

U.S. DEPARTMENT OF COMMERCE TELEWORK PLAN



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I. SCOPE

This telework policy applies to all Department of Commerce (DOC) employees except for those employed by the U.S. Patent and Trademark Office (USPTO) and the National Oceanic and Atmospheric Administration (NOAA) Commissioned Officer Corps (Title 5, United States Code (U.S.C.)

§§ 2105 and 2101(1) and (3)).

II. PURPOSE

The policy provides broad DOC-wide policy guidance and direction for bureaus/operating units (OU) to use when designing, developing, and administering their specific telework implementation plan(s). The policy promotes: (1) recruiting and retaining the best possible workforce; (2) continuing operations during emergency conditions (such as in a pandemic); (3) 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 personal obligations.

III. COVERAGE

The policy covers the workplace flexibility arrangement of telework.

IV. EXCLUDED

Excluded from the policy is work performed while on temporary duty (TDY); mobile work, as defined in this policy; arrangements requested/approved through Department Administrative Order (DAO) 215-10, "[Reasonable Accommodation Policy](#)"; and work performed at an alternative location due to an evacuation order.

V. LABOR-MANAGEMENT RELATIONS

This policy is in effect when signed by the Director for Human Resources Management and Chief Human Capital Officer (Director). The policy does not modify any telework past practice or collective bargaining agreement (CBA) between a bureau/OU and its union(s) consistent with Federal law or Government-wide rule or regulation. In bureaus/OUTs where a labor organization (union) represents employees, management is obligated to notify the union, and upon request, negotiate over impact and implementation (I&I) of the policy, as required by law.

VI. THE TELEWORK ENHANCEMENT ACT of 2010

On December 9, 2010, President Obama signed [Public Law 111-292, the Telework Enhancement Act \(Act\) of 2010](#). The Act expands participation in telework and is a key factor in the Federal

Government's ability to achieve greater flexibility in managing its workforce using telework. It requires agencies to establish a policy under which eligible employees may be authorized to telework; to determine the telework eligibility for all employees of the agency; and to notify all employees 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.

The Act makes a distinction between “eligibility” and “participation.” To participate, an employee must first be identified as eligible. An employee is assumed eligible under the Act unless: (1) they have been officially disciplined for being absent without permission for more than 5 days in any calendar year. The days do not have to be consecutive, just within the same year. The offense could have occurred at any time during their employment with the Federal Government. (See footnote 1 in Section VIII for definition of Officially Disciplined); (2) 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 \(B\)](#)); or (3) the employee's performance does not comply with the terms of the telework agreement between management and the employee (see [5 U.S.C. § 6502\(b\)\(3\)](#)).

An employee can meet the eligibility criteria in accordance with the Act, but the duties of their position may not be conducive or appropriate for teleworking. In such cases, the employee is not eligible to telework based upon the duties of their current position.

VII. DEFINITIONS

Act of God – An act of God means an act of nature, including hurricanes, tornadoes, floods, wildfires, earthquakes, landslides, snowstorms, and avalanches ([Title 5, Code of Federal Regulations \(CFR\) § 630.1602](#)).

Ad Hoc Telework – Approved telework performed on an occasional, one-time, or irregular basis; it includes “situational” and “unscheduled telework.” An employee may be approved to telework on an ad hoc basis (not regular/recurring), but must have successfully completed the required DOC telework training or approved bureau/OU specific training via the [Commerce Learning Center \(CLC\)](#) or other system capable of tracking when employees have successfully completed the course. An employee must have a telework agreement in place before participating.

Approving Official – Designated by the head of each bureau/OU, the official authorized to approve individual telework agreements. In some cases, the approving official and the supervisor are the same person.

Alternative 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.

Domestic Employee Teleworking Overseas (DETO) – Overseas work arrangement where a Federal executive branch employee temporarily performs the work requirements and duties of their domestic Civil Service or Foreign Service (FS) position from an approved overseas location via a DETO Agreement. Employees have no authorization to telework from a foreign location without an approved DETO Agreement. DETO agreements are not needed for U.S. territories or possessions; however, the employee’s locality pay changes.

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 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/OU; **or** the employee performs on-site activities that cannot be performed at an alternative worksite.

ERG Member – Emergency Relocation Group member. A person (including alternates) who may be required to work during a Continuity of Operations (COOP) exercise or activation where they may report to an alternative site, or may be required to perform duties through telework, in order to perform agency essential function or other COOP required function(s).

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.

Evacuation Order – An agency may order one or more employees to evacuate their worksite and work from their homes (or alternative location mutually agreeable to the agency and employee) during a pandemic health crisis without regard to whether the agency and employee have a telework agreement in place when the order to evacuate is issued ([Title 5, CFR § 550.409\(a\)](#)). Under these circumstances, an agency may designate the employee’s home (or alternative location mutually agreeable to the agency and employee) as a safe haven, and provide evacuation payments to the employee. An agency must compute the evacuation payments, and determine the time period during which such payments will be made ([Title 5, CFR § 550.404](#)). An evacuated employee at a safe haven may be assigned to perform any work considered necessary or required to be performed during the evacuation period without regard to the employee’s grade/band, level, or title. The employee must have the necessary knowledge and skills to perform the assigned work. Failure or refusal to perform assigned work can be a basis for terminating evacuation payments, and disciplinary action. An evacuation order can be issued for up to 180 days and reissued if the situation still warrants one.

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. Bureaus/OU's should consider using hoteling or other office sharing arrangement for employees who telework 4 days a week or more in a pay period.

Mobile Worker – An employee who, by the nature of their duties, do not have a designated traditional physical worksite, and typically use their home as their duty station. Due to the nature of their work, they **are not** considered telework-ready employees.

Note: This is different from 'hoteling' arrangements, in which frequent teleworkers use shared space when they are working at their designated traditional worksite.

Official Duty Station – The location of an employee's position of record where the employee regularly performs their 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 pay area for pay purposes for General Schedule or equivalent employees. It also impacts other expenses such as relocation and travel expenses under the Federal Travel Regulations (FTR).

Official Time – Authorized by [Title 5, United States Code \(U.S.C.\) § 7131](#).

Operating Status Announcements – Are generally issued when weather or other emergency conditions prevent Federal employees from safely traveling to or safely performing work at an approved work location ([5 U.S.C. 6329c\(b\)](#)). The inability to safely travel to an approved work location may result in "closure" of a Federal office (i.e., closed to the public and non-emergency employees) for the full day or authorization of a delayed arrival. Authorization of early departure may be based on unsafe conditions at the work location or unsafe travel conditions affecting travel from the work location, both of which make it unsafe for the employee to continue to perform work at the location. Depending on the conditions that affect a workday, the various operating status announcements have different procedures and application to an employee's workday.

