

## Out of State Remote Work Pilot Program

Kitsap County may authorize an out-of-state remote work arrangement for eligible employees as outlined in this pilot program. This pilot program is effective through March 31, 2024, unless otherwise extended or discontinued. The goal of this pilot program is to establish a baseline presumption that all employees work in the State of Washington but provide the flexibility to allow for exceptions based on the discretion of Kitsap County consistent with criteria identified herein. This pilot program is designed to assist the County in meeting workforce challenges for recruiting or retaining a rare skillset, with the continued commitment to deliver high quality services to Kitsap County residents. Eligible employees may be approved to work remotely only in the following states: Texas, South Carolina, Arizona, and Florida. This pilot program supplements Appendix I – Telecommuting Policy of the Kitsap County Personnel Manual.

The presumption and standard is that Kitsap County employees work in the State of Washington, whether the position is designated as remote, hybrid, or on-site. As part of this pilot program, employees may be approved for an exception to work out-of-state in one of the designated states, if the Board Chair or designee determines that out-of-state work is necessary to retain or hire an employee with a hard to fill/rare skillset and/or to meet other workforce challenges. In addition to complying with all other requirements of the Telecommuting Policy, the employee and their supervisor must demonstrate and mutually agree that the employee can successfully carry out their job duties remotely and must follow the process outlined below to receive pre-approval from the Board Chair, Employing Official, and the Human Resources Director before commencing out-of-state remote work.

All specifically identified at-will employees as listed in Appendix C in the Personnel Manual, except employees of the Prosecuting Attorney, are ineligible for out-of-state remote work arrangements. These officials/employees must be present and perform their duties in Washington except as otherwise provided in the Telecommuting Policy.

Out of State employment may be authorized under the following exceptional circumstances.

### 1. Retention of Hard to Fill/Rare Skillset

Critical employees who possess a hard to fill/rare skillset\* may be approved for out-of-state remote work arrangements based on the below criteria:

- a. The employee is not responsible for overseeing the operation of any Kitsap County facility, Office/Department, or Division.
- b. The employee does not provide in-person services, meaning they are not required to be physically present to provide county services to external clients, customers, patrons, or residents.
- c. The employee is not responsible for direct supervision of employees.
- d. The employee must be meeting performance expectations, as determined by the most recent performance review.
- e. The employee must have the ability/means and commitment to be available as needed on-site in a Kitsap County facility as directed by the Employing Official and/or when the needs of their duties demand. Any travel time to report on-site is considered ordinary commute and transportation costs associated with this travel are the sole responsibility of the employee.
- f. The eligibility criteria of the Telecommuting Policy are satisfied;
- g. The position is an operationally critical position that requires a highly specialized body of knowledge for which Kitsap County has experienced retention or recruitment problems and the risks and considerations of employing the Out of State employee can be accounted for and supported (financially and legally); and

- h. Other special circumstances as approved by the Board of County Commissioners and Employing Official.

\*The Employing Official determines that a position is critical and requires a rare skill set based on special knowledge, skills or abilities required and the impact on the department's ability to provide critical services. The determination that a position is hard to fill is made by the Human Resources Director or designee based on current market conditions, recruitment efforts, quality and quantity of applications, and other relevant factors.

## **2. New Hires**

Out-of-State candidates for employment who satisfy the hard to fill/rare skillset criteria may be offered an out-of-state remote work arrangement only if the Board Chair or designee determines that hiring an out-of-state candidate is necessary to attract hard to fill/rare talent or to meet other workforce challenges. The Employing Official must receive pre-approval from the Board Chair and the Human Resources Director prior to hiring an Out of State employee.

## **3. Transition for Relocating Employees**

Employing Officials may request approval of the Board Chair and Human Resources Director to temporarily retain a current employee who is relocating out of state, or to temporarily allow an out of state new hire additional necessary time to relocate, for a period no longer than 12 months if:

- a. The work can be performed remotely without unbudgeted expense to the County;
- b. Retaining the employee on a temporary basis is critical to the continuity of important functions while the County actively seeks a replacement or onboarding the new employee will facilitate such continuity; and
- c. The employee executes appropriate Telecommute Agreement and Out of State Work Request and Agreement;

### **Process**

Approvals required under this Policy must be obtained before a current employee may commence out-of-state remote work. An employee may discuss the possibility of out-of-state work with their supervisor and must complete and sign the Out of State Work Request and Agreement form in order to officially request an out-of-state work arrangement. Approval will be conditioned on the employee also signing the general Telecommuting Agreement, per the Kitsap County Telecommuting Policy.

