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INTRODUCTION

Remote and virtual office employees must be monitored for performance, but also, attention must be given as to where the employee is performing work. There are a number of federal, state, and local laws that apply to employment as it pertains to taxes, leave accrual benefits, worker's compensation, unemployment, etc. Non-compliance with some of these laws could result in criminal charges and/or financial penalties.

Most of these laws apply based on where the employee performs the work, not where the employee lives, or where the employer is located. These laws can apply as soon as the first day is worked in that location or they may be effective after a defined period of time. As a result, the State has a responsibility to make sure it knows where all of its employees are performing their work on a daily basis and complying with the applicable employment and payroll laws in the locations where work is performed.

State Personnel System agencies can find additional statewide HR Policy titled, ASPSP/HRD-PA5.01, Remote Work Program, which can be found at <https://hr.az.gov/Statewide-Policies-Guidelines-and-Bulletins>.

POLICIES

1. In most cases, remote and virtual office employees should be working in the State of Arizona.
2. Remote and virtual office employees must follow all of the State of Arizona laws and policies, as well as, their agency's policies. If a law exists in the location where an employee is approved to work that is in conflict with the State's policies, an exception may have to be obtained to comply with the law(s) of the employee's working location. Some possible exceptions that may be needed include exceptions for travel, employee reimbursements, leave, wage and hour factors, breaks, etc.
 - 2.1. Any exception to SAAM policy must be made as an exception request, following the process outlined in SAAM 0015, *Exceptions to Policy*. Exceptions granted for a continuing situation generally expire at the end of the fiscal year in which they were granted. Continuing situation exceptions may be requested and renewed annually in response to a written request.
 - 2.2. Any exceptions made that do not fall under SAAM, should be documented, have the appropriate approval, and be retained in accordance with appropriate document retention requirements.

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- 2.3. Human Resource related issues should be addressed with ADOA Human Resources and/or your own agency Human Resources, as appropriate and if needed, your agency's legal counsel and/or the Attorney General's Office, as appropriate.
3. Remote or virtual office employees who work in multiple locations, (e.g. home and a state location) may have multiple duty posts and may have temporary duty posts. Every remote and virtual office employee must also have a State of Arizona worksite assigned as a duty post where he may need to report when directed.
 - 3.1. Typically, employees are not allowed to be reimbursed for travel costs between their home and work location, as this is considered commuting. The frequency of commuting is not a factor. The travel or transportation cost of one round trip daily to and from a State facility is not reimbursed unless the one-way distance between one's home and the aforementioned State facility exceeds fifty (50) miles, in which case mileage in excess of fifty (50) miles in each direction may be reimbursed. If the employee is more than fifty (50) miles from both their home and their duty post and traveling at least six hours, he is considered to be in travel status and is eligible for travel reimbursement. See SAAM Topic 50, *Travel*, for additional guidance.
 - 3.2. Employees with a State-owned vehicle (SOV) who travel between their home and a State operated facility must also complete a Form GAO-88 to record the commute and the non-cash taxable income for each leg of the commute. This requirement is the same regardless if the vehicle is housed at the work location or the employee's residence. See SAAM Topic 5015, *Travel by Individually Operated Motor Vehicle*, for additional guidance and exceptions to this requirement.
4. Remote and virtual office employees must report any work-related illness or injury to their supervisor immediately. Employees must notify their supervisor of a job-related injury or illness and call 800-685-2877 within 24 hours to report the injury. This service is available 24 hours a day, seven days a week to facilitate the reporting of injuries to ADOA Risk Management. For additional information, contact ADOA Risk Management at <https://staterisk.az.gov/>.
5. Agencies must establish and disseminate remote worker policies and procedures that address confidentiality, records, record retention, and cybersecurity.
6. All agency policies that address finance, accounting, travel, payroll, or other topics addressed by SAAM must be reviewed and approved by GAO, per SAAM 0025, and if applicable, by ADOA HR prior to being implemented.
7. **Equipment and Supplies.** All remote and virtual office employees must coordinate with their agency to obtain necessary equipment and supplies.
 - 7.1. Agencies must establish and disseminate remote worker policies and procedures that address the process to make requests and obtain approvals for needed equipment and supplies. If possible, employees should come into the office to

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obtain necessary supplies. The means of distribution selected should take into consideration economy and the needs of the State.

