

INFORMATION MEMORANDUM FOR DEPARTMENT LEADERSHIP ON RETURN TO OFFICE

FROM: Don Graves, Deputy Secretary of Commerce
DATE: Tuesday, March 22, 2022
RE: **DOC Return to Office**

The purpose of this memorandum is to provide background and guidance for the Department regarding Return to Office following two years of maximum telework. This guidance is intended to help the Department usher in a new future of work for our employees. It recognizes both the desire for expanded use of telework (when compared to pre-pandemic levels) and the need for in-person engagement in most positions. It proposes a hybrid workplace environment that allows for flexibility and answers the President's call in his State of the Union address for the Federal workforce to return to in-person work.

GUIDANCE AND BEST PRACTICES

After extensive consultation with bureaus, review of White House and Office of Management and Budget guidance, and market research, we are implementing a Department-wide baseline telework best practice of up to two days of routine (regularly scheduled) telework per week, with additional flexibilities as discussed in more detail below. All bureaus are required to submit updated telework policies for review and approval prior to implementation to the Office of Human Resources Management (OHRM) and no later than May 25, 2022. Variations from the best practice guidance for classes of positions or an entire bureau, office, or unit will be accepted but must be documented and approved, as outlined in Attachment 1.

TRANSITION FROM MAXIMUM TELEWORK

Returning to working in our office facilities after two years of maximum telework will be an adjustment for our workforce. We recognize that it will take time to finalize and implement updated policies that are consistent with this best practice guidance, so we've built in a 60-day transition period to permit both the resolution of internal issues, such as requests for variance, and external issues, such as child-care, public transportation, and other challenges. During this initial period, employees with existing telework or remote work agreements should coordinate with their supervisors and, with supervisory approval, adhere to those agreements, irrespective of whether the agreements exceed the Department-wide baseline.¹ Telework-eligible employees without current telework agreements in place may, with supervisory approval, engage in routine telework up to the baseline guidance of two days per week (as well as situational telework in

¹ Existing telework agreements that exceed the Department-wide baseline for routine telework may remain in effect, but we encourage bureaus to review them in light of this guidance. Any such agreement will in any event be subject to the variance approval process when next up for renewal. As noted in Attachment I below, where a collective bargaining agreement permits telework in excess of the Department-wide baseline that negotiated variance is automatically approved.

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response to child-care, transportation, and other challenges), even as they work with their supervisors to put new agreements in place. The new agreements may be based on the Department-wide baseline or an approved variance. At the end of the 60-day transition period, all teleworking employees must have an approved telework agreement in place in order to perform either routine or situational telework.

EXPECTATIONS

This hybrid operating posture is designed to help us retain and motivate our employees by providing flexibility to a workforce changed by the pandemic. It envisions a Department of Commerce that embraces the many benefits of in-person engagement and teambuilding, while maintaining advantages of a virtual environment, such as improved work-life balance due to lack of commute. A detailed overview of expectations, requirements, and process for requesting a variance is included in Attachment 1.

It is not our intention that bureaus with more robust pre-pandemic telework programs roll-back already well-conceived and well-performing programs or to prohibit more robust post-pandemic policies for those bureaus that did not have pre-existing programs. On the contrary, bureaus considering variances should look to the experiences and successes of those bureaus with robust pre-pandemic telework programs for insight and best practices. This baseline guidance is intended to ensure that variations from the baseline are equitable, consistent, and follow a thoughtful, deliberate, and data-driven approach to the implementation of new work schedules.

Finally, our return to office, like the global pandemic itself, is unprecedented and will involve different challenges for different offices and different employees. No guidance can anticipate and account for every question or challenge that may arise. I encourage you to continue your close engagement with the experts from Office of the Secretary and Office of the General Counsel who have helped guide us through the last two years, and I know that they stand ready to join you and your leadership teams to help answer your questions and ensure a successful transition.

