



U.S. ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF INSPECTOR GENERAL

*Catalyst for Improving the Environment*

## Hotline Report

# Review of Hotline Complaint on Employee Granted Full-Time Work-at-Home Privilege

Report No. 10-P-0002

October 7, 2009

**Report Contributors:**

Ben Beeson  
Dan Cox  
Eric Lewis

**Abbreviations**

EPA	U.S. Environmental Protection Agency
NETI	National Enforcement Training Institute
OARM	Office of Administration and Resources Management
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General



# At a Glance

*Catalyst for Improving the Environment*

## Why We Did This Review

We conducted this review in response to an anonymous Hotline complaint. The complaint alleged that the U. S. Environmental Protection Agency (EPA) inappropriately granted full-time work-at-home status to an employee so that employee could move outside of the Washington, DC, area.

## Background

EPA's Office of Administration and Resources Management (OARM) provides national leadership, policy, and management for support functions such as human resources management. The Office of Enforcement and Compliance Assurance's National Enforcement Training Institute (NETI) is responsible for training personnel in the enforcement and compliance of the nation's environmental laws, and is the office where the subject of the complaint was employed.

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

To view the full report, click on the following link:  
[www.epa.gov/oig/reports/2010/20091007-10-P-0002.pdf](http://www.epa.gov/oig/reports/2010/20091007-10-P-0002.pdf)

## **Review of Hotline Complaint on Employee Granted Full-Time Work-at-Home Privilege**

### **What We Found**

We found an unauthorized, full-time work-at-home arrangement that has existed for 9 years and allows a NETI employee to work from home in Ohio instead of an office in Washington, DC. The employee and position were originally located in the Washington area and the employee later moved as the result of a spouse transfer. In our opinion, NETI's actions are for the benefit of a single employee as opposed to being primarily in the interest of the government, and this action was not equitably provided within NETI. EPA has no established or consistent policy, procedure, or criteria for granting full-time work-at-home privilege. Full-time work-at-home opportunity appears to be preferentially available to only a few employees. Neither OARM nor NETI has any written documentation showing the government interest in or appropriateness of making this arrangement, or that senior OARM officials approved this action.

Office of Human Resources personnel (the Associate Deputy Director of Program Management & Communications, and the Agency Telework Coordinator) stated that EPA became aware of similar arrangements due to research it performed for an unrelated court case. OARM raised concerns about equity in such arrangements, and believes this must be brought under control. To date, OARM has not corrected this situation.

### **What We Recommend**

We recommend that the Deputy Administrator assign responsibility for authorizing all non-OARM duty station changes to the Assistant Administrator for OARM. We further recommend that the Assistant Administrator for Administration and Resources Management establish and implement Agency policy for all EPA employees that clearly articulates the process and procedures for changing an employee's duty station to a location geographically separate from the position of record. We also recommend that the Agency quickly bring into compliance with the new policy all existing full-time work at a duty station separate from the position of record. The Agency generally agreed with these recommendations and estimated all of the recommendations will be implemented by July 2010.



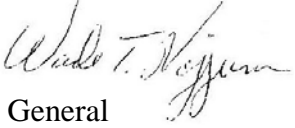
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
INSPECTOR GENERAL

October 7, 2009

**MEMORANDUM**

**SUBJECT:** Review of Hotline Complaint on Employee Granted Full-Time Work-at-Home Privilege  
Report No. 10-P-0002

**FROM:** Wade T. Najjum   
Assistant Inspector General  
Office of Program Evaluation

**TO:** Scott C. Fulton  
Acting Deputy Administrator

Craig E. Hooks  
Assistant Administrator for Administration and Resources Management

This is a final report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determination on matters in this report will be made by EPA managers in accordance with established audit resolution procedures. The Office of the Administrator and the Office of Administration and Resources Management provided comments to our draft audit report on August 19, 2009. The OIG evaluated these comments and, where appropriate, has made necessary changes in this report. We have included the response and the OIG's evaluation in Appendix A.