- 7.2. Equipment for remote or virtual office employees should be purchased directly by the agency using proper procurement procedures and policies. Agencies must have proper internal controls regarding purchasing and employees who make purchases should not have items sent directly to their own homes.
- 7.3. Advance approval is required from the employee's agency before an employee may incur and be reimbursed for any business expenses related to remote work such as equipment, supplies, etc. Any reimbursement requests must follow SAAM 5536, *Miscellaneous Employee Reimbursements*.
8. Agencies may choose to provide a cell phone, provide a real-time online communication tool, or apply SAAM 5560, *Wireless Devices Used to Conduct State Business*, for virtual office and remote employees
9. Agencies with remote and/or virtual employees must have policy and procedures to address how equipment and supplies will be requested, obtained, and returned when no longer needed.
10. Upon separating with their agency, the employee is responsible for returning all State of Arizona property. State property that is not returned shall be considered theft and may be reported to law enforcement.
 - 10.1. Equipment cannot be gifted to employees, as this violates the State's Constitution.
 - 10.2. Each agency must have policies and procedures to appropriately track, maintain, and report on equipment that is located in remote locations. The agency must be able to track the physical location of all State equipment and is responsible for maintaining accurate records and validating the location of the equipment for required annual physical inventory counts.
11. **Employee Work Locations.** An agency head or his designee can authorize their employees to perform work anywhere in the State of Arizona.
12. Employees performing work outside of the State of Arizona must complete and obtain all necessary approvals on a Form GAO-75, *Request to Work Outside of Arizona*. This approval must be obtained in writing from the agency director or deputy director prior to the work being performed, and this authority cannot be delegated. Due to various laws that exist that can apply on the first day work is performed, this approval is necessary for all work performed outside of the State of Arizona. Employees currently working outside the State of Arizona when this policy becomes effective must also complete and obtain approval on a Form GAO-75 as soon as possible, not to exceed 60 days.
 - 12.1. Approval is not necessary if the employee is living outside of the state, but the work is being performed in the State of Arizona.

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- 12.2. Employees in travel status performing work out-of-state have received authorization by the approved Form GAO-509, *State of Arizona Out of State Travel Approval Request*, to travel and do not need to complete a Form GAO-75.
- 12.3. Any employee who is found to be working outside the State of Arizona and has not received proper approval can be required to return immediately and physically work in Arizona until approval is given. If the employee's request to work outside of the State is not approved and the employee performs work outside of the State, the agency may discipline the employee, up to and including separation from state employment.
13. If the State incurs additional costs due to an employee working in a location outside of Arizona who has not appropriately notified and obtained approval, the employee is responsible for the additional cost of any penalties, fines, taxes, and/or costs that the State must make to other counties, states, other governments, or to the employee himself, and the State may pursue legal action to recover monetary losses incurred.
14. Employees must work in the county of where they were hired. Employees are not to work elsewhere without prior, written approval from their agency.
15. Any employee working outside the State of Arizona requires additional considerations, actions, and possible costs for the agency.
- 15.1. Because laws and regulations can vary for each state, city, county, school district, etc. a Form GAO-75 must be completed and fully approved for each employee and each different location where the employee performs work outside of the State of Arizona.
- 15.1.1. The completed and approved Form GAO-75 must be submitted to OutsideAZWork@azdoa.gov and all required information must be entered into HRIS for proper reporting of the employee's physical locations/addresses and for proper tax withholdings and reporting. Employees coded with the remote work flag in HRIS will not be able to change their complete addresses in YES. The agency must maintain the employee's address changes if needed. A new address will require a new Form GAO-75 to be completed.
- 15.2. Additional state, county, city, municipal, and/or local laws and rules apply to individuals working outside of the State of Arizona. Some of these requirements can vary depending on if the employee chooses to work remotely or if the employer requires that the employee work remotely (i.e. the convenience rule). Some may apply if the employee is hired from another state instead of being hired while in Arizona. Some of these requirements can be necessary on the first day the employee works in a particular location. Factors to consider for each location include, but are not limited to:
- Finance/Payroll Topics
- Income tax and withholding requirements

