



The Here, There and Everywhere Workforce:

Tips, Traps and Best Practices



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Polling Question 1

Pre-pandemic what percentage of your office-based workers worked remotely regularly 1 or more days a week?

< 10%

10 - 25%

26 - 50%

51 - 75%

76 - 100%

Polling Question 2

Is your organization considering increasing remote work options for office-based workers post-pandemic?

Yes

No

Polling Question 3

Post-pandemic what percentage of your office-based workers will work remotely regularly 1 or more days a week?

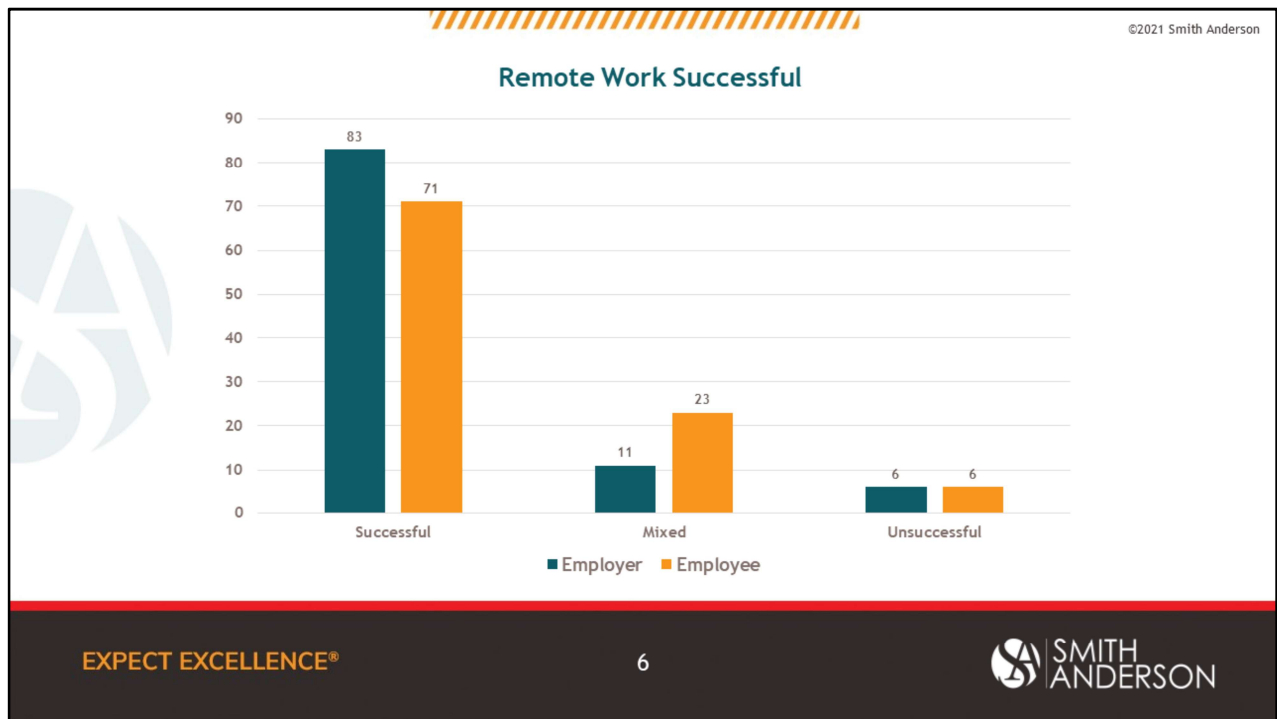
- < 10%
- 10 - 25%
- 26 - 50%
- 51 - 75%
- 76 - 100%

How are employers doing?

