

PART 2045 - GENERAL

Subpart A - Telecommuting (Flexiplace/Telework)

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Exhibit A - Questions and Answers

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PART 2045 - GENERAL

Subpart A - Telecommuting (Flexiplace/Telework)

§ 2045.1 Purpose.

(a) To establish flexible workplace arrangements that are driven by efforts to improve the quality of work life, employee productivity, the balance of work and personal/family life, the environment, energy utilization, and other social and economic conditions. The telecommuting movement is facilitated by innovations in human resources management, changes in the nature of work, and new technology. Many current workers can perform their work from their home or community-based telecenter (satellite worksite). This policy is for Rural Development employees.

(b) This policy is for non-bargaining unit employees. Before implementing or applying this policy to bargaining unit employees, negotiations with the appropriate union local must be completed.

§ 2045.2 Definitions.

Agency. Rural Development (RD) Mission Area agencies (Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service) as well as the Office of Community Development and Operations and Management.

Telecommuting. Also known as flexiplace or telework, refers to paid employment performed away from the office, either at home or a telecenter (satellite worksite), for an agreed-upon portion of the workweek.

(1) Home-based telecommuting - Employees spend part of their time performing tasks from home.

(2) Telecommuting centers - Alternative worksites in facilities generally shared by two or more agencies that provide space for employees to work nearer their homes instead of in their main office.

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Official duty station. The official duty station for an employee who is telecommuting is the location of the office to which he/she is assigned. Entitlement to locality-based comparability payment, special salary rates, travel allowances, and relocation expenses is based on the official duty station.

§ 2045.3 Participation.

- (a) Employees may request to participate in this program by completing Form RD 2045-6, "Telecommuting Application". If the application is approved, the following forms must be completed: Form RD 2045-7, "Telecommuting Employee/Supervisor Agreement", Form RD-2045-8, "Self-Certification Safety Checklist for Home-Based Telecommuters," and Form RD 2045-9, "Supervisory-Employee Checkout List."
- (b) Participation in the program requires an approved, written agreement signed by the employee and first and second level supervisors.
- (c) Employees participating in the program on an infrequent basis also must have a Form RD 2045-7 signed by both the employee and first and second level supervisors. Subsequent approval for infrequent use may be verbal. However, each infrequent telecommuting occurrence should be documented on the supervisor's calendar.
- (d) Telecommuting may be on a long term recurring basis (over 6 months), short-term recurring basis (6 months or less), or on an infrequent basis.
- (e) Telecommuting is a management option, not an automatic right of the employee. The Agency may modify or terminate any flexiplace arrangement based on Agency needs, taking into account such factors as the success of the arrangement in achieving Agency objectives, and changes in budget, staffing, and workload demands. The Agency will continually, and at least quarterly, review telecommuting arrangements to determine whether they should be modified or terminated. Telecommuting agreements may be suspended until the repair of malfunctioning equipment such as computers or fax machines.
- (f) An employee's involvement in the telecommuting program is voluntary and may be discontinued by the employee or the supervisor at any time with appropriate notice (normally 2 weeks). Management may remove an employee from the program if performance declines, the employee violates the terms of Form RD 2045-7, or the program no longer benefits the organization's needs, without advance notice.

## § 2045.3 (Con.)

(g) Re-certification of telecommuting agreements will be done on an annual basis. Supervisors will review and discuss re-certification criteria with employees. For those agreements to be re-certified, supervisors will submit Form RD 2045-10, "Telecommuting Annual Re-Certification", to the Servicing Personnel Office (SPO).

§ 2045.4 Hours of duty.

(a) Rules on hours of duty apply to telecommuting employees. Alternate schedules may be approved for telecommuting employees.

(b) Credit hours normally may not be earned while telecommuting. However, in unique situations the supervisor may concur in the employee's request to accrue credit hours within the Flexible Work Schedule (6:00 AM to 6:00 PM).