Regular/Recurring Telework – Telework occurs as part of an ongoing regular schedule such that the employee typically teleworks on the same day(s) and works at the traditional worksite on the other days during each biweekly pay period. Employees must receive supervisor/manager approval for the schedule (and any modifications to it), but do not need to obtain additional separate approval for each day they telework.

Remote Worker Within the U.S. – An alternative work arrangement by which an employee is scheduled to perform the duties and responsibilities of their position, and other authorized activities, from an approved alternative worksite (e.g., home, other alternative location) other than the employee's traditional worksite, either within or outside of the locality pay area of the traditional worksite and does NOT report to the traditional worksite on a regular/recurring basis each pay period. The duty station must be changed to the alternative worksite for pay purposes, relocation expenses, travel expenses, etc., and must be documented on the employee's SF-50,

Notification of Personnel Action, even if the alternative worksite is within the same locality pay area as the traditional worksite.

Note: All remote work outside the U.S. requires approval from the Department of State, Chief of Mission. See “DETO” definition.

Situational Telework – Includes ad hoc telework as well as “unscheduled telework.” It does NOT include regular/recurring telework.

Telework – Also known as “telecommuting,” it refers to a workplace flexibility arrangement under which an employee performs the duties and responsibilities of their position, and other authorized activities, from an approved worksite (e.g., home, other approved alternative location) other than the traditional worksite from which the employee would otherwise work ([5 U.S.C. § 6501\(3\)](#)), and reports to the traditional worksite on a regular/recurring basis of at least twice per biweekly pay period. The duty station of the employee remains the duty station of the traditional worksite.

Telework Agreement – A signed written agreement between the employee and their supervisor/manager which provides the terms of the telework arrangement and contains the requirements under Section XIII of this policy.

Telework-Ready Employee – An employee who occupies a telework-eligible position and has completed the required telework training; has a signed individual telework agreement; and has the necessary equipment, etc. at the alternative worksite to perform the duties and responsibilities of their position during their period of telework. This includes employees under a regular/recurring agreement and those under an ad hoc/situational agreement.

Temporary Duty (TDY) Location – A place, away from an employees’ official duty station, where the employee is authorized to travel.

Traditional Worksite – The physical location where the employee would work absent a telework arrangement.

Traditional Workers – Individuals who do not have a voluntary telework agreement and perform the duties and responsibilities of their position at the traditional worksite.

VIII. POLICY

The DOC recognizes that a well-managed, widely used telework program has the potential to lead to benefits such as: (1) improved marketability (as a more competitive and inclusive employer); (2) reduced commuting time (that can contribute to an improved quality of work/life balance); (3) cost savings (in areas such as recruitment and retention of employees); and (4) an improved Continuity of Operations Plan (COOP). The DOC supports and encourages 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.

The DOC telework policy allows for remote work, but emphasizes it is not an employee's right to remote work even if the duties/responsibilities of their position are conducive for this type of arrangement.

Close and ongoing communications between employees and management in all aspects of telework are essential for a successful work arrangement. The policy acknowledges that the employees and management are equally responsible for contributing to the success of the specific telework agreement.

The policy gives bureaus/OU's maximum flexibility to support telework on a day-to-day basis and in periods where the traditional worksite is unavailable or less available to part of the workforce.

A. General Policy

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

It is DOC policy to allow eligible employees to work at alternative worksites (i.e., home, or other approved location) in lieu of their traditional worksite during an agreed upon regular/recurring time of their regular tour of duty, or on an ad hoc/situational basis, if the employee meets the Act's eligibility criteria, the duties are conducive for teleworking, and the employee has an approved telework agreement in place. Supervisors/managers are encouraged to support telework for eligible employees of at least 4 days per biweekly pay period.

Employees who telework must report to the traditional worksite on a regular/recurring basis of at least twice each biweekly pay period to maintain the duty station of the traditional physical worksite for pay purposes etc., even if their alternative worksite is within the locality pay area of the traditional worksite.

To carry out this policy to the maximum extent, the bureaus/OU's must establish a Telework Implementation Plan (Plan) consistent with this policy, and file that Plan with the Office of Human Resources Management (OHRM). If a bureau/OU Plan is not filed, the bureau/OU will be considered as operating under the DOC policy.

An employee's decision to telework is voluntary unless telework is a condition of employment (i.e., the employee is designated as an "emergency employee"), or is required to perform an agency essential function or other required function(s) as part of a COOP team, or is issued an evacuation order. In these instances, an employee may be required to work at home or at another approved alternative worksite.

B. Types of Telework

There are two types of telework: (1) routine telework in which telework occurs as part of an ongoing, regular schedule; and (2) ad hoc/situational telework that is approved on a case-by-case basis, where the hours worked are not part of a previously approved regular/recurring telework schedule. This ad hoc/situational telework includes “unscheduled telework” in which DOC office(s) are open but under an “Unscheduled Telework” operating status announcement by the Office of Personnel Management (OPM) or other appropriate authority.

Teleworkers must report to the traditional worksite on a regular/recurring basis of at least twice each biweekly pay period regardless of whether their alternative worksite is within or not within the locality pay area.

C. Eligibility

All DOC employees (except USPTO and NOAA Commissioned Officer Corps) who meet the definition of “employee” as defined in [5 U.S.C. § 2105](#) are covered by the policy, in accordance with the Act.

Exceptions. Employees who occupy positions for which telework is permitted may telework under this policy as per the Act, unless they fall within the following categories:

1. The employee has been officially disciplined¹ for being absent without permission for more than 5 days in any calendar year. The days do not have to be consecutive, just within the same year. The offense could have occurred at any time during an employee’s employment with the Federal Government.
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 duties² (see 5 U.S.C. §§ 6502(a)(2)(A) and (B));
3. The performance of the employee does not comply with the terms of the telework agreement between the supervisor and that employee³ (5 U.S.C. § 6502(b)(3)).

¹ Definition of Officially Disciplined – A disciplinary action resulting in placement of a document in an employee’s Official Personnel Folder (OPF); the ban on telework participation remains in effect as long as the document stays in an employee’s OPF. A suspension or termination related to the items mentioned in PL 111-292 resulting in a document (SF-50) that permanently remains in the OPF would result in a permanent ban in telework participation.

² There are no exceptions for VIII.C.a.1 or VIII.C.a.2., above.

³ The length of this prohibition is up to the approving official.

