

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D. C. 20202

TECHNICAL ASSISTANCE CIRCULAR

RSA-TAC-07-01

DATE: April 2, 2007

ADDRESSEES: TELEWORK PROGRAMS SUPPORTED UNDER SECTION 303(b) OF
THE REHABILITATION ACT OF 1973, AS AMENDED.

SUBJECT: Ensuring the appropriateness of loans to individuals with disabilities
through the Access to Telework Program.

BACKGROUND: In February 2001, the President introduced the *New Freedom Initiative* (NFI) to help Americans with disabilities by increasing access to assistive technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life. The NFI included a proposal to increase the participation of Americans with disabilities in the workforce by expanding telework opportunities.

Individuals with disabilities experience many barriers to employment, including inadequate transportation, fatigue, inaccessible work environments, and the need for personal assistance. For many individuals with disabilities, these barriers can be reduced or eliminated through telework and other work options, such as self-employment. Telework and self-employment provide opportunities to many Americans who want or need a flexible work environment. By accommodating flexible work schedules and expanding employment options, the promotion of telework and self-employment brings more individuals with disabilities into the labor market.

In FY 2002, Congress appropriated funds to support grants to increase access to telework for individuals with disabilities. Under section 303(b) of the Rehabilitation Act of 1973, as amended (Rehab Act), the Rehabilitation Services Administration (RSA) created the Access to

Telework Program (Telework). The goals of Telework are:

- (1) Increasing access to technology for disabled individuals; and
- (2) Increasing employment opportunities and competitive employment outcomes for individuals with disabilities.

To achieve these goals, RSA provided Telework grants to states. These Telework grantees maintain permanent programs that provide loans to individuals with disabilities to allow them to purchase computers and other equipment so that they can work as an employee or contractor or to become self-employed on a full-time or part-time basis from home or other remote sites. The loans are provided through alternative financing mechanisms such as: low-interest loan funds; interest buy-down programs; revolving loan funds; loan guarantee or insurance programs; programs operated by a partnership among private entities for the purchase, lease, or other acquisition of computers and other equipment, including adaptive equipment; or other mechanisms that meet the requirements and intent of this program and that are approved by the Secretary.

A number of Telework grantees have contacted RSA for clarification regarding what types of employment constitute telework, what employment locations constitute telework sites, and what can be purchased with a telework loan. They have expressed concern about violating Telework requirements if they provide a loan to an individual for employment not considered telework based on the nature or location of the work or provide a loan for the purchase of items that are not considered appropriate for telework.

This Technical Assistance Circular provides guidance to grantees on how they can develop policies and processes for determining whether particular employment, locations of employment, or purchases are appropriate for providing a telework loan.

GUIDANCE:

Grantees have some discretion when making decisions about the general operation of their programs, including determining whether a telework loan is appropriate. This discretion, however, must be exercised in a manner that is consistent with the requirements of the notice of final priorities for Telework published in the *Federal Register* on September 30, 2003, (68 FR 56274). Grantees must also abide by the conditions contained in their grant awards and the Office of Management and Budget (OMB) circulars A-21 and A-87, as appropriate. The information below provides additional guidance to Telework grantees to assist them in making decisions about the appropriateness of telework loans.

What is Telework?

A telework loan should be provided to an individual with a disability only when that individual will use the funds to make purchases that enable him or her to engage in telework as an employee or contractor or to become self-employed on a full-time or part-time basis. Although there is no standard definition of telework, the purpose of telework is to reduce or eliminate barriers to employment such as inadequate transportation, fatigue, inaccessible work environments, and the need for personal assistance experienced by individuals with disabilities. Therefore, to determine whether the proposed form of employment from a loan applicant is telework, Telework grantees should develop and implement a policy and process to examine requests on a case-by-case basis.

Telework includes work that can be performed effectively from home or from other designated sites away from the office, such as work on the road or at a telework center. When an applicant for a telework loan is to work for an employer, appropriate telework sites generally are remote from the employer's main site. Satellite offices, regional offices, or franchise locations are not considered telework sites, however, unless the franchise constitutes self-employment.

In cases where a loan applicant plans to work at a site not described above, or will be self-employed, Telework grantees should develop and implement a policy and process to examine requests on a case-by-case basis to determine if the site is appropriate based on its relationship to the proposed employment. That policy may provide that a loan is appropriate when a Telework grantee has established that the individual's disability creates a barrier or barriers to employment and that the individual's proposed telework employment overcomes that barrier or barriers.

What Can a Telework Loan Be Used to Purchase?

An individual with a disability must use a loan from a Telework grantee to purchase a computer or other equipment, including adaptive equipment, necessary for telework. Questions have been raised about the definition of equipment. The definition contained in the Education Department General Administrative Regulations (EDGAR) is appropriate because it defines equipment as personal property having a minimum monetary value but, at the same time, gives each State the flexibility to create its own less restrictive definition.¹ Thus, we encourage each State to carefully consider using the flexibility provided by EDGAR to develop a definition that meets the needs of its Telework program.

¹ According to EDGAR at 34 CFR 80.3: "Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above."

To determine whether the purchase of a computer or other equipment an individual will make with the loan is appropriate for a telework loan, Telework grantees should develop and implement a policy and process to examine requests on a case-by-case basis to determine if the loan is appropriate for the purposes of telework based on the relationship of the purchase to the proposed employment and the proposed telework site.

Once a Telework grantee has established that the individual's disability creates a barrier or barriers to employment, that the individual's proposed telework employment overcomes that barrier or barriers, and that the proposed site is appropriate for that kind of employment, the computers or other equipment, including adaptive equipment, necessary to make that form of telework possible at the proposed site can be determined appropriate.

CONCLUSION: Grantees should note that they are not required to provide any particular telework loan simply because they have determined, using the approach described herein, that the proposed employment constitutes telework, the proposed location of employment would constitute a telework site, and the loan would be used for an appropriate purchase. Telework grantees continue to have the discretion to deny loans based on the capacity of their loan fund, the creditworthiness of the applicant, the applicant's business plan, and other factors.

A grantee's Telework loan policies and processes should be applied equitably to all its loan applicants. Therefore, RSA recommends that each grantee consider development of a uniform policy to review requests for its Telework loans.

**SUMMARY
GUIDANCE:**

Telework grantees have some discretion to set their own policies for determining what types of employment constitute telework, what employment locations constitute telework sites, and what can be purchased with a telework loan. As outlined in this Technical Assistance Circular, Telework grantees should make these determinations by establishing that the individual's disability creates a barrier or barriers to employment, that the individual's proposed telework employment overcomes that barrier or barriers, that the proposed site is appropriate for that kind of employment, and that any purchases to be paid for with the loan are necessary to make that form of telework possible at the proposed telework site. A grantee should be prepared to justify its policy on making telework loans based on the purposes and requirements of the notice of final priorities for Telework published in the *Federal Register* on September 30, 2003 (68 FR 56274), which this Circular explains, and the conditions contained in its grant award.

AUTHORITY: Section 303(b) of the Rehabilitation Act of 1973, as amended.

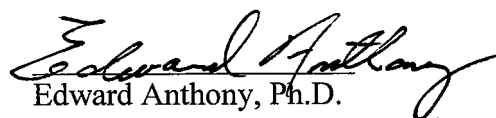
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Functions of the Commissioner for the
Rehabilitation Services Administration

cc: Rehabilitation Engineering and Assistive Technology Society of North America
Association of Assistive Technology Act Programs