

**NATIONAL SUPPLEMENT 33
BETWEEN
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
NATIONAL COUNCIL OF HUD LOCALS 222**

SUBJECT: Implementation of the Department of Housing and Urban Development's (HUD's) proposed Flexiplace Policy, dated January 10, 2022.

SCOPE: This Supplemental Agreement addresses the implementation of those portions of HUD's proposed Flexiplace Policy, dated January 10, 2022, that apply to remote and mobile work. Any part of the Flexiplace Policy that addresses telework is covered by Article 18. Separate Supplemental Agreements address modifications to Article 18, Telework, and Article 57, Space Management, that relate to the expansion of telework and adoption of remote work. Although this agreement mentions demonstration of a new Electronic Flexiplace System (EFS) for processing Flexiplace requests, including for telework, the implementation of the EFS system is not covered by this Supplemental Agreement and will be addressed in a separate agreement except where otherwise stipulated in this agreement.

I. Introduction

1. Flexiplace Advantages. The Parties recognize that many HUD employees have worked successfully since March 2020 under maximum telework arrangements due to the COVID-19 pandemic. The Parties agree that establishing policies that offer greater latitude may provide for expanded flexibility for employees and offer both HUD and employees an opportunity to reduce expenses.
2. CBA Precedence. The Parties agree that HUD's new Flexiplace Policy does not supersede any provisions of the HUD-AFGE Collective Bargaining Agreement (CBA) unless explicitly stated in this Supplemental Agreement. The Parties have agreed in separate Supplements to expand specific provisions of CBA Articles 18 and 57 that would otherwise be covered by the current CBA. The Union is not waiving its statutory rights under the Federal Service Labor-Management Relations Statute (Statute). If there is any conflict between the new proposed Flexiplace Policy and the provisions of this Supplemental Agreement, the terms of this Supplemental Agreement will govern.
3. Rights. The Parties agree that the implementation of this Supplemental Agreement shall not diminish or waive any rights that the Parties have under the CBA, law, government-wide rule or regulation, or agency policies that exist as of the date of this agreement.
4. Continuation of Terms. If this Supplemental Agreement is extinguished by issuance of a new collective bargaining agreement, the Parties agree the terms of this agreement that are mandatory subjects of bargaining will continue, subject to the new collective bargaining agreement, to the extent necessary until lawfully changed.

5. Existing CBA Provisions. The covered-by provisions of the 2015 HUD-AFGE CBA related to time and attendance, overtime, leave, and alternative work schedules are unchanged for any employee participating in a Flexiplace arrangement, including remote work and mobile work as well as telework unless otherwise agreed upon in this supplement. Performance standards and performance management policies and procedures for bargaining unit employees participating in the Flexiplace Policy shall comply with Article 30 of the HUD-AFGE Agreement.
6. Definitions. The terms used in this Agreement shall have the definitions provided by the January 10, 2022, Flexiplace Policy, unless a different definition is given below.
 - a. Mobile Work: Work characterized by routine and regular travel to conduct work at customer or other varying worksites as opposed to a single authorized alternative worksite.
 - b. Official worksite shall have the definition in Office of Personnel Management (OPM) regulations at 5 CFR § 531.602 and 5 CFR § 531.605. Official duty station is synonymous and interchangeable with official worksite.
 - c. Remote work is a type of alternative work arrangement by which an employee, under a written remote work agreement, is scheduled to perform work at an alternative worksite within or outside the local commuting area (as defined below) and is not expected to regularly report to an agency worksite at least twice a pay period on a regular and recurring basis. There are two (2) types of remote work:
 - i. Remote work – Near HUD Office: Work performed at an alternative worksite within a 50-mile radius of a HUD office.
 - ii. Remote work – Outside Commuting Area: Work performed at an alternative worksite outside of a 50-mile radius of a HUD office. New positions that are advertised as remote positions could be duty stationed either anywhere within a specified geographic area or anywhere in the United States, outside the local commuting area of a HUD office, as determined by Management. Existing employees may also qualify for Remote Work outside of the local commuting area of a HUD office.
 - d. Management Official: For purposes of implementation of the Flexiplace Policy, wherever a Management official is referenced the intent is that the Management official or their designee shall serve in the specific capacity described.
 - e. Outstationed Workers: Employees who are assigned to an agency office in one location but who physically report to an agency office in a different locality. Outstationed employees may be approved for telework or remote work.

