

For: FSA State and County Office Employees

**FSA State and County Office Telework and Remote Work Eligibility**

Approved by: Administrator



**1 Overview**

**A Background**

Departmental Regulation (DR) **4080-811-002** (issued November 22, 2021) set forth the authority, policy, and responsibilities for managing the Telework and Remote Work Programs within USDA.

All USDA employees, regardless of tenure, grade, job series, title, or supervisory designation are presumed eligible for telework unless prohibited by other exclusionary provisions of the DR or negotiated as part of a collective bargaining agreement (CBA).

According to the DR, FSA has reviewed positions to determine eligibility for a remote work arrangement.

**B Purpose**

This notice:

- provides FSA-specific guidance on telework and remote work eligibility for State and County Office employees
- provides an example of the required FPAC notification template
- does not apply to employees subject to collective bargaining agreements that contain provisions relating to telework or other provisions that conflict with this notice.

**Note:** Those collective bargaining agreement provisions will continue to be followed by the affected employee.

Disposal Date	Distribution
January 7, 2023	FSA State and County Office Employees; State Office relay to County Offices

## Notice PM-3053

### 2 Telework Eligibility

#### A Overview

All FSA employees are eligible for telework unless the employee is identified as ineligible under DR 4080-811-002 based on the following criteria.

- **Performance.** An employee may be found ineligible for telework if their performance falls below fully successful. In these circumstances, supervisors are required to initiate corrective action according to DR 4040-430, Employee Performance and Awards. The employee's eligibility for telework must be reassessed every 12 months from the date the supervisor determined that the performance fell short.
- **Conduct.** An employee may be found ineligible for telework if the employee was subject to formal disciplinary action, adverse action, or was placed on a leave restriction within the previous 12 months.
- **Permanent Ineligibility.** An employee is permanently ineligible for telework if they have been formally disciplined for the following:
  - violation of 7 CFR 2635, Subpart G, Misuse of Position, of the Standards for 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 their official duties; or
  - absence Without Leave (AWOL).

**Note:** AWOL is a non-pay status that covers an absence from duty that is not approved. Any USDA employee AWOL for 5 or more days in any calendar year is permanently ineligible.

#### B State Office Non-Supervisory Employees

Eligible State Office non-supervisory employees may telework up to 8 days per biweekly pay period with supervisory approval.

Employees must be present in their official duty station at least one day each week unless they are on pre-approved leave.

See **Exhibit 1** for examples of FSA Work Schedules and telework applicability.

#### C State Office Supervisory Employees

Eligible State Office Supervisory employees may telework up to 4 days per biweekly pay period (such as 2 days per week) with supervisory approval.

## Notice PM-3053

### 2 Telework Eligibility (Continued)

#### C State Office Supervisory Employees (Continued)

Employees must be present in their official duty station at least 3 days each week unless they are on pre-approved leave, regardless of approved work schedule

See **Exhibit 1** for examples of FSA Work Schedules and Telework applicability.

#### D County Service Center Non-Supervisory Employees

Field office employees (both GS and CO) duty-stationed in County Service Centers may telework up to 4 days per biweekly pay period (2 days per week) with supervisory approval.

Employees must be present in their official duty station at least 3 days each week unless they are on pre-approved leave, regardless of approved work schedule

See **Exhibit 1** for examples of FSA Work Schedules and Telework applicability.

#### E County Service Center Supervisory Employees

Field office employees (both GS and CO) duty-stationed in County Service Centers may telework up to 2 days per biweekly pay period (1 day per week) with supervisory approval.

Employees must be present in their official duty station at least 4 days each week unless they are on pre-approved leave, regardless of approved work schedule

See **Exhibit 1** for examples of FSA Work Schedules and telework applicability.

#### F Ensuring Office Coverage

Each Supervisor is required to ensure there is adequate office coverage during each workday and during normal business hours as provided in 17-PM. FSA telework and remote work shall not affect or change office hours and availability to meet with the public.

FSA State Offices shall ensure 25% of non-remote State Office staff (those with a State Office Duty Location) report to the State Office daily.

**Note:** Exceptions to this requirement for State Offices may be submitted to and approved by the Deputy Administrator for Field Operations.

## Notice PM-3053

### 2 Telework Eligibility (Continued)

#### F Ensuring Office Coverage (continued)

Supervisors should not routinely approve leave for an employee's scheduled day to report to their official duty station. Supervisors should consider changing an employee's regularly scheduled telework day to accommodate leave and ensure employees report to their official duty station based upon the business need.

#### G Temporary Changes to Approved Telework Agreements

Because of fluctuating workload, a supervisor may require an employee to temporarily change or reduce their amount of telework to address the business needs of the Agency. Supervisors shall provide as much notice as possible to employees when altering an employee's telework schedule.

