

EXECUTIVE DIRECTOR'S MANAGEMENT MEMORANDUM

EDMM NO: 440

SUBJECT: HYBRID WORK POLICY

INTRODUCTION/

PURPOSE: MTC's Hybrid Work policy provides employees maximum flexibility with optimal agency efficiency. The term "Hybrid Work" is used to describe an environment wherein MTC employees may work outside MTC's designated on-site location with the frequency they desire and in support of their duties to the agency. Hybrid Work is a cooperative arrangement between employees, supervisors, and MTC.

MTC is committed to creating a work environment in which employees can achieve a healthy balance between their work roles and their lives outside of work. Therefore, this policy is in place to provide the highest level of individual flexibility and team performance, creating a culture of trust and agility. Hybrid Work benefits employees, MTC, and the community.

APPLICABILITY: This memorandum applies to all MTC Employees

POLICY:

In this Hybrid Work environment, all employees are expected to uphold the integrity of the Agency, for their teams and for themselves, while working for MTC at any work location – be it On-site, Off-site, or Remote.

MTC Worksite:

On-site Location: MTC's On-site location is MTC Offices within 375 Beale Street in San Francisco, CA.

Off-Site Location: An Off-Site location is any other non-Remote, non-Onsite location where the employee is performing work for MTC, including but not limited to: partner agency locations, conferences and symposiums, construction and pre-construction sites, remote meeting locations, and field or asset sites.

Remote Worksite:

Remote Location: A Remote location is an employee's primary designated home-office location or primary designated remote office location.

Hybrid Work applies across MTC, and supervisors and Section Directors are to make Hybrid Work arrangements available to all eligible employees in their Sections to the greatest extent possible.

To ensure Hybrid Work is effectively balancing maximum flexibility for employees with optimal Agency efficiency, employees shall complete a Hybrid Work Agreement wherein the employee will make a request to structure their Hybrid Work schedule and agree to adhere to this policy and all agency Hybrid Work protocols. The Section Director, Supervisor, and employee may request to modify the Agreement when needed.

Position Eligibility

A position is a specific job within a job classification with defined work assignments, filled by one employee at a time. Position eligibility for Hybrid Work is based on the position the employee holds and the work assignments, duties, and tasks allocated to the position. MTC's Hybrid Work policy provides employees maximum flexibility with optimal agency efficiency, and most positions at MTC shall be eligible for Hybrid Work upon implementation of this policy. There is no probationary period for Hybrid Work for a new employee. MTC Human Resources, under the approval of the Executive Office, reserves the right to determine position eligibility at the creation of any new MTC regular or MTC non-regular position, or for a position with a change in work assignment responsibilities.

For any given position, there may be work assignments that work well for a Remote location, work assignments that prohibit working in a Remote location, and some work assignments that require Off-site location work. Any combination of the work assignments listed below are not suitable for working remotely:

- Work that requires the employee's immediate physical presence On-site to address planned and unscheduled events, and
- Work that requires a physical presence for the performance of daily On-site workflow.

All other work assignments allow for some level of Hybrid Work eligibility.

Hybrid Work Agreement

The Hybrid Work Agreement shall allow the employee to request a Hybrid Work Option and outline or structure their Work Assignments within that option. It is the supervisor's role to determine an employee's work assignments, duties, and tasks. The Hybrid Work Agreement requires the employee, supervisor, and the Section Director come to a consensus around expectations for the employee's work location(s), what work assignments are to be done Remote or Off-site, and what work assignments, if any, require an On-site presence. The Section Director has final approval of the Hybrid Work Agreement. MTC Human Resources is responsible for managing, updating, and maintaining the Hybrid Work Agreement under the direction of the Executive Office.

Hybrid Work Agreement Options

All employees shall be required to complete a Hybrid Work Agreement: upon implementation of this policy, upon any position transfer or position change/promotion, and upon hire. The Hybrid

Work Agreement shall memorialize the work assignments that require an On-site presence, and the Agreement Options establish the employee's preference for how to structure and coordinate their Hybrid Work schedule. The goal of each option is to provide maximum flexibility with optimal agency efficiency. Agreement Options help clarify expectations around flexibility and structure.