7. Dependent Care Schedule Flexibility. Employees must ensure that appropriate dependent care (i.e., children, elders, and/or loved ones) is obtained and utilized during work hours while participating in the Remote Work program. While the presence of dependents in the household is not an absolute bar for employees working at an alternate worksite, employees must not engage in dependent care activities when performing official duties. While an occasional, brief interruption may occur when a dependent is present in the home, employees must be careful to keep interruptions to a minimum to avoid disruptions in performing and accomplishing work. In lieu of requesting leave for interruptions that are not brief, the employee may request to extend their workday to make up for the missed duty time by the corresponding amount of time used with notification to the supervisor, as long as extending the workday does not incur any overtime liabilities for the Department. The employee is responsible for notifying the supervisor when such an interruption exists which briefly extends their workday. In the event the level of care needed for a dependent prevents or significantly disrupts the performance or accomplishment of work for an extended period of time, employees shall notify their supervisors as soon as possible about the work interruption and request approval for appropriate leave or use of earned compensatory time or credit hours while performing dependent care responsibilities.

II. Policy Implementation

8. Policy Compliance with Negotiated Agreements. Management will notify AFGE Bargaining Unit Employees and their supervisors of the existence of this Supplemental Agreement and provide them with a copy of this Agreement attached to the online Departmental Flexiplace Policy. Management shall include a notice next to or below any links to the online Departmental Flexiplace Policy and in any emails circulating copies of the Flexiplace Policy stating that, for AFGE bargaining unit employees, this Supplement governs if there is any conflict between the Flexiplace Policy and this Supplement.
9. Policy Compliance with OPM Guidance. The Department's Flexiplace Policy shall comply with U.S. Office of Personnel Management's (OPM) weather and safety leave regulations at 5 CFR § 630, Subpart P. Weather and safety leave may be granted for emergency weather situations, such as storm preparation when there are severe storms approaching (e.g., hurricanes and tropical storms).
10. Flexiplace Participants Treated Same as Other Employees. Similar to 5 U.S.C. § 6503(a)(3), Management shall ensure that all participants in Flexiplace programs shall be treated the same as non-participating (in-office) employees for purposes of periodic appraisals of job performance, training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees, work requirements or other acts involving managerial discretion.
11. Notice to Employees. The Department will notify all bargaining unit employees by email of both the new Departmental Flexiplace Policy and this Supplement within 30 days of signing this Supplement. Management will post both the Flexiplace Policy and the Supplement on the Department's intranet (HUD@Work) at the time of issuance.

12. Electronic Flexiplace System (EFS). Management shall provide the Union with appropriate Article 49 notices and fulfill all bargaining obligations under the CBA before implementation of the new Electronic Flexiplace System (EFS) and DocuSign. Notice and bargaining shall include any new forms or systems that were not previously used and that Management plans to implement as part of its new Flexiplace Policy and/or the EFS, such as the proposed Flexiplace Application, Flexiplace Agreement, Self-Certification, and DocuSign. Management shall provide the Union with training on use of the EFS before negotiations commence. The Parties agree to the use of electronic signatures for all current telework forms and electronic storage of those forms. The Flexiplace options (telework, remote, mobile work) will be added to current telework forms. The Parties agree that employees will enter their approved Flexiplace agreements in the electronic systems once the Parties fulfill their required bargaining obligations on the new systems. The employees' Flexiplace agreements will not be subject to reapproval before entry.
13. Prompt Implementation of Flexiplace. Management shall not delay implementation of the Flexiplace program due to any lack of functionality of the EFS. If the EFS is not functional at the time this agreement is signed or upon termination of the current Maximum Telework status, whichever is later, Management shall make all necessary forms available to employees in paper/digital copies and shall accept submission of and process paper/emailed requests to participate in remote work until the EFS is functional.
14. Eligibility. All HUD positions and employees should normally be eligible to participate in a Flexiplace arrangement in accordance with Agency Policy, applicable regulations, and the CBA. HUD shall include eligibility information in all position vacancy announcements. The Parties agree that Flexiplace eligibility is based on objective, equitable guidelines, function-based criteria, and shall not be arbitrary and capricious. HUD shall notify current employees of their eligibility status upon their application for a Flexiplace arrangement. If an employee is determined to be ineligible, Management shall, at the time the determination is made, provide the employee in writing with the reason(s) for ineligibility.
15. Determination of Remote and Mobile Work Positions. Remote and mobile work determinations for a position may be made at the time of position classification, and/or posted in a vacancy announcement. Additionally, remote work may be requested by an employee.
16. Adjustment of Duties. Management may consider adjustment of employee duties to allow for participation in remote work.
17. Designation of Official Duty Station for Locality Pay.
 - a. In accordance with 5 CFR § 531.605(d)(1), employees who are scheduled to report to the agency worksite at least twice per pay period shall have the agency worksite designated as their official duty station.
 - b. Remote workers who do not regularly report to an agency worksite at least twice a pay period shall have their alternative worksite (e.g., home) as their official duty station.