Precluded Due to the Nature of Work of the Position. While employees may be eligible because they meet the above requirements, they may be precluded from teleworking if the official duties of the position require on a daily basis (i.e., every workday):

1. Direct handling of secure materials determined to be inappropriate for telework by the agency head.
2. On-site activity that cannot be handled at an alternative worksite; or
3. Being a mobile worker (not eligible for telework due to the nature of their work).

D. Teleworking and Care for Elders, Children, or Other Dependents

If the elders, children, or other dependents residing with a teleworking employee can care for themselves for part of the workday, then their presence at the alternative worksite would not interfere with the employee performing their duties and responsibilities. Teleworking employees who are responsible for caring for dependents at their home or other alternative worksite should coordinate with their supervisors to establish flexible schedules, to request appropriate leave, or to otherwise account for time spent engaging in dependent care.

E. Teleworkers, Traditional Workers Are Treated the Same for Certain Purposes

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.

F. 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. All employees are held accountable for the results they produce.

G. Performance of Teleworkers

An employee may not be authorized to telework if their performance does not comply with the terms of the telework agreement (5 U.S.C. § 6502(b)(3)).

H. Domestic Employees Teleworking Overseas

On June 7, 2016, the Department of State (DOS) distributed an Executive Secretary Memorandum, “Requirements for Executive Branch Employees Teleworking in Foreign Locations,” known as a DETO (Domestic Employee Teleworking Overseas) Agreement. Specifically, unless exempted by Presidential directive or legislation, Executive Branch Federal employees conducting official U.S. Government business in foreign countries are subject to the DOS’s Chief of Mission authority, and their presence at an overseas post must be preapproved from the Chief of Mission. Employees have no authorization to work from a foreign location without an approved DETO Agreement and Official Chief of Mission approval. DETO agreements are not needed for U.S. territories and possessions; however, the employee’s locality pay changes.

There are two types of DETOs: 1) Sponsored DETO – when a DOC employee is on U.S. Government orders of a spouse or partner; 2) Individual DETO – when a DOC employee is NOT on a U.S. Government order of a spouse or partner.

It is DOC policy that **only Sponsored DETO Agreements** will be considered, and the DETO must not incur any additional costs to the bureau/OU than it would otherwise cost for the employee to work at their normal location. Individual DETOs are not authorized. Before submitting a request for a Sponsored DETO to the DOS, the request must be approved by the Office of the Chief Information Officer (OCIO), the Office of Security (OSY), Employment and Labor Law Division/Office of the General Counsel, and OHRM.

Once DOC approvals are provided, the Head of the Bureau/OU must submit a request to the Director, requesting the DETO be submitted to the DOS for approval, along with the DOC approvals, the signed DETO Agreement, and the employee’s position description or statement of duties. OHRM will draft a memo to the Executive Director of the DOS Regional Bureau. Upon approval of the Executive Director of the DOS Regional Bureau, the DOS will send the request to the Chief of Mission. Only after Chief of Mission approval, the employee submits a request through either the NSDD38 electronic system (for DETOs of 1 year or more), or through the e-country clearance system (for DETOs of less than 1 year).

The overseas duty station (overseas alternative worksite) must be documented on their SF-50, Notification of Personnel Action. Locality pay is only for the lower 48 states and Washington, D.C., plus Alaska, Hawaii, and the U.S. territories and possessions. DETO employees are not eligible for locality pay; they receive their appropriate GS/equivalent base pay. They are also not eligible for danger pay, or any other pay entitlements that a non-DETO employee would receive if assigned to the same overseas area.

The Department of State’s policy that can be used as a guide is 3 Foreign Affairs Manual (FAM) 2370.

I. Pay and Leave

1. Locality Pay. An employee's locality rate of pay is based on the employee's official duty station and is determined in accordance with [5 CFR § 531.604\(b\)](#). The bureau/OU must determine and designate the official duty station for an employee covered by a telework agreement using the criteria in VIII. N., below.
2. Premium Pay. The same premium pay rules apply to employees when they telework as when they work at the traditional physical worksite.

Telework-ready employees who perform work while under an Operating Status of *closed*, *delayed arrival*, *early departure*, etc. 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.

3. Leave. The same leave regulations apply to employees when they telework as when they work at the traditional physical worksite. Employees must follow the same procedures as non-telework employees for requesting and obtaining leave approval, in compliance with their office procedures, or the terms of an applicable CBA.

J. Weather and Safety Leave

OPM's weather and safety leave regulations, implementing the provision of [5 U.S.C. § 6329c](#), the Administrative Leave Act of 2016, section (b), "Leave for Weather and Safety Issues," states that all telework program participants will be ineligible for weather and safety leave when a closure is announced except in rare circumstances when one of the exceptions under [5 CFR § 630.1605\(a\)\(2\)](#) is applicable, as such:

1. Bureaus/OUTs cannot provide weather and safety leave to a telework-ready employee who is able to continue working safely at an approved telework site during severe weather or other emergency situations. Generally, telework-ready employees will not receive weather and safety leave, since they are not usually prevented from performing work at an approved location due to a weather or other safety-related emergency.
2. Written agreements must indicate, in accordance with bureau/OU policy and any applicable CBAs, that telework-ready employees are required to telework from their alternative worksite, if their alternative worksite is their home, when their traditional worksite is closed by other than Federal law/Executive order. Telework-ready employees must follow their written agreements.
3. On a case-by-case basis, the supervisor should excuse a telework-ready employee from duty without charge to paid personal leave or loss of pay during an emergency, if the employee is prevented from working when: (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 they cannot continue to work without contact with individuals at the regular worksite, and those individuals are not present.

4. If the telework-ready employee faces a personal reason that prevents them 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 also may request to change their alternative work schedule, if applicable.
5. 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 bureau/OU's emergency plan, and the bureau/OU's "operating status" during the emergency.
6. As with traditional worksite employees, telework employees may not receive weather and safety leave for hours during which they are on other preapproved leave (paid or unpaid) or paid time off ([5 CFR 630.1606\(c\)](#)).

K. Operating Status Announcement and Telework

In the Washington, D.C. area, OPM-issued operating status announcements apply to employees working in all executive agencies with offices located inside the Washington Capital Beltway. Employees working in offices located outside of the Washington Capital Beltway must follow the operating status announcements issued by their bureau/OU. While Federal Executive Boards (FEBs) do not cover the entire United States, FEBs are currently located in 28 metropolitan areas that are major centers of Federal activity. In these areas, the FEB provides up-to-date, accurate, and consistent information so Federal field office heads can make informed decisions on operating status announcements for their employees in those areas.