#### H Telework Appeals

Appeals of the denial of an employee's request to telework are governed by DR 4080-811-002 in conjunction with DR 4040-771-001, Administrative Grievance System, the applicable negotiated grievance procedure for bargaining unit employees, or 22-PM for FSA County Office employees. Employees may not grieve the content of this notice, but the application of this notice to an individual may be grieved.

### 3 Remote Work Eligibility

#### A Overview

The USDA remote work policy described in DR 4080-811-002 is intended to enhance the work-life balance for employees. The DR recognizes that employees and organizations benefit from remote work organizations, but these arrangements are subject to the agency's budget, business, and operational needs.

Remote work is an arrangement under which FSA employees are scheduled to perform their position's job duties at an approved alternate worksite, typically the employee's residence.

### 3 Remote Work Eligibility (Continued)

#### A Overview (Continued)

According to the DR, Agency leadership has reviewed FSA positions and determined eligibility for remote work arrangements after considering:

- job duties that can only be performed onsite and the amount of time required to complete such duties in a typical bi-weekly pay period
- the amount of time required each week to participate in other aspects of the work unit operations such as trainings, meetings, or collaboration, including collaboration with stakeholders that cannot be conducted virtually
- the type and frequency of travel associated with the position
- any requirements for accessing classified information.

An employee is permanently ineligible for a remote work arrangement if they have been formally disciplined for the following.

- Violation of 7 CFR 2635, Subpart G, Misuse of Position, of the Standards for 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 their official duties.
- Absence Without Leave (AWOL). AWOL is a non-pay status that covers an absence from duty that is not approved. Any USDA employee who is AWOL for 5 or more days in any calendar year is permanently ineligible.

#### B FSA State and County Office Employees

The following positions have been identified as being eligible for remote work arrangements with the following limitations:

- 1101 FSA Field Assistants/Specialists (Field Reporters), only for remote work locations within 50 miles of a particular Service Center in the State
- 1101 District Directors, only for remote work locations within 50 miles of a Service Center located in their District
- existing FSA State Office Employees with a duty station outside of the State Office, only for remote work locations within 50 miles of any Service Center located within the State.

**Note:** District Directors with approved remote work arrangements are still expected to travel to and visit the Service Centers in their district on a regular basis.

## Notice PM-3053

### 3 Remote Work Eligibility (Continued)

#### B FSA State and County Office Employees (Continued)

**Exceptions:** Exceptions to the 50-mile limitation may be submitted and reviewed by the Deputy Administrator for Field Operations.

All other State and County Office positions are ineligible for remote work arrangements at this time.

#### C Requesting and Advertising Vacant FSA State and County Office Remote Positions

All FSA State Offices must maintain a minimum of 25% of all State Office Positions as on-site (non-remote positions).

FSA State Offices may request approval by the Deputy Administrator for Field Operations to advertise a vacant State Office position with a remote duty location only if the following conditions are met.

- The vacant position is a non-supervisory or a District Director position.
- The vacant position was initially advertised without incentives and no viable candidates were selected.
- The vacant position was advertised a second time nationwide with relocation and/or recruitment incentives and no selection was made or there were no qualified candidates.
- If the vacant position is for a District Director, the position must be advertised with a remote duty location within a 50-mile commuting distance to an FSA Service Center within the respective District.
- If the vacant position is any other non-supervisory State Office position, the position must be advertised with a remote duty location within a 50-mile commuting distance of an FSA Service Center within the respective State.

**Exception:** Exceptions to these requirements may be submitted to the Deputy Administrator for Field Operations for review and approval.

FSA has determined that the only County Office position that may be advertised with a remote duty location is the 1101 FSA Field Assistant/ Specialist (Field Reporter) position. The remote duty location must be within a 50-mile commuting distance of a particular office within the respective State. No additional County Office positions will be approved for advertisement with a remote duty location.

## Notice PM-3053

### 3 Remote Work Eligibility (Continued)

#### D Remote Work Arrangement Appeals

Appeals of the denial of an employee's request for a remote work arrangement are governed by DR 4080-811-002 in conjunction with DR 4040-771-001, Administrative Grievance System, the applicable negotiated grievance procedure for bargaining unit employees, or 22-PM for FSA County Office employees. Employees may not grieve the content of this notice, but the application of this notice to an individual may be grieved.

### 4 Supervisory Notification to Employees

#### A Required Notification to all Employees

All FSA supervisors must notify employees of their eligibility to telework and/or participate in remote work arrangements, according to the eligibility requirements of this notice, using the FPAC notification template in Exhibit 2.

**Notes:** The official notification template will be provided to supervisors by the FPAC Business Center Human Resources Division. Supervisors should **not** use Exhibit 2 to begin notifications. The example in Exhibit 2 is provided for informational purposes only.