18. Withholding of State and Local Taxes. It is the responsibility of the employee to make state designations for employment taxes. Management will process the employee's elections in accordance with Department of Treasury requirements.
19. Training. Management shall provide reasonable accommodation(s) to allow employees with disabilities to participate in Flexiplace training. Employees who have previously taken the required telework training on hud.gov or telework.gov and who have a copy of their completion certificates will not be required to retake the training. Employees who have taken the training and have been teleworking prior to the execution of this Supplement but do not have a training certificate will be asked to attest that they have previously taken the training and will not be required to retake the training barring extenuating circumstances.
20. No Recurring Assessments. Once an employee has been approved to participate in a Flexiplace program, the supervisor shall not subject the employee to repeated reviews of the employee's home or telework/remote work environment, absent extenuating circumstances.

III. Remote Work Requests

21. Initiation of Remote Work Arrangement. Remote work arrangements may be initiated by an employee requesting to work remotely or by the agency posting a position announcement as one that will be performed remotely.
22. Remote Arrangements Not Required for Current Employees. No current employees shall be required to agree to a remote work arrangement if they were not explicitly hired as remote workers.
23. Submission of Flexiplace Applications. Employees may submit Flexiplace applications at any time and may request modification of any Flexiplace arrangement at any time.
24. No Recurring Applications. Once a bargaining unit employee has been approved to participate in a Flexiplace arrangement, Management shall not require an employee to reapply or to sign a new agreement in order to continue with the same approved arrangement. Existing Flexiplace participants will be required to enter their approved agreement information in the EFS system once implemented.
25. Requests Made Through Supervisor. Employees shall make requests for remote work through their immediate supervisor (or designee or other Management official). Requests made through the EFS shall be directed to the employee's immediate supervisor (or designee or other Management official). The approving official for remote work arrangements (approval, modification, or termination) is the lowest level Management official designated by the Assistant Secretary (or equivalent) for the program office, following coordination with the program office Funds Control/Budget Officer.