The estimated cost of this project – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time is – \$161,118.

**Action Required**

In accordance with EPA Manual 2750, you are required to provide a written response to this report within 90 calendar days. You should include a formal corrective action plan for agreed upon actions, including milestone dates. We have no objection to the further release of this report to the public. This report will be available at <http://www.epa.gov/oig>.

Should you have any questions, please contact Eric Lewis, Director, Special Reviews, at 202-566-2664 or [lewis.eric@epa.gov](mailto:lewis.eric@epa.gov).

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## Purpose

The OIG reviewed an anonymous Hotline allegation that the U.S. Environmental Protection Agency (EPA) inappropriately granted full-time work-at-home status to a National Enforcement Training Institute (NETI) employee. This employee moved to Ohio from the Washington, DC, area after the spouse received a job transfer, and NETI wanted to retain the position. The complaint also alleged that the work-at-home arrangement created inappropriate travel costs to the government and other morale problems in the office.

## Background

The Office of Administration and Resources Management (OARM) provides national leadership, policy, and management of many essential support functions for the Agency, including human resources management. NETI, within the Office of Enforcement and Compliance Assurance (OECA), is responsible for training federal, State, local, and tribal lawyers, inspectors, civil and criminal investigators, and technical experts in the enforcement and compliance of the Nation's environmental laws.

OARM's Team Leader, Compensation & Work-Life Team, in the Human Resources Policy Division, stated there are two official policies that allow an individual to work at home – the Alternative Workspace Policy and EPA Flexiplace Policy. In addition, EPA's Conduct and Discipline Policy requires that the Agency treat all employees equitably. OARM stated the Agency also has two unofficial/unauthorized practices where individuals work at home – the Work Designation Separate from the Position of Record practice and Remote Reporting practice. Details on these policies and practices follow.

**Alternative Work Space Policy.** In January 1999, the OARM Assistant Administrator created the Uniform Criteria and Procedures for Requesting and Assigning Alternative Work Space Program. The Program addresses employee requests to work at a location other than the officially assigned work location solely because of claims of adverse health effects caused or aggravated by some condition associated with the official work site.

**EPA Flexiplace Policy.** EPA Flexiplace Policy 3180, December 1997, addresses medical, regular, and episodic flexiplace. The Policy requires the employee to periodically be present in the office (commute to the main office regularly) to comply with the policy.

**Conduct and Discipline Policy.** EPA has to ensure that it treats all employees equitably. In EPA Order 3120.1, Conduct and Discipline, September 1985,

*The Environmental Protection Agency requires all its employees to adhere to the Agency Regulations on Employee Responsibilities and Conduct (40 CFR, Part 3) and to maintain levels of behavior and efficiency that conform to the highest ethical standards and promote the interest of EPA and the Federal Service. Likewise, all managers and supervisors are responsible for maintaining a climate of constructive discipline within*

*their organizations by good example and practice, clear instruction, fair and equal treatment of all employees, and firm and decisive leadership.*

**Work Designation Separate from the Position of Record Practice.** Although there is no Agency policy to establish a duty station separate from the position of record, OARM personnel in the Office of Human Resources<sup>1</sup> stated the unauthorized practice does occur. OARM thus described a situation where the position of record stays the same, the employee moves to a different geographical location, and the Agency initiates a personnel action that changes the employee's locality pay entitlement. It may or may not entail reimbursable travel expenses. OARM had started to develop, but did not complete, guidance to cover this situation. The unissued guidance did not provide direction on what the Agency administrative coordination process should be to change an employee's duty station to a place other than the position of record. The unissued guidance did not address establishing the employee's home as a duty station. However, the draft guidance would require that the OARM Assistant Administrator approve all such requests.