1. Unscheduled Telework. This type of telework allows telework-ready employees to work from home or at an approved alternative location upon notification to their supervisor in accordance with the terms of the written agreement, and/or applicable CBA.
2. Federal/DOC Offices Are Closed. Telework-ready employees working from home must work when Federal/DOC offices in their local commuting area are closed (other than for Federal holidays or holidays declared by Executive order), even if it is not the employee's regularly scheduled telework day. Telework-ready also includes employees under an ad-hoc/situational telework agreement. However, on a case-by-case basis, weather and safety leave may be provided if the employee is unable to continue working. (See Section VIII.K.3 above.)
3. Early Dismissal/Delayed Arrival. Teleworkers working from their homes, are not dismissed from duty for any part of the workday. However, on a case-by-case basis, supervisors may grant weather and safety leave for all or part of the day if the employee is unable to continue working. (See Section VIII.K.3 above.)

L. Emergency at the Alternative Worksite

When an emergency affects only the alternative worksite for a major portion of the workday, the telework-ready employee is expected to report to the traditional worksite, or to another approved alternative worksite, or request approval of paid personal leave, as applicable (i.e., annual, compensatory time, compensatory time off for travel, credit hours, etc.). However, on a case-by-case basis, the supervisor may grant an appropriate form of excused absence if the employee is unable to continue working. (See Section VIII.K.3.)

M. The Official Duty Station

The location of an employee's position of record where the employee regularly performs their 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 approved by their supervisor/manager. An employee's official duty station determines the appropriate locality pay area for pay purposes for General Schedule or equivalent employees ([Title 5, CFR § 531.605](#)). It also impacts other expenses such as relocation and travel expenses under the FTR.

1. Documentation. The official duty station must be documented on the employee's SF-50, Notification of Personnel Action.
2. Temporary Details. There is no change to the official duty station for employees temporarily detailed to a position in a different location without a change in the permanent position of record. They maintain the locality pay area of the permanent position of record. For additional information on official duty stations, please see http://www.opm.gov/oca/pay/html/Official_Duty_Station.asp.

N. Determining the Official Duty Station

The official duty station is the location of the traditional worksite as long as the employee physically reports to the traditional physical worksite at least **twice each biweekly pay period** on a regular/recurring basis.

1. The official duty station is the alternative worksite (i.e., home or other alternative worksite) if the employee does NOT report at least twice each biweekly pay period on a regular/recurring basis to the traditional worksite. When an employee does not report to the traditional worksite at least twice each biweekly pay period on a regular/recurring basis, the employee is not considered to be a teleworker, but is instead considered to be a remote worker. This is true even if the alternative worksite is within the same locality pay area as the traditional worksite.
2. If a telework employee with a varying work location works at least twice each biweekly pay period on a regular/recurring basis in the same locality pay area where the traditional worksite is located, the employee **does not** have to report twice each biweekly pay period to the traditional worksite to maintain the locality payment for that area.

Note: Employees in the Senior Executive Service (SES) do not receive locality pay. Therefore, there are no pay implications if the SES employee works the entire 80 hours of the pay period in a different locality pay area than their official duty station. That employee would continue to receive the same pay.

O. Exception to a Change in the Duty Station Rule for a Temporary Situation

In certain temporary situations, a bureau/OU may continue to designate the location of the traditional worksite as the official duty station of a teleworker, even though the employee is not able to report to the traditional worksite at least twice each biweekly pay period on a regular/recurring basis.

Note: The fact that an employee may receive lesser pay or benefits if the official duty station is changed to the temporary worksite location is not a basis or justification for using this exception.

The intent of this exception is to address temporary situations in which an employee is expected to return to their regular worksite when the temporary situation or agreed upon time period has concluded.

In making these determinations, supervisors/managers need to consider pay equity between the employee receiving this exception and other employees who are working in the same locality pay area as either their traditional worksite location or their permanent alternative worksite location.

The temporary exception should generally be used only in cases where: (1) the employee is expected to return to their regular worksite (i.e. traditional worksite) in the near future, or (2) the employee is expected to continue working at the temporary worksite but will be able to report to the regular worksite at least twice each biweekly pay period on a regular/recurring basis in the near future. Examples of appropriate temporary situations include:

- Recovery from an injury or medical condition;
- Emergencies that prevent an employee from regularly commuting to the traditional worksite or working at their alternative worksite, such as in a severe weather emergency or a pandemic health crisis. (For instance, in the aftermath of a hurricane or flood, an employee may be forced to temporarily relocate, making commuting to the regular worksite twice each biweekly pay period on a regular/recurring basis not possible. If the employing bureau/OU sets up telework arrangements for the employee, a temporary exception to the twice-a-pay-period requirement would be appropriate.);
- An extended period of approved absence from work (e.g., paid leave);
- A period in which the employee is in TDY status away from their regular worksite; or
- A period during which the employee is temporarily detailed to work at a location other than their regular worksite.

P. Establishing the Work Schedule

Work schedules identify the days and times an employee will work while teleworking in the same manner as identified for working at the traditional worksite. Normally, telework work schedules parallel those at the traditional worksite; however, they can differ to meet the needs of

the organization and participating employees' needs. Work schedules may also include fixed times during the day for supervisor–employee telephone conversations, team meetings, etc. that may be helpful to ensure ongoing communication, and should be similar to the basic level of interaction with those at the traditional worksite. For additional information on hours of duty, please visit DOC's "[Alternative work schedules](#)."

IX. THE BUREAU/OPERATING UNIT TELEWORK IMPLEMENTATION PLAN

Prior to implementing a bureau/OU telework program, the bureau/OU must submit a Telework Implementation Plan (Plan) to OHRM for compliance review/approval. If a bureau/OU Plan is not filed, the bureau/OU will be considered as operating under this DOC Telework Plan.

Each bureau/OU Plan must:

1. Indicate that the Telework Assessment Tool (See Appendix A) is a tool for use by the appropriate management official and the employee in helping to determine the appropriateness of the employee teleworking. It should be provided to employees prior to their submission of a request to telework.
2. Indicate that the duration of the written agreement is to be established by the employee and the approving official. The agreement must include the duration of the individual telework agreement.
3. Encourage supervisors/managers to permit telework-ready employees to telework on a regular/recurring and/or situational basis for at least 4 days per biweekly pay period. Each situation must be evaluated on the unique facts of the situation.
4. Indicate procedures for notifying each employee of their eligibility or ineligibility to telework. All employees are assumed eligible to telework unless they 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. Such determinations must be made position-by-position, based on the duties of the position and the needs of the service.
5. Advise employees that agreeing to an individual telework agreement is voluntary unless telework is a condition of employment (emergency or COOP designation). Note: There are situations when an employee without a telework agreement may be required to work from an alternative work site (e.g., home) such as under evacuation orders⁴. This is not considered telework under the terms of this policy. Under an evacuation order, the employee may be required to do any work for which the employee is qualified.
6. Require the agreement to provide that an employee may not be authorized to telework if their performance does not comply with the terms of the agreement between the

⁴ See Section VII, Definitions, "Evacuation Order."

approving official and themselves.