26. Incomplete Applications. Management shall notify employees of an incomplete Flexiplace application within two business days, barring extenuating circumstances.
27. Supervisory Approval. A bargaining unit employee's approved Flexiplace application shall be submitted by the supervisor or Management to the Program Office's Flexiplace Coordinator within two workdays of approval.
28. Approval/Denial Responses. Management shall approve or disapprove the employee's participation in the Flexiplace program in writing, within fifteen (15) business days upon receipt of a complete application, unless extenuating circumstances preclude processing within this time period.
29. Telework Pending Approval of Remote Work Request. Management shall consider permitting an employee who requests a remote work arrangement and is not currently teleworking to telework pending the final decision on the remote work application.
30. Handling of PII. Employees handling personally identifiable information (PII) or other sensitive information, barring national security classified information, are eligible to participate in remote work arrangements subject to Management approval. When addressing disclosure of PII, Management will take into consideration any factors beyond the employee's control.
31. Office Coverage. The Parties agree that when office coverage becomes a consideration in determining employees' eligibility to participate in remote work or telework, to the maximum extent practicable, Management will consider using existing technology, such as call forwarding or recorded messages with alternative contact information, to provide telephone coverage when employees telework or work remotely. Management may approve face-to-face video meetings instead of in-person interactions for situations other than supporting walk-in external customers or internal or external customers who require in-person support.
32. Locality Pay Information. The Department shall inform employees of the locality pay implications and effects (i.e., possible significant pay cuts) if they do not report to a HUD office at least two days per pay period and do not reside in a county within the HUD office's established locality pay area as determined in 5 CFR § 531.603. Upon request, information regarding the employee's individual circumstance will be provided to the employee. Employees shall have the option of withdrawing their remote work request.
33. Expenses. To the extent practicable, HUD shall consider certain costs to the agency, such as occasional local travel or occasional shipping of required equipment or files, to be de minimis for Flexiplace workers and not a reason to deny/terminate a Flexiplace arrangement. The Parties agree that bargaining unit employees must comply with the Federal Records Act, the Freedom of Information Act (FOIA), the terms of litigation holds, discovery in litigation, and any requests for records by the Office of Inspector General.

IV. Denials of Flexiplace Requests, Termination or Modification of Flexiplace Arrangements, and Appeals

34. Basis for Denial, Modification, or Termination of Remote Work Arrangement. Any decision by Management to deny, modify, or terminate a remote work arrangement must be based on business needs, misconduct, or performance, not arbitrary or capricious reasons. Management shall provide the denial/modification/termination and the reason for the action in writing. Management shall not terminate, modify, or deny a remote work arrangement as a form of punishment or managerial personal preference.
35. Initial Appeal of Denial. An employee whose remote work request is disapproved initially has the right to appeal the decision within fifteen (15) calendar days to the next higher Management official above the deciding official within the employee's chain of command. If the appeal for remote or telework is denied, Management must notify the employee of their decision and provide the employee written justification for the denial within twenty-one (21) calendar days of receipt of the appeal.
36. Prior Notice. Barring extenuating circumstances, employees who are initially hired under remote work arrangements shall not be subject to having those remote work arrangements terminated unless the employee was informed, prior to accepting the job offer, that the remote work arrangement is subject to termination by the agency due to performance or business needs.
37. Termination or Modification of Remote Work Arrangements due to Performance. Supervisors may terminate remote work for performance-related reasons. Supervisors are strongly encouraged to consider warnings, modifications, and temporary suspensions of remote work before terminating an agreement. If an employee is terminated from remote work, they may reapply at any time.
38. Election of Grievance Process, EEO Complaint, or Appeal. Employees have the right to choose to grieve the denial or termination of their Flexiplace arrangement through any one of the following processes: the negotiated grievance process (within 45 days), file an EEO complaint, or appeal the action through the Employee Flexiplace System or directly to the supervisor (within 15 days). An employee is not required to appeal through the Employee Flexiplace System or directly to the supervisor prior to filing a grievance, EEO complaint or other statutory appeals procedure complaint.
39. Discussion with Union. By mutual agreement of the supervisor and the employee, an employee may discuss the denial or termination notice with the supervisor and have a union representative attend and participate in this discussion.
40. Notice of Termination of Remote Work Arrangement. If an employee's remote work is being terminated, supervisors will give written notification of at least two weeks to the affected employee before the termination date, unless emergency conditions exist, which may necessitate expedited termination. However, nothing in this provision overrides the provisions of Article 28 of the HUD-AFGE Agreement. A remote worker given a directed reassignment to a HUD office

official duty station beyond 50 miles from their residence or alternative worksite shall be given at least 60 days to relocate, if required, unless renegotiated with the Union in accordance with Article 28, Section 28.05 of the HUD-AFGE Agreement.

