



July 13, 2021

VIA ELECTRONIC SUBMISSION

Mr. Oscar Gonzales
Assistant Secretary for Administration
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

RE: RECOMMENDATIONS FOR USDA TELEWORK POLICY

Dear Mr. Gonzales:

On June 1, 2021, the U.S. Department of Agriculture (USDA) invited the unions representing USDA employees to submit recommendations to the USDA regarding its new telework policy. The National Treasury Employees Union (NTEU) represents USDA employees in the Food and Nutrition Service (FNS). On the behalf of FNS employees, NTEU makes the following recommendations:

An Expanded Telework Policy Which Would Authorize Eligible Employees to Telework up to Four (4) Days a Week

NTEU recommends an expanded telework policy which would allow telework eligible bargaining unit employees the opportunity to telework up to four (4) days each week/ eight (8) days per pay period. Under an expanded telework arrangement, the employer maintains the authority to approve or disapprove a telework arrangement in accordance with the law and governing labor agreements. NTEU recommends the following:

- (i) All telework eligible bargaining unit employees be properly notified of the expanded telework program and be provided with instructions on how to properly and timely request such a work arrangement.
- (ii) Upon request to move to an expanded telework arrangement, the requesting employee will be provided with instructions and all necessary documents to complete their request.
- (iii) If the employer determines that the requesting employee's position is ineligible, the employer will provide the requesting employee with a written response detailing why the employee's position is ineligible.

Further, NTEU recommends that all agencies be instructed the following:

- (i) To implement the USDA's expanded telework policy;
- (ii) To fulfill all bargaining obligations in accordance with the law; and,
- (iii) That all actions will be carried out in accordance with the governing labor agreement.

A Voluntary Remote Work Arrangement

NTEU recommends a voluntary remote work arrangement policy. A remote work arrangement is one in which the employee resides and works at a home-based worksite or alternate worksite location on a full-time basis.¹ Similarly, a virtual duty location is a permanent duty station designation, annotated on an SF-52 (or the agencies equivalent) and the worksite is usually the employee's residence.² A remote work arrangement may result in a change in the employee's duty station to the remote location (i.e., home or alternate worksite) in accordance with 5 C.F.R. 531.605(d)(1).³ Where an employee performs in a remote work arrangement, trips to the federal office as requested by the employer will be considered official business.⁴

NTEU recommends the following procedure where an eligible employee makes a request for a remote arrangement:

- (i) The Employer properly document such requests within the appropriate time frame.
- (ii) Where the request is approved, the Employer will document it via a Notification of Personnel Action (Standard Form 50, or agencies equivalent) and inform the employee of the approval within a reasonable time frame.
- (iii) The Employer will provide the employee with a copy of the completed SF and inform the employee at such time whether the change in duty station will result in a change.
- (iv) In the employee's locality pay and if so, the employee's new rate of pay.

¹ OPM Guide to Telework in the Federal Government, April 2011.

² USDA Telework and Virtual Interim Memo, March 23, 2021 ("A Virtual Duty Location (alternative worksite) is defined as a location (physical address) other than a Federal office or facility, where an employee provides their own workspace to accomplish their day-to-day work. It is typically in the employee's residence.").

³ "For permanent remote telework arrangements, the official worksite must be reassigned to the telework location." <https://www.telework.gov/guidance-legislation/telework-guidance/official-worksite/>.

⁴ "5 U.S.C. § 5702 has been interpreted to say that in circumstances where the official worksite is reassigned to the telework location, trips to the main worksite are "official business" and the employee is entitled to travel reimbursement." *Id.*

Mr. Oscar Gonzales
July 13, 2021
Page 3 of 3

- (v) If a change in duty station will result in a change in the employee's locality pay, the employee will then be given a reasonable amount of time to either accept or decline this arrangement.
- (vi) All correspondence should be properly documented in writing.

Further, NTEU recommends that all agencies be instructed the following:

- (i) To implement the USDA's voluntary remote work arrangement policy;
- (ii) To fulfill all bargaining obligations in accordance with the law; and,
- (iii) That all actions will be carried out in accordance with the governing labor agreement.

Thank you for the opportunity to submit these recommendations.

Sincerely,

A handwritten signature in black ink that reads "Anthony M. Reardon". The signature is fluid and cursive, with a large initial 'A' and 'R'.

Anthony M. Reardon
National President