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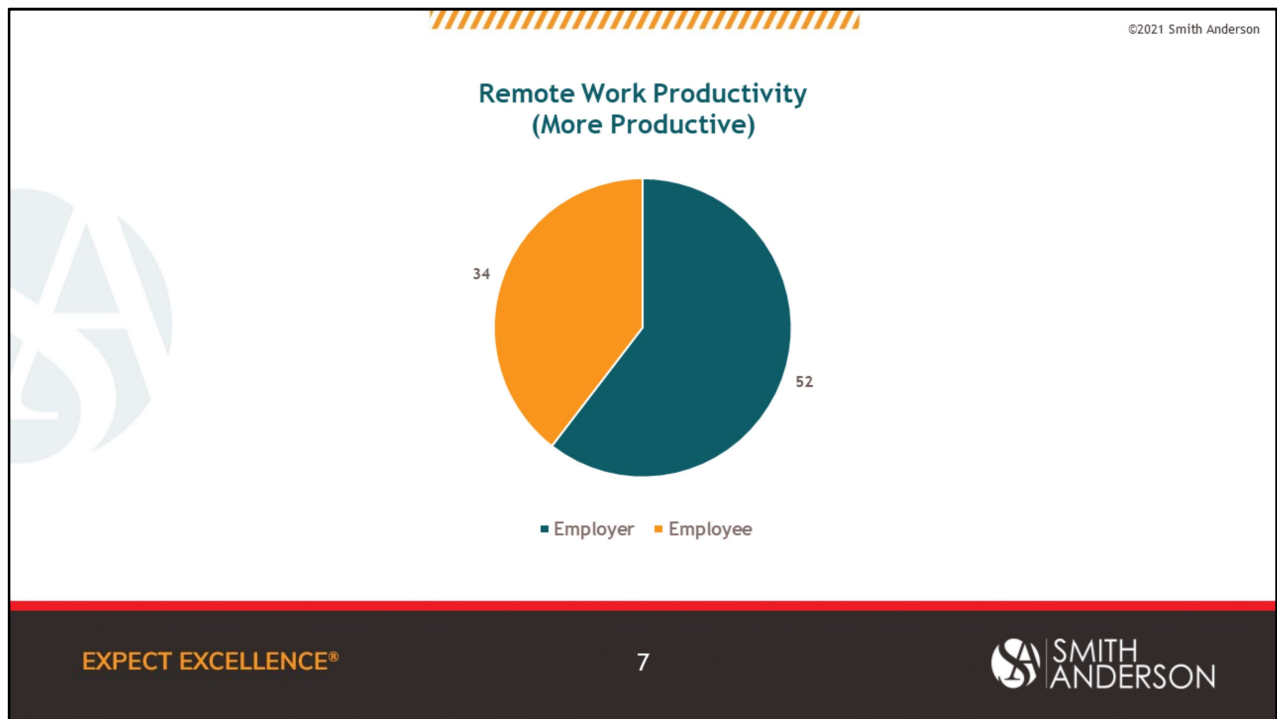
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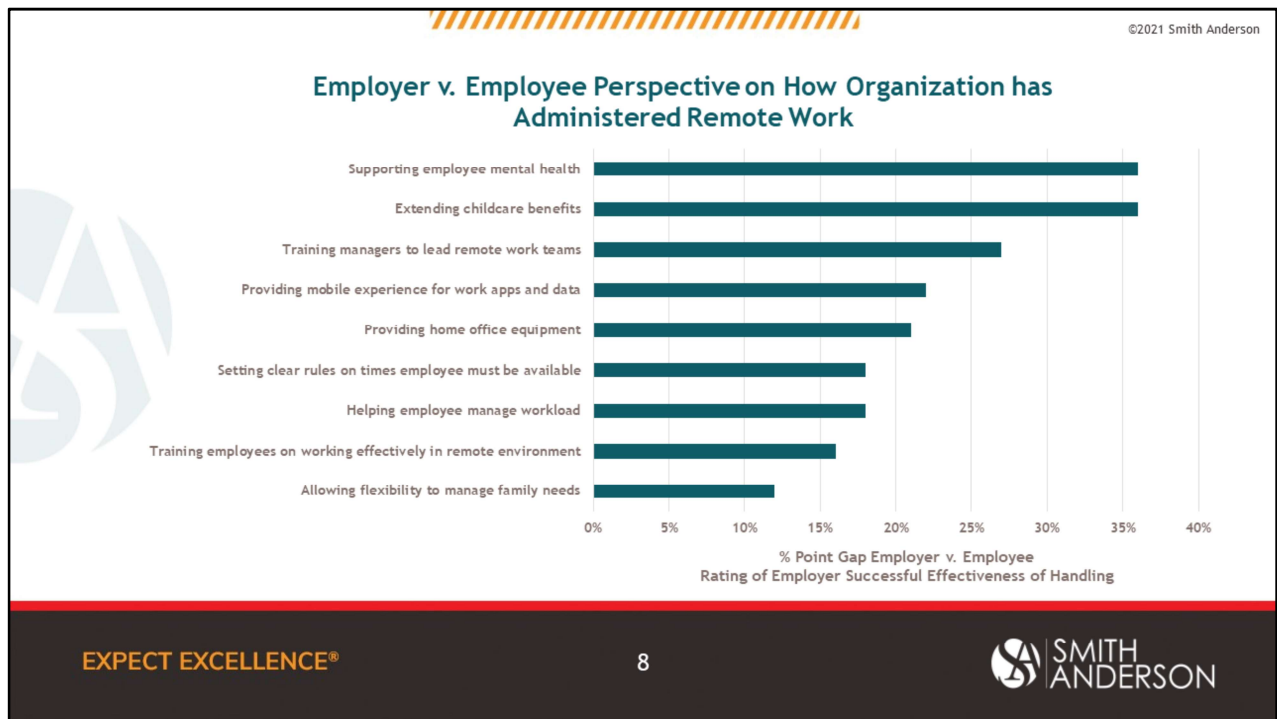
PwC US Remote Work Survey (January 12, 2021: 133 US executives, 1200 US office workers)