41. Notice to Union. Any Management-initiated decision to terminate or modify a remote work arrangement for longer than one pay period requires notice to the Union.
42. Relocation Costs. When a remote work arrangement was initiated at the employee's request or Management terminates the remote work arrangement due to a decline in the employee's performance or an occurrence of misconduct, the employee will be responsible for covering their own costs to relocate to an agency duty station and will not seek relocation costs from HUD. Any employee relocation costs arising from supervisor-initiated remote work changes or terminations that result in a change to a different geographic area (e.g., changing from one HUD regional office to another) for reasons other than performance or misconduct will be paid by HUD in accordance with the GSA Federal Travel Regulations. Such arrangements must be coordinated with the Program Office's funds control/budget officer in advance of a determination that may create an entitlement to relocation costs.
43. Employee Decision to Terminate Flexiplace Arrangement. Employees may terminate participation in the Flexiplace program at any time, for any reason. Employees shall provide the termination notice to their supervisor in writing and state the effective date of the termination. Employees do not need to provide a reason. Employees who choose to terminate their participation in remote work may need to participate in desk sharing, hot desking, or hoteling temporarily until such time as sufficient workspace becomes available.

V. Implementation of a Remote Work or other Flexiplace Arrangement

44. Impact on Work Group. To the extent possible, bargaining unit employees should avoid any negative impact of Flexiplace arrangements on other members of the work group (e.g., normally, others in the office should not have to perform the duties assigned to someone else working remotely).
45. Perceived Performance. Employees' performance working remotely, teleworking or in the office shall be addressed in accordance with the provisions of Article 30.
46. Self-Certification of Time Worked. Employees who work remotely or telework, like employees who report to agency worksites, will self-validate their time using the current Departmental automated time-keeping system in accordance with the provisions in the Parties' Collective Bargaining Agreement.
 - a. In accordance with the Office of Personnel Management (OPM) guidance, remote working employees continue to be eligible for all Alternative Work Schedules, subject to Management approval. Remote workers will be treated the same as all other employees with regard to work reporting requirements. There will be no sign in or out.

- b. Microsoft Teams or its successor will not be used for time-keeping purposes.
- 47. Telephone Numbers. Remote workers will provide a telephone number where they may be reached by the supervisor and or, other Management officials. Management shall not require employees with a Flexiplace arrangement to provide a personal telephone number to HUD clients, or the public, in accordance with the Privacy Act.
 - a. Management shall not disseminate or publish employees' personal phone numbers or other personal information.
 - b. If an employee does not choose to share a personal telephone number, then HUD clients, and the public shall communicate with the employee by Microsoft Teams or other successor communications equipment/software, HUD-furnished cell phone, call-forwarding from a HUD telephone number if available and the employee chooses, voicemail retrieval and/or email.
 - c. If an employee uses a personal telephone to make outgoing work calls, the employee is permitted to block the personal phone number from appearing in Caller ID.
- 48. Supervisors' Contact Information. Supervisors will establish methods of communicating with their employees and ensure that all employees participating in the remote work program have alternative means of contacting the supervisor in the event that email is not available (due to HUD system failures, weather, or other conditions).
- 49. Video Conferencing. Management may request that bargaining unit employees turn on the video camera in Microsoft Teams or successor communications equipment/software to support interaction in training, collaboration, and customer engagement. Management will provide training to employees on applying background effects to maximize employee privacy. All HUD workers will be treated the same for these requirements.
- 50. Contact Outside Duty Hours. Supervisors and managers shall not contact employees by phone (text or voice call) outside of known duty hours barring emergency situations. Emergency, as defined in Article 2 of the Parties' Collective Bargaining Agreement, includes situations that cause substantial disruption, damage and destruction to properties and services; it is distinct from an urgent situation that can be resolved promptly during business hours. Employees on Flexiplace arrangements are not obligated to respond to emails received outside of duty hours until the employee's next business day at the earliest barring known emergency situations. Written Flexiplace agreements may not require employees to respond outside of duty hours to emails, text messages, voicemail, or other means of contact.
- 51. Use of Microsoft Teams. Employees may be required to use business communications platform software, such as Microsoft Teams, or a successor system(s), to attend meetings with supervisors, co-workers, or HUD customers.

