International Municipal Lawyers Association
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FLSA & Local Government

Remote Working & the Municipal Workplace

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telecommuting
telework
work
home
computer
office
laptop
business
employee
remote
worker
telecommute
teleworking
internet
teleworker
commute
phone
wireless
buzzwords
job
notebook
telecommunication
desk
commuting
working
technology
mobile
cell
web
communication
lifestyle
tele
nomad
surfing
travel
online
outdoors
executive
center
telecommuters
commuters
e-mail
telecommuter
businessman

Topic:
Municipal employment practices involving work outside of the traditional municipal workplace are changing

- **Why the change? Some possibilities:**
  - **Technological advances (or at least changes)**
  - **Reasonable accommodation requirements**
  - **Millenials and generational expectations**
  - **Costs of workplaces v. telecommuting**
  - **Productivity (?)**

Some Management Issues to be Faced and Addressed (Aside from FLSA)

- **Employment Status**
- **Is "Smart Work" working smart?**
  - **Keeping Remotely-Working Employees Engaged and Actually Working**
  - **Preventing "Burn Out"**
- **Communication & Speech Issues**
- **Wage/Hour/Overtime Issues (More Later)**
- **Discipline**
- **Other Legal Concerns**

Wage & Hour & Overtime Issues





Courtesy of @cloudtweaks

Overtime and Remote Working

- **From a Washington Post article by Jim Clifton, April 6, 2014:**

I recently read this sentence in a New York Times article on telecommuting: "We know that those who work at home tend to put in longer hours and are often more productive."

Comments on Foregoing Quote

- **Productivity . . .**
  - **May or may not be true – but that relates primarily to management issues noted above**

- **Hours worked aspect, however, . .**
  - **Does relate to FLSA & overtime concerns**

Selected FLSA & OT Concerns

- **Is the individual an employee or independent contractor?**
  - **When might a local government "allow or suffer" a telecommuter to work?**
  - **What tests/criteria apply?**
    - **Note July 2015 DofL Interpretation**

Selected FLSA & OT Concerns

- **Hours of Work**
  - **Are there controls?**
  - **How are records kept**
    - **Perhaps more accurately <u>are</u> there any records?**

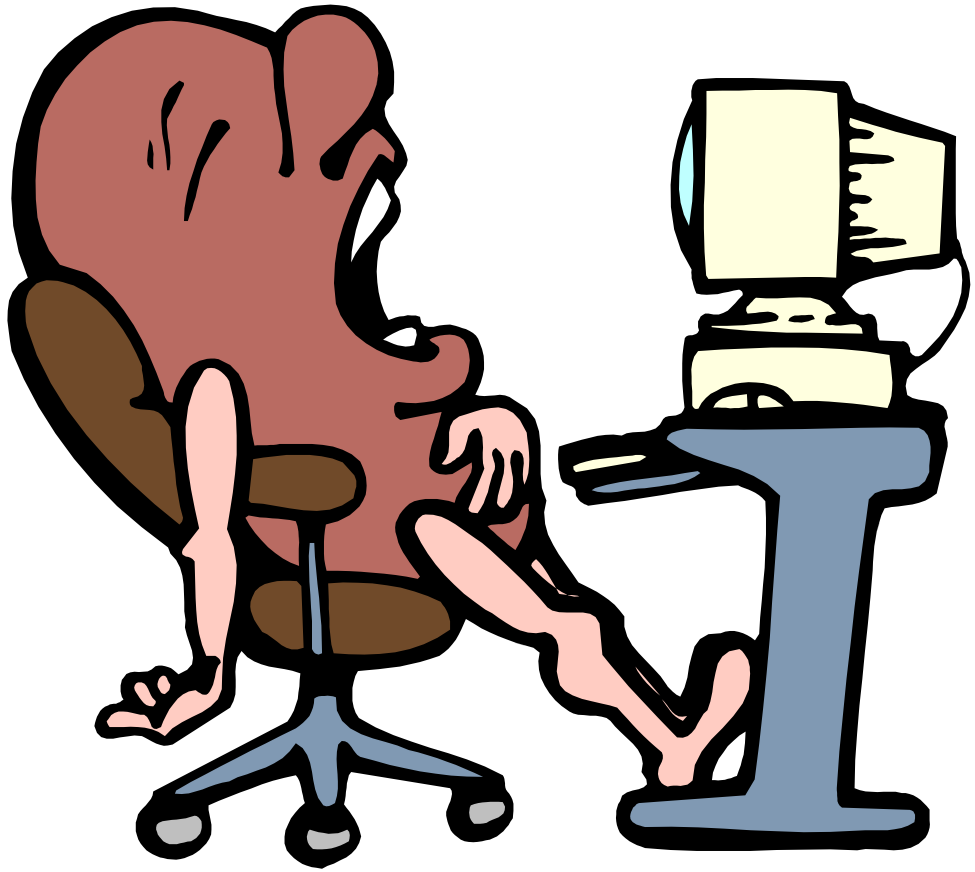


Controls

- Policies
- Practices
- Monitoring

And

- Job Descriptions



Employer Hardware & software

- **Hacking, Viruses,**
- **Malware, Adware,**
- **Piracy, & . . . .**
  - **See Lou Milrad's paper for IMLA personnel webinar, March 2015**



Risk Management Concerns – Recent Cases



- **Productivity Requirements**
  - **Justification**
- **Home Office / Access Expense Reimbursements**
- **Proof / Documentation of Hours Worked & Payroll Records**
- **Work Changes / Terminations**
- **On-Call Status**
- **Reasonable Accommodation**

Questions or Comments?

Thank you.

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