**Remote Reporting Practice.** Although there is no authorized remote reporting policy, OARM personnel stated this practice also occurs. The Associate Deputy Director of Program Management & Communications described remote reporting as when a worker is not in the office or with the first line supervisor (full-time). The Team Leader, Compensation & Work-Life Team, added that remote reporting means the employee performs all or most duties at a location a considerable distance from the employee's official worksite/duty station and position of record. There is no official documentation for this arrangement or duty station change. This arrangement is usually a personal accommodation the Agency makes for the employee's convenience and there is no official personnel status change associated with this arrangement. Consequently, transportation expenses, either permanent or temporary, are not permissible in this circumstance. The Associate Deputy Director of Program Management & Communications said remote reporting has crept into existence over the past 20 years.

## Scope and Methodology

We conducted our review from January 27 to July 29, 2009. We conducted this evaluation in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions. Generally accepted government auditing standards require that auditors obtain an understanding of internal controls significant to the audit objectives and consider whether specific internal control procedures have been properly designed and placed in operation.

We focused on the NETI main office located in Washington, DC. We interviewed all program staff and managers from the NETI main office. We obtained and reviewed public law, Office of

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<sup>1</sup> They were the Associate Deputy Director of Program Management & Communications, the Agency Telework Coordinator, and the Team Leader, Compensation & Work-Life Team.



Personnel Management and EPA policies pertaining to work arrangements, locality pay, and travel compensation. These included but were not limited to:

- Title 5 U.S. Code part 531 Section 605
- Title 5 U. S. Code Chapter 61
- Public Law 106-346
- Public Law 105-277
- Public Law 104-52
- EPA Flexiplace Policy 3180
- A Guide to Telework in the Federal Government
- The GSA (General Services Administration)Telework Portal
- Title 5 U. S. Code Section 5702 Per Diem, Employee Travel and Official Business
- Official Worksite and Travel Related Policies
- Title 5 U. S. Code Sections 2301 and 2302
- Uniform Criteria and Procedures for Requesting and Assigning Alternative Work Space
- Alternative Work space – Frequently Asked Questions

We also examined the subject employee's expense vouchers provided by NETI to review the miscellaneous and travel expenses that were reimbursed by NETI. In addition, we interviewed the OARM Office of Human Resources personnel including the Director of Human Resources Policy Division; the Team Leader, Compensation & Work-Life Team; the Agency Telework Coordinator; and the Associate Deputy Director of Program Management & Communications on personnel and pay policies.

## **Results of Review**

We found an approximately 9-year-old unauthorized full-time work-at-home arrangement that allows a NETI employee to work from home in Ohio for an office in Washington, DC. This arrangement is not supported by policy because EPA has no formal policy for work arrangements where the duty station location is separate from the position of record. The employee and position were originally located in the Washington area but the employee moved after the spouse received a job transfer. Neither OARM nor NETI have any written documentation showing the government interest or appropriateness of making this arrangement, or that senior OARM officials approved this action. The Agency incurred no permanent change of station costs when the Agency changed the employee's duty station location and locality pay to the home in Ohio. NETI requested and OARM approved changing the position from part time (64 hours per pay period) to full time (80 hours per pay period) concurrent with the move, which increased the total compensation to the employee.

### ***NETI Rationale for the Decision***

In providing its rationale for allowing the subject arrangement, the NETI Deputy Director told us that the employee had advised management that the employee would have to resign because the spouse had received a job transfer to Ohio. The NETI Deputy Director noted there was an Agency hiring freeze at the time, so the position would not

be filled. The NETI Deputy Director said the personnel loss would have resulted in a net loss of capability. The NETI Deputy Director also wanted to retain the employee because the employee was considered to be very valuable. As such, the then NETI Director tasked the Deputy Director to find a way to keep the employee.

The NETI Deputy Director said she worked with the OECA Human Resources contact, who in turn worked with OARM on the solution. The Deputy Director said the now-retired OARM staff advised that changing the duty location via the Standard Form 52 would be appropriate and all that was needed to make the solution complete. We have not found any corroborating evidence to verify any conversation between OARM and NETI management on this topic. Based on the OARM advice NETI stated it received, the NETI Deputy Director said an offer was made to the employee, who accepted.