7. Require the agreement to stipulate that the employee must be performing at the Fully Successful (or equivalent) level or better to telework. This can be assumed to be true for employees without a DOC rating of record; however, once they receive a rating of record, the Fully Successful or equivalent level or better must be met to continue teleworking.
8. Advise telework-ready employees they are required to work when their traditional worksite is closed for reasons other than a Federal holiday or Executive order, even if it is not their regular telework day.
9. Establish a communications process to notify employees designated as COOP emergency relocation group (ERG) members or “emergency” personnel about telework flexibilities.
10. Establish and include a process for approving telework arrangements (e.g., applications, approval levels, timelines for approval/denial, training requirements, and written agreements).
11. Identify process for changing/modifying telework arrangements (schedules or locations).
12. Require the employee to successfully complete the required training prior to approval of their written agreement.
13. Bureaus/OU's may use Telework Fundamentals for Managers and/or Telework Fundamentals for Employees as the required training. Bureaus/OU's may also develop their own interactive telework training programs consistent with Department policy. The programs must permit the tracking of all students who take the course by showing when the course was taken, the name of the student, and the date of successful completion. Although prior clearance and approval are not required, the bureau/OU **must** submit the program to OHRM for oversight purposes.
14. Require an employee wishing to telework to sign an agreement that includes all the mandatory requirements listed in XIII.A and any other conditions agreed to by the supervisor and employee, or consistent with the terms of an applicable CBA. Describe the process for obtaining authorization and the level of authorization required for the expenditure of funds to cover expenses associated with approved telework arrangements.
15. State that 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.).
16. Require that all hours teleworked be recorded under the appropriate telework category each pay period in the designated time and attendance system.
17. Include a process for providing orientation and training for new telework-ready employees and their supervisors regarding policy, bureau/OU specific programs, and their responsibilities.

18. Specify how to contact the bureau/OU telework coordinator.
19. Include language indicating that all employees designated as “emergency” or with COOP responsibility, must have an approved individual telework agreement.
20. Include bureau/OU information technology (IT) and cybersecurity guidelines.
21. Establish procedures for administering and evaluating the telework program.

X. ACCOMMODATIONS FOR EMPLOYEES WITH DISABILITIES

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

As governed by Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 et. seq., the Rehabilitation Act and [DAO 215-10](#), the determination as to whether an employee may be granted telework as a reasonable accommodation due to a disability should be made through the Reasonable Accommodation Coordinator, the employee’s first-line supervisor, and the employee.

XI. MANDATORY TELEWORK TRAINING

A. Approving Officials Complete Telework Training

All approving officials must successfully complete the appropriate DOC-approved training programs prior to approving a written telework agreement.

B. Employees Complete Telework Training

All employees who want to telework must successfully complete the appropriate DOC-approved training before approval of their written agreement. Upon successful completion of the training, the employee must provide proof of successful completion of the course to their approving official.

C. Employees Complete Security Training

All employees are required to complete all mandatory IT security training, including the annual training.

XII. PREPARING FOR THE INDIVIDUAL TELEWORK AGREEMENT

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

A. Employee Submits a Completed Telework Agreement

The interested employee submits a completed telework agreement and telework safety checklist in accordance with their bureau/OU policy or the terms of an applicable CBA. (See Appendix B, “Telework Application and Agreements” for a sample template, and Appendix C, “Telework Safety Checklist”).

B. Employee and Supervisor Discuss Proposed Telework Agreement

The employee and supervisor/manager discuss the proposed agreement and communications (phone calls, emails, virtual meetings, etc.) between the employee and supervisor/manager.

XIII. INDIVIDUAL TELEWORK AGREEMENTS

The written agreement provides the framework for the discussion that needs to take place between the employee and the supervisor/manager before the employee signs the agreement.

A. Mandatory Requirements

1. Indicate the duration of the agreement in the written agreement.
2. All written agreements must contain a notice clearly informing the employee they are required to telework whenever their traditional worksite is closed (other than for Federal holidays or Executive orders), even if it is not their regularly scheduled telework day.
3. All written agreements must contain notification that when the appropriate authority announces, “Unscheduled Leave” or “Unscheduled Telework,” telework-ready employees may elect either option by notifying their supervisor consistent with the employee’s written agreement or the terms of an applicable CBA. Employees are to be reminded that if they elect to perform unexpected telework, they must have a sufficient amount of work to complete in their period of telework. If the employee does not have enough work, they may either take unscheduled leave for the entire workday or use unscheduled leave to account for hours not worked.
4. The agreement must provide that an employee is not authorized to telework if their performance does not comply with the terms of the written telework agreement.
5. The purpose of the telework may not be to perform official time.⁵ The employee must

⁵ See Section VII, Definitions, “Official Time.”

first be performing management-assigned duties before any official time request can be considered. The agreement must set forth the expectations, i.e., management-assigned work, agreed upon by management and the employee, so the employee has prior knowledge of these expectations.

6. Management may find it necessary to require a non-emergency, telework-ready employee to report for an assignment that requires presence at the worksite (e.g., providing a presentation or performing administrative duties at a pre-scheduled conference). This should not be a last-minute surprise, but a special work circumstance that both the supervisor and employee know about, discuss, and plan in advance as the special work requires.
7. Days may be specified or flexible due to business necessity or an employee's request. Hours to be worked are to be annotated and in accordance with the traditional worksite reporting times.
8. Clarify any assumptions regarding work locations (e.g., if expected to work from home only) as well as frequency and modes of communication (e.g., email vs. telephone, core hours for contact, speed of returning calls).
9. Be clear if the employee is designated as an "emergency employee" or part of COOP and expected to work during a COOP event such as a national or local emergency, or a COOP exercise. All COOP and ERG members must have a telework agreement on file and be prepared to telework at any time.
10. Outline any additional requirements (technology, specific software, data security, etc.)

