



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Employee Services

CPM 2023-16  
August 21, 2023

### **Memorandum for Human Resources Directors**

**From:** Veronica E. Hinton  
Associate Director  
Employee Services

**Subject: Guidance on Hours of Work for Telework and Remote Work Employees**

As the Federal workplace landscape changes, agencies must continue to correctly apply the rules concerning hours of work for all Federal employees, including those who are teleworkers and remote workers. While Federal employees may have access to workplace flexibilities with respect to the location where work is performed and/or the hours during which work is performed, the crediting of time as hours of work is based on applicable rules under title 5, United States Code, and/or the Fair Labor Standards Act (FLSA).

The U.S. Office of Personnel Management (OPM) has prepared guidance to assist agencies and employees in understanding the rules governing when travel time is considered hours of work for teleworkers and remote workers. The crediting of travel time as hours of work depends on whether an employee is FLSA-nonexempt (i.e., covered by the FLSA) or FLSA-exempt (i.e., not covered by the FLSA but instead covered by title 5). For an FLSA-nonexempt employee, travel time may be creditable as work under either the FLSA or title 5. For an FLSA-exempt employee, travel time is only creditable as work under title 5.

### **Additional Information**

For additional information on telework and remote work policies, agency headquarters-level human resources offices may contact OPM at [TeleworkPolicy@opm.gov](mailto:TeleworkPolicy@opm.gov). For additional information on hours of work, agency headquarters-level human resources offices may contact OPM at [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov). For additional information on travel policy, please contact your agency travel office or GSA at [travelpolicy@gsa.gov](mailto:travelpolicy@gsa.gov). Component-level human resources offices must contact their agency headquarters for assistance. Employees must contact their agency human resources offices for further information on this memorandum.

cc: Chief Human Capital Officers (CHCOs), and Deputy CHCOs

Attachment: Guidance on Hours of Work for Telework and Remote Work Employees

## **Guidance on Hours of Work for Telework and Remote Work Employees**

**Note:** This guidance does **not** address scenarios involving dismissals and closures due to severe weather conditions, natural disasters, and other safety-related emergencies that disrupt Federal Government operations and may involve use of weather and safety leave. Guidance on those scenarios, including guidance specific to teleworkers and remote workers, can be found in OPM’s [Governmentwide Dismissal and Closure Procedures](#). Agencies should review applicable collective bargaining agreements which may have additional requirements regarding the matters covered by this guidance.

### **Background on Telework, Remote Work, Work Schedules, and Hours of Work**

#### *General*

Federal employees may have access to flexibilities with respect to the location where work is performed and/or the hours during which work is performed. The crediting of time as hours of work is based on applicable rules under title 5 and/or the Fair Labor Standards Act (FLSA).

#### *Work Location Flexibility*

Workplace location flexibility may be available through an approved telework or remote work arrangement.

- An employee with a telework arrangement works on a regular and recurring basis at an agency worksite but also works at a telework location (usually the employee’s home). [OPM guidance on telework arrangements](#) is available for telework authorized by 5 U.S.C. chapter 65. For a teleworker, the agency worksite remains the employee’s official worksite for determining geographic-based pay entitlements and the basis for determining the employee’s official station or official duty station for travel and other purposes. For an employee covered by OPM’s locality pay regulations, see the twice-a-pay-period rule (including specified exceptions) in 5 CFR 531.605(d); an employee who does not satisfy that rule is considered to be a remote worker.
- Remote work is a flexible work arrangement in which an employee generally works at a location other than the regular agency worksite—usually the employee’s home. The employee does not work at an agency worksite on a regular and recurring basis. The remote worksite is the employee’s official worksite for determining geographic-based pay entitlements and the basis for determining the employee’s official station or official duty station for travel and other purposes.
- See OPM Fact Sheet: [Official Worksite for Location-Based Pay Purposes](#).
- See OPM memorandum of July 23, 2021, to agency Chief Human Capital Officers, [“Additional Guidance on Post-Reentry Personnel Policies and Work Environment” \(CPM 2021-17\)](#).

- See [OPM Guide to Telework and Remote Work in the Federal Government - Leveraging Telework and Remote Work in the Federal Government to Better Meet Our Human Capital Needs and Improve Mission Delivery](#).
- See “Training and Resources” at the [OPM telework website](#); in particular, see [Telework Frequently Asked Questions \(FAQs\)](#) and [Remote Work Frequently Asked Questions \(FAQs\)](#).