(c) The number of days each pay period an employees works offsite is determined in consultation with the supervisor. In addition to regularly scheduled onsite days, employees are responsible for attending occasional meetings or other onsite events; adequate notice of such events will be given to employees who are not scheduled to be in the office on those days.

(d) Supervisors must record time and attendance to ensure that telecommuting employees are paid only for work performed and that absences from scheduled tours of duty are properly recorded. The General Accounting Office (GAO) requires agencies with employees working at remote sites to provide reasonable assurance that the employees are working when scheduled, for example when determining the reasonableness of the work output for the time spent or by having the supervisor make occasional telephone calls or unannounced visits during the employee's scheduled work time.

(e) In cases of early dismissals or closures that are weather related, employees on valid telecommuting agreements who work from home are designated as "emergency". For example, on a snow closing day, the Agency should not excuse a telecommuting employee unless she/he cannot perform work because the official duty station is closed. In other circumstances, certain employees will be designated as "emergency" depending upon the nature of the emergency (e.g. natural disasters, national security, and logistical problems, etc.) Managers should refer to the "Continuity of Operations Plan" or the "Occupant Emergency Plan" if further guidance is needed. When both the official duty station and

the alternate work site are effected by a widespread emergency, the Agency should grant the telecommuting employee excused absence as appropriate. When an emergency affects only the alternate worksite for a major portion of the workday, the Agency can require the telecommuting employee to report to the official duty station, approve annual leave or approve leave without pay.

§ 2045.5 Overtime.

(a) The existing rules on overtime under Title 5, United States Code, and the Fair Labor Standards Act apply to telecommuting employees.

(b) Employees should work overtime only with advance supervisory approval. Telecommuting privileges may be canceled for employees who work unapproved overtime.

§ 2045.6 Workers compensation.

(a) Telecommuting employees qualify, under the Federal Employees Compensation Act (FECA), for continuation of pay (COP) of workers' compensation for legitimate on-the-job injury or occupational illness. Telecommuting employees are responsible for reporting such injury to his or her supervisor immediately.

(b) When an employment related accident is sustained by an employee outside the premises of the official duty station, the supervisor must investigate all reports as soon as practicable after being notified of the injury.

§ 2045.7 Equipment and supplies.

(a) Government-owned property; including computers and other telecommuting equipment may be provided and used by employees participating in the telecommuting program. Some offices may have or agree to acquire equipment, while others, due to budgetary constraint may not. Excess Government property should be used in lieu of new acquisition whenever possible and suitable. The cost of any Government-owned equipment for the purpose of telecommuting must be borne by the employing office.

(b) Government-owned equipment is to be used only for official business. The Government is responsible for the maintenance, repair and replacement of Government-owned equipment.

## § 2045.7 (Con.)

(c) For employees using Government-owned computers, the IT Staff will be responsible for transporting and installing the equipment. The IT staff will be responsible for service and repair of Government computers. Employees must notify their supervisor immediately following a malfunction of Government-owned equipment.

(d) Employees wishing to use their own computers may do so, however, they must contact the IT Staff to ensure that their computer has the appropriate software to ensure security of Government information. Employees using their own equipment are financially responsible for any installation cost, upgrade, maintenance/repair, damage or theft that may occur.

(e) Supplies will be provided through established office procedures. Employees are responsible for transporting necessary supplies from the office to the alternate worksite. Normally, equipment such as desks, chairs, and file cabinets will not be provided to employees who are telecommuting.

§ 2045.8 Operating costs.

The Agency will not be responsible for operating costs, home maintenance, or any other incidental cost, except the Agency will pay the cost of additional telecommunication expenses incurred on behalf of the Government. The Agency may provide employees with Government telephone credit cards. The Agency may pay for the installation and applicable charges associated with the use of a designated telephone line in a private residence. (Public Law 104-52). Utilization of this Government telephone line must be for official business only. The Agency will pay for business related long-distance telephone calls over the employee's personal telephone in accordance with GSA regulations.

