

Guidance for out-of-territory remote work arrangements

Date: August 2024

1. Remote work policy

The Yukon government's remote work policy (GAM 3.12) states that in most cases, remote work arrangements for Yukon government employees must occur in the Yukon, but out-of-territory remote work may be possible in time-limited and exceptional circumstances:

GAM 3.12 policy excerpt – section 2.5

- a) Remote work arrangements for Yukon government employees must occur in the Yukon.
- b) A department may only consider arrangements for an employee to work remotely from another province or territory in Canada in exceptional and/or time-limited circumstances.
- c) Out-of-territory remote work arrangements must be:
 - i. requested by the employee;
 - ii. recommended by their supervisor;
 - iii. approved by their department's deputy minister; and
 - iv. approved by the Public Service Commissioner.
- d) No employee will be approved to work remotely outside of Canada, except where it is a requirement of their position.

2. Context

The remote work policy was approved by the Deputy Ministers' Review Committee in October 2021. In the ensuing months, departments have identified increasing labour market pressures, leading to more acute staffing challenges. In July 2022, the Yukon's unemployment rate was 2.5%, the lowest of any province or territory; the national unemployment rate was also at a historic low in July 2022 at 4.9%. Departments report receiving fewer applications and having greater difficulty recruiting successful candidates for many job competitions. Given these labour market pressures, the Yukon government must consider a more flexible approach to out-of-territory remote work arrangements.

While some private employers have implemented policies that allow employees to work from anywhere, it is still necessary to limit out-of-territory remote work to exceptional circumstances for the Yukon government. In most situations, it remains in the public interest for Yukon government employees to live and work in the Yukon, for the following reasons:

- The Yukon government public service should be representative of and accountable to the population it serves.
- Yukoners should also derive the greatest possible benefit from the public service, including the economic benefits of government jobs in the community.

- The wages and benefits provided to Yukon government employees are based on the assumption that the employee lives and works in the Yukon.

However, these considerations for requiring employees to work in the Yukon must also be balanced with the government's ability to provide services and the government's interests in attracting talent and supporting employee wellbeing. Deputy ministers and the Public Service Commissioner are responsible for balancing these interests when making recommendations and decisions on out-of-territory remote work requests.

The context for remote work, including out-of-territory arrangements, continues to evolve rapidly. This document provides interim guidance for decisions about out-of-territory remote work and will be revisited as described in section 8.

3. Principles for assessing out-of-territory requests

Below are the principles that deputy ministers and the Public Service Commission should consider when making recommendations and decisions about remote work requests. In some situations, these principles may conflict. It is the role of senior decision-makers to balance conflicting principles and make decisions in the best interest of the public service.

Principle	Guiding questions
Building a representative and accountable public service	<ul style="list-style-type: none"> • What plans are there for the employee requesting to work out-of-territory to move or return to the Yukon? • If hiring for a new employee who does not intend to relocate to the Yukon, what efforts have been made to hire an employee locally? • Can the arrangement be designed so that the employee returns to the Yukon on a regular basis?
Delivering high-quality services to Yukoners	<ul style="list-style-type: none"> • What is the risk to the department and to the operations of government if the out-of-territory remote work request is not granted? • Is the position truly suited to a remote work arrangement where the employee never or rarely attends the office face-to-face?
Supporting employee wellbeing	<ul style="list-style-type: none"> • Employees have generous leave benefits and should not be expected to work in times of personal tragedy or misfortune, or during scheduled vacation. Is this request better addressed by granting leave to the employee, rather than an out-of-territory remote work arrangement?

Identifying and attract the best people	<ul style="list-style-type: none"> • Will a temporary out-of-territory remote work arrangement allow the employer to recruit or retain an employee with an exceptional or hard-to-fill skill set?
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4. Exceptional circumstances

GAM 3.12 notes that out-of-territory remote work arrangements may be possible in exceptional circumstances. There are two types of exceptional circumstances that departments may consider:

- **Exceptional personal circumstances:** this includes situations such as: an employee or their dependent is accessing medical treatment unavailable in the Yukon. (Please note that in most cases when employees need to leave the territory to attend to personal situations such as the death of a family member, their ability to work remotely and perform work will likely be significantly impacted. Departments should consider whether other forms of approved leave are more appropriate.)
- **Exceptional operational circumstances:** the department would otherwise be unable to deliver critical services or would experience substantial operational impact if the out-of-territory remote work request is not approved. This may include situations where the position is specialized and hard-to-fill, though the department should be able to demonstrate that this is the case (e.g. unsuccessful past recruitments, evidence of labour market shortage for identified profession, etc.).

5. Time-limited circumstances

Out-of-territory remote work arrangements should be short-term and time-limited, though what is considered short-term will be assessed on a case-by-case basis. Requests for longer arrangements (over three months) will receive a higher level of scrutiny and must have a strong rationale.

Requests for renewals of existing arrangements must demonstrate the steps the employee has taken to relocate to the territory, or the steps the department has taken to recruit locally. Renewals are not an automatic right and past approval of a request is no guarantee that a request for renewal will be granted.

6. Decision-making factors

The Public Service Commission issues decisions on requests for out-of-territory remote work arrangements. In all situations, the decision will be made on the facts and circumstances of the individual case. The general factors that inform decisions are described below for different types of requests.

Existing employee plans to return to the territory, or new employee plans to move to the territory

- The level of flexibility the employer can offer employees depends on the nature of the exceptional circumstances. If the circumstances are extreme (for example, the operational need and impact of the position is very significant), the employer can be more flexible in allowing out-of-territory arrangements.
- The longer the duration of the request, the greater scrutiny it will receive and the more compelling the rationale must be.

Existing employee is leaving the territory and does not plan to return

- The employer must have a compelling interest in having the employee work out of territory (that is, the arrangement is not solely for the employee's benefit).
- Circumstances must truly be exceptional for such a request to be granted.
- Regardless of duration, such requests will receive a high level of scrutiny.

New employee is recruited out-of-territory, with no plans to move to the territory

- The employer must have a critical interest in having the employee work out of territory (that is, the arrangement is not solely for the employee's benefit and there is significant, pressing operational need for the work to be done).
- All such requests will receive extreme scrutiny, regardless of duration.
- In all cases, a temporary staffing action should be used, not permanent (for example, a term position instead of an indeterminate, permanent hire).

7. Tracking approved requests

All approved out-of-territory arrangements must be entered and tracked using the remote work tracking tool in My HR File, with "out-of-territory" indicated as location. Accurate data is essential to inform the Yukon government's approach to out-of-territory remote work.

8. Reviewing guidance

In fall 2023, after this guidance has been in place for one year, the Public Service Commission will assess data related to out-of-territory remote work requests; seek feedback from departments on how the current approach is working; and request direction from deputy ministers on whether this guidance should remain in place or be adjusted or removed.