

**Amendment to “The Patents Telework Program 2013” Agreement  
originally signed May 30, 2013, Executed May 12, 2014.**

Several issues have arisen concerning the Patents Telework Program. This document is meant to clarify and address those issues.

1. Pg. 2, Section II. Paragraph A2, has been amended as follows: Participants must schedule their telework day by notifying their supervisor of their intent by **--10 PM--** the prior evening. Alternatively, participants may schedule the same telework day every pay period, and provide a single notification to their supervisor. **--Participants who notify their supervisors by either method above are considered telework ready for their scheduled days. --**
  
2. Pg. 3, Section II. Paragraph B2, *“Participants must schedule their telework day by notifying their supervisor prior to teleworking. Alternatively, participants may schedule the same telework day(s) every pay period, and provide a single notification to their supervisor.”* The following has been added to the end: **-- In order to be eligible for administrative leave for a government closure, participants must not be scheduled to telework as of 10 PM the night before. --**
  
3. Pg. 3, Section II. Paragraph B, Number 10 and 11 have been added,
  10. **Participants will not be permitted to voluntarily switch to the 20 hour option for at least one year, once approved for the 32 hour option. This limitation only applies to participants who remain eligible for the 32 hour option.**
  
  11. **Participants who withdraw from the 32 hour option voluntarily are responsible for the return of the USPTO-issued monitor. Participants who wish to transfer from the 32 hour option to the 20 hour option will not be approved for the 20 hour option until the monitor has been returned to the designated location.**
  
4. Pg. 4, Section II. Paragraph C, Number 11 and 12 have been added,
  11. **Participants will not be permitted to voluntarily switch to the 20 hour option for at least one year, once approved for the 32 hour option. This limitation only applies to participants who remain eligible for the 32 hour option.**
  
  12. **Participants who withdraw from the 32 hour option voluntarily are responsible for the return of the USPTO-issued monitor. Participants who wish to transfer from the 32 hour option to the 20 hour option will not be approved for the 20 hour option until the monitor has been returned to the designated location.**
  
5. Pg. 5 and 6, Section III. Paragraph A7, B6 and C7, *“not have received a disciplinary or adverse action within the last 12 months; and.”* Has been revised to:
  - Not be under an active investigation or proposal for disciplinary or adverse action for misconduct that would warrant suspension or removal from the program; and**
  - Not have been suspended pursuant to a disciplinary or adverse action within the last 12 months.**
  
6. Pg. 6, Section III. Paragraph B, Number 9 was added,
  9. **Must not have been approved to participate in the 32 hour option within the last year.**

7. Pg. 9, Section VI, Paragraph I2, has been amended as follows:  
Participants who do not have a participant-owned monitor and have not yet received a USPTO-issued monitor may begin teleworking under the guidelines of the 20 hour option the biweek following notification of acceptance and receiving an ERA fob. Once participants have an ERA fob and a monitor, participants may telework up to 32 hours per pay period. **--Participants must receive the USPTO-issued monitor within 30 days of acceptance into the 32 hour option otherwise participant will be removed from PTP entirely and will need to reapply and be approved in order to telework.--**
  
8. Pg. 11, Section VII. Paragraph C1,a,ii, has been amended as follows:  
**20 hour option participants are "telework ready" on days they are scheduled to telework. Participants with a previously scheduled telework day must notify their supervisor by 10 PM the evening prior to the closure if they no longer plan to telework that day in order to be eligible for administrative leave.**
  
9. Pg. 13, Section VII, Paragraph C, 4, a, j; has been amended as follows: 10 hour option participants may work unscheduled telework if participants had notified their supervisor by **--10 PM--** the previous evening that they have work that can be performed at the alternate worksite for their scheduled duty hours. All hours must be worked at the same location. **--Those telework hours would not apply towards the 10 hour biweekly limit. If the government subsequently closes, participants who have notified their supervisors that they have work that can be performed at the alternate worksite are considered telework ready and will not be granted administrative leave for the closure. See Section VII, paragraph C1 above.--**
  
10. Pg. 19, Section VX- Transition was removed because it was no longer relevant at the time of this amendment.

## **Below will be included in a memo to examiners:**

When the government announces Unscheduled Telework, those telework hours worked do not apply towards the PTP total hourly limit for the biweek. In addition, participants on the 32 hour option are telework ready whether or not they have completed 32 hours of telework. See Section VII, paragraph C1. If they have informed their supervisor by 10 pm the night before of their intention to be telework ready participants in the 10 hour option can work unscheduled telework and are also telework ready in case of government closure. Telework ready 10 hour option participants will not be granted administrative leave for the closures.

Those participants on the 32 hour option prior to the effective date of this addendum can apply for the 20 hour option once without waiting a full year.