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- Workers' compensation insurance
- Unemployment insurance
- State, local, and other taxes (e.g., transportation, etc.)
- Convenience rule for taxation
- Payroll card provisions and consents
- Electronic pay stub consent
- Deductions from final paycheck of separating employee
- Overtime calculations and eligibility (some states have daily overtime)
- Requirements for termination of employment and timing of final paycheck
- Other required reimbursements, such as reimbursement for internet, phones, utilities, etc. as required by law (this can also vary depending upon if the remote work is for the convenience of the employee or the employer)
- Additional costs for obtaining, returning equipment, travel, etc.
- Duty post designation and impact on travel status
- Other

Human Resources Topics

- Sick leave, family leave, unpaid leave of absences, and other leave
- Minimum wage
- Exemption status - FLSA status/definition/classification of exempt and non-exempt/overtime provisions
- Employee's employment rights notifications (e.g. employment posters, shift changes) in employee's preferred language
- Rest, meal, and/or lactation breaks and days of rest
- Anti-harassment and anti-discrimination practices
- Home occupation permits, other permits, and licensing requirements
- Safety requirements and laws (beyond standard OSHA laws)
- Non-discrimination laws, including pay equity, disability accommodation, pregnancy accommodation, etc.
- Handling time-zone differences - address shift premium, working hours and scheduling
- Privacy laws (beyond the standard data disclosure agreement, HIPAA rules, etc.)
- Hiring in regard to a candidate's criminal record
- Employment/onboarding paperwork
- Drug testing, notification requirements, rights, etc.
- Required employment benefits
- I-9 verification (must be conducted in person, not virtually)
- Considerations for employees with visas that may expire
- Other

15.3. While ADOA HR and GAO will try to assist and facilitate the resulting requirements for employees working in locations outside of Arizona, it is the agency's responsibility to research and comply with the laws and regulations pertaining to that location to include state, county, city, municipality, etc. Any resulting penalties, fines, fees, and/or costs will be the responsibility of the agency. Ensuring compliance requires the investment of time and resources from the agency's payroll, human resources, financial, and legal counsel staff and/or resources. This is an on-

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going investment as laws and regulations regularly change over time. Additionally, case law may also affect the interpretation and application of the laws and regulations. Requests to perform work outside of the State of Arizona should be considered on a case-by-case basis. Agencies with employees working outside of the State of Arizona should continue to monitor the laws and regulations of those locations to remain in compliance.

- 15.4. If an agency needs assistance with the process of accommodating any additional requirements as a result of an employee performing work outside the State of Arizona, they should contact ADOA HR and GAO as soon as possible and allow sufficient time for research and the establishment of the new process. GAO Central Payroll is working on establishing the ability to withhold taxes in states outside of Arizona; however, this may take varying amounts of time depending on the number of states and locations, prior research and setups, and the complexity of the state and location. Contact OutsideAZWork@azdoa.gov for more information.
- 15.5. Agencies must also coordinate with their Human Resources personnel and ADOA HR for human resource related topics. Due to the nature of employment law and the differences for each location, agencies should also coordinate with their legal counsel for any employment law questions and for advice. Additional legal counsel may need to be retained for the particular location at the agency's expense.
16. Due to the "convenience rule," an employee may have the possibility of double taxation. The convenience rule states that in-state workdays include not only the days on which the person was physically present in the state, but also days worked out-of-state unless those workdays were for the necessity of the employer and not for the convenience of the employee. Any employees working in states with the convenience rule may have double income taxation. Current known states with convenience rules include Connecticut, Delaware, Massachusetts, Nebraska, New York, and Pennsylvania. The agency is responsible to understand the tax consequences of the location where they authorize their employees to perform work for the State.
 - 16.1. It is the employee's responsibility to ensure he is filing and paying the correct taxes regardless of which state(s) he is living and working in. The employee should familiarize themselves with the residency requirements and tax laws of any proposed-out-of-state work location. Guidelines for determining residency status in a particular state may be found on the state's tax authority website.
 - 16.2. The State of Arizona and the GAO do not offer individual tax advice. An employee should consult his tax advisor with any questions he has regarding his particular situation.
17. The agency should contact the Attorney General's Office for assistance, ideally prior to taking any personnel action with an employee working in another state for assistance with any resulting actions due to the other state's laws, regulations, and rules. Additional legal counsel may need to be retained for the particular location at the agency's expense.