How successful would you say the shift to remote work because of COVID-19 has been for your company? (Responding 'successful' and 'very successful')



PwC US Remote Work Survey (January 12, 2021: 133 US executives, 1200 US office workers)

Responding “more productive” and “much more productive” to the following:
Which of the following best describes your productivity working remotely compared to before COVID-19?
How has average employee productivity changed (compared to pre-COVID-19)?
(Responding ‘more productive’ and ‘much more productive’)



PwC US Remote Work Survey (January 12, 2021: 133 US executives, 1200 US office workers)

How would you describe how effective your company has been at performing the following activities with employees working remotely?
(Responding 'successful' and 'very successful'; showing difference: employers minus employees)

Remain Remote Post-COVID

Remote Days desired/wk	Employer	Employees
No remote	21	8
>0 - <1 (1 - 3/ month)		10
1	18	10
2	29 = 68%	19 = 47%
3	15	16
4	5	10
>4 - <5 (1 - 3/month)	6	
Full-time remote	5 = 31%	29 = 55%


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PwC US Remote Work Survey (January 12, 2021: 133 US executives, 1200 US office workers)

The purpose of an office according to...



Rank	Employers	Employees
1	Increase productivity	Collaborating
2	Client meetings	Accessing equipment/documents
3	Employee collaboration	Meeting with clients/colleagues
4	Enabling corporate culture	Training/career development

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PwC US Remote Work Survey (January 12, 2021: 133 US executives, 1200 US office workers)

Listing highest ranked answers to “the purpose of your physical office in the future” and “how important are the following for while you're in the office.”


Identifying Your Optimal Remote Work Strategy

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Questions to be Considered

- 
- WHY** • will remote work be used?
 - WHAT** • types of remote work will we use?
 - WHERE** • will we work--local, in-state, out-of-state, out-of-country?
 - WHO** • will be working remotely--positions and people?
 - HOW** • pay? terms, policies? training? monitoring? performance management?

The WHAT

Options

- Primarily **remote**
- **Hybrid** (*office part-time, typically 2 - 3 days per week*)
- Primarily **office**

Factors to Consider

- Nature of the work
- Experience level of workforce
- Employee preferences

The WHERE

Options

- Within commuting distance
- In-state only
- Out-of-state (w/o restrictions)
- Out-of-country

Factors to Consider

- *Pros:* Increased talent pool, competitive talent acquisition
- *Cons:* Employment, tax law variation; time zone differences

Best Practice

- Policy on geographic location where employees can work
- Way to monitor work location

The WHERE Legal Compliance Considerations

Hiring: Pay disclosures, inquiries; criminal history/background checks; drug-testing; data privacy requirements

Compensation: Non-exempt overtime, breaks; exempt classification; expense reimbursement; PTO

Paid Sick Leave, state disability withholding

Unpaid Leave

EEO: Reasonable accommodation/disclosure requirements (pregnancy); expanded protected classes

Taxes: Withholding, UI, business presence requirements

Non-competes

The WHO: **Jobs, Employees,** Supervisors

Develop criteria/tools for assessing and selecting suitable **jobs**, **employees** and **managers** for remote work

Tips

Jobs: At least some portion of work can be done as well or better away from site

Employees: Selection process to assess job knowledge/skills, personality, self-motivation and home setting suitable for remote work

Managers: Manages by results, not time spent working

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Best Practices For Selecting Jobs Suitable for Remote Work

Base decisions on the job, not life style factors

Analyze job activities for remote work suitability

If on-site presence is essential to performance of the job, then this requirement should be expressly stated in the job description.

Common job suitability factors

- ✓ Requires independent work
- ✓ Requires little face-to-face interaction
- ✓ Requires concentration
- ✓ Results in specific measurable work product
- ✓ Can be monitored by output, not time

Common job unsuitability factors

- ✓ Requires extensive face-to-face interaction with supervisors, coworkers, clients, public
- ✓ Requires access to materials that are not removable from the office
- ✓ Employer unable to provide special facilities/equipment offsite
- ✓ Security measures too costly

For Selecting Employees Suitable for Remote Work

Selection process is the key:

Employee must have job knowledge/skills, personality, self-motivation and home setting suitable for telework

Don't choose employees solely on basis that they were best at the job as currently organized or because they are located farthest from office.