#### *Work Hours Flexibility*

Flexibility with respect to when hours of work are performed may be available through a flexible work schedule, as authorized under 5 U.S.C. chapter 61, subchapter II, and 5 CFR part 610, subpart D. In contrast, both standard work schedules and compressed work schedules have fixed hours and fixed starting and stopping times each workday.

- See [Handbook on Alternative Work Schedules](#).
- See [Fact Sheet: Flexible Work Schedules](#).
- See [Fact Sheet: Compressed Work Schedules](#).

#### *Crediting of Work Hours*

The crediting of hours as hours of work depends on whether an employee is a nonexempt employee covered by FLSA overtime rules or an FLSA-exempt employee covered by the rules in title 5, United States Code, or other similar authority. For an FLSA-nonexempt employee, an hour is a creditable hour of work if the hour is creditable under either FLSA overtime rules or title 5 overtime rules. There are specific rules governing when **travel time** is considered to be hours of work under the FLSA or title 5, which are particularly relevant in this guidance document. (See 5 CFR 550.112(g) and (j) for title 5 rules on travel time and 5 CFR 551.422 for FLSA rules on travel time.)

- Under title 5, hours of official travel status **away from** the employee’s official duty station are creditable hours of work if they are performed during the employee’s regularly scheduled administrative workweek (5 U.S.C. 5542(b)(2)(A)) or if they meet certain special conditions (5 U.S.C. 5542(b)(2)(B)), such as performing work while traveling. Required work travel time between different work locations **within** the employee’s official duty station (as defined in 5 CFR 550.112(j)) during regularly scheduled work hours is creditable hours of work.
- Under the FLSA, travel time is creditable hours of work if an employee is required to travel during regular working hours (i.e., regularly scheduled administrative workweek hours, as provided in 5 CFR 551.421; see 5 CFR 551.422(a)(1)) or meet certain special conditions (5 CFR 551.422(a)(2)-(4)), such as performing work while traveling.
- Normal home-to-work and work-to-home travel time is not hours of work; rather it is noncreditable commuting time (5 CFR 550.112(j)(2) and 551.422(b)).
- Time spent traveling in official travel status away from the employee’s official duty station that is not compensable hours of work under applicable travel rules is creditable as compensatory time off hours, as provided in 5 CFR part 550, subpart N.

**Note:** For information on reimbursement of temporary duty (TDY) travel expenses and per diem during official travel **away from** an employee’s official station, see the General Services Administration (GSA) Federal Travel Regulation at 41 CFR parts 301-304. Travel expenses in connection with work-required travel **within** an employee’s official station may be reimbursed as a local travel expense in accordance with agency policy.

### **Applications to Telework and Remote Work Employees**

- Applying title 5 and FLSA hours of work rules (as applicable) to telework employees can raise special issues. In particular, questions arise when (1) a telework employee works at the regular agency worksite on a scheduled telework day or (2) a remote worker works at an agency worksite. The exact application of the rules may depend on the specific circumstances—e.g., whether the employee was required or chose to work at the agency worksite, whether the employee will be working for a full day or a partial day at the agency worksite, the timing of any commuting trip between the employee’s home and the agency worksite, whether the agency worksite is within the official duty station for an employee’s remote worksite, etc.
- We note that some employees may have flexible work schedules without fixed hours per workday or fixed starting and stopping times (e.g., a maxiflex schedule). For such employees, an agency is authorized to determine the employee’s workday based on the employee’s individual patterns of work. (See [OPM Handbook on Alternative Work Schedules](#), paragraph 2 of the “Excused Absence” section of the “Flexible Work Schedules” section.)
- The following scenarios (“T” for teleworker scenarios and “RW” for remote worker scenarios) provide examples of how hours of work are credited under various facts and circumstances:

### **Teleworker Scenarios**

#### **Scenario T-1: Prior to the Start of the Workday (required to report to the agency worksite)**

- The employee is **required** by the agency in advance of a scheduled telework day to report to the agency worksite for the full workday. The employee travels to the agency worksite prior to the start of the employee’s workday.
- Telework is cancelled for the affected day.
- Employee has a normal workday at the agency worksite.
- Time spent traveling to and from the agency worksite is considered commuting time that is not hours of work.

#### **Scenario T-2: After the Start of the Workday (required to report to the agency worksite)**

- The employee begins working at home as a teleworker.
- The employee is **required** by a supervisor to report to an agency worksite after the start of the employee’s workday; telework status for the remainder of the workday is cancelled.
- Time spent traveling from home to the agency worksite during the workday is hours of work for both FLSA-exempt and FLSA-nonexempt employees.