B. Modifications and Termination

1. Telework is a workplace flexibility (unless designated as a condition of employment), not a legal right and does not change the terms and conditions of employment. The operational needs of the bureau/OU are paramount; 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 their performance does not comply with the terms of the written agreement between the approving official and the employee.
2. Management 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 approving official, and provided to the employee. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.
3. The employee may request to modify the current agreement (e.g., change the regular teleworking day) by submitting a new Telework Application/Agreement and Modification of Telework Agreement with only the requested change indicated.

XIV. TERMINATION OF AGREEMENTS AND APPEALS PROCESS

A. Telework Requests and Agreements May Be Denied or Terminated

Telework requests and agreements may be terminated or denied by the approving official in accordance with the terms of an applicable CBA and as long as the denial or termination decision is based on operational needs, conduct, or performance in accordance with the law and any applicable CBAs, not personal reasons or mere managerial preferences. (See Appendix D, “Optional Telework Termination Form”)

B. Immediate Denial

The approving official must immediately deny or terminate the agreements as applicable, if the employee fails to be eligible due to 5 U.S.C. §§ 6502(A)(2) or (B)(3).

C. Written Justification

The approving official 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 their chance of future approval. Approving officials are to provide employees, and maintain copies of, signed written denials or terminations of telework agreements.

D. Termination by the Employee

An employee may terminate their written telework agreement by written notice to the approving official.

E. Administrative Grievance Procedures

Telework-ready employees not covered by a negotiated grievance procedure must use the administrative grievance procedure in [DAO 202-771, “Administrative Grievance Procedure,”](#) to appeal issues relating to their telework status or other telework matters.

F. Negotiated Grievance Procedure (NGP)

Employees covered by an NGP that does not specifically exclude this matter must use the applicable NGP.

G. Discrimination

Employees who believe they are the victims of prohibited discrimination may utilize the Equal Employment Opportunity Commission's complaint procedures or the applicable negotiated grievance procedures (NGP), as appropriate.

XV. PROGRAM OVERSIGHT AND RESPONSIBILITIES

A. Office of Human Resources Management (OHRM)

OHRM is responsible for oversight of the Department of Commerce Telework Plan and for any reporting requirements to OPM. OHRM will review and monitor the various plans to ensure consistency across the bureaus/OU's with implementing the program.

B. Bureau/Operating Unit (OU)

Each bureau/OU is responsible for the development, funding, administration (including providing a designated Telework Coordinator), operation, and evaluation of its telework Plan. The evaluation should be accomplished in collaboration with the exclusive representative, if any. Each bureau/OU will develop a telework Plan consistent with this broad DOC Telework Policy and submit it to OHRM for compliance review/approval. When a bureau/OU lacks a telework Plan, the bureau/OU will be covered under the DOC's Telework Policy.

C. Supervisors/Managers

Supervisors/managers are responsible for the overall management and success of teleworking in their work units, including day-to-day operations. They are encouraged to permit employees to telework on a regular/recurring and/or situational basis for at least 4 days per biweekly pay period when requested by eligible employees. Each request must be evaluated on the unique facts of the situation, the duties of the position, the needs of the office, budget implications, etc. Telework-ready employees and their approving officials are responsible for annually reviewing the written agreement to ensure it is current. The date of the review must be documented.

D. Telework Managing Officer (TMO)

The TMO shall be an SES official of the DOC with direct access to the Secretary of Commerce, and who has policy and program oversight of the DOC-wide telework program. The TMO serves as an advisor for DOC leadership.

E. Telework Program Manager (TPM)

The TPM shall be located in OHRM, and is a resource for Telework Coordinators, supervisors, approving officials, and employees. The TPM is responsible for responding to all inquiries from bureaus/OU's, and from other organizations such as OPM and the Office of Management and

Budget (OMB). The TPM will maintain and forward data from all bureaus/OUs to the TMO, including an explanation of whether or not the bureau/OU is working satisfactorily toward the requirements detailed in this policy and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework.

F. Telework Coordinators (TC)

The TCs provide bureau/OU policy and procedural guidance as well as advice and assistance to their bureau/OU-level personnel tasked with policy and implementation plan development. In addition, they work with senior-level managers in establishing and obtaining bureau/OU telework goals, objectives, and reporting requirements. The TC will, in partnership with the approving official and the exclusive representative, if applicable, establish a procedure for notifying each employee of their eligibility or ineligibility to telework, and coordinate a process for approving and tracking telework arrangements. The TC will answer questions and provide guidance to employees and supervisors as well as an orientation for new teleworkers. The TCs will develop and maintain a reporting system that captures telework participation, terminations, and denials. The TCs are responsible for providing the following information to the TPM upon request:

1. The degree of participation by employees of each bureau/OU during the period covered by the report.
2. The method for gathering telework data in each bureau/OU.
3. The reasons for positive or negative variations in telework participation if the total number of employees teleworking is 10 percent higher or lower than in the previous year of the reporting activity.
4. The bureau/OU goal for increasing telework participation if applicable.
5. An explanation of whether a bureau/OU met its established goal(s) for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers.
6. An assessment of progress made in meeting participation rate goal(s) and other telework goal(s) (i.e., the impact of telework on recruitment and retention, performance, etc.).
7. A description of best practices, if applicable.
8. A central file of all approved written agreements for the bureau/OU.

XVI. REPORTING REQUIREMENTS

The bureau/OUTs, via their TC, are required to respond to TPM requests for a variety of reporting requirements/initiatives. Below is information that might be requested, though it is not inclusive.

1. The degree of participation by employees of each bureau/OU teleworking during the period covered by the report.
2. The method for gathering telework data in each bureau/OU.
3. The reasons for positive or negative variation in telework participation if the number of bureau/OU employees teleworking is 10 percent higher or lower than in the previous year.
4. The bureau/OU goal for increasing telework participation to the extent practicable or necessary.
5. An explanation of whether or not a bureau/OU met its goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers.
6. An assessment of the progress made in meeting bureau/OU 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.
7. Best practices in the bureau/OU.

XVII. IT SECURITY REQUIREMENTS FOR TELEWORK-READY EMPLOYEES

Telework-ready employees must abide by the IT security requirements conveyed in the Commerce Information Technology Security Program Policy, Commerce Information Technology Requirements, Frequently Asked Questions, and IT Security Policy memos. The Telework Agreement signed by the telework-ready employee and their supervisor may describe additional security requirements. DOC IT security documentation can be found at:

http://home.commerce.gov/CIO/ITSITnew/IT_Security_Program_Documentation.html

Telework-ready employees must abide by bureau/OU-specified IT security requirements.

Supervisors are responsible for ensuring that telework-ready employees agree to comply with all existing IT security requirements and to ensure that employees are accountable.

