identifies the process for changing or modifying telework arrangements (e.g., schedules or locations).
10. Requires all supervisors and telework-ready employees to sign a telework agreement that includes an address of their alternate work location, and performance expectations. (See 5 U.S.C. § 6502(b)(2)(A)) All telework-ready employees will be evaluated consistent with the MBDA expectations and the performance management system.

11. States that all 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.).
12. Requires that all hour's teleworked are recorded accurately, using the appropriate category for each pay period in webTA, the electronic time and attendance system.
13. Requires that supervisors track telework participation for all pay periods.
14. Includes a process for providing orientation and training for new telework-ready employees and their supervisors regarding telework policy, MBDA specific programs, and their responsibilities.
15. Specifies how to contact the MBDA unit telework coordinator.
16. Incorporates telework into MBDA Continuity of Operations (COOP) plans.
17. Includes MBDA unit information technology (IT) and cyber security guidelines.
18. Establishes procedures for administering and evaluating the telework program.
19. Establishes a process to collect data regarding number of eligible employees that includes participation rate, participation type, denial, termination, best practices, and reasons for any barriers.

### **Levels of Telework**

Consistent with the DOC telework policy, this policy provides two plan options for teleworkers:

1. **Plan A**
  - a. Employees may perform ad-hoc telework or unscheduled telework; no more than 80 hours during the 12 month term of the individual telework agreement.
  - b. No prior supervisory approval required for unscheduled telework. Employee performing unscheduled telework under an OPM announcement may do so without prior supervisory permission; the employee must notify his/her supervisory in accordance with the terms of the written telework agreement.
  - c. Employee must obtain supervisory approval before performing ad-hoc telework;
  - d. The employee is responsible for ensuring that he/she has adequate work similar to the traditional office setting, for the period of telework scheduled to be performed.
  - e. The employee is **not** required to telework when the office is closed for reasons other than Federal law or Executive order.
  - f. Employee may switch to Plan B at any time prior to reaching the 80 hour limit during the annual agreement.

2. **Plan B**
  - a. Employees whose participation is greater than 80 hours ad hoc or unscheduled telework, per year.
  - b. Employee must obtain approval prior to ad-hoc telework.
  - c. Employee may perform unscheduled telework under OPM announcement without prior supervisory approval. However, an employee must notify his/her supervisor in accordance with the written telework agreement.
  - d. The employee **must** telework when his/her office is closed for reasons other than Federal law or Executive Order.
  - e. The employee is responsible for ensuring that he/she has adequate work similar to the traditional office setting, for the period of telework scheduled to be performed.
  - f. Performing less than 80 hours of ad hoc/unscheduled telework does not change the employee's election of Plan B.
  - g. The employee must telework when his/her office is closed for reasons other than Federal law or Executive order.
  - h. Employees opting to switch to Plan A must wait until the next year.

### **Telework Options**

1. Individual telework agreements must indicate that telework-ready employees on Plan B **are required** to telework from home or an alternative worksite when their office is closed for other than Federal law/Executive order. Telework-ready employees must follow their individual telework agreements.
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. If the telework-ready employee faces a personal hardship that prevents him/her from working successfully at the telework site, the employee may request the appropriate leave (annual, sick, compensatory, credit hours, compensatory time for travel). The employee may also switch to an alternative work schedule day off, or use "flexing" consistent with the employee's alternative work schedule, if any.
4. Systems are to 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's operating status during the emergency.
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.

### **ELIGIBILITY CRITERIA**

Telework policies and procedures apply to all employees within MBDA. Telework is not an employee right. Participation is voluntary, and may be terminated with reasonable notice in

writing by the employee or the employer. Employees may telework under this policy as per the Act, 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 Public Law 111-292 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 MBDA; *or* the employee performs on-site activity that cannot be handled remotely or at an alternative worksite.
- MBDA has the right to determine additional telework eligibility criteria for their employees, subject to the requirements of this policy, business necessity, and the limitations of Public Law 111-292, on a case by case basis.
- 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, or at an approved alternative worksite.