ATTACHMENTS

- (1) Guidelines for Return to Office
- (2) Timeline and Due Dates

ATTACHMENT 1: DEPARTMENT OF COMMERCE RETURN TO BUILDING GUIDANCE

	Best Practice Guidance
Regularly-scheduled telework	For telework-eligible employees, supervisors should consider 2 days per week (and up to 4 days a pay period) of routine telework the baseline.
Position eligibility	Position descriptions must be reviewed against established standards to determine both telework eligibility and the extent to which an employee’s work that can be performed off-site without impact to mission. Bureaus that have not yet begun (or in some instances completed) this process should do so immediately. This work must be completed no later than May 25, 2022, and prior to entering into new telework or remote work agreements with employees. Any request for variance from telework baseline above should include documentation from the bureau reflecting their standards for review and specific determinations organized by job series or type. OHRM will be providing a template for use by all bureaus initiating such requests.
Individual eligibility	Ideally, teleworking employees will have no documented history of discipline or less than satisfactory performance. <i>(Note that certain acts of misconduct—e.g., absence without leave; reviewing, downloading, exchanging pornography from a Government computer or while performing official duty, render an employee telework ineligible as a matter of law).</i>
Bureau telework policies	Bureaus should submit updated telework policies to OHRM for review no later than May 25, 2022. Bureaus that do not have approved telework policies are subject to general Department-wide policy. While individual unit heads may be given some level of discretion to enact a bureau’s telework policy, the policy itself should be set at the bureau head level, and ultimately it is the bureau head who is responsible for ensuring the implementation and success of the bureau’s policy.
Individual telework agreements	Upon return to the traditional office, employees with existing telework or remote work agreements should coordinate with their supervisors and, with supervisory approval, adhere to those agreements, irrespective of whether the agreements exceed the Department-wide baseline <i>(Existing telework agreements (signed prior to March 20, 2022) that exceed the baseline guidance of 2 days per week will be subject to review under the variance procedures below the next time they are scheduled for renewal but not more than one year from the date the existing agreement was signed).</i> Telework-eligible employees without current telework agreements in place may, with supervisory approval, engage in routine telework up to the baseline guidance of two days per week, even as they work with their supervisors to put new agreements in place. Those agreements may be based on the Department-wide

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	<p>baseline or an approved variance. <i>During the 60-day transition period—and beyond—employees continue to be eligible for situational telework in response to such things as mass transit limitations, dependent care challenges, etc.</i></p> <p>All teleworking employees must have a signed telework agreement in place no later than June 25, 2022, in order to engage in either routine or situational telework following the conclusion of the 60-day transitional period.</p>
Coverage	<p>Each office will be expected to maintain an on-site presence each workday. Adequate office coverage must be factored into determinations with respect to how many days a week or pay period any individual employee may work. Where supervisors or managers are working off-site, there must be an on-site deputy or equivalent to ensure adequate coverage and supervision.</p> <p>In determining what percentage of a workforce might work off-site at any given time, bureaus should evaluate their overall capacity for hybrid meetings.</p>
Core days	<p>Bureaus are encouraged to establish one or more core days and to be intentional about how they take advantage of the value of those in-person opportunities.</p>
Technology	<p>At minimum offices should ensure:</p> <ul style="list-style-type: none"> • They have a clearly articulated policy of the minimum connectivity required to support telework. All teleworking employees must have a sufficient Internet connection and equipment to ensure generally uninterrupted audio/video participation in remote meetings and the ability to simultaneously, send, receive, and share documents. Some employees—based upon the nature of their work—may require more robust Internet connections to download larger files. • Technologies are in place to permit full integration and accessibility needs of on-site and teleworking employees in hybrid meetings. At the very least, bureaus need sufficient conference room facilities to permit an increase in hybrid meetings. • To the extent they have not already done so, bureaus should begin to conduct requirements gathering to determine priorities for both the types and amounts of technology-upgrades they will need before expanding their hybrid footprint. Preliminary determinations and a detailed action plan, including milestones, for necessary changes should be completed within 30 days of this guidance. This work should be performed in coordination with ongoing building readiness efforts led by the Office of Facilities and Environmental Quality, Office of the CFO/ASA. • To the extent a bureau discovers that technology issues will affect its ability to implement reintegration by the date noticed by the Department, the bureau must, within 30 days of this guidance, report that impediment to the Office of the Deputy Secretary, along with a plan for remedying those issues and an alternative reintegration plan for approval.

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	Bureau CIOs must be responsive to all requests from the Department’s Chief Information Officer to verify capabilities and identify areas of need.
Facilities	Particularly when considering approval of telework with greater frequency than contemplated by this baseline guidance, offices must conduct an impact analysis on their facility needs, understanding at what point they should turn to shared workspaces or hoteling. These decisions must be made deliberately and from a fully-informed position, as the release of office space—either to the Department or to GSA—will have potential budgetary impacts and be difficult to undo if the desires of the workforce or the needs of the Department change. To the extent they have not already begun this work, bureaus should initiate this evaluation immediately and continue it over the transition period. Within 6 months of organizations returning to their traditional office, bureaus should provide to the CFO/ASA a written assessment of the impacts of increased telework and hybrid work. This requirement applies to all bureaus and organizations within the Department.
Variations from the baseline guidance	<p>Variations from the baseline guidance must be approved by Deputy Secretary after review and approval by the relevant bureau-head and submission to the Office of Human Resources Management. Variations may be requested for facilities, organizations or classes of jobs. <i>(As detailed below, individual variations may be approved at the bureau-head level; that authority may not be delegated).</i></p> <p>As an initial matter, variations will be approved: 1) where existing collective bargaining agreements conflict with the baseline guidance; and 2) where bureaus are already in the process of reducing their existing footprint, resulting in the need for increased telework; and 3) where existing telework agreements allow telework days in excess of the baseline guidance <i>(This last category in particular will be subject to full review under these procedures the next time an agreement is scheduled for renewal but not more than one year from the date the agreement was signed).</i></p> <p>Subsequent requests for variation:</p> <ul style="list-style-type: none"> • Should include a determination that the duties of the position permit objective measures of employee productivity (e.g., patent applications examined, export success stories logged). Requests for variation should include the specific metrics used in making such a determination. • May be used for critical, hard-to-recruit positions, where a determination has been made by the bureau head that local recruiting cannot support hiring demands (particularly for temporary and term positions). Such determinations must be based upon available data, such as a recruitment records, as opposed to anecdotal evidence. • May be used as a retention tool when a determination has been made by the bureau head that: 1) the position is appropriate for expanded telework; 2) the individual employee will be successful (based upon documented superior performance); 3) approval will not impede the organization’s