§ 2045.9 Home inspections.

The telecommuting employee's worksite must meet acceptable standards for the safety of the employee and the security of data and any Government-loaned equipment. Form RD 2045-8 or onsite inspection (normally within 24 hours notice) may be used to meet this requirement.

§ 2045.10 Responsibilities.

(a) Supervisors.

(1) The following criteria must be considered in evaluating a position for telecommuting:

(i) Benefit to the Agency exceeds the cost of telecommuting, i.e., computer equipment, modem, phone lines, etc.;

(ii) Availability of financial resources and information technology equipment;

(iii) Office staff is not adversely affected (work assignments and responsibilities are evenly distributed);

(iv) Office coverage is not adversely affected;

(v) Service to internal and external customers is not adversely affected;

(vi) Work activities are portable and can be performed as effectively outside the office;

(vii) Job tasks are easily quantifiable or primarily project oriented;

(viii) An essential component of job responsibility consists of reading and/or processing tasks;

(ix) The technology needed to perform the job off-site is currently available;

(x) Cyclical work does not present a problem;

(xi) Security and confidentiality of data can be adequately assured.

(2) The following criteria must be considered in evaluating employees for telecommuting:

(i) The employee has demonstrated motivation, independence, and dependability;

§ 2045.10(a)(2) (Con.)

- (ii) Employee has not been officially disciplined (official letter of reprimand to removal) in the last 2 years (the supervisor should check with their servicing Human Resources staff for this information);
  - (iii) The employee can deal with less frequent face-to-face contact with others;
  - (iv) The employee has good time management skills;
  - (v) The employee's overall performance for the last 3 years has been fully successful, results achieved, or higher;
  - (vi) The employee has clearly defined performance standards;
  - (vii) The employee has satisfied adequate home workstation requirements, including provisions for protecting the confidentiality of data.
- (3) Determine need and availability of equipment (Government or employee owned).
- (4) The second level supervisor has the authority to approve/disapprove telecommuting requests, after discussion with employee, that are of a short/long term recurring basis.
- (5) Supervisors must establish a method for monitoring an employee's work assignments and establish reporting requirements to facilitate contact for the employee to receive or turn in assignments.
- (6) Supervisors will continue to certify time and attendance for telecommuting employees. Supervisors must also provide reasonable assurance that employees are working when scheduled by using the following techniques:
- (i) Occasional supervisory telephone calls to an employee during times the employee is scheduled to be on duty;
  - (ii) Occasional unannounced visits by the supervisor to the alternative worksite; or
  - (iii) Determining reasonable work output for the time spent.

RD Instruction 2045-A  
§ 2045.10(a) (Con.)

(7) Supervisors must ensure there is a signed Form RD 2045-7 prior to an employee telecommuting. Copies of all approved agreements must be provided to the SPO.

(8) Supervisors must maintain records of requests for telecommuting that are denied.

(9) Supervisors must review the request and respond in writing within 30 calendar days of the receipt of a written request and completed agreement.

(b) Employees.

(1) Employees are responsible for signing and adhering to the terms and conditions of Form RD 2045-7.

(2) Employees must maintain or improve productivity and customer service.

(3) Employees must follow established procedures for requesting and obtaining leave and accurately record time and attendance.

(4) Employees are responsible for ensuring the safety and adequacy of the telecommuting site and be in compliance with applicable building and safety codes and local permits. This includes but is not limited to, ensuring that the electrical system and safeguards are adequate to protect Agency computers, printers, and other equipment.

(5) It is the employee's responsibility to determine and comply with any local zoning restrictions. The employee is responsible for any costs of working at home that arise from local zoning requirements.

(c) Human Resources.

(1) The SPO provides advice on the provisions of the Telecommuting (Flexiplace/Telework) program.