Equal Opportunity – Participation in telework is open to all eligible employees without regard to race, color, sex (including pregnancy and gender identity), religion, national origin, political affiliation, marital status, age, disability, genetic information, or sexual orientation, age, membership in an employee organization, retaliation, parental status, military service, or other non-merit factors.

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) 202-735A. 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.

## **TELEWORK REQUIREMENTS**

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” via the Commerce Learning Center which outlines the basic concepts, skills, and processes in the telework program, and obtain a certificate of training prior to participation.

All eligible employees are required to complete IT Security and Awareness Training on an annual basis.

## **ACCOMMODATIONS FOR EMPLOYEES WITH DISABILITIES**

It is important to distinguish between ordinary requests to telework and requests from persons with disabilities for reasonable accommodation. MBDA officials/supervisors should consult DAO-215-10, “Reasonable Accommodation Policy,” and the MBDA Reasonable Accommodation Coordinator for guidance to comply with the Rehabilitation Act of 1973.

As governed by Section 501 of the Rehabilitation Act of 1973, as amended, 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**

### Employees:

- Complete the telework agreement **annually** and update telework agreement when the work location changes.
- Complete Telework Training 101, Commerce Learning Center; print the certificate (initial telework agreement).
- Complete the Remote Access User Security Agreement and forward the signed form to the MBDA IT coordinator for processing that will provide access to MBDA files with a high level of security and convenience for the telework-ready employee. Permission to remotely access unclassified DOIT systems and the use of access will be monitored by DOC for compliance with policy.
- Communicate with their supervisor and team.
- Communicate any difficulties with access to the Help Desk.
- Record telework accurately in webTA.

- Meet performance standards in their individual performance plans.
- Respond to all communications, internal, and external, typical in the traditional office setting.
- Take home laptop on scheduled telework day and all related documents.
- Attend all required meetings via teleconference.

#### First Line Supervisors:

- Meet with the employee annually to discuss the telework arrangement and to update telework agreements.
- Avoid isolating teleworking employees and communicate with the employee either through telephone or email.
- Support regular telework for at least two days per pay period when requested by eligible employees, as per DOC policy.
- Record telework participation for their employees.
- Approve or deny the telework arrangement, based on business needs.
- Mentor employees to achieve productivity.
- Communicate with employees, regardless of where they are.
- Manage by results and the employee's performance standards in their performance plans.
- Certify the accuracy of time and attendance in WebTA.

#### Approving Officials/Supervisors:

- Monitor participation in the telework program.
- Set goals for increasing telework participation.

#### Telework Coordinator:

- Develop the telework policy.
- Maintain all telework agreements.
- Respond to the DOC annual data call.
- Provide guidance and tools for teleworkers.
- Provide telework training to employees.
- Provide guidance to MBDA supervisors on barriers to telework.
- Represent MBDA at DOC telework internal and external meetings.

### **PREPARING FOR THE TELEWORK AGREEMENT**

The following actions must be taken when establishing an individual telework agreement:

1. The employee must complete the appropriate required telework training. Approving officials for telework-ready employees must also complete the appropriate telework training before they can approve written agreement. (Training is only required for the initial agreement).
2. The interested employee submits a completed agreement, (see **Appendix A**, Telework Application and Agreement), telework assessment (Appendix B), and safety checklist (Appendix C).

3. The employee and manager/supervisor discuss the proposed telework agreement and the mode of communication between the manager/supervisor and the employee. Opportunities for communication and interaction are vital to the success of the arrangement and to avoid isolation for the teleworker.
4. Employees must attend all meetings, i.e., All Hands, etc., via teleconference. The arrangement is a “work” arrangement and the mission of MBDA is paramount.
5. Telework is a flexible arrangement and schedules should be modified for business necessity.

### **PERFORMANCE STANDARDS**

Performance standards for telework-ready employees must be the same as performance standards for non-telework-ready 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 telework-ready and non-telework-ready employees. Like non-telework-ready employees, telework-ready employees are held accountable for the results they produce. Resources for performance management are available from OPM at [www.opm.gov/perform](http://www.opm.gov/perform).