All limitations noted in paragraph 3 on eligible remote work arrangements (that District Directors must have a remote duty location within 50 miles of a Service Center in their District) must be included in Section II (2) of the notification.

#### B Deadline for Notification and Response

Supervisors must provide their employees with a completed notification by January 28, 2022.

Employees who are eligible to participate in remote work arrangements have 30 days from receipt of the notification to decide if they wish to participate in a remote work arrangement. If an employee does not respond within 30 days, they will be deemed to have declined participation in a remote work arrangement.

## Examples of FSA Work Schedules and Telework Applicability

**Example 1: A STO non-supervisory employee is working a 5/4/9 schedule. They would like to telework every day except Tuesdays.**

This is **not** allowed. While State Office employees are authorized to telework up to 8 days per pay period, they must report to their official duty station at least 1 day each week. When an employee has a scheduled work week that is comprised of less than 5 days, they must report to the office on one of those days. The maximum number of telework days permitted would be adjusted accordingly—in this case to a maximum of 7 days per biweekly pay period.

This example similarly applies for any other work schedules comprised of fewer than 10 workdays per pay period.

**Example 2: A State Office non-supervisory employee is working a maxiflex schedule with 10 workdays a pay period. They would like to telework Monday through Thursday each week, accumulate credit hours, and use credit hours earned every Friday.**

This is **not** allowed. While supervisors may pre-approve leave on a scheduled in-office day, a supervisor must **not** approve routine leave which circumvents the requirements for a State Office employee to be in their official duty station at least one day each week.

**Example 3: A State Office supervisory employee is working a 5/4/9 schedule. They would like to telework Monday and Tuesday each week.**

This is **not** allowed. While State Office supervisory employees are authorized to telework up to 4 days per pay period, they must report to their official duty station at least 2 days each week. When an employee has a scheduled work week that is comprised of less than 5 days, they must report to the office 3 of those days. The maximum number of telework days permitted would be adjusted accordingly, in this case to a maximum of 3 days per biweekly pay period.

This example similarly applies for any other work schedules comprised of fewer than 10 workdays per pay period.

**Example 4: A field office non-supervisory employee is working a 5/4/9 schedule. They would like to telework every day except Tuesdays.**

This is **not** allowed. While field office non-supervisory employees are authorized to telework up to 4 days per pay period, they must report to their official duty station at least 2 days each week. When an employee has a scheduled work week that is comprised of less than 5 days, they must report to the office 3 of those days. The maximum number of telework days permitted would be adjusted accordingly, in this case to a maximum of 3 days per biweekly pay period.

This example similarly applies for any other work schedules comprised of fewer than 10 workdays per pay period.

**Examples of FSA Work Schedules and Telework Applicability (Continued)**

**Example 5: A field office non-supervisory employee is working a maxiflex schedule with 10 workdays a pay period. They would like to telework Monday through Tuesday each week, work in their official duty station Wednesday through Thursday, accumulate credit hours, and use credit hours earned every Friday.**

This is **not** allowed. While supervisors may pre-approve leave on a scheduled in-office day, a supervisor must not approve routine leave utilization which circumvents the requirements for a field office employee to be in their official duty station at least 3 days each week.

**Example 6: A field office non-supervisory employee is working a 5/4/9 schedule. They would like to telework every Wednesday.**

This is **not** allowed. While field office supervisory employees are authorized to telework up to 2 days per pay period, they must report to their official duty station at least 4 days each week. When an employee has a scheduled work week that is comprised of less than 5 days, they must report to the office 4 of those days. The maximum number of telework days permitted would be adjusted accordingly, in this case to a maximum of 1 day per biweekly pay period.

**Note:** If a field office supervisory employee is working a 4/10 schedule, they would not be eligible for regular telework as they are required to report to the office 4 days each week.

**Sample FPAC Template for Supervisors' Notification for Participation in Telework and Remote Work Programs**

**Supervisors' Notification for Participation in Telework and Remote Work Programs**

**SUBJECT:** Official Notification for Participation in Telework and Remote Work Programs as part of the implementation of FPAC *Return to the Physical Workplace Plan* and consistent with completed negotiations with the appropriate exclusive representative of bargaining unit employees, where applicable.

**Date of Notification:** \_\_\_\_\_

**Employee Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Series/Grade:** \_\_\_\_\_

**Duty Station:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Current Supervisor:** \_\_\_\_\_

**The Purpose of this Notification is to:**

1. Notify you of management's determination of your eligibility to participate in USDA's Telework or Remote Work Program as part of USDA's *Return to the Physical Workplace Plan*, and
2. Offer you the opportunity to make decisions regarding your participation in the USDA Telework and Remote Work Programs. Your decision can be changed in the future.

