

EXECUTIVE BRANCH STATEWIDE POLICY

SECTION 7: TELECOMMUTING

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7A. STATEMENT OF PURPOSE

The purpose of this policy is to provide the structure needed for effective implementation and operation of telecommuting. Telecommuting refers to paid employment performed away from the principal office at an alternate work location for all or part of the work week. Telecommuting can attract employees in hard to fill, hard to retain positions; target new labor markets; or reduce work commutes.

Out-of-state telecommuting options must be preapproved by the Division of Human Resource (DHR) Administrator, the Division of Financial Management (DFM) Administrator and the State of Idaho Controller's Office (SCO). Out-of-country requests will not be approved.

Telecommuting training is required prior to an employee beginning to telecommute. See 7E.

7B. DEFINITIONS

1. **Alternate Work Location:** An approved worksite other than the employee's central workplace where official state business is performed, including an employee's residence.
2. **Central Workplace:** An agency's place of work where employees normally perform their official state duties.
3. **Telecommuter:** An employee who regularly works away from his or her central workplace, either at home or at another agency approved remote work location within the State of Idaho, for at least a portion of their work hours.
4. **Telecommuting:** A regular work practice that involves employees of an

agency substituting a portion of their typical work hours (ranging from a few hours per week to full-time) to work away from the central workplace, either at home or at another agency approved location within the State of Idaho, using technology to interact with others as needed to perform work tasks.

5. **Telecommuting Application:** A form adopted by the agency for employees to use to request a telecommuting work schedule. The application must be consistent with this statewide policy.
6. **Telecommuting Agreement:** The written agreement between the agency and employee that details the terms and conditions of an employee's work and other work productivity while away from his or her central workplace. Telecommuting agreements are required for telecommuting.
7. **Work Schedule:** The employee's hours of work in the central workplace and/or an alternate work location within the State of Idaho.

7C. GENERAL REQUIREMENTS

1. General Provisions

- a) All State of Idaho employees are expected to work within the State of Idaho. If an agency has a need for an employee(s) to work outside of the State of Idaho, the agency must first have approval from DHR, DFM and SCO before hiring or allowing an existing employee to regularly perform their assigned duties from an out-of-state location.
- b) Although allowing flexibility in the workplace, this policy requires accountability to ensure all work is being completed in an efficient and measurable manner. This policy provides guidelines for agency, supervisor, and employee responsibilities.
- c) Telecommuting is not an employee right; its use rests at the discretion of the appointing authority or designee, based on approval of agency policy by the DHR Administrator, and can be terminated any time without notice.
- d) An agency may suspend or terminate a telecommuting agreement at any time based on, but not limited to, declining performance, violation of telecommuting policy and agreement, or for organizational benefit. Reasonable notice to the employee is recommended, if feasible. An employee may terminate the telecommuting agreement at any time unless telecommuting work is a condition of employment.

2. Eligibility Consideration

- a) All State Agency telecommuting policies must be consistent with the guidance and instructions in this Statewide Telecommuting Policy. An agency's policy and application must define the job-related criteria, procedures for telecommuting, and employee performance requirements for consideration of telecommuting.
- b) Employees participating in telecommuting must meet the Telecommuting Eligibility Criteria and must obtain supervisor and agency director approvals prior to telecommuting.
- c) Telecommuting may not be suitable for all employees and/or positions; therefore, agencies should implement telecommuting based on specific criteria consistently applied throughout the agency. It is the agency's option to allow an employee to telecommute.
- d) DHR recommends employees have a current performance evaluation on file with a rating of Achieves or higher. Any employee with a Does Not Achieve performance rating is not eligible for telecommuting. It is recommended that supervisors review employee telecommuting agreements annually in conjunction with their annual evaluation.
- e) If an employee transfers to a new position either within the agency or the State, the telecommuting privilege does not transfer.

3. Standards of Conduct, Work Performance and Professionalism

- a) The employee continues to be bound by all applicable State statutes, policies, and rules while telecommuting.
- b) Employees must be available during telecommuting hours via phone and email as the employees would if working at their central work location unless other arrangements are made in advance with the supervisor.
- c) Employees will not hold in-person business visits or meetings with professional colleagues, customers, or the public at a home work location.

4. Time and Attendance, Work Schedules, and Overtime

- a) **Work Status and Responsibilities.** Employees' compensation, benefits, work status and work responsibilities will not change due to participation in telecommuting. The amount of time that employees are expected to work per day or pay period will not change as a result of

participation in telecommuting. If employees are unable to work the complete telecommute day, annual leave, compensatory time, or sick leave for the hours not worked must be requested for approval.