Employee Suitability Indicators

- ✓ Organized
- ✓ Highly disciplined
- ✓ Self-starter
- ✓ Able to work productively on own
- ✓ Knowledgeable about job
- ✓ Dependable and trustworthy
- ✓ Low need for social interaction
- ✓ Good communication skills
- ✓ Above-average performer
- ✓ Motivated by production/exceeding objectives; and not simply being seen
- ✓ Positive attitude towards telework
- ✓ Flexible
- ✓ Strong understanding of organization's objectives
- ✓ Manages time well and prioritizes
- ✓ Home environment suitable

Employee Unsuitability Indicators

- ✓ Needs on-the-job training
- ✓ Needs to learn the organization
- ✓ Needs close supervision
- ✓ Thrives on interaction with others
- ✓ Desires telework to care for child, sick, aged, etc.

Other Employee Assessment Factors

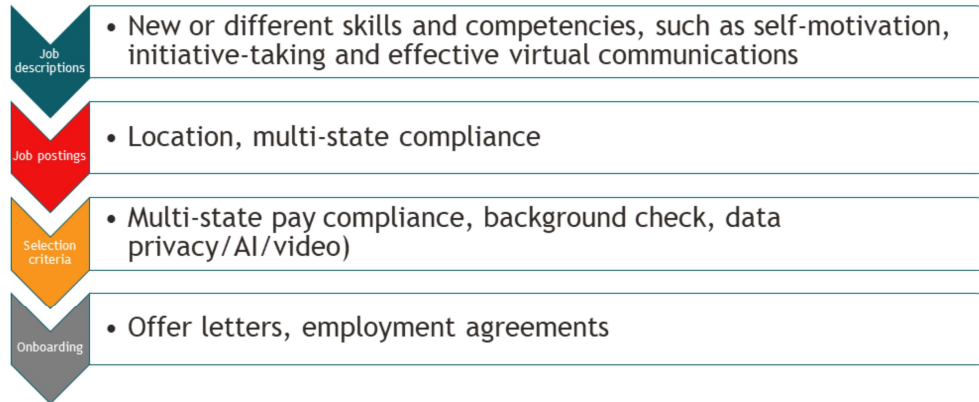
- ✓ Level of job knowledge
- ✓ Amount of job experience
- ✓ Productivity
- ✓ Overall quality of work
- ✓ Adaptability of current (or potential future) job to telework
- ✓ Organizational and planning skills
- ✓ Project management skills
- ✓ Time management skills and ability to structure time in an unstructured environment
- ✓ Ability to set goals for self and follow through on them
- ✓ Self-discipline/ability to manage potential friction between personal and work

- ✓ Communication skills: verbal
- ✓ Communication skills: written
- ✓ Self-marketing
- ✓ Technology literacy level/ability to work with technology to achieve business goals
- ✓ Ability to work productively without needed supervision or frequent feedback
- ✓ Tendency to ask for advice or input when needed
- ✓ Reliability and discipline regarding work commitments
- ✓ Ability to thrive in isolated work environments with no co-workers present
- ✓ Self-motivation, self-discipline, ability to avoid procrastination
- ✓ Flexibility
- ✓ Ability to work confidently in unfamiliar or constantly changing situations
- ✓ Independence/ability to self-manage
- ✓ Desire for scheduled flexibility
- ✓ Willingness to try new ways of working
- ✓ Interest and enthusiasm about teleworking

Best Practices Selecting Managers Suitable to Manage Remote Work

- ✓ Empowers and trusts employees
- ✓ Manages by results, not time spent working
- ✓ Encourages feedback and communication
- ✓ Effective problem solver/facilitator
- ✓ Effective planner and organizer of work to facilitate results
- ✓ Breaks down tasks and assigns deadlines
- ✓ Supports remote work and takes action for successful arrangements

The HOW: Recruiting, Hiring, Selection Criteria



The HOW: Compensation and Benefits

Base Compensation

- Location as a factor affecting pay
 - Job v. work situs based (*when working in locations of differing cost of living*) v. national median
 - How handle when employee in high COL area relocates to lower COL area (*reduce or red circle—may be informed by whether employer currently pays based on work situs*) v. new hire in lower COL area
- Must be documented, transparent and consistent

Benefits/Perks

- Aligned to remote worker interests
- Consider group health plan/provider network impacts

The HOW: Successful Programs



Policies and Tools

Telework Toolkit <http://www.teleworktoolkit.com/> A comprehensive guide to developing a telework program, including policies, forms, checklists

- Building A Telework Program http://www.teleworktoolkit.com/building_program.html

North Carolina Telework, <https://nctelework.org/>, providing policies, tools, links and case studies.