For any Agreement Option listed below, during the employee's tenure there may be occasional instances where their On-site presence shall be requested and/or required on days that may have been scheduled or otherwise allocated for Remote work or Off-site work. It shall be the supervisor's responsibility to document a sufficient business reason and provide advance notice of these instances and it is the employee's responsibility to adhere to these requirements. At a minimum, 48 hours' notice should be provided to employees. However, an employee and their Supervisor may agree to a longer notice period within their Hybrid Work Agreement; and furthermore, in emergency situations a Section Director may require less notice. Supervisors and employees are expected to work within the spirit of the employee's Hybrid Work Agreement when arranging for employees to come into the office.

For each option below, any work assignments that require Off-site work shall be documented in the agreement to establish clear expectations for the employee's Off-site responsibilities.

- **Primary Remote** - means the employee works remotely on a continuous basis and has no required On-site workdays. Under this option, employees have the flexibility to self-schedule their use of MTC's On-site location for activities such as in-person meetings with internal and external stakeholders, to lead and manage staff, or to make use of On-site resources, etc. This option provides an ideal arrangement for employees who do not need to physically be On-site and can perform all their primary work assignments virtually.
- **Scheduled/Select Remote** - means the employee works remotely on an established day or days, whether on a regular recurring basis or on an infrequent self-determined basis. This option is great for employees who can reasonably predict when assignments require them to physically be On-site and for employees whose primary work assignments require an On-site presence, yet who sometimes have work assignments that are eligible for working in a Remote location.

It is required that prior to submitting a Hybrid Work Agreement form, the employee communicates with their supervisor regarding the Agreement Option they feel will best fit their work needs. The supervisor approves the Agreement Option within the Hybrid Work Agreement prior to submitting to the Section Director for final approval.

To change their Agreement Option, an employee must submit a new Hybrid Work Agreement for approval. An employee may submit a request to change their Agreement Option at any time.

All staff shall consider and note the following regarding successful integration of the Hybrid Work Program:

- Successful Hybrid Work requires mutual flexibility on the part of employees, teams, and supervisors.
- Staff work performance is evaluated by what they do and how they do it, no matter where they do it.
- Empathy and awareness matter.
- Agency needs and employee preferences will evolve – and the agency’s Hybrid Work protocols will be evaluated and, if necessary, updated to adjust to changing needs.

Appeal: This EDMM is not subject to the Grievance procedures outlined in EDMM 265, nor to any other review or appeal procedures, except as noted in this EDMM. An employee who believes their Hybrid Work Agreement has been denied or restricted for arbitrary or capricious reasons may appeal the decision to MTC Human Resources. HR will consult with the employee, the Executive Director or their designee, and the employee’s Section Director to reach a decision on the appeal. The appeal decision is final. The employee may re-apply for Hybrid Work should the nature of their work scope and responsibilities change, or upon assignment to an eligible new position.

Conditions for Working Remotely

General

The employee and supervisor shall adhere to all Hybrid Work protocols and keep themselves apprised of updates to the Hybrid Work policy as they are announced. The employee’s Hybrid Work Agreement must be approved before the employee can begin working remotely.

MTC HR is responsible for maintaining and updating the Hybrid Work protocols. MTC reserves the right to change or alter the terms of the Hybrid Work Agreement, TSS Technical Procedure for Hybrid Work, and any protocols or guidelines for Hybrid Work contained therein. MTC reserves the right to review an employee’s work activities regardless of work location in accordance with EDMP 032 Information Technology Security Policies.

The employee must complete the appropriate Hybrid Work training modules before the employee can begin working remotely. All supervisors must complete the appropriate Hybrid Work training. MTC Human Resources shall determine any required updates to the Hybrid Work training and may require employees and Supervisors to retake the Hybrid Work training.