### **PAY, LEAVE, AND WORK SCHEDULE FLEXIBILITIES**

#### Pay

An employee’s pay is based on the location of the employee’s official duty station (worksite) in accordance with 5 CRF 531.604(b). MBDA 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, MBDA 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-ready and non-telework ready 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](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, or if working an AWS or CWS, see refer to: <http://www.opm.gov/oca/leave/index.asp>

#### Leave and Work Scheduling Flexibilities

Telework-ready employees are governed by the same procedures as non-telework-ready 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>.

### **IDENTIFYING THE OFFICIAL DUTY STATION**

Duty Station – The telework-ready 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 MBDA. These employees are considered "mobile workers," when they are mobile not "telework-ready employees." They may be considered telework-ready when they conduct work from their home office and should record the activity in webTA for reporting purposes.

## **REPORTING REQUIREMENTS**

Each year, MBDA will prepare and submit the DOC annual data call to the DOC telework program manager that will include:

- The degree of participation of employees teleworking during the period covered by the report;
- The method for gathering telework data;
- The reasons for positive or negative variations in telework participation;
- The goal for increasing telework participation to the extent practicable or necessary;
- An explanation of whether or not MBDA 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 MBDA 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 MBDA.

## **LEGAL AUTHORITIES**

Public Law 104-52, section 620, and 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. Operating units must certify that adequate safeguards against private misuse exist, and that the service is necessary for direct support of MBDA's mission.

## **TERMINATION OF AGREEMENTS AND APPEALS PROCESS**

The operational needs of the MBDA 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 approving official and the employee.

Telework requests and agreements may be terminated or denied by management or the employee. Management denials or termination decisions should be based on operational needs, conduct, or performance in accordance with the law and not personal reasons.

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. MBDA 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 must be documented, signed by the approving official, and provided to the affected employee and copies provided to the telework coordinator. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.

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; signed written denials or terminations of telework agreements and maintain copies.

Telework-ready employees must use the administrative grievance procedure in DAO 202-771 to appeal issues relating to their telework status or other telework matters.

Employees who believe they are the victims of prohibited discrimination may utilize the EEOC appeal procedures or the negotiated grievance procedure, as appropriate.

### **GOVERNMENT FURNISHED EQUIPMENT**

Telework-ready employees will be required to provide broadband access from their alternate worksite; all costs will be incurred by the employee. MBDA will provide Government Furnished Equipment (GFE); laptops for all MBDA employees.

### **IT REQUIREMENTS**

Telework-ready employees must abide by the IT security requirements conveyed in the Commerce Information Technology Security Program Policy (ITSPP), Commerce Information Technology Requirements (CITRs), Frequently Asked Questions (FAQs), and IT Security Policy memos. A complete list of Commerce IT security documentation can be accessed at: <http://home.commerce.gov/CIO/ITSITnew/ITSecurityProgramDocumentation.html>

Teleworkers must complete the Remote Access User Security Agreement and forward the signed form to the MBDA telework coordinator for processing. VPN will provide a high level of security and convenience for the telework-ready employee and permission to remotely access unclassified DOIIT systems and the use of access will be monitored by DOC for compliance with policy.

MBDA telework-ready employees 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 protecting 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.

E-mail text that accompanies an encrypted file attachment is not encrypted. All PII should be in the encrypted attachment.

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.

### **THE PRIVACY ACT, SENSITIVE PII and BII REQUIREMENTS**

All telework-ready employees are responsible for ensuring that records subject to the Privacy Act of 1974 or have sensitive Personally Identifiable Information (PII), and Business Identifiable Information (BII) are not disclosed to anyone except those who have been authorized access to such information in order to perform their duties. The Department's policy states that if sensitive PII must be electronically transmitted, then it must be protected by encryption, using **Accellion Secure File Transfer**. Operating units must ensure that appropriate physical, administrative, and technical safeguards are used to protect the security and confidentiality of such records.