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18. Agencies must establish and disseminate remote worker and virtual office policies and procedures to address how remote work and virtual office work should be requested and approved, how employees should request a change in working virtual location, and how approval will be given and communicated, etc.
19. All remote employees working from their personal residence or an alternative non-State work site must have a remote work agreement (RWA) in place with their agency. The RWA agreement to be used is the RWA available on the YES portal. Agencies can have additional remote work requirements and agreements. Remote work agreements are meant to be responsive to the changing needs of the workplace. Remote work agreements must be routinely reviewed, updated as needs change, and updated at a minimum, annually.
20. The agency is responsible for all fines, penalties, and payments related to work performed outside of the State of Arizona. The agency is responsible for ensuring that the proper approvals are obtained and accurate information is entered timely into HRIS regarding the employee's locations/addresses and remote work status.
21. **Stipends.** Agencies may choose to offer a Virtual Office Stipend to all of its employees who meet the requirements. A stipend may only be paid to virtual office or remote work employees who work a majority of their time in a location that is not a State operated facility and incur additional costs as a result of their remote work. The Virtual Office Stipend is intended to offset some, but possibly not all, of the cost associated with working remotely. Virtual Office Stipends can cover expenses incurred by an individual but not paid or provided by the State to include the business use of internet costs, utilities, equipment, use of phone, lighting, desk, chair, etc.
 - 21.1. Agencies that choose to pay a Virtual Office Stipend should reduce their facilities costs and if possible not maintain assigned workspaces for each of their remote employees to help offset the additional cost. An agency may choose to maintain shared workspace(s) for virtual office or remote work employees when occasional office visits are needed.
 - 21.2. The Virtual Office Stipend is paid on an hourly basis for all hours, including any working hours spent away from the virtual office, overtime, annual leave, sick leave, etc. if applicable.
 - 21.3. The Virtual Office Stipend does not require any receipts or proof of expenses and is taxable income.
 - 21.4. The Virtual Office Stipends are pay codes 725 and 725B. Any future changes to these amounts will be considered with input from agencies who are paying Virtual Office Stipends and the OSPB. Any changes to these amounts will be determined by the State Comptroller and published by the GAO.
 - 21.5. If the agency will be providing stipends to virtual office and remote work employees, the agency must also establish and disseminate policies and procedures to address who is eligible for a stipend, how the stipend will be requested and approved, and

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what conditions can cause a stipend to be started or removed. All agencies providing a stipend must have a Virtual Office Stipend request form to authorize the starting and ending of a virtual office stipend. The policy must be reviewed and approved by GAO prior to being implemented. The agency must coordinate with GAO Central Payroll to determine and implement the best method for establishing an approved stipend and policy.

- 21.5.1. The agency should periodically review the records related to Virtual Office Stipends to affirm that the required conditions for the stipend are still being met and the stipend should be continued. Virtual Office Stipends must be suspended as soon as an employee is working a majority of their time in a State operated location.
- 21.5.2. The individual's signed and approved Virtual Office Stipend request must be retained by the agency for a period consistent with the record retention schedules issued by LAPR (<https://azlibrary.gov/arm/retention-schedules>).
- 21.5.3. Agencies with remote workers in certain locations working outside the State of Arizona may be required by law to reimburse employee business expenses beyond the amount of the stipend. These situations should be addressed through the Exceptions to Policy process described in SAAM 0015.
22. **Work Performed Outside of United States.** Due to vast additional laws and requirements regarding taxes, residency, termination requirements, leave requirements, definition of overtime exempt, insurance, social security benefits, permanent establishment rules, lifetime employment, immigration laws, visa, telecommuter laws, etc. State of Arizona employees are not allowed to work outside of the United States unless an exception is granted in writing by the Director of the Department of Administration.
 - 22.1. If an employee works outside of the United States without written permission from the Director of the Department of Administration, they can be subject to disciplinary action up to and including separation from state employment.
 - 22.2. GAO will not have the ability to withhold taxes for employees working outside of the United States.