There is no policy to authorize the action taken. Further, we found documentation justifying the situation reviewed to be lacking. In particular, we found no documentation showing that:

- A senior OARM official approved the decision and considered the effects on employee morale and the public's perception of EPA.
- NETI based the decision on policy applicable to all EPA employees.
- This particular job was mission critical.
- Employees with this skill-set were difficult to replace.
- Existing NETI employees could not have absorbed these functions.
- The action benefited the government.
- The position description and grade level remained accurate for the duties being performed at the new work location.

However, the NETI Deputy Director stated they tried to find the employee a job in another agency, until they decided to change the duty station to the new home. This creates the impression that NETI's actions were for the benefit of the individual employee rather than the Agency.

The OARM Associate Deputy Director of Program Management & Communications and the Agency Telework Coordinator stated that the Agency has a culture that continues to make similar arrangements outside of policy, with little or no justification. Further, in some cases, these arrangements were made without appropriately changing the employee's duty station. We believe these arrangements raise equity concerns because the Agency has not developed policy to determine how and when employees are eligible for this arrangement.

The NETI Deputy Director said the arrangement made in this case is available to other NETI employees if the employee and the work are well suited. However, NETI has not communicated this option to employees or made a similar offer. Further, the NETI Deputy Director did not have any documented criteria to administer the grant of privilege.

### ***Cost and Equity***

The employee's pay status changed from part time to full time as part of the change in duty station. Although the pay rate for Ohio is lower, the employee received a 13.46 percent pay increase because of the change in pay status. In addition, the Agency incurred travel costs for the subject employee to travel to and from the main office in Washington, DC, that amounted to \$17,458 from September 2000 to October 2008. Consequently, the Agency paid significantly more for the employee's services after the change in-duty station.

### ***OARM Concerns***

The Associate Deputy Director of Program Management & Communications, and the Agency Telework Coordinator told us they knew of other examples within EPA where managers had shown a willingness to make similar arrangements, and indicated there may be other existing arrangements they have not discovered. From the perspective of the Associate Deputy Director of Program Management & Communications, and the Agency Telework Coordinator, these arrangements exist outside of policy and the justifications for the arrangements were either lacking or weak. The Associate Deputy Director of Program Management & Communications raised concerns about equity in the opportunity to participate in such little known arrangements and reiterated such arrangements made outside of policy and with little or no justification represents a real and present risk for future litigation. The Associate Deputy Director of Program Management & Communications stated long-term work-at-home arrangements may at times be appropriate and an appropriate solution would be an Agency-wide policy to address the EPA position on all work arrangements where the duty station and position of record are different. A previous draft of policy attempted to address the Agency determination of employee's official duty station, application, and approval. The draft policy also addressed justifications, review, and formal approval. In our opinion, the Agency should establish administrative policy to provide criteria for justification and a centralized process for review and approval to safeguard the government's and the individual's interests.

### **Conclusion**

In our opinion, NETI's actions are for the benefit of a single employee as opposed to being primarily in the interest of the government. EPA has no established or consistent policy, procedure, or criteria; the opportunity appears available to only a few employees; and there is no justification or objective review indicating that the action was in the government's interest. EPA should establish appropriate Agency policy and procedures that are consistently and fairly applied. This policy should include eligibility criteria for positions and personnel, records management requirements, periodic review and reauthorization, verification of correct pay rate (locality and grade) and specific approvals required from initial submission to final approval to ensure equity. Existing arrangements outside of current policy, such as the NETI allegation, should be objectively assessed and modified or terminated as necessary.

## Recommendations

We recommend that the Deputy Administrator:

1. Assign responsibility for authorizing all non-OARM geographically separate duty station changes to the Assistant Administrator for OARM.