- The employee is expected to complete the remainder of the workday at the agency worksite; however, with supervisory approval—
  - the employee may use annual leave or other appropriate paid time off to end the workday earlier;
  - the employee may request annual leave or other paid time off to cover the time spent commuting home and be returned to telework status and allowed to complete the workday at home; or
  - if the employee has a flexible work schedule that allows for employee-controlled breaks, the employee may commute home during a break and be returned to telework status and allowed to complete the workday at home.

**Scenario T-3: After the Start of the Workday (choosing to report to the agency worksite)**

- The employee begins working at home as a teleworker.
- The employee **chooses** to report to an agency worksite after the start of the employee’s workday even though it is not required by a supervisor. The employee’s telework status for the remainder of the workday would be cancelled. [Note: This scenario is based on the assumption that (1) the employee is allowed to choose to report to the agency worksite on a scheduled telework day under the agency’s telework policies and/or the employee’s telework agreement and (2) the employee is able to have a break in working hours to permit the commute to the office (e.g., by taking annual leave or other paid time off or by creating a break under the employee’s flexible work schedule).]
- Time spent traveling from home to the agency worksite during the workday is considered commuting time and is **not** hours of work—for both FLSA-exempt and FLSA-nonexempt employees.
- The employee is expected to complete the remainder of the workday at the agency worksite; however, with supervisory approval—
  - the employee may use annual leave or other appropriate paid time off to end the workday earlier;
  - the employee may request annual leave or other paid time off to cover the time spent commuting home and be returned to telework status and allowed to complete the workday at home; or
  - if the employee has a flexible work schedule that allows for employee-controlled breaks, the employee may commute home during a break and be returned to telework status and allowed to complete the workday at home.

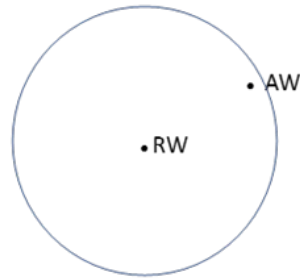
**Remote Worker Scenarios**

**Scenario RW-1: Prior to the Start of the Workday (required to report to the agency worksite)**

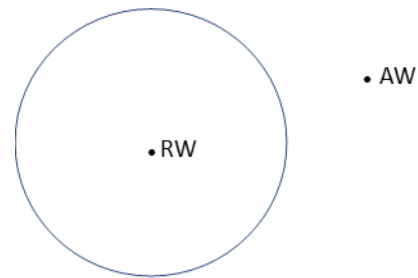
- The employee is **required** by a supervisor in advance of a day of previously scheduled remote work to instead report to the agency worksite for the full workday. (This scenario deals with same-day travel on an employee’s regular workday.)

- The treatment of travel time depends on whether the agency worksite is **within** the “official duty station” (as defined in 5 CFR 550.112(j) and 551.422(d), as applicable) for the employee’s remote worksite (usually home). For example, if an agency uses a 50-mile radius to determine an employee’s “official station” under GSA travel regulations (41 CFR 300-3.1) and the same 50-mile radius to determine an employee’s “official duty station” under OPM’s overtime regulations, then the agency would need to determine if the agency worksite is within 50 miles of the employee’s remote worksite (usually the employee’s home). See diagrams below, where “RW” is the remote worksite and “AW” is the agency worksite.

Agency worksite (AW) is within the official duty station for the remote worksite (RW)



Agency worksite (AW) is outside the official duty station for the remote worksite (RW)



- If the agency worksite is **within** the official duty station for the remote worksite, the travel to and from the agency worksite would be considered to be commuting time that is **not** hours of work—for both FLSA-exempt and FLSA-nonexempt employees.
- If the agency worksite is **outside** the official duty station for the remote worksite, the treatment of travel hours depends on whether the employee is FLSA exempt or nonexempt.
  - If the employee is FLSA-exempt, the travel time to and from the agency worksite is considered hours of work if it occurs during the employee’s regularly scheduled administrative workweek (5 U.S.C 5542(b)(2)(A) and 5 CFR 550.112(g)(1)) or if certain special exceptions apply (5 U.S.C. 5542(b)(2)(B) and 5 CFR 550.112(g)(2)). See 5 CFR 610.123 regarding the need to record the reasons for requiring travel outside the regularly scheduled administrative workweek. (Note: If a special exception allows crediting of travel outside the FLSA-exempt employee’s regularly scheduled administrative workweek, there is no deduction (offset) based on the time the employee “would have spent” in normal home to work travel, since a remote worker would not have spent time engaged in commuting.)

