

 <p>Montana Operations Manual</p> <p>Policy</p>	Category	Human Resources/ Employee Benefits
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Issuing Authority	Department of Administration State Human Resources Division	
Telework Policy		

I. Purpose

This policy establishes uniform procedures for conducting and managing telework in Montana state government. An agency may authorize telework for specified employees at agency-approved alternative worksites when it is in the state's best interest as determined and documented by the agency ([§2-18-120](#), MCA).

II. Scope

This policy covers all employees in Montana's executive branch except the Montana University System, the Montana State Fund, elected officials, personal staff of elected officials, and any other position specifically excluded under §§[2-18-103](#) and [-104](#), MCA.

Agencies shall follow the provisions of this policy unless the provisions conflict with collective bargaining agreements, which take precedence to the extent applicable.

This policy does not apply to employees who:

- work at home as a reasonable accommodation;
- work at home on a temporary and infrequent case-by-case or situational basis; or
- are fully mobile workers not assigned to a central worksite.

III. Procedures

A. General Provisions

1. Telework is a voluntary flexible work arrangement where a designated employee may work from an approved, designated alternative worksite within the state of Montana one or more days per week, as defined by the employee's telework eligibility determination, instead of physically traveling to a central worksite.

A telework agreement is required when telework is expected to last longer than two weeks. See Section G for information on telework agreements.

2. Upon approval from the Office of Budget and Program Planning (OBPP), telework may also include an alternative worksite outside the state of Montana, limited to the following functions or positions identified under [§2-18-101\(27\)](#), MCA:
 - a. employees who are mental health professionals as defined in [§27-1-1101](#) involved in psychological or psychiatric evaluations and treatment;
 - b. employees engaged in providing services related to information technology as defined in [§2-17-506](#);
 - c. employees who are medical professionals involved in medical evaluations and treatment; or
 - d. employees who are engaged in providing services related to economic development outside the state and whose work duties require the employees to reside out of state.
3. Telework eligibility is a voluntary benefit of employment, and determinations will be based on:
 - a. the role and function of the employee;
 - b. the needs of the organization; and
 - c. the availability of a suitable alternative worksite

The use and approval of telework is at the sole discretion of the agency and the employee's direct supervisor, in partnership with the appropriate HR business partner/representative. If a telework request is denied, the employee's supervisor should inform the employee of the reason for denial.

4. Teleworking employees must select and have approved by their direct supervisor and HR representative a designated alternative worksite at which all telework shall be performed. Prior approval is required from the supervisor to work temporarily from a location other than the previously approved alternative work site.

B. Conditions of Employment

1. Agency management may establish telework as a condition of employment based on business need when it is in the state's best interest as determined and documented by the agency. This requirement must be included for all

new hires when the position is advertised and in correspondence offering employment.

2. Unless a condition of employment, the terms and conditions of employment do not change for an employee based on telework status. Agencies have discretion to establish specific duties and obligations within specific agreements for teleworking employees; however, the duties, obligations, responsibilities, and conditions of employment with the employee's agency remain unchanged.
3. An employee's compensation, benefits, insurance, retirement, and contributions to voluntary retirement savings plans will not change because of the employee's telework status or eligibility determination.

C. Employee Responsibilities

1. A teleworking employee and all teleworking agreements shall comply with all applicable agency policies and procedures. This requirement includes the Fair Labor Standards Act (FLSA) and Montana wage and hour laws.
2. Telework shall not be used in place of leave when an employee is unable to perform work. Employees are expected to notify their supervisor and follow agency leave policies and procedures to request time off during the established telework time periods for vacation, sick time, or any other reason that prevents work being performed during scheduled telework.
3. A teleworking employee is responsible for meeting performance expectations and standards and maintaining satisfactory work performance at equivalent or higher levels as compared to the employee's time spent at the central worksite.
4. Prior to the start of an employee's telework arrangement, the supervisor and employee must agree to a primary, designated alternative worksite and determine and formalize the employee's work schedule, including core working hours, breaks, and use of accrued leave. The work schedule must comply with the Fair Labor Standards Act, Montana wage and hour laws, and agency policies and procedures. Any changes to the work schedule due to flex time, overtime, or other situations must follow applicable agency policies and procedures. The total number of hours an employee is expected to work will not change, regardless of the work location. Work hours must be documented in accordance with the Employee Records Management Policy (ARM [2.21.6601](#) et seq.), Montana wage and hour laws, and the federal Fair Labor Standards Act.
5. A teleworking employee shall conduct state work and business during identified work hours in accordance with [§2-2-121](#), MCA, as if at the central worksite. Employees may not perform personal activities, including

dependent-care activities, doctor's appointments, or other personal errands, during scheduled telework time. Employees must follow applicable leave policies for leaves of absence during work hours the same as when working at the central worksite.