In the case of new hires, hiring managers must receive pre-approval from the Board Chair, Employing Official, and the Human Resources Director before making an offer of out-of-state employment to a job candidate. Approval is conditioned on the Employing Official's determination that the work being performed will meet or exceed service expectations for the position being considered and the Board Chair and Human Resources Director's determination that the hire is necessary to attract a hard to fill/rare skillset or to meet other workforce challenges. Offers of employment will be conditioned on signature of the Telecommuting Agreement and Out of State Work Agreement, including the new employee's acknowledgement of performance expectations while working remotely in another state, which must be completed prior to beginning employment.

Approval for out-of-state remote work under this Policy does not create a contract of employment and does not alter the employee's status. It is not a basis for changing the employee's salary or benefits, but the employee must acknowledge that some benefits may not be available outside of Washington. The other terms and conditions of employment continue to be governed by applicable law, Kitsap County

policies, collective bargaining agreements, personnel manual and department policies, guidelines, and procedures.

Approval of any out-of-state remote work is at the discretion of Kitsap County, subject to the approvals outlined above. Out-of-state work arrangements may be reviewed as needed. Approvals are valid for a maximum of twelve months; to extend or continue an out of state remote work arrangement, a new request must be submitted at least once per calendar year, subject the above approval process. The County may rescind approval of out-of-state remote work at any time and for any reason, either on an individual basis or by rescinding this Pilot Program, and the County will seek to give affected employees reasonable notice of the decision.

### **Out of State Employment Rules**

- Out of State employees must comply with this Policy, the Telecommuting Policy, and all other policies applicable to in-state employees.
- The County will provide an Out of State worker the same computer hardware and software as would be provided if the employee worked at a County worksite. An Out of State work arrangement may not result in the County incurring any additional expenses for duplicate items.
- Out of State workers are required to work in the Kitsap County time zone to be available as needed to conduct County business. Employees' service delivery and performance expectations must be met during County business hours.
- The County will comply with applicable state laws to determine the proper tax withholding requirements and applicable laws, which may vary by state. It is the employee's responsibility to determine if their presence in another state implicates individual income tax reporting requirements in that state and to inform the county if the employee believes their withholding amounts are incorrect. Employees are responsible for ensuring that their primary residential address is accurately reflected in their Workday profile.
- The employee must agree to learn and be responsible for any tax and legal implications of their jurisdiction.

### **Benefit Eligibility**

Employees will be eligible for County provided benefits. Employees working out of state will need to contact the benefits carriers to determine network coverage in their state of residence and must acknowledge that some benefits may not be available outside of Washington.

### **Workers Compensation**

Out of State employees are covered by workers' compensation for job related injuries that occur in the course and scope of employment during the employees' work hours. Coverage will be provided through the state of residence, if available. However, employees who work outside of Washington are not covered by Washington State Department of Labor and Industries Workers' Compensation industrial insurance. The County will not take Washington workers compensation wage deductions from employees whose work location is out of state. Out of State employees must report any work-related illness or injury to their supervisor immediately. The claim filing process will be specific to the state of residence.

### **Mileage and Parking Reimbursement**

All employees in this program will be required to seek approval for an alternative work location according to the Telecommuting Policy. Out-of-state workers will be assigned to their alternative work location as their designated workplace. Travel to their designated alternative workplace and County worksite will not be compensable or reimbursable. If the County requires an out-of-state worker to report to a County worksite, the County worksite will be their designated workplace and any related travel is a

non-reimbursable ordinary commuting cost. In addition to reporting to a County worksite as needed, quarterly travel to the County worksite may be required, which is considered ordinary commute. Employees' ordinary commute is not compensable time and employees are not eligible for mileage or parking reimbursement. The same is true if an employee travels to a County worksite for any other reason.

*Note: Superior and District Court employees are not eligible for out of state employment.*