- If the employee is FLSA-nonexempt, the travel to and from the agency worksite in this scenario is considered hours of work (5 CFR 551.422(a)(1), (2), and (3)). There is no deduction (offset) based on the time the employee “would have spent” in normal home to work travel (5 CFR 551.422(b)), since a remote worker would not have spent time engaged in commuting.

Note: Under 5 CFR 610.123, agencies are expected—“insofar as practicable”—to avoid scheduling travel hours during nonduty hours. If an agency determines that such travel is essential, and if such travel is not compensable under applicable rules, the agency official concerned must record reasons for ordering travel during nonduty hours. (In instances when an agency authorizes official travel outside of the employee’s regularly scheduled workweek that is away from the employee’s official duty station and that travel time is not otherwise compensable hours of work, the Compensatory Time Off for Travel rules in 5 CFR part 550, subpart N, may apply. See also the OPM [Compensatory Time Off for Travel Fact Sheet](#).)

#### **Scenario RW-2: After the Start of the Workday (required to report to the agency worksite)**

- The employee begins working at home as a remote worker.
- The employee is **required** by a supervisor to report to an agency worksite after the start of the employee’s workday. [Note: This scenario applies only for circumstances in which an employee’s remote worksite is close enough to make same-day reporting possible. In circumstances in which the remote worksite is not close enough to make same-day reporting possible, the normally applicable travel hours-of-work rules apply.]
- Time spent traveling to and from the agency worksite during regular working hours is hours of work for both FLSA-exempt and FLSA-nonexempt employees.
- The employee’s supervisor will determine when the employee will cease working at the agency worksite and begin to travel home; for example, the supervisor may allow the employee to—
  - travel home during regular working hours and complete any remaining hours of the workday at home.
  - travel home after regular working hours and be credited with additional hours of work for that travel time.

#### **Scenario RW-3: After the Start of the Workday (choosing to report to the agency worksite)**

- The employee is a local remote worker whose remote worksite (normally the employee’s home) is close enough to an agency worksite to make it feasible for the employee to engage in same-day commuting between the employee’s remote worksite and the agency worksite.
- The employee **chooses** to report to the agency worksite after the start of the employee’s workday. [Note: Since the agency worksite is not an assigned worksite, the employee would need to seek advance supervisory approval. If the employee is traveling to the agency worksite during the workday, the employee must be able to have a break in

working hours to permit the commute to the office (e.g., by taking annual leave or other paid time off or by creating a break under the employee's flexible work schedule).]

- Time spent traveling from home to the agency worksite before or during the workday is considered to be commuting time and is **not** hours of work—for both FLSA-exempt and FLSA-nonexempt employees.
- The employee is expected to complete the remainder of the workday at the agency worksite; however, with supervisory approval—
  - the employee may use annual leave or other appropriate paid time off to end the workday earlier;
  - the employee may request annual leave or other paid time off to cover the time spent commuting home and be allowed to complete the workday at home; or
  - if the employee has a flexible work schedule that allows for employee-controlled breaks, the employee may commute home during a break and be allowed to complete the workday at home.

#### **Scenario RW-4: Remote Worksite in Different Time Zone Than Agency Worksite**

- A remote worker works at home, which is located in a different time zone than the agency worksite that applies to other employees of the remote worker's organizational unit. The agency decides it wants some alignment between the remote worker's hours and the normal workday hours at the agency worksite.
- The agency may establish fixed daily hours and fixed starting and stopping times for the remote worker. Alternatively, the agency may approve a flexible work schedule with designated core hours that ensure some common hours with the employees working at the agency worksite.
- Time-sensitive pay entitlements are generally based on the clock time at the place where the work is performed. (Special rules apply to creditable travel hours; when an employee's travel involves two or more time zones, the time zone from point of first departure must be used to determine the number and treatment of the travel hours. For a return trip from a temporary duty location, the number and treatment of travel hours are based on the time at that location.) The agency must consider that any agency-mandated night work hours (6:00 pm to 6:00 am) during an employee's basic workweek (or basic work requirement) would trigger entitlement to night pay (5 U.S.C. 5545(a) and 5 CFR 550.121-550.122, 610.111(d)). Basic work requirement hours of work by a flexible work schedule employee during night hours that are controlled by the employee do not trigger night pay (5 U.S.C. 6123(c)(1)); night pay is payable to the extent the employee must work night hours (1) during designated core hours or (2) to complete an 8-hour daily tour of duty.