6. Supervisors may require employees to report to a central worksite as needed to attend work-related meetings or other events. Unless designated as an in-person-only meeting or event, a teleworking employee is expected to attend meetings or events as scheduled using video conference, phone conference, or other applicable technology.
7. During hours of the telework schedule, a teleworking employee must be reachable by co-workers, supervisors, and agency leadership by the means and methods determined by the supervisor. A teleworking employee must notify assigned office staff and/or the employee's supervisor if the employee leaves the designated alternative worksite during work hours, the same as when working at the central worksite.
8. Unless otherwise indicated in this policy or as explicitly authorized by the supervisor, the teleworking employee is responsible for supplies and expenses (i.e., operating costs) necessary to perform telework at the designated alternative worksite, including but not limited to internet and telephone connection equipment and costs. Approval must be received from a supervisor for any expenses that may be incurred for which the employee seeks reimbursement. See Section D for more information.
9. The teleworking employee is responsible for establishing and maintaining a safe, suitable, and distraction-free work environment at the employee's designated alternative worksite and/or any other temporarily approved telework location. A teleworking employee must attest to the suitability of the employee's designated alternative worksite prior to the worksite being approved by the supervisor and HR representative. Unless approved for use, in-person business meetings may not be held at the designated alternative worksite. When teleworking, meetings should be conducted via video conference, phone conference, or other applicable technology.
10. A teleworking employee must work with the employee's supervisor to arrange access to any confidential or sensitive information necessary to perform work while working at the designated alternative worksite. A teleworker is responsible for protecting the privacy and confidentiality of data and information at the telework location, which includes compliance with enterprise security policies. A teleworker must ensure the security of data and information that is transported to and from the central worksite, designated alternative worksite, or any other telework location.
11. Any insurance for state-owned equipment is the responsibility of the agency. The agency is not responsible for insuring the designated alternative worksite. The teleworking employee is responsible for purchasing personal insurance for employee-owned equipment and for the designated alternative

worksite, if desired. The agency is not responsible for any loss or damage to any employee-owned equipment.

12. A teleworking employee is responsible for promptly notifying the employee's supervisor of an equipment malfunction, failure of either state-owned or employee-owned equipment needed to complete assigned work, or connectivity issues. If the malfunction prevents the employee from performing assigned tasks, the employee must notify the supervisor immediately, and the employee may be assigned to another project and/or work location. An employee may use available annual (vacation), compensatory, or unpaid leave until the employee is able to return to working productively.
13. If an agency facility is closed due to a natural or human-made emergency, any employee scheduled or able to telework is expected to work as normally scheduled, unless otherwise notified by the supervisor.

D. Equipment and Materials

1. Agencies may provide state-owned computer laptops for the teleworking employee to perform assigned work at a designated alternative worksite. Agencies must maintain a record of state-owned computer laptops assigned to an employee to be used at the telework location.

No other state-owned equipment is allowed to be provided to a teleworking employee, specifically monitors, docking stations, keyboards, printers, other computer equipment, chairs, desks, sit/stand equipment, or other furniture. The removal of state-owned equipment from the central worksite to an alternative worksite by an employee (including office furniture) is strictly prohibited.

The provisions of [§2-2-121](#), MCA, apply to state-owned equipment used by state employees for telework.

2. Agencies will maintain, service, and repair state-owned equipment used in the normal course and scope of employment. If state-owned equipment fails, the employee shall immediately notify the employee's supervisor and may be assigned to another project and/or work location.
3. An employee may not use public time, facilities, equipment, supplies, personnel, or funds for the employee's private business purposes (§ 2-2-121(2)(a), MCA) or for the employee's personal use, except for minimal and insignificant personal use. Employees shall protect state-owned equipment from theft, damage, and unauthorized use. The state may pursue recovery from the employee for state-owned property deliberately or negligently damaged or destroyed while in the teleworker's care, custody, or control.
4. On an exception basis, agencies may use appropriated funds to provide utility equipment and services generally available in the central worksite.

Examples include but are not limited to:

- a. paying for leased telephone lines at the alternative worksite;
- b. installing basic telephone service at the alternative worksite;
- c. paying for a cell phone for use at the alternative worksite; or
- d. Reimbursing employees for business-related long-distance calls made from personal phones.

5. Employees must seek approval to use employee-owned hardware, software, or other equipment for state business. An agency is not responsible for the cost, installation, repair, or service of the equipment unless approved by the agency.
6. Any state-owned property used for teleworking purposes, documents, and other information must be returned upon termination of the telework arrangement.

E. Designated Alternative Worksite for Telework

1. During scheduled telework, employees must work from their approved, designated alternative worksite unless otherwise authorized by their supervisor. Any costs associated with the operation of the alternative worksite are the responsibility of the employee teleworking.
2. The designated alternative worksite must be:
 - a. Within a reasonable, commutable distance from the employee's central worksite, unless prior authorization is granted from the direct supervisor to telework from a more distant location;
 - b. Safe and hazard-free, with no distractions, and must provide the employee teleworking the ability to maintain privacy and confidentiality as necessitated by the employee's respective role and function; and
 - c. Secure and represent a professional environment without inappropriate or potentially offensive objects, signage, or other materials that may be visible during video calls or meetings.
3. Agencies may be liable for work-related injuries or diseases occurring at the approved designated alternative worksites or other approved remote/field sites during the core working hours established in an employee's signed telework agreement. Agencies should consult with the Department of Administration, Health Care and Benefits Division, Workers' Compensation Management Bureau for any work-related injuries or diseases with teleworking employees.

4. The telework location may not be outside of the United States. If a telework location outside of Montana has been approved by OBPP, agencies shall consider potential employer obligations for state tax withholding and unemployment insurance and determine whether it may be necessary for the agency to purchase workers' compensation coverage in the state where the telework is located.
5. The telework location must accommodate any equipment to be used for work performed, and the employee must protect the telework location from hazards and dangers that could affect the employee or the equipment. The employee is responsible for taking appropriate steps to minimize damage to state-owned property at the telework location.
6. The State of Montana and its agencies do not assume responsibility for injury or property damage to third parties that may occur at the telework location.

F. Integrity and Confidentiality of Work Information

1. Employees shall safeguard agency information used or accessed while at an alternative worksite. Employees shall follow agency-approved security procedures and policies to ensure the protection, security, and confidentiality of information and documents.
2. Agency supervisors must grant permission according to agency procedures for employees to work on restricted-access information or materials at alternative worksites.
3. Data created and maintained during a telework arrangement generated for the purpose of conducting state business remains the property of the state and is subject to the state's records management laws and policies, regardless of whether the telework is performed using state-owned or employee-owned equipment. A teleworking employee is responsible for following proper retention and disposal procedures, and the employee must return all such data to the state upon request of the agency or upon separation from employment.

G. Agency Responsibilities for Telework Agreements

1. Prior to an employee commencing telework, the supervisor and the employee must define and agree to the terms to the telework arrangement. The teleworking arrangement must be defined in an online telework agreement to which both the employee and the supervisor must agree. The base agreement terms will be standardized across the state's executive branches and will at a minimum:
 - a. designate the alternative worksite location;

- b. designate the duration of the telework arrangement;
 - c. designate the expected telework hours;
 - d. describe any responsibility of costs and equipment associated with the telework location;
 - e. describe that the agency may modify or terminate the telework agreement at its discretion; and
 - f. cover expectations of performance expectations during telework.
2. The telework agreement must be reviewed by management and the employee when job responsibilities or work circumstances change, or once per year (whichever occurs first). At least annually, the supervisor and teleworking employee must discuss and renew the telework arrangement. Any changes to the telework arrangement must be documented and included in the telework agreement.

I. Termination of Agreement

Telework may be terminated by either the employee or agency. In collaboration with agency human resources, supervisors may terminate the telework agreement at their discretion. Employees and agency management are encouraged to give at least five days advance notice when a decision is made to terminate the telework agreement.

J. Training Supervisors

Agency management may encourage the successful and appropriate use of telework by encouraging or mandating training for supervisors regarding how to manage teleworkers effectively.

IV. Resources

- A.** The [Remote Office and Workspace Study \(ROWS\) website](#) contains information about telework for state employees and training designed for managing a remote workforce.
- B.** The Health Care and Benefits Division, Workers' Compensation Management Bureau information is available at <http://workerscomp.mt.gov/>.

V. Definitions

All definitions under [§2-18-101](#), MCA, apply to this policy. For the purposes of this policy, the following definitions apply:

Designated Alternative Worksite: Approved work locations within Montana other than the employee's central worksite where official state business is performed. Such locations may include, but are not limited to, employees' homes or satellite offices.

Central Worksite: An agency's place of work where employees normally are located.

Remote worker: An employee who, as a condition of hire, has the employee's home or alternative location as the employee's assigned work location, works permanently from that location, and does not have an agency permanent/principal work location at any central worksite.

Mobile/Field worker: An employee who travels continuously for work or who performs work at multiple locations outside of an agency office, such as a field location or other site.

Telework: A flexible work arrangement where a designated employee may work from:

- a. Home within the state of Montana or an alternative worksite within the state of Montana one or more days per week instead of physically traveling to a central worksite; or
- b. An alternative worksite outside the state of Montana limited to:
 - i. Employees who are mental health professionals as defined in [§27-1-1101](#), MCA, involved with psychological or psychiatric evaluations and treatment;
 - ii. Employees engaged with providing services related to information technology as defined in [§2-17-506](#), MCA; or
 - iii. Employees who are medical professionals involved with medical evaluations and treatment.
 - iv. Employees who are engaged in providing services related to economic development outside the state and whose work duties require the employees to reside out of state. The OBPP must approve an employee's designated alternative worksite outside the state of Montana before the employee begins work.

Telework Agreement: A required, written agreement between agency management and the employee detailing the terms and conditions of an employee's work away from the central workplace.

Work Schedule: The employee's work hours in the central worksite or in the alternative worksite.