(2) The SPO maintains a database of all participants and official records on each telecommuter. This record will include a copy of the Form RD 2045-6, Form RD 2045-7, Form RD 2045-10, and any information relating to denials and/or terminations.

## § 2045.10(c) (Con.)

(3) The Telecommuting Coordinator (National Office) conducts an annual review and assessment of the program to ensure compliance with applicable Federal and Departmental Regulations and guidelines. The Telecommuting Coordinator submits a telecommuting program report to the Director, Office of Human Resources Management by October 31 of each year. The Telecommuting Coordinator may also request information from the SPO's on an ad hoc basis.

§ 2045.11 Position description and performance standards.

Evaluations of job performance for telecommuters should be based on existing or modified standards and expectations. In order to evaluate job performance as well as to certify time and attendance for telecommuters, supervisors should establish clearly defined work assignments and expectations. Work performance should be evaluated according to:

- (a) Existing quantity and quality expectations, such as a specified number of claims processed without errors during a specified period;
- (b) Existing expectations monitored through periodic progress reports by the telecommuter; for example, reporting progress on specified steps of an on-going project (a major audit, investigation, research project, job analysis, etc.) in which a reasonable time frame, based on past experience, has been established for each step. This applies to work for which performance and progress can be evaluated by a supervisor who has the experience and knowledge to certify and evaluate timeliness, quality, and quantity aspects of work reported by the telecommuter; and
- (c) Other appropriate measures, such as timely completion of high quality products.

§ 2045.12 Liability.

- (a) The employee is responsible for obtaining necessary insurance coverage, business use permits and/or variances from local municipalities, homeowners' associations, etc.
- (b) The employee understands that the Government will not be liable for damages to personal property such as house, carpet, furniture, or automobile while the employee is working at the approved alternate worksite.

(c) The employee understands that he/she will be held liable for any occupant within the household, regardless of age, for unauthorized access to Government-owned equipment or information.

(d) The employee will safeguard and protect Government/Agency records from unauthorized disclosure or damage and will comply with the Privacy Act of 1974, Title 5 U.S.C., section 552a.

§ 2045.13 Dependent care.

The employee understands telecommuting is not a substitute for family care. The employee must certify that he/she is not and will not provide child and/or elder care during the work hours unless an in-home care provider is present. Older children (typically 11 years old and up) who can tend themselves and other adults may be in the home during duty hours. If at anytime an employee is tending to a dependent and therefore not performing official duties, the employee must charge leave as appropriate.

§ 2045.14 References.

(a) Office of Personnel Management website  
<http://www.opm.gov/wrkfam/telecomm/telecomm.htm>

(b) "U. S. Department of Agriculture Family-Friendly Workplace Guide"  
available at <http://www.usda.gov/da/shmd/guide.html>

Attachment: Exhibit A

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# QUESTIONS AND ANSWERS

QUESTIONS	ANSWERS
<p>1. Does management benefit from offering telecommuting?</p>	<p>Yes. Management benefits by improved productivity and morale; improved recruiting (including persons with disabilities) and retention of skilled employees; accommodation of workload peaks, reduction in absenteeism, continued operations in emergencies (e.g., snow days).</p> <p>Allows management to accommodate employees with short or long-term health problems or family responsibilities associated with elder care and latchkey children.</p>
<p>2. Can the supervisor monitor work performance when the employee is not physically present?</p>	<p>Yes. Generally, telecommuting performance should be monitored in the same way official duty station performance is monitored. Optimally, performance should be monitored on a results-oriented basis. The manager will have to carefully plan and identify the nature and objective of the task, perhaps by establishing deadlines or arranging for progress reports and meetings. Most studies of telecommuters have reported that telecommuting job performance equals or exceeds pre-telecommuting performance.</p> <p>Managers can measure what the employee produces by examining the product or results of the employee's efforts. It is also helpful to use project schedules, key milestones, regular status reports, and team reviews. Supervisors may call or make unannounced visits to employees who are working at home.</p>
<p>3. Can a supervisor participate in the Telecommuting program?</p>	<p>Yes. Only in limited situations where the supervisory function is not negatively impacted.</p>