XVIII. POLICY ON INFORMATION TECHNOLOGY SECURITY

The DOC's CIO is responsible for issuing and maintaining IT and eGov policies and minimum implementation standards, including remote access and safeguarding of sensitive information. These policies and minimum implementation standards outline responsibilities of bureau/OU CIOs as well as teleworkers to enable an effective working environment for the teleworker and

the protection of DOC systems from undue risk. Operating unit CIOs, with the support of their IT security officers, are responsible for establishing teleworking IT security procedures specific to their bureau/OU and providing secure telecommuting resources and operational controls commensurate with the sensitivity of the data processed (along with policies and minimum implementation standards provided by the CIO). The DOC's policy on remote access is at https://connection.commerce.gov/sites/connection.commerce.gov/files/media/files/2014/citr-008_remote_access.pdf

Supervisors are responsible for ensuring that telework-ready employees agree to comply with all existing security policies and procedures, including IT security. Telework-ready employees also agree that their responsibilities, described in Section 3.3.9 of the DOC's "IT Security Policy and Minimum Implementation Standards," remain in effect while on telework status. Other pertinent bureau/OU policies on IT security may also exist; supervisors are responsible for ensuring that telework-ready employees agree to follow all applicable policies.

The workplace and workstation must be set up to accomplish secure information processing, including the proper storage of Sensitive Information in both electronic and paper form. The telework-ready employee, following bureau/OU policies, must minimize security vulnerabilities to the workstation and the DOC network.

XIX. PROTECTING THE SECURITY AND CONFIDENTIALITY OF RECORDS

All telework-ready employees must ensure that records subject to the Privacy Act of 1974, or which have sensitive Personally Identifiable Information (PII) or Business Identifiable Information (BII), are not disclosed to anyone except those who have been authorized access to such information to perform their duties. Bureaus/OUTs must ensure that appropriate physical, administrative, and technical safeguards are used to protect the security and confidentiality of such records.

A. Disclosure of Records from an Agency System of Records

1. Telework-ready employees are responsible for ensuring that their disclosure of a record (information) from any agency system of record complies with the Privacy Act of 1974.
2. The Privacy Act of 1974 defines a 'system of records' as a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Department of Commerce system of record notices (SORNs) are posted at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=PAI&browsePath=2005&isCollapsed=false&leafLevelBrowse=false&yrcord=0>.
3. The Privacy Act of 1974 prohibits the disclosure of a record (information) from an agency system of record that is not identified as a routine use in that system's SORN, does not comply with an exemption identified in the SORN, or does not comply with 1 of the 12 exceptions to the non-disclosure-(to third parties)-without-consent rule.

4. A Privacy Act incident occurs when an officer or employee of the agency, who by virtue of their employment or official position, has possession of or access to agency records that contain individually identifiable information, the disclosure of which is prohibited by [5 U.S.C. § 552a](#) (or regulations established thereunder), and discloses the material in any manner to any person or agency not entitled to receive it. Knowing misuse or release of information protected by the Privacy Act of 1974 can subject an employee to fines and/or criminal sanctions.
5. Telework-ready employees must immediately report a suspected or confirmed Privacy Act incident to their bureau/OU privacy officer or the Computer Incident Response Team (CIRT) and immediate supervisor.

B. Proper Handling of PII and BII

1. Telework-ready employees are responsible for the safeguarding of PII and BII.
2. PII is information that can be used to distinguish or trace an individual's identity, such as name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information, which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. Sensitive PII, if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual.
3. Types of PII considered sensitive when associated with an individual are: social security number (including truncated form), place of birth, date of birth, mother's maiden name, biometric information, medical information (except brief references to absences from work), personal financial information, credit card or purchase card account numbers, passport numbers, potentially sensitive employment information (e.g., personnel ratings, disciplinary actions, and results of background investigations), criminal history, and any information that may stigmatize or adversely affect an individual. The DOC's IT Privacy Policy provides that breaches of sensitive PII are subject to notification/reporting requirements.
4. When deciding whether PII is sensitive or non-sensitive, it is important to consider the type of information, obligations, or expectations regarding the protection of information, risk (probability and consequences) of loss or compromise of information, and context of information. Context is particularly important. The same types of information can be sensitive or non-sensitive depending upon the context. For example, a list of names and phone numbers for the Department softball roster is very different from a list of names and phone numbers for individuals being treated for an infectious disease. It is important to use good judgment when deciding whether PII is sensitive or non-sensitive. When in doubt, treat PII as sensitive.
5. The Department's policy states that if sensitive PII must be electronically transmitted, it must be protected by secure methodologies such as encryption, Public Key Infrastructure, or secure socket layers. Federal Information Processing Standards (FIPS) Publication 140-2, "Security Requirements for Cryptographic Modules" provides the standard to

which encryption methodologies must conform. The transmission of sensitive PII, even if protected by secure means, must be kept to a minimum. Check with your bureau/OU's Office of the Chief Information Officer to determine methods or services they are using to support the electronic transmission of sensitive PII.

6. In addition to sensitive PII, telework-ready employees must ensure the safeguarding of BII. BII is information that is defined in the Freedom of Information Act as "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." "Commercial" is not confined to records that reveal "basic commercial operations" but includes any records (information) in which the submitter has a "commercial interest" and can include information submitted by a non-profit entity. Terms for BII that must be protected from disclosure include "confidential business information," "confidential commercial information," and "proprietary information."
7. Sensitive PII and BII can be stored on Government systems only, and saved, stored, or hosted only on DOC-authorized equipment (including contractor-owned equipment or a system that is approved to be used as a Government system). Computers that are personally-owned may not be used to save, store, or host sensitive PII and BII that is collected or maintained by the Department.
8. Sensitive PII and BII must be sent encrypted as an email attachment and encrypted on mobile computers, media (e.g., CDs, DVDs, USB drives), and devices (e.g., laptops, hard drives). When faxing sensitive PII and BII, an advisory statement about the contents must be included on the cover sheet, and the recipient must be notified immediately before and after transmission. Exception: According to the Commerce Acquisition Manual (CAM) 1313.301, cardholders shall not transmit credit card information over a facsimile machine. When mailing sensitive PII and BII, it must be physically secured when in transit. Do not mail or send by courier sensitive PII and BII on CDs, DVDs, hard drives, flash drives, USB drives, floppy disks, or other removable media unless the data is encrypted. Sensitive PII and BII must be sealed in an opaque envelop or container and mailed using First Class or Priority Mail, or a commercial delivery service (e.g., Federal Express or DHL). Appropriate methods must be used to destroy sensitive paper PII and BII (e.g., shredding, using a burn bag) and securely delete sensitive electronic PII and BII (e.g., empty the Windows recycle bin).
9. Telework-ready employees and supervisors are responsible for complying with all bureau/OU guidelines on reporting PII and BII incidents. The OMB Memorandum M-07-16 defines a PII incident as the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users, and for other than authorized purpose(s), have access or potential access to PII, whether physical or electronic. Telework-ready employees must immediately report a suspected or confirmed PII and BII incident to their bureau/OU privacy officer or CIRT and immediate supervisor.

