

CAN YOU PAY YOUR REMOTE WORKERS LESS THAN YOUR OFFICE WORKERS OR BASED ON GEOGRAPHIC LOCATION? RETHINKING YOUR PAY MODEL IN A NEW ERA

Insights

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The COVID-19 pandemic altered where our employees work, with many businesses shifting to full-time remote work or hybrid models that allow employees to split their time between home and the office. But this seismic shift raises a host of questions. Can you pay workers less if they are not commuting to an office? Can you ask an employee to take a location-based pay cut when they move from San Francisco to Cincinnati? Even if you can do so – should you? What are the legal and practical considerations for your remote pay policies and how might your decisions impact company culture and employee morale? A new day may call for a new approach to compensation. Here are some key considerations you need to take into account as you navigate the new normal when it comes to paying your remote workforce.

Understand the Extent of the WFH Trend

Work-from-home arrangements are nothing new, but they have undergone a dramatic – and potentially permanent – shift in the past two years.

■ Full-Time Remote Workers

According to recent [Gallup research](#), very few employees were full-time remote prior to the start of the COVID-19 pandemic, with only 8% of people in “remote-capable” roles working from home in 2019. That number spiked to 70% at the outset of the pandemic in May 2020, but the number of

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full-time remote workers settled to 29% in June 2022. Gallup researchers project that the number of full-time remote workers will decrease to about 22% in the near future – which will still be three times higher than pre-pandemic levels.

■ ***Hybrid Arrangements***

While the number of full-time remote workers may be leveling out, the opposite is true for hybrid workers – those who split their work time between the office and a home office. Gallup reports that 32% of the remote-capable workforce had a hybrid arrangement in 2019, and that number jumped to 49% by June 2022. Looking to the near future, Gallup predicts hybrid workers will make up 55% of the remote-capable workforce.

■ ***WFH, Collectively***

Combined, that means about 77% of the estimated 60 million remote-capable jobs in the U.S. are expected to be performed remotely – at least part of the time. And with the explosion of WFH options comes a commensurate explosion of interest from employers regarding the various compensation aspects of remote work. For one thing, can all employees work from home? If not, you may consider paying onsite employees more for commuting to the worksite. You may also want to consider the overhead costs associated with onsite versus remote work — which will vary among employers. Some companies may save on office space and other expenses when employees work from home. However, remote arrangements aren't always less expensive for employers, since you may have to cover additional costs for employees who work from a home office. For example, in California, employees must be reimbursed for reasonable business expenses, which may include cell phones and home internet. Reducing compensation may offset those additional costs. But before you pay employees more for working onsite or less for working remotely, you should consider the laws of your jurisdiction and the impact of your WFH pay policies on employee morale.

While every business must consider its own unique circumstances, you'll have to decide if adjusting your remote work or hybrid compensation policies will be an effective strategy for attracting and retaining the kind of talent you

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want. If so, you'll need to develop a consistent, effective, and legally compliant pathway.

Note that if you are a government contractor, you will need to review compensation guidelines from the Office of Federal Contract Compliance Programs (OFCCP).

Consider Location-Based and Value-Based Compensation Strategies

One of the more challenging aspects of creating a compensation strategy for remote workers will involve managing geography-based pay differences and expectations. Some of the questions you may want to ask yourself now that your organization has settled into a WFH routine, or will be finalizing a long-term remote work approach, include:

- If you plan to primarily employ a remote workforce, how will you set salaries when pay ranges traditionally vary based on geographic location?
- Is it fair to pay a software engineer in the Midwest less than a software engineer on the West Coast based on cost-of-living variances?
- On the flipside, is it fair for an employee in Seattle to relocate to Boise, Idaho, and maintain a big-city salary?
- What about those employees located close to your headquarters who simply don't want to come into the office anymore? Should you pay onsite workers more due to gas prices and other costs associated with commuting – or perhaps to incentivize them to return to the office?

At the end of the day, you will have to weigh the benefits of a **location-based strategy** (one where you tie compensation levels to the location of your workers) and a **value-based strategy** (where you pay employees purely based on the value they bring your organization). You may also consider whether it makes sense to retain offshore employees as part of your remote workforce strategy.

- If you chose a location-based strategy, you will want to consider the local market rate, cost of living, and state and local tax rates where the employee is located while setting your compensation levels.

- If you decide to pay based on the value of the job and the worker's experience – rather than location – you'll need to evaluate how competitive your pay rates will be in the most-expensive markets. Will you set salary levels based on a national average or to compete with compensation levels in New York and San Francisco?

Making the Move

Once you have decided on a new course, you'll need to [consider the practical strategies for unveiling](#) and running your remote work policy. You can find a [six-step plan to legally manage your remote employees here](#). For more information on compensating remote and hybrid workers, [read our Insight on the eight biggest considerations when deciding your work-from-home compensation strategy](#).

We will monitor developments as remote and hybrid policies continue to shape the future of work. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Wage and Hour Practice Group](#).