Teleworkers and supervisors should visit

**<http://www.archives.gov/cui/registry/category-list.html>** prior to allowing hard copy PII and other administratively controlled information outside the workplace for telework purposes.

Telework-ready employees must immediately report a suspected or confirmed PII and BII incident to the MBDA privacy office or CIRT at 202-482-4000, and immediate supervisor. Additional information regarding PII and BII Departmental Policy can be found at:

**[http://ocio.os.doc.gov/ITPolicyandPrograms/IT\\_Privacy/DEV01\\_002682#P126\\_15356](http://ocio.os.doc.gov/ITPolicyandPrograms/IT_Privacy/DEV01_002682#P126_15356)**

### **TELEWORKING DURING EMERGENCY SITUATIONS**

Unscheduled Telework – 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.

Federal Offices are Closed - When Federal offices or Department work sites are closed in the local commuting area, telework-ready employees on **Plan B**, must telework consistent with their individual telework agreements.

Excused absences may be granted on a case-by-case basis for telework-ready employees when Federal or Departmental work locations offices in the local commuting areas are closed.

Early Dismissal/Delayed Arrival – When an early dismissal/delayed arrival are announced, those who are teleworking 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 manager/supervisor may excuse, without charge to paid 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 telework-ready employee is unable to access another alternative telework site; or (3) the telework-ready employee's duties are such that he/she cannot continue to work without contact with the traditional worksite.

### **TELEWORK AND THE CONTINUITY OF OPERATIONS PLAN (COOP)**

If an MBDA employee occupies a position deemed an "emergency employee" or serves as an ERG 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 MBDA employee is an ERG 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 may work from home or an alternative worksite. For example, if the purpose of the employee reporting for duty at the traditional worksite is to provide policy guidance or to notify specific individuals of emergency requirements, this may be able to 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 inclement weather or other emergency situation results in a transportation shutdown, but phone lines remain working, the employee may be able to work from home rather than reporting to the traditional worksite or COOP site.

MBDA employees designated as COOP Team Members may be required to telework during emergency closures or other emergencies, including pandemics and for COOP exercises, on any day, even if that day is not a regular telework day or a day with specific approval for situational/episodic telework. Telework-ready employees 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 Public Law 111-292 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

## **DEFINITIONS**

**AD HOC/EPISODIC/SITUATIONAL TELEWORK (AD HOC)** – Approved telework performed on an ad hoc occasional, one-time, or irregular basis. An employee can be approved to telework on an ad hoc/ episodic/situational basis (not a regular and recurring schedule), but must have successfully completed the appropriate required interactive telework training program (e.g., **Telework 101 for Employees** via the **COMMERCE Learning Center (CLC)**).

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

**ELIGIBLE EMPLOYEE** – All employees are considered eligible to telework unless 1) the employee has been officially disciplined for being absent without permission for more than five (5) days in any calendar year (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 (there are no exceptions); or 3) the employee’s performance does not comply with the terms of the written agreement between the supervisor and the employee.

**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 alternative worksite.

**ERG MEMBER** – Emergency Response Group member. A person assigned responsibility to report to, on call, or as backup to an alternate site, as required, performing 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.

**MOBILE WORKERS** – Employees who, by the nature of their duties, do not have a designated traditional worksite, they typically use their home as their ‘home base’ and travel to appointments. Due to the nature of their work, they may not be considered telework-ready employees on a full-time, regular basis. However, mobile workers can be considered telework-ready on instances when they work from their home-base and do not travel to appointments in their vehicles. They should report this time in webTA accurately.

**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, as determined by the manager/supervisor. An employee’s official duty station determines the appropriate locality area for pay purposes for General Schedule or equivalent employees.

**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** – 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 worksite, not the traditional worksite.

**TELEWORK-READY EMPLOYEE** – An employee who has completed the required telework training program; has a signed individual telework (either regular/recurring or ad hoc) agreement; and has the required necessities to telework for their entire tour of duty for the telework day.