- b) **Work Schedules.** Work schedules for non-exempt employees must comply with the Fair Labor Standards Act and all applicable State rules. The employee is required to follow normal agency procedures regarding the requesting and approval of overtime, compensatory time, and leave. The number of days in a week that employees may telecommute is at their supervisor and agency's discretion.
- c) **Commute Time.** Commute time between an approved telecommuting worksite and agency is not considered work hours and are not compensable.
- d) **Outside Employment.** When an employee applies to telecommute, outside employment must be disclosed. As required for all State employees, outside employment must be compatible with the role of the staff member as a public employee; not conflict with the best interest of the agency or the employee's responsibilities or hours of work (See Idaho Code 67-2508); and not involve activities that would constitute a conflict of interest or have potential for a conflict of interest.
- e) **Dependent or Adult Care.** Telecommuting is not to be viewed as a substitute for dependent care. Telecommuters with dependent care situations are encouraged to have alternative solutions for providing care during the agreed upon work hours. Dependent care situations must be disclosed in the telecommuting application and will be reviewed on a case-by-case basis.

5. Recordkeeping and Reporting

- a) **Employee Telecommuting Application Request.** An employee telecommuting application should be completed and submitted to the employee's supervisor for review and approval. An Employee Telecommuting Application Template can be found in 7D of this policy.
- b) **Employee Telecommuting Agreement.** An employee telecommuting agreement is required and must be agreed upon and signed by the employee, supervisor, and agency appointing authority or designee before telecommuting begins. This agreement does not grant additional rights for employees, and it does not establish a contract for employment where one does not already exist. A copy of this statewide policy (and the agency's telecommuting policy if applicable) must be attached to the agreement. (See 7D) The Telecommuting Agreement

may be modified for agency use.

- c) Agency Telecommuting Records. DHR, at its discretion, may request information from agencies on telecommuting on an annual basis. Agencies should maintain a record of employees, work locations, duration, performance management, and any other relevant data for purposes of overall management of the statewide telecommuting program.

6. Resident Taxing State Outside of Idaho

- a) All out-of-state alternate work locations must be pre-approved by DHR, DFM, and SCO.
- b) The State of Idaho has no legal obligation to withhold or remit income tax of another state. It is solely the employee's responsibility to ensure that he or she is in compliance with any out-of-state tax requirements.
- c) All work scheduled out-of-state cannot be less than a full pay period and the employee's personnel record must reflect the correct taxing state.
- d) The requesting state agency is required to work directly with Risk Management regarding the Worker's Compensation payment.
- e) The requesting agency is required to coordinate directly with the State Controller's Office, Division of Statewide Payroll (DSP), to ensure taxable wages are reported correctly.

7. IT Security and Equipment

- a) The employee will apply approved safeguards to protect agency and state records from unauthorized disclosure or damage and will comply with all records and data privacy requirements set forth in state law. Each agency must require employee to abide by all State of Idaho rules and policies regarding the security and confidentiality of information, including computer data and files.
- b) The agency must address employee computer usage (and related devices) and ensure it meets information security standards. The employee is responsible for acquiring internet access and related equipment.
- c) The state will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities) associated with the use of the employee's residence.

- d) Nothing in this policy obligates the agency or the state to purchase furniture or equipment solely for the purpose of telecommuting.

8. Safety, Workers' Compensation and Other Liabilities

- a) **Alternate Work Location Safety.** The employee, position, alternate work location, and other conditions must be deemed suitable for a telecommuting location before it is permitted. An alternative worksite employee declaration checklist is provided in the employee telecommuting agreement template.
- b) **Workers' Compensation and Injuries to Third Parties.** Agency must address State of Idaho workers' compensation laws and rules. The employee remains liable for any injuries sustained by third parties at the alternate work location. (Additional agency requirements apply if an employee work location is not in the State of Idaho – See Resident Taxing State Outside of Idaho).
- c) An employee who is directly engaged in performing their official duties is covered by all applicable state employee compensation acts while working at the home location and is required to follow reporting procedures of any accident or injury at the home worksite. The State's potential exposure to liability is restricted to the official workstation for the purposes of telecommuting.

9. Additional Information

- a) **ADA Reasonable Accommodation.** If an employee applies to telecommute under an ADA reasonable accommodation request, the request must be reviewed and approved by DHR.
- b) **Other Federal and State Laws.** Telecommuting programs are not intended to cover or substitute for other work-related situations covered by other laws, such as the Americans with Disabilities Act, the Family and Medical Leave Act, and other similar federal and state laws.

7D. FORMS ASSOCIATED WITH THIS POLICY

Telecommuting Self-Assessment

Telecommuting Application

Telecommuting Agreement

Telecommuting Sample Work Plan

7E. RESOURCES AND TRAINING

Telecommuting Fundamentals: Employee
Telecommuting Fundamentals: Supervisor
Cybersecurity Training