Hybrid Work does not change the duties, obligations, responsibilities, or terms and conditions of MTC employment. Employees working remotely are subject to all MTC administrative rules, regulations, and policies. All employees under the Hybrid Work policy must comply with all MTC rules, policies, practices, and instructions, and are subject to all disciplinary procedures and constructive interventions as if they were physically present On-site. All employees must safeguard Personally Identifiable Information (PII) in compliance with MTC’s Privacy policy. Further, employees under a Hybrid Work Agreement must continually uphold MTC obligations, such as:

- Taking into consideration the Agency needs, their team needs, and then their individual needs when proposing their Hybrid Work Agreement.

- Ensuring their Hybrid Work Agreement supports MTC's regional business initiatives and internal operations, internal and external stakeholder objectives, and meets MTC's needs for effectiveness and efficiency.
- Meeting MTC employee performance or conduct expectations. An employee's Hybrid Work Agreement shall be in alignment with the needs of the employee's Section, the accomplishment of MTC's business, and shall support the high levels of service MTC provides.

Workspace, Ergonomics, and Safety

Employees working remotely in an alternate worksite space are responsible for following MTC's ergonomic standards for best practices and working safely. Ergonomic issues at the Remote site are the responsibility of the employee. Employees should consider the suitability of their worksite prior to making their hybrid arrangement.

The employee's Remote work workspace (such as a workstation, secured Internet access, home maintenance, and any other incidental needs associated with working remotely) must be adequate for the performance of the employee's work assignment, meet MTC's office ergonomic standards, and be safe and free from hazards.

Employees working remotely must work in an environment that allows them to perform their duties safely and efficiently. Employees are responsible for ensuring their work areas comply with the agency's health and safety requirements for Hybrid Work. To determine compliance with health and safety rules, MTC may request photographs of the employee's designated work area and reserves the right to visit or have contractors visit the employee's Remote worksite for issues including yet not limited to, delivery, pickup, maintenance, or installation of equipment. Any visit to an employee's Remote worksite shall be coordinated with the employee in advance.

Employees are covered by workers' compensation laws when performing work duties at their designated Remote location during regular work hours. An employee who suffers a work-related injury or illness while holding Hybrid Work status must follow MTC's workers compensation protocols and shall notify their supervisor immediately.

MTC is not liable for damages to an employee's personal or real property while the employee is working at their Remote worksite. The employee remains liable for injuries to third persons and/or members of the employee's family that occur at the Remote worksite. MTC does not assume any liability for loss, theft, damage, or wear of employee's personal or real property at the Remote worksite.

An employee working remotely may not host an in-person meeting at their Remote worksite location, or otherwise conduct in-person business at their Remote worksite location, with an employee, an affiliated third-party associate, or an unaffiliated third party, without the expressed written authorization from the Executive Office.

Employees working remotely are responsible for complying with tax laws and should seek advice from a tax advisor concerning in-home office deductions. MTC is not responsible for

substantiating an employee's claim of tax deductions for operating an office in the employee's home.

Working Hours and Considerations

Unless pre-approved by an employee's supervisor and Section Director, Remote Work employees shall be working and shall make themselves available within MTC's "core hours" from 10:00am to 3:00pm. See EDMM 450 for more details on MTC's operating hours and Flexible Work Arrangements.

Working remotely will not change a hybrid work employee's compensation, benefits, work responsibilities, or the amount of time the employee is expected to work each pay period. Time reporting, leave usage, overtime, will be consistent with FLSA guidance regardless of the employee's location.

Employees working remotely who become ill and unable to perform their work duties must report the hours actually worked and use sick leave for hours not worked. All employees shall comply with the agency's overtime protocols and work schedule provisions for Meal Periods and Rest Periods.

Employees working remotely may not engage in activities that would not be permitted at the regular worksite beyond reasonable incidental personal use of time. Employees working remotely may take care of personal business during unpaid lunch periods and break periods, as they would On-site. It is expected that employees shall manage child, elder, or other dependent care appropriately so that it does not interfere with MTC's obligations nor their obligations to MTC. For additional Flexible Work Arrangement considerations, see EDMM 450.