We recommend that the Assistant Administrator for Administration and Resources Management:

- 2a. Establish and implement Agency policy for all EPA employees that clearly articulates the process and procedures for changing an employee's duty station to a location geographically separate from the position of record. This policy should include eligibility criteria for positions and personnel, records management requirements, periodic review and reauthorization, verification of correct pay rate (locality and grade) and specific approvals required from initial submission to final approval to ensure equity. The policy should require the Assistant Administrator for OARM to be the final decision authority for all geographically separate duty station locations authorizations except those duty station location changes initiated within OARM.
- 2b. Identify and review all existing arrangements of full-time work-at-duty-station separate from the position of record, including the situation that was the subject of this review, and bring each of these arrangements into compliance with implemented EPA policy.

## Summary of Agency Responses and OIG Evaluation

The Agency generally concurred with the recommendations and offered other insights into the report. On Recommendation 1 the Agency concurred that a central approval authority for all work at home arrangements was necessary but could not decide at the time where it should be. The Agency can provide its decision and rationale in the 90 day response to this report. The Agency concurred with Recommendation 2a and has set January 2010 as a target for developing the policy. The Agency concurred with Recommendation 2b and has stated that a review of the existing arrangements should be completed 6 months after the new policy is implemented. The Agency requested that we define the use of "manager" when referring to OARM personnel we interviewed in the report. We removed the term "manager" and inserted the titles of the personnel interviewed. The Agency was concerned that using a number for the other arrangements was inappropriate because we had not verified the supporting data. We did not validate the number of existing arrangements as we believed the Agency should do so after developing a policy. We changed the report to refer to them as other arrangements.

## **Status of Recommendations and Potential Monetary Benefits**

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
1	6	Assign responsibility for authorizing all non-OARM geographically separate duty station changes to the Assistant Administrator for OARM.	O	Deputy Administrator			
2a	6	Establish and implement Agency policy for all EPA employees that clearly articulates the process and procedures for changing an employee's duty station to a location geographically separate from the position of record. This policy should include eligibility criteria for positions and personnel, records management requirements, periodic review and reauthorization, verification of correct pay rate (locality and grade) and specific approvals required from initial submission to final approval to ensure equity. The policy should require the Assistant Administrator for OARM to be the final decision authority for all geographically separate duty station locations authorizations except those duty station location changes initiated within OARM.	O	Assistant Administrator for Administration and Resources Management	01/31/2010		
2b	6	Identify and review all existing arrangements of full-time work-at-duty-station separate from the position of record, including the situation that was the subject of this review, and bring each of these arrangements into compliance with implemented EPA policy.	O	Assistant Administrator for Administration and Resources Management	07/31/2010		

<sup>1</sup> O = recommendation is open with agreed-to corrective actions pending  
 C = recommendation is closed with all agreed-to actions completed  
 U = recommendation is undecided with resolution efforts in progress

## Appendix A

***Agency Response to Draft Report***

August 19, 2009

**MEMORANDUM**

**SUBJECT:** Office of Inspector General Draft Hotline Report: *Review of Hotline Complaint on Employee Granted Full-time Work-at-Home Privilege*  
Project No. OPE-FY09-004 Hotline 2008-096, July 30, 2009

**FROM:** Scott C. Fulton  
Acting Deputy Administrator, Environmental Protection Agency

Cynthia Giles  
Assistant Administrator for Enforcement and Compliance Assurance

Craig E. Hooks  
Assistant Administrator for Administration and Resources Management

**TO:** Bill A. Roderick  
Acting Inspector General  
Office of Inspector General

Thank you for the opportunity to respond to the concerns that you have raised in the above-referenced draft Hotline Report.

As a result of an anonymous hotline complaint the Office of the Inspector General (OIG) conducted a review to determine whether an EPA employee was inappropriately granted full-time work at home status. In the draft report, the OIG reviewed a situation in which the Agency authorized a change of duty location for an OECA, National Enforcement Training Institute (NETI) employee previously assigned to Washington, DC and subsequently allowed to work from the employee's home residence in Ohio.