## QUESTIONS AND ANSWERS

<p>4. Should a specific schedule be set for work at the alternative worksite?</p>	<p>Yes. All work schedules are discretionary and require management approval. A preset schedule of telecommuting work hours should be established prior to the employee working at the alternative worksite. Temporary telecommuting assignments or changes in work schedules may be made at management's discretion to meet work needs or to accommodate the employee.</p>
<p>5. Is there an impact on the office when some employees are working at the alternative worksites?</p>	<p>Yes. Certain guidelines must be established to minimize adverse impact on other staff members before employees begin to work at alternative worksites. The overall interests of the office must take precedence over working at alternative sites. A supervisor may require an employee to work at the official duty station on a day scheduled for an alternative worksite if the needs of the office so require. Telecommuting should not put a burden on staff remaining in the office. An equitable distribution of workload should be maintained, and methods should be instituted to ensure that employees working at the official duty station are not saddled with a telecommuters' responsibilities.</p>
<p>6. Are there restrictions on the use of the Government-owned equipment, software or information at an alternative worksite?</p>	<p>Yes. Government-owned equipment can be used for official purposes only. Telecommuters must adhere to all rules, regulations, and procedures relating to security and confidentiality of work-related information and data. Agencies allowing employees to access records subject to the Privacy Act from an alternative worksite must maintain appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of the records. The Agency should revise appropriate records to indicate that the alternative worksite is authorized for the use and maintenance of classified or confidential information and data.</p>

## QUESTIONS AND ANSWERS

<p>7. Suppose an employee (covered by FLSA) works overtime at the alternative worksite but that overtime was not authorized. Should a supervisor take action to prevent this from happening?</p>	<p>Yes. Just as when working at the regular duty location, employees must have prior authorization to work overtime. The first time, the supervisor should warn the employee in writing that she/he may not work unauthorized overtime, and will not be paid for the hours worked. If there is a second time, the employee's participation in the program should be terminated.</p>
<p>8. Suppose a telecommuting employee is scheduled to come to the official duty station office for a two-hour meeting. On the day of the meeting, the office is closed because of a snow emergency. Is that employee excused from work at the alternative worksite?</p>	<p>No, unless she/he cannot perform work because the official duty station is closed.</p>
<p>9. The day before Thanksgiving, management excuses employees from work two hours prior to their departure time, in which the absence is charged to administrative leave. If an employee is telecommuting on that day should she/he also receive administrative leave for two hours?</p>	<p>Yes. Just as when working at the regular duty location.</p>
<p>10. Can a telecommuting agreement be modified?</p>	<p>Yes. If all parties concur, the agreement may be modified, however, a new Form RD 2045-7 must be signed incorporating the modifications.</p>

## QUESTIONS AND ANSWERS

<p>11. If an employee is at his/her alternative worksite (home) and his/her child is sent home from school due to illness, must the employee take leave?</p>	<p>Yes, if the child is younger than 11 years old, the employee must take leave since she/he may not have a dependent in the home during work hours unless a care provider is in the home. If the child is 11 years old or older the employee must charge leave for the period of time that she/he is tending to the child's needs and, therefore, not performing official duties.</p>
<p>12. Must an employee who is authorized to telecommute request advance approval from the supervisor to use leave?</p>	<p>Yes. Leave procedures apply to telecommuters. Leave must be requested and approved in advance prior to its use. Leave over one day must be requested on a SF-71, Application for Leave. Any time an employee is tending to household or family responsibilities and is not performing official duties she/he must be on leave.</p>
<p>13. At any time is a telecommuter entitled to mileage from their alternative worksite to their official duty station?</p>	<p>No. Travel allowances are based on the official duty station.</p>