Federal and State Government Policies and Tools

North Carolina Office of State Human Resources,

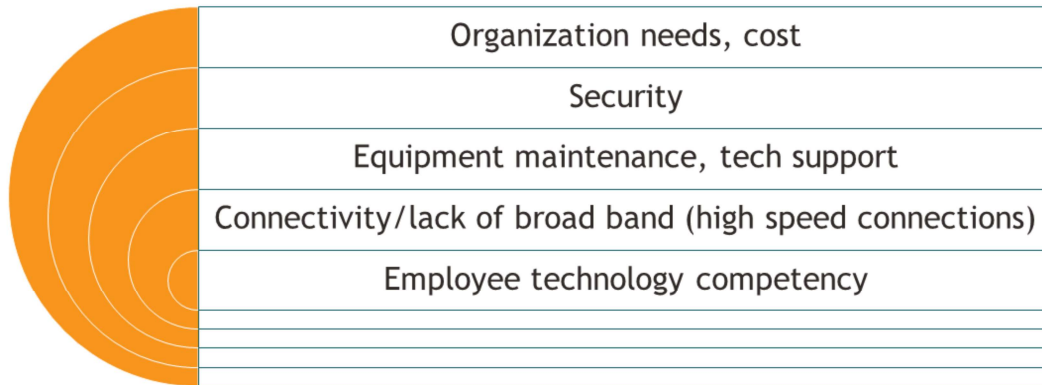
<https://oshr.nc.gov/policies/teleworking-program-policy>

Interagency Telework Site, U.S. Office of Personnel Management, General Services Administration www.telework.gov

- The U.S. Office of Personnel Management (OPM) and the U.S. General Services Administration (GSA) have established this interagency website to provide easy access to information on everything from guidance to agencies on implementing telework to training for employees. The information contained on telework.gov pertains only to Executive Branch agencies and employees.

- Telework manual, government documents and reports, information for telecommute coordinators, managers and employees
- The [Guide to Telework in the Federal Government](#) outlines practical information to assist Federal agencies, [managers](#), [Telework Managing Officers](#), other staff responsible for implementing telework, and [employees](#).

Assess and Address Technology Issues



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Cybersecurity and Infrastructure Security Agency, Telework Guidance and Resources,
<https://www.cisa.gov/telework>

Telework Essentials Toolkit <https://www.cisa.gov/publication/telework-essentials-toolkit>

- The Telework Essentials Toolkit is designed to assist business leaders, IT staff, and end users in their transition to a secure, permanent telework environment through simple, actionable recommendations. The Toolkit provides three personalized modules for executive leaders, IT professionals, and teleworkers. Each module outlines distinctive security considerations appropriate for their role:
 - Actions for executive leaders that drive cybersecurity strategy, investment and culture
 - Actions for IT professionals that develop security awareness and vigilance
 - Actions for teleworkers to develop their home network security awareness and vigilance

Telework Reference Materials for Non-Federal Organizations

<https://www.cisa.gov/telework-reference-materials-non-federal-organizations>

- Best practices for system administrators and other technical staff to enhance Critical Infrastructure, industry, schools, as well as State, Local, Tribal, and Territorial (SLTT)

government organizational security posture during remote working conditions.

Telework Reference Materials For The At-Home Worker <https://www.cisa.gov/telework-reference-materials-home-worker> Tips and security considerations, as well as cybersecurity best practices, to help employees and non-technical users in a telework environment:

- Video Conferencing Tips
- ST04-14: Avoiding Social Engineering and Phishing Attacks
- ST15-003: Before You Connect a New Computer to the Internet
- ST05-001: Evaluating Your Web Browser's Security Settings
- ST04-004: Understanding Firewalls
- ST19-001: Protecting Against Ransomware
- ST15-002: Securing Your Home Network
- ST04-020: Protecting Portable Devices: Data Security
- ST11-001: Holiday Traveling with Personal Internet-Enabled Devices
- ST05-015: Understanding Bluetooth Technology
- 5 Steps to Protecting Your Digital Home
- 5 Everyday Steps Towards Online Safety
- Creating A Password Tip Card
- Malware Tip Card
- Best Practices for Using Public Wi-Fi Tip Card
- Mobile Security Tip Card and Mobile Security: One Pager

Information Technology Laboratory National Institute of Standards and Technology

ITL BULLETIN MARCH 2020 Security for Enterprise Telework, Remote Access, and Bring Your Own Device (BYOD) Solutions

<https://csrc.nist.gov/CSRC/media/Publications/Shared/documents/itl-bulletin/itlbul2020-03.pdf>

Guide to Enterprise Telework, Remote Access, and Bring Your Own Device (BYOD) Security July 2016 <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-46r2.pdf>

- This publication provides information on security considerations for several types of remote access solutions, and it makes recommendations for securing a variety of telework, remote access, and BYOD technologies. It also gives advice on creating related security policies.

