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TO: Heads of State Agencies and Human Resources Directors

SUBJECT: COVID-19 – No. 30: U.S. Department Of Labor Issues Guidance Clarifying Employers’ Obligations to Track Compensable Hours for Teleworkers

The following information was issued by the United States Department of Labor:

[Telework Pay Guidance:](#)

With telework arrangements expanding in response to the coronavirus pandemic, today the U.S. Department of Labor’s Wage and Hour Division (WHD) issued [Field Assistance Bulletin \(FAB\) 2020-5](#) to clarify an employer’s obligation to track the number of hours of compensable work by employees who are teleworking or otherwise working away from premises controlled by their employers.

In a telework or remote work arrangement, the question of the employer’s obligation to track hours actually worked for which the employee was not scheduled may often arise. While the guidance issued today responds directly to needs created by new telework or remote work arrangements that arose in response to COVID-19, it also applies to all telework or remote work arrangements.

Employees working more flexible schedules to accommodate the interruptions of life in a pandemic can prompt questions for employers. Today’s guidance reaffirms that an employer must pay its employees for all hours worked, including work not requested but allowed and work performed at home. If the employer knows or has reason to believe that work is being performed, the time must be counted as hours worked. Confusion over when an employer “has reason to believe that work is being performed” may be exacerbated by the increasing frequency of telework and remote work arrangements since the Department last issued interpretive rules in 1961. These arrangements have expanded significantly in response to the COVID-19 pandemic. Accordingly, we believe that it is appropriate to clarify this issue.

Read WHD’s [Field Assistance Bulletin 2020-5](#) on this directive.

The Wage and Hour Division provides additional compliance assistance resources on common issues workers and employers face when responding to COVID-19 and its effects on wages and hours worked under the Fair Labor Standards Act, job-protected leave under the Family and Medical Leave Act, and paid sick and expanded family and medical leave under the Families First Coronavirus Response Act at www.dol.gov/agencies/whd/pandemic.

For more information about the laws enforced by the Wage and Hour Division, please visit www.dol.gov/agencies/whd or call 1-866-4US-WAGE. [Download WHD's timesheet app](#).

Sincerely,

s/Byron P. Decoteau, Jr.
State Civil Service Director