XX. PRIVACY ACT, SENSITIVE, AND HIGHLY SENSITIVE INFORMATION

A. Decisions on Proper Use and Handling of Sensitive Information.

These decisions will be made by the approving official who permits the employee to work at home or another alternative worksite. A telework agreement will be signed by the employee and their approving official that contains the specific data types allowed to be accessed. Information is generally categorized into the following groups: Non-Sensitive Information; Sensitive Information; and Classified National Security Information.

B. Physical Security Standards

The physical security standard for PII and other Sensitive and Administratively Controlled Information must be addressed prior to allowing telework. Chapter 35 of the OSY Security Manual provides minimum physical security standards for the office environment that are also applicable during telework. At a minimum, Controlled Unclassified Information (CUI), including PII, should be afforded protection to prevent unauthorized access of the information.

C. Controlled Unclassified Information (CUI) Registry

The National Archives and Records Administration's CUI Office developed the CUI Registry, which allows anyone to access the Safeguarding and Dissemination requirements for CUI that must be afforded to information like PII (privacy) and other unclassified information. The registry may not be all inclusive, as only those categories of unclassified information that have a law, regulation, or Government-wide policy governing dissemination and/or safeguarding are provided. Therefore, any Sensitive and Administratively Controlled Information in hard-copy form that does not fall within the parameters of the manual, or the registry, should be brought to the attention of the Information and Personnel Security Division of the OSY.

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.

Controlled Unclassified Information, established by Executive Order 13556, is legally protected and covered under the Sensitive Information category.

D. Highly Sensitive Information

This information is subject to the most stringent security and access control rules, such as courier authorization, hand-to-hand transmission, or agency-specific rules not included in the DOC telework policy. Classified information that requires Secret or Top Secret security clearances for protecting national security information is included in this category. Classified information (Confidential, Secret, or Top Secret) may only be transmitted or removed from official worksites

by classified networks or authorized official couriers. This type of information may not be used or accessed in any manner by teleworkers.

XXI. EMERGENCY EMPLOYEES AND COOP TEAM MEMBERS

Employees designated as an “emergency” employee and those designated as a COOP ERG or other COOP team member may be required to report to the traditional worksite, an alternative work site, or telework from home, based on the nature of the emergency.

These employees 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. COOP team members may also be required to perform duties outside of their usual or customary duties to ensure continuation of agency-essential missions or activities.

If an employee is designated as an “emergency” employee, or COOP ERG, or other member, the supervisor, along with the employee, should make advance and/or situational decisions as to whether the employee must physically report for duty at the traditional worksite, or may work from home or another approved 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 could 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 alternative site (i.e., the COOP site).

During any period that the DOC is operating under a designated COOP event, including an exercise, the COOP plan shall supersede any telework policy (Public Law 111-292 Section 6504(d)(2)).

APPENDIX A: 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.

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

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

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

Application

Modification

APPENDIX B:

**SAMPLE TELEWORK APPLICATION/AGREEMENT AND MODIFICATION OF
TELEWORK AGREEMENT (Agreement)⁶**

SECTION I – TO BE COMPLETED BY THE EMPLOYEE

Date of Request: _____

Proposed Start Date: _____

Employee Name: _____

Organization: _____ Telephone: _____

Grade or Pay Band: _____

Supervisor's Name and Title: _____ Telephone: _____

Address, Telephone, and Description of Alternate Worksite: _____

Equipment Needed to Perform Work at Alternate Worksite: _____

Type of Telework: [] Regularly Scheduled [] Situational [] For COOP/Emergency
Purposes

Annual Review of Agreement Date: _____

Termination Date of Agreement, if applicable: _____

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

Telework Days at Alternate Worksite: _____

Identification of specific data types allowed to be accessed: _____

[] I acknowledge that I will not be authorized to telework if my performance does not comply with the terms of the agreement between management and me.

[] I understand that I must perform at the Fully Successful or higher (or equivalent) level in order to telework.

⁶ The written agreement must outline the specific work arrangement that is agreed to in 5 U.S.C. § 6502(b)(2)(a)

I certify that I have completed an approved interactive telework training program authorized by my bureau, the Telework Safety Checklist, and the Telework Assessment Tool.

I understand that I can only care for elders, children, or other dependents residing with me while I telework if the dependent(s) can care for themselves for part of the workday and their presence at my alternative worksite does not interfere with me performing my duties and responsibilities. I agree to coordinate with my supervisor to establish a flexible schedule, to request appropriate leave, and/or to otherwise account for time spent engaging in dependent care.

I understand that I 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.

When unscheduled leave or telework is announced by the appropriate authorities, I understand that the election is mine but I must notify my supervisor. However, in rare situations, I am aware that management may deny my (a “non-emergency” employee) unscheduled leave/telework and require me to report for an assignment that requires my presence, and management has discussed this with me in advance of the situation giving rise to unscheduled leave/telework.

Employee’s Signature and Date: _____

Appendix: B (Continued)

SECTION II – TO BE COMPLETED BY THE APPROVING OFFICIAL

Approved: [] Disapproved: [] Reason Not Approved: _____

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: _____

Alternate Worksite Costs – The employee understands that the Government will not be responsible for any operating costs associated with the use of the employee's home as an alternate 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 alternate 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 alternate worksite. The applicant agrees to notify his/her supervisor immediately of any accident or injury that occurs at the alternate 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 Section **XX. PRIVACY ACT, SENSITIVE, AND HIGHLY SENSITIVE INFORMATION** of the DOC Telework Plan.

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 C: TELEWORK SAFETY CHECKLIST

This checklist is to be completed only if the proposed alternate worksite is in a private residence. This checklist is designed to assess the overall safety of the designated work area of the alternate 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 Alternate Worksite: _____

Describe the Designated Work Area:

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

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

Applicant's Signature and Date: _____

APPENDIX D: OPTIONAL TELEWORK TERMINATION FORM

The telework option is a privilege and not an employee right. As such, it falls under the supervisor’s discretion to determine how work should be accomplished with the organization. Termination of 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: _____