Telework can be an effective and useful tool for supporting an agency’s Continuity of Operations Plan (COOP) during a declared health emergency such as COVID-19.

The purpose of this document is to aid and guide state agencies as telework is being evaluated and considered as part of each agency’s response to COVID-19 to ensure required staffing levels are maintained while addressing employee health concerns.

- Telework connected with a declared health emergency must be evaluated on a case by case basis. Not all positions will be eligible for telework nor will all employees be suited for telework due to a variety of reasons. However, telework is a viable option to assist agencies in maintaining continuity of operations during a health emergency.

- If not already determined, agencies should evaluate if the duties of a given position/job or a portion of the work can be effectively performed away from the regular work location.

- If the nature of an employee’s work responsibilities can be accomplished away from the regular work location and if any necessary technological/equipment needs can be satisfied, the agency may permit and encourage employees to telework as a way to reduce the face-to-face contacts between employees (social distancing).

- Agencies should identify available equipment (laptops, telephones, etc.) to be assigned to employees for the purpose of teleworking. Consideration should be given to which positions are essential to operations when prioritizing the use of appropriate equipment for telework.

- Agencies should review their telework policies to ensure they are current and consider whether any component of their policies should be modified to allow broader use of telework as appropriate.

- If a position is deemed eligible for telework, the manager and employee will need to complete a written agreement that specifies the terms and conditions of the arrangement and provides for the termination of the telework arrangement upon the agency’s determination that it is no longer necessary.
  - Agencies may want to prepare a telework agreement that includes the basic components for short-term telework arrangements associated with the current health emergency. (See attached document, Agreement for Temporary Telework Arrangement Template)

- In evaluating telework eligibility, considerations should include:
  - Is the position essential to the agency’s required responsibilities?
  - Although an essential position, can the duties be performed away from the official worksite for a defined, short period of time? If so, how long?
  - Are there significant portions of the job that can be done away from the official worksite?
  - Does the position need continual supervision or input from others that is only available from the official worksite?
  - Is contact with other employees/customers required every day? Can contacts be accomplished through various forms of technology?
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- Are needed reference materials to perform the work available/accessible?
- Is data security maintained?
- Is specialized equipment or technology available at the employee’s home?
- Is the home workspace appropriate for telework?

• Although a position or job class may be identified by the agency as telework eligible, an evaluation of whether a given employee is an appropriate candidate for telework should be conducted. Agencies should consider individual employee factors such as the employee’s:
  - Ability to work independently;
  - Comfort level with the required technology;
  - Past performance levels;
  - Dependability and trustworthiness; and
  - Level of self-motivation.

• Employees who are unable to work due to illness or who have sick family members under their care will not be good candidates for telework.

• Employees who are caring for well children due to school or day care closures may be able to perform portions of their work from home, depending on individual circumstances (e.g., the age and level of independence of the child).

• Public Record Requirements - Every record that is made or received by an agency employee in connection with official agency business is a public record and subject to public disclosure, unless there is a specific exemption that prevents its disclosure. Thus, if an agency employee creates a work-related document on his/her personal computer or sends a work-related email from his/her personal device, it is a public record and must be retained as a public record in accordance with the appropriate records retention schedule. If an employee is working remotely, and uses a remote login, then the employee is effectively working on his/her work computer. An employee will not be able to download documents to his/her personal computer if using a remote login. However, if an employee is working remotely, but is not using a remote login, then he/she should avoid storing agency records on a personal device, using a personal email account to send or receive emails relating to official agency business, or using a personal cell phone to send texts in connection with agency business if at all possible. Any work-related documents an employee must create or receive on a personal device should be saved on an agency server if the employee is able to access one. If the employee must store public records on a personal device, the records should be stored in a single location and moved to an agency server as soon as possible. If the employee keeps records that he/she creates or receives in connection with official agency business on a personal device, the employee is responsible for maintaining those records until such time as they are transferred to an agency server. Furthermore, if the employee keeps agency records on a personal device, the agency has the right to require the employee to turn over all responsive records from a personal device in order to respond to a public records request. For questions about public records, agencies should work directly with their General Counsel’s office.

• For additional guidance on telework, please refer to the DMS-HRM policy guideline titled Identifying Positions Appropriate for Telework and Determining Employee Eligibility.