Although bargaining-unit employees should remain logged-in to Microsoft Teams throughout the workday, they are not required to show their Teams status.

52. Loss of and Damage to Privately Owned Property. A bargaining unit employee has the right to file a claim against the government for loss, theft, or damage of privately owned property officially approved by Management in accordance with HUD Administrative Services Policy Handbook 2200.01, Chapter 9: Personal Property Management, Section 1, No. 6.C., the Federal Tort Claims Act (24 CFR Part 17, Subpart A), and the Military Personnel and Civilian Employees Claims Act of 1964 (24 CFR, Part 17, Subpart B).
53. Early Dismissal for Goodwill. Early dismissals at the employee's official HUD worksite when the Agency announces early release for holidays and special events, shall be granted to Flexiplace workers to the same extent as granted to those employees reporting in person to the official HUD worksite.

VI. Temporary Modifications to Flexiplace Arrangements

54. Employee-Requested Modifications. Employees may request temporary modifications of their remote work locations, including both working at an agency office or working in a different geographic location. If the request involves a change not to exceed two pay periods, the request must be submitted in writing to the supervisor and approved or denied in writing by the supervisor. Any change that extends beyond two pay periods requires a written request to the supervisor, written approval from the Assistant Secretary or designee and may require a change in the duty station. HUD employees are not authorized to perform work outside of the United States under the Flexiplace program. The only exception is on the rare occasion that an employee is approved by both HUD and the Department of State as a sponsored Domestic Employee Teleworking Overseas (DETO) or subsequent Department of State policy regarding sponsored DETOs.
 - a. Employees approved for remote work may request a temporary change in their Flexiplace arrangement (e.g., reporting to the office on a regular basis) to temporarily support an assignment that can be performed more effectively at the agency worksite. Upon completion of this status or project, the employee will return to their remote work status.
 - b. The temporary changes outlined above shall not affect the employee's bargaining unit status. Employees may report to the HUD office nearest to where they are located, providing there is space available. Locality pay will be determined in accordance with 5 CFR Part 531.
 - c. Requests that increase an employee's presence at an agency's worksite will be subject to space availability, and may require the employee to hot desk, share a desk, or hotel (reserve space).
55. Return to Permanent Arrangement. Employees whose requests for temporary changes to their Flexiplace arrangements are approved shall not be required to reapply for their permanent arrangement at the conclusion of the temporary change.

- 56. Limits on Change Requests. An employee may request modifications to their work location at any time. If an employee is requesting to report to a HUD office location, employees may need to participate in shared space arrangements (e.g., hoteling and/or hotdesking) temporarily until sufficient workspace becomes available.
- 57. Travel to Agency Worksite. When remote or mobile workers need to go to an agency worksite either due to management direction, failure of provided equipment (e.g., a laptop), or to obtain or deliver required materials, Management shall provide the employees with travel orders arrangements, in accordance with the requirements of the most current federal travel regulations (e.g., if the official duty station is outside the 50-miles radius). All travel, including local travel, requires advance supervisory approval in writing.
- 58. Hold Harmless. Because remote workers are employed with the understanding that they are not required to report to the agency worksite on a regular and recurring basis, they shall not be subject to disciplinary action when they are not able to comply with requests to report to the agency or other designated worksite within one (1) day notice for factors beyond their control; this includes not being subject to termination of the remote work arrangement based on that reason.

VII. Reimbursements

- 59. Supplies. Management agrees that the Department will provide supplies e.g., paper, pens, staples and/or file folders, to remote workers that are routinely provided to employees in the office.
- 60. Shipping. Remote or mobile workers shall not be responsible for Agency shipping supplies, shipping and handling costs, and safe delivery of any equipment or materials shipped through a third party.

VIII. Reasonable Accommodations

- 61. Employees with previously approved reasonable accommodations for full-time telework/work-at-home are not required to reapply for the Flexiplace Policy nor submit new Flexiplace applications/agreements.

Effective Date: This supplement shall become effective upon signature of the Parties.

FOR MANAGEMENT:

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D'andra Hankinson, Chief Negotiator

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JAMES FOX

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Date Signed: April 11, 2022