Technology and Equipment

Employees working remotely must read and abide by the TSS Technical Procedure for Hybrid Work. Employees must ensure their Remote worksite location meets all Technology Services Section (TSS) security and safety requirements. Any MTC-provided equipment, software, data, or supplies must follow the TSS Technical Procedure for Hybrid Work and is limited to authorized employee use and only for purposes related to MTC business, or as allowed by law.

TSS has the sole discretion to provide MTC technology equipment, software, or supplies for Remote Work, and all purchasing and configuration for technology needs for MTC equipment, software, or supplies, must be done through TSS.

All MTC rules regarding the use of computers and the internet apply while an employee is on a Hybrid Work Agreement, regardless of whether the employee is using MTC-provided or personally purchased equipment.

Equipment, software, or supplies provided by MTC are for MTC business only. An employee working remotely does not obtain any rights to MTC equipment, software, or supplies provided in connection with Hybrid Work. The employee must immediately return all MTC equipment, software, and supplies at MTC's request.

An employee working remotely must protect MTC equipment, software, and supplies from possible theft, loss, and damage. The employee working remotely may be liable for replacement or repair of the equipment, software, or supplies in compliance with applicable laws on negligence or intentional conduct in the event of theft, loss, or damage.

Employees must contact their supervisors and appropriate work associates if equipment, connectivity, or other supply problems prevent them from working remotely.

Any equipment, software, files, and databases provided by MTC shall remain the property of MTC. An employee working remotely must adhere to all software copyright laws and may not make unauthorized copies of any MTC-owned software. Employees may not add hardware or software to MTC equipment without prior written approval from TSS. Any MTC software or databases downloaded to a personally owned computer remains the property of MTC. MTC reserves the right to physically and remotely audit personal computers and equipment used for MTC purposes in compliance with MTC rules applicable to MTC software and databases.

Employees working remotely must comply with software copyright laws and MTC's information security policies and must report any security incidents immediately when they occur. MTC retains the authority to "wipe" any MTC device of all data, either remotely or physically, when devices are lost or stolen, or when a data breach is detected.

Records and Access

Employees must not remove official physical MTC records from MTC On-site offices unless authorized by their Section Director to do so. Employees may not disclose confidential or private files, records, materials, or information, and may not allow access to MTC equipment, networks, or databases to anyone who is not authorized to have access.

Employees working remotely are subject to all Public Records Act requests, and litigation holds regardless of the equipment they use, whether it is MTC provided or personal, and MTC reserves the right to inspect and audit all equipment and cloud storage for compliance with the foregoing. This requirement exists regardless of where the public record is located. Upon receipt of an appropriate request, and subject to authorized exemptions, an employee must permit inspection and examination of any public record or public information in their custody, or any segregable portion of a public record, within required time limits.

Employees who use their personal computing equipment for work purposes may subject their hard drive, software, and/or any other type of electronic storage media, to the possibility of subpoena or lack of privacy through legal action taken against, or by, MTC (Electronic Communication Privacy Act).

Employees working remotely must understand and agree that in accordance with applicable law and policy MTC is entitled to, and may access, any MTC equipment used, in addition to personal resources used for working, including, yet not limited to, telephone, monthly bills, and internet records.

All files, records, papers, or other materials created while holding a Hybrid Work status are MTC property. Employees working remotely and their supervisors shall identify any confidential, private, or personal information and records to be accessed and shall coordinate with TSS to ensure appropriate safeguards are used to protect them. MTC may require employees to work in private locations when handling confidential or sensitive material. MTC may prohibit employees from printing confidential information while working remotely to avoid breaches of confidentiality.

LINKS:

[Hybrid Work Agreement Portal](#)
[TSS Technical Procedure for Hybrid Work](#)

EFFECTIVE DATE: November 17, 2021

SUPERCEDES: EDMM 430 (January 31, 2020), EDMM 240 (September 1, 2000), EDMM 250 (August 1, 2007), and EDMP 036 (December 5, 2013).



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