North Carolina State Government Resources

UNC School of Government, [*Teleworking Guidance: Best Practices , Sample Policies, and Cybersecurity*](#), March, 2020 (Shannon H. Tufts)

This is a resource page that includes the materials designed to help local governments navigate teleworking, including sample policies, procedures, best practices, and cybersecurity, including Top Tech Tips for Working Remotely and Securely. Links for local government telework policies provided within the article.

North Carolina Department of Information Technology, [*Telework Guidance for State Employees*](#), undated (NCDIT)

Provides cybersecurity and technology tips for employees, directors and IT Directors.

Federal Government Resources

Telework Reference Materials for the Federal Government <https://www.cisa.gov/telework-reference-materials-federal-government>

- Best practices for agency cybersecurity managers, system administrators, and other technical staff to enhance their Federal Government department and agency's security posture during remote working conditions.

Polling Questions 4 and 5

Does your organization provide “how-to” remote work training to:

- Remote workers
 - Yes
 - No

- Supervisors of remote workers
 - Yes
 - No

Orientation and Training Topics

Employees

- Setting boundaries at home
- Time management tips
- Office communications/staying involved
- Setting up home office, safety checklist

Supervisors

- Performance management
- Trust
- Communications
- Inclusion

Policies and Tools

Telework Toolkit <http://www.teleworktoolkit.com/> A comprehensive guide to developing a telework program, including policies, forms, checklists

- Tips for Telework Managers http://www.teleworktoolkit.com/manager_tips.html
- Evaluating Teleworkers
http://www.teleworktoolkit.com/evaluate_teleworkers.html
- Teleworker Self-Assessment Form
http://www.teleworktoolkit.com/self_assessment.html

Government Resources

Telework Manager Landing Page <https://www.telework.gov/federal-community/telework-managers/>

- Basics for Managers <https://www.telework.gov/federal-community/telework-managers/telework-basics/>
- Performance Management <https://www.telework.gov/training-resources/telework-faqs/performance-management/>
- Online Manager Training <https://www.telework.gov/training-resources/telework-training/virtual-telework-fundamentals-training-courses/managers-course/index.htm>

Telework and Performance Management Webcast Trainings

- OPM's Telework and Performance Management recorded webcasts on successfully managing employees in a virtual environment.
- The first part of the series focuses on key steps for developing a successful telework strategy to ensure program success. Managing in a Virtual Environment Part 1
<https://www.youtube.com/watch?v=GcSyFvBhoOY>
- The second part demonstrates how effective performance management can lead to organizational success in a virtual environment. Managing in a Virtual Environment Part 2
<https://www.youtube.com/watch?v=1izjqyorGCg>

Employee Training <https://www.telework.gov/training-resources/telework-training/virtual-telework-fundamentals-training-courses/employee-course/index.htm>

Performance Management

Reviews

- Conducted more frequently during the initial months for early identification and remedying of problems
- Evaluated using the same criteria and same expectations as non-remote workers
- Address quality of work, suitability for remote arrangement and focus on any individual concerns (e.g., concerns about self-discipline, ability to meet deadlines, or whether the home environment was conducive to work)

Performance Management (CON'T)

Productivity

- Are assignments being completed and deadlines met?

Quality

- Is there any change in the quality of work?

Communications

- Have there been any problems reaching the employee? Does the employee return messages in a timely manner?

Technology

- Has the employee had problems with equipment or learning new software? Have they been able to troubleshoot themselves or have they sought help from IT?

Work Environment

- Has the employee been able to create a work environment that is relatively free of distractions from family, friends, neighbors, TV, home chores, etc.?

Performance Management (CON'T)

Work Habits

- Has the employee settled into a productive work routine?

Team Interaction

- Is the employee able to communicate effectively with coworkers? Is there any resentment of the employee by in-office colleagues?

Isolation

- Is employee having any feelings of isolation when working at home?

Satisfaction

- Ask the employee if they are satisfied with their decision to telework.

Consult with IT

- How frequently is employee requesting IT assistance? Identify problems that could be reduced with training.