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	<p>ability to maintain a regular, in-person presence in the traditional workplace; and 4) retention of the employee in question will serve the organization’s mission more effectively than attempting to backfill that position with a new hire.</p> <ul style="list-style-type: none"> • Bureaus should consider the same factors they would for a retention incentive for an individual employee when submitting their justification. <ul style="list-style-type: none"> • Employment trends and labor market factors. • The quality and availability of the potential sources of that possess the competencies required for the position. • The success of recent efforts to recruit candidates and retain employees with competencies similar to those possessed by the employee for positions similar to the position held by the employee. • Special or unique competencies required for the position; • Efforts to use other non-pay authorities; • The desirability of the duties, work or organizational environment, or geographic location of the position; • The extent to which the employee's departure would affect the agency's ability to carry out an activity, perform a function, or complete a project that the agency deems essential to its mission; and • Salaries typically paid outside the Federal Government. • Must include an analysis of not only the position’s telework eligibility but also the business-related bases for granting telework days in excess of the baseline. These might include: the competitiveness for recruiting and retaining talent for a position (particularly in areas, such as IT and acquisitions, and other high-demand fields); the need for organizational efficiency; and an employee’s individual circumstances.
<p>Variation approval process</p>	<p>Within 10 days of the publication of this guidance, each of the Department’s Principal Human Resources Managers (PHRMs) must assign one employee to serve on a variation review committee tasked with assisting OHRM with reviewing requests for variations from the bureaus and making a recommendation to the Office of the Deputy Secretary with regard to approval or disapproval. The review committee will be chaired by the Director, OHRM, or her designee. Review committee members may not participate in the review of variations requests assigning from their own bureaus or organizational units. <i>(The Director, OHRM, may disband the review committee upon her determination that the volume of variation requests is sufficiently light to permit timely review without the assistance of the committee).</i></p> <p>Requests for variation will be reviewed within 30 days of submission to the OHRM. Bureaus with pending requests for variation should follow the baseline</p>

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	<p>telework guidance consider up to 4 days per bi-weekly pay period and no more than 2 days per week.</p> <p>Variations for individual employees may be approved at the bureau-head level without Departmental concurrence. This authority may not be delegated below the bureau-head level. Bureaus may not grant individual variances to more than 5% of their workforce. Bureaus must document and retain the bases for granting individual variances. Any bureau that has granted individual variances to more than 3% of its workforce must notify the Director, OHRM, in writing and, upon request provide documentation of its process for approving individual variances for review. The Deputy Secretary may suspend or revoke the authority of bureau heads to grant individual variances at any time.</p>
<p>Remote work (distinct from telework; full-time work outside the local commuting area)</p>	<p>Instances of remote work should be rare and mission-driven. Requests for fully remote work for an organization, facility, or class of jobs—in order to promote recruitment or retention—should follow the same approval process as variations from the baseline telework guidance above and should be evaluated using all of the factors for such variations, as well as the following:</p> <ul style="list-style-type: none"> • An important consideration in evaluating any request for remote work is the potential impact to the organization if the employee is unsuccessful. The cost of requiring relocation back to the traditional workplace is likely to be borne by the employer and can exceed \$100,000. Bureaus must account for the financial risk inherent in approving a remote work agreement, particularly, as a recruitment tool, where the employee lacks a documented performance history with the Department. • Individual remote work agreements must be approved by the servicing HR office and OGC and are subject to annual review. <i>(Existing remote work agreements will remain in effect but are subject to review when next up for renewal but no later than one year from the date they were originally signed).</i> • Ideally, remote work agreements would benefit <u>both</u> the employee and the bureau. Whether there is value in having staff in the proposed remote location should always be factored into the bureau’s decision-making. • Bureaus considering an expansion of remote work opportunities beyond pre-pandemic levels should limit that expansion for the first 6 months while assessing the impact.

Return to Office Timeline Overview

The chart below gives an overview of tasks required per the attached memo:

