

ERS □ NASS □ NIFA

Bulletin

Title: Employee Eligibility Determination and Notification for Telework
– ERS, NASS, and NIFA

Number: 11-402.5 – ERS, NASS, and NIFA

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Originating Office: Human Resources Division
Administrative and Financial Management
Agricultural Research Service

This Replaces: New

Distribution: All ERS, NASS and NIFA Employees

This Bulletin contains the ERS, NASS and NIFA policy and procedures for determining employee eligibility and notification for telework.

1. Purpose

This bulletin covers the initial phase of an expanded telework program in the Economic Research Service (ERS), National Agricultural Statistics Service (NASS), and the National Institute of Food and Agriculture (NIFA). It sets forth the policy and responsibilities for determining employee eligibility and notification of eligibility for telework. This phase of the new policy must be accomplished by May 1, 2011. A new revised Policy and Procedure (P&P) 402.5 will be prepared and issued during the summer, 2011. All other provisions of the current P&P 402.5 dated November 13, 2008, remain in place until the new policy is issued. As noted earlier, determining eligibility and notifying employees of their designation is just the first step. Many other logistical activities must be accomplished before employees begin to telework. Examples of the logistical activities to be addressed in the revised P&P include:

- Supervisor/Employee Telework Training Requirement
- New or updated telework agreements in place
 - Core
 - Situational
- Information technology infrastructure and equipment to support telework

Telework is consistent with sound business practices and has been shown to increase productivity, promote a spirit of innovation, and boost employee morale. The telework program will make ERS, NASS and NIFA more competitive in the market for highly qualified employees by providing them greater flexibility to manage their work responsibilities and personal pursuits while reducing the stress of commuting. Also, ERS, NASS and NIFA seek to be responsible employers by recognizing telework as one of a number of initiatives employers may take to reduce the demand on the region's transportation network, traffic congestion, and air pollution.

2 Policy

2.1 The ERS, NASS, and NIFA Telework Programs begin with the premise that all positions are presumed eligible for telework, unless the official duties require, on a daily basis, an employee to be physically present at a worksite and cannot be performed remotely or from an alternative worksite. There is also a performance component as described below. Telework is not an entitlement; however, all eligible employees (including supervisors and managers) will be afforded the opportunity to participate in the telework program if participation will not diminish the employee's performance or the Agency's operations and mission.

2.2 Determining eligibility for telework is a two-step process: Review of the type of work tasks performed and of employee suitability.

2.2.1 The types of work tasks performed are explained below:

- Positions eligible for telework are those involving tasks (may be one or more) and work activities that may be done remotely, do not depend on the employee being at the official duty location worksite, and are conducive to supervisory oversight and monitoring at the alternative worksite. Job series and title do not determine eligibility.
- Tasks and work activities generally suited for telework include, but are not limited to: reading, reviewing, editing, scheduling, planning, writing, policy development; researching regulations or other type of information (e.g., literature searches); analysis (e.g., investigating, program analysis, policy analysis, and financial analysis); report writing; telephone-intensive tasks (excluding receptionist duties); computer-oriented tasks (e.g., programming, data entry, word processing, web page design), and data processing. Tasks and work activities not generally suited for telework include, but are not limited to: those that involve daily handling of classified or sensitive materials; require daily contact with other persons; where the use of specialized equipment is required or where a daily physical presence is required at the official duty station.
- Students and other employees on short-term temporary appointments (e.g., 90 days or less), are still considered employees for purposes of determining position eligibility and employee suitability. While the basic premise is that all positions are eligible for telework, it is acknowledged that it is generally impractical to consider student positions eligible for telework as most student positions require the appointees to be on-site to gain meaningful work experience. In addition, the short-term nature of these appointments provides no basis for supervisors to determine their suitability from a performance standpoint as described in 2.2.2 below. Therefore, student positions filled on a short-term basis may generally be deemed ineligible for telework. This provision is not to be construed as a general exclusion of student positions. Where appropriate, student positions may still be determined to be eligible for telework.

2.2.2 Employee suitability includes the following:

- An employee is considered to be suitable for telework if all of the following conditions are met:
 - (a) Employee has an existing or expected minimum performance rating of “Fully Successful” or higher.
 - (b) Employee has no misconduct, disciplinary (such as letter of caution, letter of reprimand through 14-day suspension or less) or adverse action or leave restriction currently pending or occurring within the preceding 12 months.
 - (c) Has not been counseled within the past 6 months on performance deficiencies or misconduct, including leave usage issues.

- (d) Employee has never been disciplined for viewing, downloading, or exchanging pornography, including child pornography, from a government computer or while performing official Federal Government duties.
- (e) Employee has never been officially disciplined for being absent without permission (AWOL) for 5 days or more in any calendar year.
- (f) For ERS only: Employees are required to be employed at ERS for 6 months in order to be eligible to telework.

NOTE: Employees who have been disciplined for either 2.2.2 (d) or (e) above are permanently ineligible for telework per the Telework Enhancement Act of 2010, Sec. 6502 (2).

All conditions must be met for an employee to be eligible for telework; see Appendix A for a decision tool. Ineligibility determinations based on employee suitability that are upheld after appeal will be re-evaluated in 6 months

2.3. Eligibility determinations must be made and employees notified of their telework eligibility for all positions and all federal employees regardless of nature of appointment or appointment duration.

2.3.1 Eligibility determinations for new positions should be made at the time they are being classified. Supervisors should indicate the position's telework eligibility status when it is submitted to the Human Resources Division for classification and/or recruitment.

2.3.2 Eligibility determinations for new employees must be made within 90 days of the effective date of appointment.

2.3.2 Students and other employees on short-term temporary appointments (e.g., 90 days or less), are still considered employees for purposes of determining position eligibility and employee suitability for telework. While the basic premise is that all positions are eligible for telework, it is acknowledged that it is generally impractical to consider student positions eligible for telework as most student positions require the appointees to be on-site to gain meaningful work experience. In addition, the short-term nature of these appointments provides no basis for supervisors to determine their suitability from a performance standpoint as described in 2.2.2 below. Therefore, student and other positions filled on a short-term basis may generally be deemed ineligible for telework. This provision is not to be construed as a general exclusion of student or temporary positions. Where appropriate, these positions may still be determined to be eligible for telework.

Note: The eligibility determination does not dictate the type of telework agreement an employee may have, i.e., core vs. situational. The type of telework agreement will be determined between the supervisor and employee when the agreement is established.

3 Responsibilities

3.1 Eligibility Approving Official:

- By April 22:
 - Review the duties of each assigned employee and apply the criteria outlined in 2.2 above. See Appendix A for a decision tool to assist in making the eligibility determination.
 - Provide a summary of eligible and ineligible employees to the ERS, NASS, and NIFA Telework Coordinators, as applicable. Telework Coordinators will communicate summaries to the REE Telework Program Manager.
- By April 29, notify employees of their eligibility determination, including the reason, for those employees who are determined to be ineligible using the template shown in Appendix B.

3.2 Employees:

- If determined eligible to telework, those employees interested in teleworking, should initiate the development of a new telework agreement with their supervisor using Form AD-3018, USDA Telework Agreement available online in a screen-fillable PDF file at http://www.ocio.usda.gov/forms/ocio_forms.html
- If determined ineligible, employees may submit an appeal to the next level above the Approving Official (the Appeal Official as noted on the notification), within 15 business days of receipt of the notification.

3.3 Appeal Official:

- Review the appeal request in the context of the eligibility determination policy.
- Ensure consistent and uniform application of telework eligibility determination criteria to all employees.
- Ensure due process for employees who appeal telework ineligibility.
- Provide a decision on the appeal within 15 business days of receipt.

4 Delegation

4.1 Eligibility Approving Officials:

ERS:

- Division Directors

NASS:

- Immediate Supervisors

NIFA:

- Director
- Deputy Directors
- Assistant Directors
- Center Director
- Division Directors
- Staff Directors

4.2 Appeal Officials (as applicable and if not Eligibility Approving Officials):

ERS:

- Associate Administrator

NASS

- First level: Division Directors
- Deciding Official: Associate Administrator

NIFA:

- Director
- Deputy Directors
- Assistant Directors

5 Appeals Process

5.1 Employees may appeal the denial of telework as follows:

- Determination that the position they occupy is ineligible for telework;
- If determined to be in a telework eligible position, a determination that the employee is not suitable for telework; and
- Management cancellation of a telework agreement.

The following situations are not considered to constitute a denial of telework, and therefore, may not be appealed:

- Employees who are notified that they occupy a position deemed eligible for telework and who are determined to be suitable to telework may not appeal a management decision about the type of telework agreement considered to be appropriate (i.e., core or situational);
- Denial of a specific request to telework on a given date.

5.2 Appeals Process

- Employees must submit their appeal to a denial of telework as defined in 5.1 above in writing within 15 business days of the date a denial is received.
- The appeal must include:

- the employee's name,
- position title, pay plan, series, and grade,
- organizational unit and location; and
- the employee's reason(s) why they believe their position is eligible and/or why they believe they are suitable for telework.
- Appeals must be submitted to the appropriate Appeals Official as designated in 4.2 above.
- The Appeals Official will:
 - Ensure due process for employees who appeal their telework ineligibility determination, and
 - Provide a decision on the appeal within 15 business days of receipt of the appeal.
- Appeal decisions are binding for no more than six months from the date of the decision. Employees may submit a new appeal six months from the date the Appeals Official signs the appeal decision.

6 Authorities

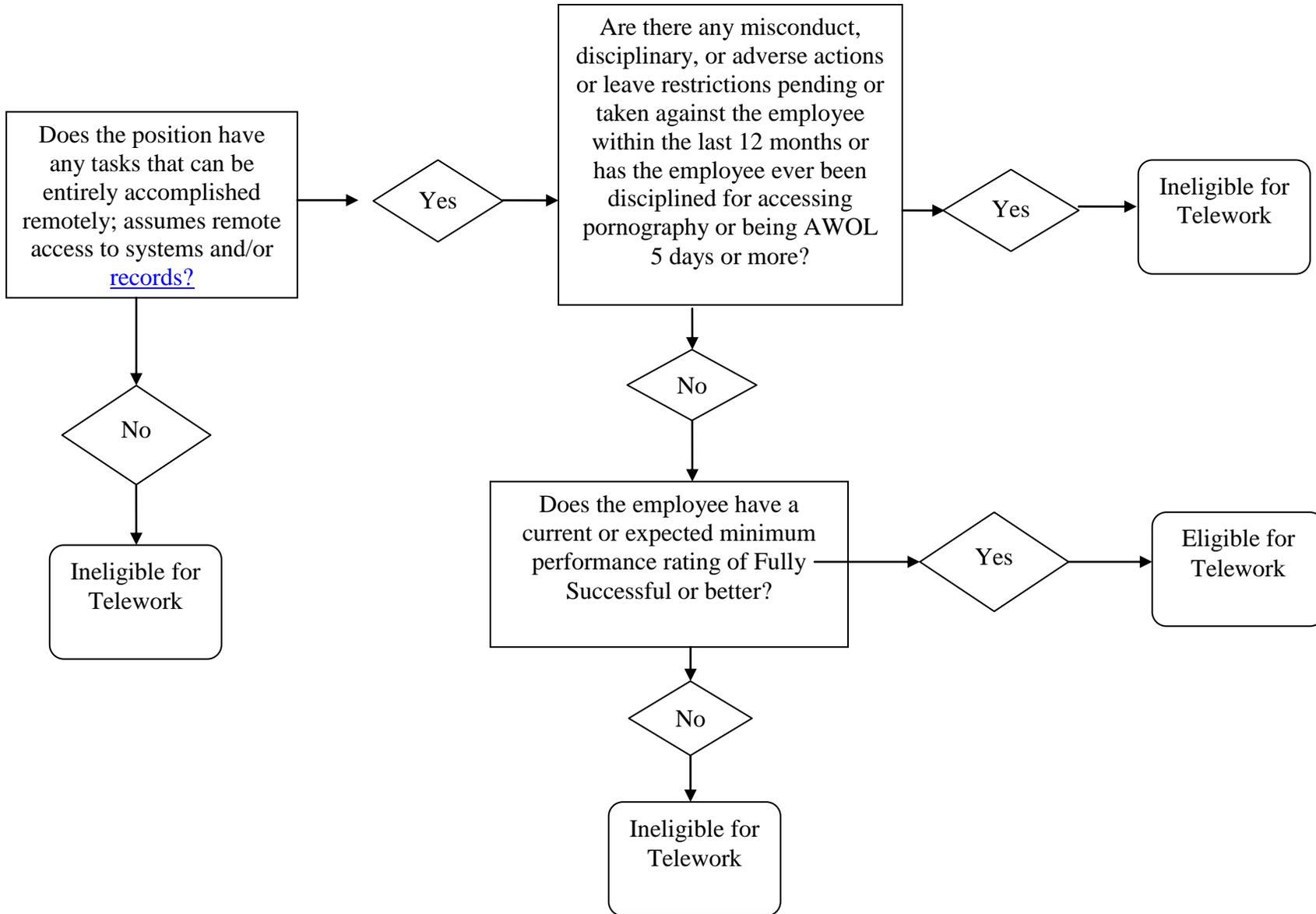
5.13 H.R. 1722, Telework Enhancement Act of 2010, December 2010.

Departmental Regulation 4080-811-002 dated 1/25/11.

/s/

JOON PARK
Director
Human Resources Division
Administrative and Financial Management

DETERMINING ELIGIBILITY FOR TELEWORK
DECISION TREE



Notification Template

<Agency Letterhead>

Subject: Notification of Eligibility for Telework

To: (Employee Name)

From: (Eligibility Approving Official's Name)

In accordance with NIFA Bulletin 11-402.5, Employee Eligibility Determination and Notification for Telework, the following communicates your eligibility for telework.

A. Position Eligibility

1. Your position is eligible for telework because it involves duties that may be done remotely, do not depend on being at the official duty station worksite, and are conducive to supervisory oversight and monitoring at an alternative worksite.

2. Your position is not eligible for telework because:

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

b. Duties require your presence at the worksite for daily contact with the public or other people.

c. Duties require daily use of specialized equipment located at the worksite.

d. Duties require daily handling of classified/sensitive materials.

e. Other (Please specify):

B. Employee Suitability

1. You are suitable for telework, because your expected or existing level of performance is Fully Successful or better; you have had no misconduct, disciplinary or adverse action or leave restriction within the past 12 months, you are not currently subject to potential adverse action, nor have you been counseled in the past 6 months with regard to performance deficiencies and/or conduct issues.

2. You are not suitable for telework because:

a. Your most recent performance rating or observed level of performance is less than Fully Successful.

b. You were subject to a disciplinary or adverse action or leave restriction within the past 12 months (including letters of caution/warning, letters of reprimand, suspension, downgrade, or proposed removal).

c. You are currently subject to potential disciplinary or adverse action or leave restriction.

d. You have been counseled with regard to performance deficiencies and/or conduct issues within the past 6 months.

e. You have been officially disciplined for viewing, downloading, or exchanging pornography, including child pornography, from a government computer or while performing official Federal Government duties.

f. You have been officially disciplined for being absent without permission (AWOL) for 5 days or more in any calendar year.

C. Apply for Telework

If you have been determined eligible for telework, as indicated above, and you wish to telework, please work with your supervisor to complete form AD-3018, USDA Telework Agreement for submission through the approval process by May 27, 2011. The form may be found at http://www.ocio.usda.gov/forms/ocio_forms.html

D. Appeals

If your position is ineligible or you have been determined unsuitable for telework, you may within 15 business days from the date of this notice, appeal that decision to:

_____, by providing the required information in the space provided below or on the back. You will receive a decision within 15 business days of the Appeal Official's receipt of your appeal.

Appeal Information:

Your name:

Position Title, Pay Plan, Series, and Grade:

Organizational Unit and location:

Reason(s) for Appeal:

AD-3018

USDA TELEWORK AGREEMENT

U.S. DEPARTMENT OF AGRICULTURE	USDA Telework Agreement
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6. Employee's official duty stations is _____ for purposes such as pay, special salary rate, locality pay, travel, etc. The location at which the employee is designated to work (i.e., alternate work location) while not at the official duty station is: _____
(City, State)
7. Employee understands requirements for an adequate and safe office space and that these requirements must be met.
8. Employee's Time and Attendance (T/A) for all official duty time spent in a Teleworking status will be recorded using the proper Telework time code.
9. Employee agrees to participate in surveys and data calls relative to the USDA Telework Program, as requested.
10. Employee agrees to follow policy for requesting and obtaining supervisory approval of leave.
11. Employee will utilize Government equipment for official business only and in accordance with applicable laws, regulations, policies, etc., as well as safeguard said equipment. Employee is responsible for servicing and maintaining employee-owned equipment.
12. Employee agrees to, with a minimum of 24 hours advance notice, periodic home inspections of the alternate work location by the Government at periodic intervals during the employee's normal working hours to ensure proper maintenance of Government-owned property and worksite conformance with safety standards and other specifications in these guidelines.
13. Employee is covered under the Federal Employee's Compensation Act in the course of performing official duties at the alternate work location or official duty station. Any accident or injury which occurs at the alternate work location must be brought immediately to the attention of the supervisor.
14. Employee's most recent performance rating must be at least equivalent to "fully successful" (e.g., "pass").
15. Employee understands that telework is not a substitute for dependent care (child care or elder care) and that appropriate arrangements must be made to accommodate children and adults who cannot care for themselves, while performing official duties in a residential office.
16. Employee will apply approved safeguards to protect Government records from unauthorized disclosure or damage and will comply with the provisions set forth in the Privacy Act of 1974, Public Act of 1974, Public Law 93-579, codified at Title 5, U.S.C., Section 55a.
17. Telework agreements should be reviewed and discussed between the employee and supervisor on an annual basis.

Employee's Signature	Date Signed
Supervisor's Signature	Date Signed
Program Coordinator's Signature	Date Signed

Please return this form to:
 <Agency/Mission Area/Staff Office Information here>
 Attention: Telework Program Coordinator