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

**Appendix A: Telework Agreement**

Section I – To be completed by the Employee:

New Application: \_\_\_\_\_ Telework 101: \_\_\_\_\_(Certification attached)  
Renewal: \_\_\_\_\_ Opt Out: \_\_\_\_\_  
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: \_\_\_\_\_

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**Telework Level Requested: ( ) Plan A ( ) Plan B**

**Type of Telework: ( ) Regularly Scheduled ( ) Ad Hoc ( ) For Continuity of Operations or Emergency Purposes**

**Telework Schedule: ( ) Monday ( ) Tuesday ( ) Wednesday ( ) Thursday ( ) Friday**

**Plan Section (please check one plan below):**

**Plan A - (Please initial):**

\_\_\_\_\_ I opt for Plan A and understand that I am limited to no more than 80 hours of ad hoc telework during the annual agreement.

\_\_\_\_\_ I understand that unscheduled leave used, as announced by OPM, will count towards the annual maximum allotment of 80 hours. If I chose to use more than 80 hours, I can opt for Plan B or terminate my agreement.

\_\_\_\_\_ I am not required to telework when my office is closed due to unforeseen circumstances.

\_\_\_\_\_ I do not require prior supervisory approval to exercise unscheduled leave.

**Plan B – (Please initial):**

\_\_\_\_\_ I opt for Plan B and can telework more than 80 hours annually.

\_\_\_\_\_ I understand that I am required to telework when my office is closed due to unforeseen circumstances, unless otherwise excused by my supervisor.

\_\_\_\_\_ I will notify my supervisor when using unscheduled leave.

\_\_\_\_\_ 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.

\_\_\_\_\_ I may elect either option, "Unscheduled Leave" or "Unscheduled Telework," by notifying my supervisor.

**The employee certifies and agrees with the following statements and to abide by all of the requirements of the MBDA Telework Policy and procedures:**

- I acknowledge that I may not be authorized to telework if my performance does not comply with the terms of the individual written telework agreement between management and me.
- I am required to perform the duties and responsibilities of my position.
- I have requested **Plan A**. I understand that I am limited to no more than 80 hours of ad hoc/unscheduled telework during the 12 months period beginning with the initial Plan A. I will not be required to telework when my office is closed due to unforeseen circumstances.
- I have requested **Plan B**. I understand that I must telework when my office is closed due to unforeseen circumstances, unless otherwise excused by my supervisor. I have the option of performing regular/recurring and/or ad hoc/unscheduled telework for more than 80 hours.
- I elect to opt out and understand telework is not mandatory.
- I understand that I must perform at the Fully Successful or higher (or equivalent) level in order to telework.
- I certify that I have completed Telework 101 for Employees via the Commerce Learning Center (CLC), the Telework Safety Checklist, and the Telework Assessment Tool.
- I understand that I may not care for children, elders, or other dependents while I am in a duty status and teleworking.
- I understand that I must abide by the requirements of DOC IT security requirements.

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**Expiration of Agreement (Date):** \_\_\_\_\_

Employee's Signature and

Date: \_\_\_\_\_

**Section II – To be completed by the Approving Official**

Approved: ( )      Disapproved: ( )      Reason Not Approved: \_\_\_\_\_

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**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:** \_\_\_\_\_

Approving Official's Signature and Date:

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**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 extent 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, 5 U.S.C. § 552(a), and those outlined in XXII, PRIVACY ACT, SENSITIVE INFORMATION, AND HIGHLY SENSITIVE INFORMATION – REQUIREMENT FOR TELEWORK-READY EMPLOYEES.

**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.

**Child/Eldercare** – Telework is not a substitute for child, elder, or other dependent care while I am in a duty status and teleworking. Employees will request the appropriate leave from their supervisor when teleworking during these situations.

**EEO** - Teleworkers and Non-Teleworkers Shall be Treated the Same for Certain Purposes:

## Telework Appendices

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

## APPENDIX B: MANDATORY 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 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 or work preference.

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

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

1. Employee consistently communicates well with supervisor and team.
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 works well on own with minimal supervision.
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 is a results-oriented person and frequently meets deadlines.

**APPENDIX C: MANDATORY 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: 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
- 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:** \_\_\_\_\_