**I. Your Position's Eligibility for Telework is Determined as Follows:**

\_\_\_\_\_ 1. Your position is eligible for telework up to 8 days per pay period.

\_\_\_\_\_ 2. Your position is eligible for telework up to \_\_\_\_\_ days per pay period.

\_\_\_\_\_ 3. Your position is eligible for situational or *ad hoc* telework.

\_\_\_\_\_ 4. Your position is not eligible for telework for the following reason(s):

a. Duties require your physical presence at the worksite on a daily basis.

**Sample FPAC Template for Supervisors' Notification for Participation in Telework and Remote Work Programs (Continued)**

- b. Duties require daily use of specialized equipment located only at the traditional worksite.
- c. Duties require daily handling of classified materials.
- d. Other (specify): \_\_\_\_\_

**II. Your Position's Eligibility for Remote Work is Determined as Follows:**

- \_\_\_\_\_ 1. Your position is eligible for remote work.
- \_\_\_\_\_ 2. Your position is eligible for remote work with the following limitations:  
 \_\_\_\_\_  
 \_\_\_\_\_
- \_\_\_\_\_ 3. Your position is ineligible for remote work for the following reason(s):

- a. Duties require your physical presence at the agency worksite.
- b. Duties require use of specialized equipment located only at the agency worksite.
- c. Duties require handling of classified materials.
- d. Other (specify): \_\_\_\_\_

**III. Notification of Grievance Procedures**

You may grieve a decision to deny a telework or a remote work arrangement (as opposed to management's eligibility determinations) either through DR 4070-771-001, *Administrative Grievance System*, November 27, 2020, or a negotiated grievance procedure available to covered bargaining unit employees.

**IV. Remote Work Selection (for employees in positions that are determined to be eligible for a remote work arrangement or remote work arrangement with exceptions)**

You have 30 days\* from receipt of this notification to decide if you wish you to participate in the Remote Work Program at this time. If you have questions about how a remote work arrangement may impact your pay or other aspects of your employment, please contact Elizabeth Petrus, Section Chief, Workforce Policy, HRD, at [Elizabeth.petrus@usda.gov](mailto:Elizabeth.petrus@usda.gov). \*[If a bargaining unit employee, labor agreement controls.]

If you elect to participate in the Remote Work Program, your duty station will be changed to reflect where you will be performing your official duties (for most remote workers this is the home residence).

**Sample FPAC Template for Supervisors' Notification for Participation in Telework and Remote Work Programs (Continued)**

If you elect not to participate in the Remote Work Program, you will be expected to return to the workplace. Your supervisor will notify you when you are expected to return to the workplace, which will be consistent with the USDA *Return to the Physical Workplace Plan and Workplace Safety Plan*.

\_\_\_\_\_ 1. I elect to participate in the Remote Work Program. I understand my duty station will be changed to reflect the location where I will perform the duties of my position and that the change in my official duty station may impact the amount of locality pay added to my base pay. I attest that I have the requisite internet connectivity to successfully perform my duties at this remote location and that it is a safe working environment. The duty station where I will perform my work is listed below:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 2. I elect not to participate in the Remote Work Program at this time and will consider participating in the Telework Program. I understand that I will be expected to return to the workplace no less than 45 days from the date this notification was received, consistent with the USDA *Return to the Physical Workplace Plan and Workplace Safety Plan*.

\_\_\_\_\_ 3. I elect not to participate in either the Telework Program or the Remote Work Program at this time. I understand that I will be expected to return to the workplace no less than 45 days from the date this notification was received, consistent with the USDA *Return to the Physical Workplace Plan and Workplace Safety Plan*.

\_\_\_\_\_  
Supervisor Signature and Date

\_\_\_\_\_  
Employee Signature and Date

**Sample FPAC Template for Supervisors' Notification for Participation in Telework and Remote Work Programs (Continued)**

**ATTACHMENT 1**

**BASES FOR INELIGIBILITY FOR TELEWORK AND/OR REMOTE WORK**

1. You are not eligible for telework this time. The date of your telework eligibility will be reviewed on: [insert date 12 months from disqualifying event].
  - a.  Your most recent performance rating, dated x, is below an acceptable level of competence and your telework directly and negatively affects your performance. Continuation of your telework arrangement will interfere with your ability to improve to and maintain an acceptable level of competence.
  - b.  You received formal disciplinary or adverse action or leave restriction within the  past 12 months.
2. You are permanently ineligible to participate either in the **Telework Program under the Telework Enhancement Act** *or* the **Remote Work Program** under FPAC policy due to:
  - a.  You have received formal discipline or adverse action for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch [PL 111-292, December 9, 2010](#) for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties; or
  - b.  You have been officially disciplined for Absence Without Leave (AWOL) for 5 days or more in any calendar year.
  - c.  Your essential functions require you to have a physical presence at the agency worksite.