The OIG found that at the time of this change in duty location there was no policy in place that would have governed this action and that documentation justifying the approval was lacking. OIG concluded that this change of duty location was "for the benefit of a single employee as opposed to being primarily in the interest of the government," and that this action "was not equitably provided within NETI." The OIG appropriately points out that EPA does not yet have a final policy in place that would govern this type of personnel action.

The OIG recommended two (2) actions to address the concerns that were raised:

## **OIG Recommendations and EPA Response**

### **Recommendation 1: That the Deputy Administrator assign responsibility for authorizing all non-OARM duty station changes to the Assistant Administrator for OARM.**

We agree that the process for authorizing all duty station changes needs to be one that assures consistency and equity in application. Operationally this calls for some type of central review point that will assure that established criteria are met and approval/disapproval decisions made consistently. We believe, however, that there may be a variety of review and approval mechanisms that achieve efficient and effective results, including having all such decisions made by the Assistant Administrator for OARM. EPA will address this issue when developing a final Agency policy regarding duty station changes and the OIG will have an opportunity to review and comment on the Agency's proposal.

### **Recommendation 2a: That the Assistant Administrator for OARM establish and implement Agency policy that clearly articulates the process and procedures for changing an employee's duty station to a location geographically separate from the position of record for all EPA employees.**

Response: We agree with the OIG's conclusion that the Agency does not currently have a policy that clearly articulates the process and procedures for changing an employee's duty station to a geographic location separate from the employee's organization. EPA has been working on developing such a policy and agrees that OARM will have the lead for completion of this task. Because there remains a need for considerable cross-region and program office collaboration to finalize such a policy, we are setting a target date of January, 2010 for issuance of the final policy.

### **Recommendation 2b: That the Assistant Administrator for OARM identify and review all existing arrangements of full-time work at a duty station separate from the position of record, including the situation that was the subject of this review, and bring each of these arrangements into compliance with the implemented EPA policy.**

Response: We agree with this recommendation. The Agency will identify and review each situation where employees work at a duty station separate from the position of record to determine the most appropriate next steps, working to bring each case into compliance with the policy referenced in our answer to 2a above. We are setting a target date of 6 months after final promulgation of the new policy for completion of this review.

## **Additional Comments on the Draft Report**

We appreciate and encourage the OIG staff to reach out to EPA employees and gather data that are relevant to reports such as this. We count on the integrity of the OIG to assure that the information they choose to use is accurate and verifiable and that the sources of their information are credible. We would note that it would be helpful to clearly define the term "manager" or "management" when presenting interview responses.

Also, the reference in the draft report to the existence of “54 similar arrangements” reported by “OARM management” and the note that “these arrangements exist outside of policy and the justifications for the arrangements were either lacking or weak” could be erroneous. The draft report does not define or describe these “similar arrangements.” Further, OARM management is not aware of 54 arrangements similar to the one referenced in the draft report and is concerned that this information may be inaccurate.

Again, thank you for providing the opportunity to review and respond to this draft report. If you have any questions, please contact either myself or Susan Hazen. We can both be reached at 202-564-4600.

cc: Director NETI: Mail Code 2235A  
OECA Audit Liaison: Mail Code 2201A  
OARM Audit Liaison: Mail Code 3102A



**Appendix B**

***Distribution***

Office of the Administrator  
Acting Deputy Administrator  
Assistant Administrator for Administration and Resources Management  
Assistant Administrator for Enforcement and Compliance Assurance  
Director, National Enforcement Training Institute  
Agency Follow-up Official (the CFO)  
Agency Follow-up Coordinator  
General Counsel  
Associate Administrator for Congressional and Intergovernmental Relations  
Associate Administrator for Public Affairs  
Audit Follow-up Coordinator, Office of Administration and Resources Management  
Audit Follow-up Coordinator, Office of Enforcement and Compliance Assurance  
Acting Inspector General