



Contact Human Resource before considering an employee's request for telecommuting in a foreign country.

KEY ISSUES

The increase in requests for international telecommuting has revealed potential risks and liabilities for the university. The following are key issues identified as risks and liabilities for international telecommuting [2]:

Employment Laws: As a general rule, employment laws of a host country apply to foreign nationals and U.S. expatriates employed in positions overseas. This includes laws relating to dismissal, compensation, taxes, benefits, severance, and furlough. A country may require UW–La Crosse to register, seek licensure, create a separate legal entity, or seek other permission to employ individuals in the country.

Payroll and Benefits: For a foreign national employed outside of the U.S., there are tax implications, which require substantial and detailed document tracking. Access to benefits can be affected by the availability of a social security number, previous health care coverage, and strict enrollment windows.

Cybersecurity: In addition to data protection requirements based on U.S. or international law, policy, or regulation and cybersecurity risk or vulnerability issues, a country's network access, rules, and restrictions may affect an employee's use of technology, equipment, or network access.

Data Privacy: The privacy of data that an international telecommuter intends to access may be protected by various laws and regulations, such as the Health Insurance Portability and Accountability Act (HIPAA), Family Educational Rights and Privacy Act (FERPA), or General Data Protection Regulations of the European Union (GDPR). Steps may need to be taken to protect the privacy of data accessed by an international telecommuter in accordance with applicable regulations and laws.

Liability Caps and Statutory Immunity: The liability caps and statutory immunity applicable to UW–La Crosse do not apply to litigation in a foreign jurisdiction.

Intellectual Property: Foreign and international intellectual property laws may apply to an employee telecommuting from another country.

Export Control: A country may require an export license to provide educational services, which creates a risk for employees working in these countries. Countries with a higher risk in this area include Cuba, Iran, North Korea, Syria, and the Republic of Sudan. In addition, there is risk to working in other countries that are restricted or embargoed by the Departments of State and Treasury.

Worker's Compensation: UW–La Crosse does not have worker's compensation insurance coverage for employees who sustain an occupational injury while working outside of the U.S.

Purchasing/Procurement: Purchasing and procurement for employees in foreign countries is complex and involves the university's obligations under state rules.



Research and Sponsored Project Awards: Sponsors generally expect to be informed at the time of the proposal if research activities will take place outside of the U.S. The activities may need approvals, permits, or licenses. For example, employees supported by a National Institutes of Health (NIH) award and working in a foreign country may need to notify the NIH Institute/Center through RSP. If work performed outside the U.S. is significant, NIH requires additional approval. Other sponsors need to be notified of work in a foreign country to ensure compliance with sponsor terms and conditions.

[1] This overview only relates to international telecommuting for employment purposes. For issues related to the provision of remote/online education in foreign countries for students who cannot enter the U.S., a separate analysis is required.

[2] Note that this summary is not an exhaustive list of risks and liabilities associated with international telecommuting.