



First Match

Interactive webinar! Listen directly from your telework site as attorney and federal employment law expert Robin Wink, Esq., walks you through the latest COVID-19 guidance on Wednesday, April 29, 12-1:30 p.m. ET. Sign up at www.lrpfederalwebinars.com/register to receive our special rate.

Key points:

- **Healthy people under 65 will likely be brought back to the workplace first**
- **Agencies can continue to maximize telework for high-risk populations**
- **Consider flexible work solutions to ensure social distancing as employees return**

Agencies should employ 'creative and flexible solutions' when reopening offices

By Julie Davidson, **cyberFEDS®** Editorial Director

IN FOCUS: Joint [guidance](#) from the Office of Management and Budget and Office of Personnel Management outlines the administration's "plan to return Federal government operations to normalcy" -- leaving much of the decision and timeline to agency leaders based on local conditions.

"Given the diversity of Federal workforce missions, geographic locations and the needs of individuals within the workforce itself, this transition will require continued diligence and flexibility from Federal agencies and the Federal workforce," the guidance states. "Federal agencies are held to a high standard for continuing operations and services to the American public. To this end, agency leaders must continue to ensure continuity in delivery of Federal government services, protect the health and safety of the Federal workforce, and provide Federal government leadership and momentum as an impetus toward a broader national return to normalcy."

In general, the guidance states that federal agencies should follow the three-phase framework outlined for reopening states once:

1. Influenza-like illnesses and [COVID](#)-like cases of illness trend downward for 14 days.
2. Documented COVID-19 cases and prevalence of positive tests trend downward for 14 days (while not decreasing the overall number of tests).
3. Local hospitals have the capacity to treat all patients without crisis care and jurisdictions must have a robust health care worker testing program and plan in place.

Since "85 percent of the Federal workforce is outside the Washington, D.C., area ... agency heads must be cognizant of the phasing status for all states and regions where an agency operates," the guidance states.

Agencies should gradually allow federal employees and contractors to return to the office in low-risk areas, it said, while continuing to take precautions for vulnerable populations that are at higher risk for severe illness from COVID-19.

Employees in good health and under the age of 65 may return to the workplace "based on local public health and agency leadership directions and in accordance with National guidelines," the guidance states. "Employees may wear a face covering at all times while in the workplace. Agencies can issue facemasks or may approve employees' supplied cloth face coverings."

In addition, agencies should provide "an appropriate amount of hygiene supplies, including but not limited to, hand sanitizer, hand soap, paper towels, toilet paper, and disinfectant wipes," and follow CDC guidelines for cleaning buildings.

Agencies are also encouraged to consider "specific and unique office environments, such as open-space designs" to allow social distancing.

At the same time, federal employees and contractors should follow their agency's process if they are symptomatic or test positive for COVID-19, the guidance states.

"Agency processes should protect the anonymity and privacy of Federal employees and contractors, to the extent possible, while disclosing only the information necessary for agencies to take appropriate actions of notifying potentially affected employees and cleaning the facility," it said.

In terms of telework, the guidance advises agency heads to "maintain the flexibility to develop and continue to use appropriate telework protocols for their operations." As conditions change, "agency heads should revisit telework policies and agreements in order to continue progressing to normal operations or address changing conditions while retaining the needed flexibility during the response." The guidance stresses that until agencies have "resumed normal operations and risk is minimal, all federal agencies are encouraged to maximize telework flexibilities to all eligible workers in high-risk populations. So, "if a vulnerable employee's duty location is within an area that is classified as Phase 3, they may return to work at their duty location, but should continue physical distancing protocols and other mitigation measures. Agencies do not need to require certification by a medical professional and may accept self-identification by employees that they are in one of these populations."

Agencies "are further encouraged" to approve leave for vulnerable employees, those who are not telework-eligible, and those whose duty location is not returning to normal operations.

In addition to updating telework policies, "agencies may consider new work arrangements for the immediate future to support resumption of normal activities, while ensuring the health and safety of the workforce," the guidance said. OMB and OPM suggested, for example, that agencies could create "cohorts or teams" within an office and place the cohort or team on alternating schedules of five days in the office and 15 days of telework per month.

"Adoption of alternative arrangements such as rotating cohorts may enable additional flexibility for employees to resume normal operations, regardless of phasing status, while maintaining social distancing and reducing contact among work units," the guidance said. "When considering these new work arrangements, agencies should factor in operational constraints and employee needs - such as childcare and transportation. Where possible, agencies should employ creative and flexible solutions to meeting these needs."

Agencies will have to post the status of their public facilities and OPM will maintain a website that compiles all the information.

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