Legal Issue Checklist

Legal Issue Checklist

- ✓ Electronic signatures
- ✓ FLSA, wages
- ✓ OSHA, safety, health
- ✓ Workers compensation
- ✓ Monitoring, surveillance, searches
- ✓ Mandatory postings
- ✓ Immigration
- ✓ Employee rights laws
- ✓ Taxes
- ✓ Unemployment benefits

Electronic Signatures

Requirements

- Federal and state law governs
 - *Signer intent must be proved*
 - *Documentation of reasonable controls and satisfaction of federal/state evidence rules required*
- Cannot be mandated (I-9 exception)
- Right to decline and sign manually (give notice)

Deciding to Use Electronic Signature

- What are the consequences of losing dispute over signature?
- What is the likelihood that individual will dispute signature?
- If a dispute arises, how difficult/costly will it be for IT and HR staff to prove that the individual (and no one else) really did make the signature perhaps years earlier?

FLSA, wages

Legal Requirements

- **Non-exempt employees**
 - must compensate for all hours worked
 - must maintain records of all hours worked
- **Expense reimbursement**
 - expenses resulting in less than minimum wage being paid must be reimbursed
 - NC considers expense reimbursement a form of wages when employer has policy or practice of making payment
 - some states require expense reimbursement, including data, internet, cell

Best Practices

- **Non-exempt workers**
 - Prohibit, discipline and pay for unwanted hours worked
 - Timekeeping policies should expressly explain remote worker timekeeping procedures
 - Review and verify remote worker time records daily/weekly
- Remote work policies/agreements expressly address whether/what extent expenses are responsibility of employee or reimbursed by employer

OSHA, Safety

Requirements

- Employer responsible for damages/injuries caused by employer required materials, equipment or work processed
- Employer must record work-related illnesses/injuries

Best Practices

- Use safety checklist, incorporate into remote work agreement

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OSHA Regulatory Guidance and Requirements

OSHA will not hold employers liable for employee home office and does not require employers to inspect home offices. Home-Based Worksites, Directive Number CPL 02-00-125, Section VII. <https://www.osha.gov/enforcement/directives/cpl-02-00-125>

OSHA will inspect other home-based work sites if a complaint or referral is received, and employers are responsible for damages caused by employer required materials, equipment or work processed. Id.

Employers must keep records of work-related injuries/illnesses. Whether an injury or illness sustained working at home is “work-related” is addressed in 29 CFR 1904.5(b)(7) (illnesses and injuries that occur while an employee is working at home, including work in a home office, are considered work-related if the injury or illness both occurs while the employee is performing work for pay or compensation in the home and is directly related to the performance of work rather than to the general home environment or setting).

Best Practices

Prepare and update a safety checklist, include ergonomics, and consider including in

telework agreement provisions limiting work area access to employees only and permitting employer home inspections. The latter items are essential for home-based work sites, other than offices. Make safety checklist representations part of the telework agreement and develop a process for periodic updates. See Sample Safety Checklist (Appendix B); OSHA Computer Workstations eTool:

<https://www.osha.gov/SLTC/etools/computerworkstations/checklist.html>

Workers Compensation

Legal Requirements

- Difficult to determine whether at home injuries arose “out of” and “in the course of employment”
- Out of state workers subject to law of state where they work

Best Practices to Minimize Fraudulent Claims

- Develop set work schedule
- Require voicemail/email clock-in, -out procedure
- State time requirements for reporting injury
- Specify activities permitted or prohibited during work hours

Polling Question 6:

Does your organization use any form or employee monitoring software?

- Yes
- No

Polling Question 7:

Is your organization interested in using employee monitoring software?

- Yes
- No
- Maybe, tell me more

Monitoring, Surveillance, Searches

Legal Requirements

- Standard is whether there is expectation of privacy
 - Public employment: Fourth Amendment applies to public employee workplaces and communications. Workplace search is lawful provided it is conducted for
 - Non-investigative work-related purpose or investigation of work-related misconduct
 - Justified at inception, and
 - Methods used are reasonably related to and not excessively intrusive given the objective
- City of Ontario v. Quon*, 560 U.S. 746 (2010)

Best Practices

- Express policy of monitoring, auditing and tracking online activities and communications
- Distributed to, and acknowledged by, employee
- In fact carried out consistently, and
- No more intrusive as to serve its objectives

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Monitoring Remote Workers, SHRM, August 2020 <https://www.shrm.org/hr-today/news/all-things-work/pages/monitoring-remote-workers.aspx>

Best Employee Monitoring Software reviews (updated September 30, 2021):
<https://www.business.com/categories/employee-monitoring-software/>

Mandatory Posting Requirements

Legal Requirements

- Some federal and state laws expressly permit electronic posting
- Electronic posting not sufficient if employer
 - has not taken steps to inform employees of where and how to access the notice electronically
 - does not customarily post notices to affected employees or other affected individuals electronically

Best Practices

- Provide email, website, or intranet notice when permitted
- Mail notices that must be physically posted to individual employees working from their home or another remote site
- Continue to post hard copies of all required posters on the employer's premises, even when electronic or hard copies are sent to remote employees

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Mandatory Posting Legal Requirements

Some federal and state laws expressly provide that workplace posting requirements can be satisfied using electronic (intranet) posting, email or U.S. mail to remote workers. See Federal: <https://www.dol.gov/general/topics/posters>; NC and Federal: <https://www.labor.nc.gov/workplace-rights/employer-responsibilities/all-state-and-federal-workplace-posters>

U.S. DOL recently issued guidance clarifying posting requirements for the laws it enforces (FLSA, FMLA, EPPA, SCA) when employing remote workers. Field Assistance Bulletin 2020-7 (December 23, 2020) https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fab_2020_7.pdf

DOL will not consider electronic posting on a website or intranet to be an effective means of providing notice if an employer does not customarily post notices to affected employees or other affected individuals electronically. See, e.g., 29 C.F.R. §§ 13.26, 13.5

If the employer has not taken steps to inform employees of where and how to access the notice electronically, DOL will not consider the employer to have complied with the posting requirement. See, e.g., Field Assistance Bulletin No. 2019-3.

Immigration

Legal Requirements

- Onboarding requires *in-person* inspection to verify original documentation authorizing eligibility to work in the U.S. in accordance with Form I-9 and e-Verify
- Reviewing or examining documents via webcam is not permissible

Compliance Options

- Designate an authorized representative to fill out Forms I-9 on behalf of organization (e.g., notary public, third party service)
- Employer remains liable for any violations in connection with the form or the verification process

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Legal Requirements

On-boarding of new hires requires *in-person* inspection to verify original documentation authorizing eligibility to work in the U.S. in accordance with Form I-9 and e-Verify. Reviewing or examining documents via webcam is not permissible.

Compliance Options

USCIS recognizes that employers may designate an authorized representative to fill out Forms I-9 on behalf of their organization, including personnel officers, foremen, agents or notary public. If an authorized representative fills out Form I-9 on behalf on the employer, the employer is still liable for any violations in connection with the form or the verification process. See <https://www.uscis.gov/i-9-central/completing-form-i-9-for-remote-hire>

If the employer hires a notary public, the notary public is acting as an authorized representative of the employer, not as a notary. The notary public must perform the same required actions as an authorized representative. When acting as an authorized representative, the notary public should not provide a notary seal on Form I-9.

Policies and Agreements

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Remote Work Policy-Topics to Consider

- Define types of remote work available (cross-reference applicable procedures for requesting arrangement as reasonable accommodation)
- Employee eligibility/selection/approval requirements
- Employee, supervisor and HR responsibilities
- Performance management issues
- Time and attendance (work hours, timekeeping, accessibility)
- Reporting responsibilities
- Application/integration of other employer policies - privacy, monitoring, personal use, etc.
- Equipment issues - who provides, maintains, insures; develop procedure for maintaining equipment inventory and authorization for payroll deductions for loss, damage, failure to return
- Security issues - especially access/security of confidential information
- Expense reimbursement
- Safety and accidents, including ergonomics
- Liability, compliance and responsibility
- Insurance coverage
- Tax
- Zoning

See Appendix A SAMPLE Remote Work Policy, Appendix C Remote Work Conduct Policy

Remote Work Agreement-Topics to Consider

- Statement of what activities, circumstances and locations are involved
- Equipment expenses, technical support, training, supplies employer will provide
- Space, equipment, furniture the employee will provide
- Specific schedule requirement
- Responsibility for insurance and maintenance on equipment and work area
- Return of employer-provided equipment at termination
- Employee's responsibility for equipment, maintenance and repairs
- Employee's responsibility for workplace safety of home office and injury reporting
- Requirement that employee record and submit time regularly - how, when and where wages will be paid
- Any limitations on work hours, and prior approval for overtime if non-exempt
- Confidentiality of computer data and other employer records
- Limitations on personal use of employer provided equipment
- Limitations on access to employer-provided equipment and employee workplace
- Acknowledgment that arrangement is temporary and may be terminated or modified by the employer at any time
- Employment at will disclaimer

See Appendix D SAMPLE Remote Work Assignment Agreement



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October 2021

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