The Patents Telework Program 2013

This agreement between the United States Patent and Trademark Office (USPTO or Agency) and the Patent Office Professional Association (POPA) supersedes the Patents Telework Program signed on January 30, 2003. In addition, this agreement supersedes the portion of the “MOU Between the Patent Office Professional Association and the United States Patent and Trademark Office On Deployment of the Multimedia Communication System (MCS) and on Changes to the Patents Telework Program, Non-Duty Hours Technical Training Program, and Non-Duty Hours Legal Studies Programs” signed on July 28, 2006 entitled Patents Telework Program.

Patents Telework Program 2013 (hereafter referred to as PTP) covers patent examiners, patent reexamination specialists, and bargaining unit employees in the Office of PCT Legal Administration and the Office of Petitions. PTP permits participants to work at an alternate worksite during paid work hours to conduct their officially assigned duties without diminished employee performance. As used herein, “alternate worksite” is defined as a location in the participant's home designated by the participant as the location they will use to perform their official USPTO duties, or another location approved by the Agency.

**I. OVERVIEW**

There are three options under PTP. This chart is an overview. Please see all requirements set forth in the agreement:

Option	Eligibility	Schedule	Equipment
10 hours	GS 9 or 11, with at least 1 year continuous USPTO service	1 day per pay period, up to 10 hours	<ul style="list-style-type: none"> <li>Enterprise Remote Access (ERA) fob; high speed broadband internet service required</li> </ul>
20 hours	GS 12 and above, with at least 1 year continuous USPTO service	1 day per week, up to 10 hours	<ul style="list-style-type: none"> <li>ERA fob; high speed broadband internet service required, or</li> <li>None</li> </ul>
32 hours	GS 12 and above, with at least 1 year continuous USPTO service	variable	<ul style="list-style-type: none"> <li>ERA fob; high speed broadband internet service required</li> <li>USPTO -issued equipment including a monitor, docking station, router, mouse, webcam, and keyboard</li> </ul>

## II. OPTION DETAILS

### A. 10 HOURS per pay period

1. Participants may work at the alternate worksite for 1 day per pay period for up to 10 hours consistent with the participant's work schedule, except for instances when the participant is required to be at their duty station for training or for other work related activities. For participants on the "Increased Flexitime Program" (IFP), the telework day may be a Saturday.
2. Participants must schedule their telework day by notifying their supervisor of their intent by 10 PM the prior evening. Alternatively, participants may schedule the same telework day every pay period, and provide a single notification to their supervisor. Participants who notify their supervisors by either method above are considered telework ready for their scheduled days.
3. Participants will be provided with office space at their duty station as defined in current agreements.
4. Participants must arrange for and have access to high-speed broadband internet service.
5. Participants will access USPTO email periodically throughout their workday when working at the alternate worksite.
6. Participants will check their USPTO voicemail near the beginning and midpoint of their workday and respond, as appropriate.
7. Participants must have separate authorization to work overtime. Overtime hours worked at the alternate worksite do not count toward the 10 hour limit.
8. Compensatory time and IFP credit hours may not be worked at the alternate worksite.
9. Participants may not work regular hours at the alternate worksite and at the USPTO on the same day unless 1) directed to do so by their SPE; or 2) in situations where a power outage or ISP interruption does not allow the participant to complete their scheduled number of hours at the alternate worksite.
10. When participants in this option are promoted to a GS12, they will be transitioned to the 32 hour option. The participants will be notified via email of the transition and required to sign a new work agreement for the 32 hour option.

### B. 20 HOURS per pay period

1. Participants may work at the alternate worksite for 1 day per week, up to 10 hours per day, consistent with the participant's work schedule, except for instances when

participants are required to be at their duty station for training or for other work related activities. For participants on the “Increased Flexitime Program” (IFP), one telework day per pay period may be a Saturday.

2. Participants must schedule their telework day by notifying their supervisor prior to teleworking. Alternatively, participants may schedule the same telework day(s) every pay period, and provide a single notification to their supervisor. In order to be eligible for administrative leave for a government closure, participants must not be scheduled to telework as of 10 PM the night before.
3. Participants will be provided with office space at their duty station as defined in current agreements.
4. Participants with email access will check their USPTO email periodically throughout their workday during business hours.
5. Participants will check their USPTO voicemail near the beginning and midpoint of their workday and respond, as appropriate.
6. Participants must have an ERA fob and separate authorization to work overtime. Overtime hours may be worked at the alternate worksite and do not count toward the 20 hour limit.
7. Compensatory time and credit hours may not be worked at the alternate worksite.
8. Three hundred slots will be available to participants without an ERA fob. A waiting list will be maintained if the slots are filled.
9. Participants may not work regular hours at the alternate worksite and at the USPTO on the same day unless 1) directed to do so by their SPE; or 2) in situations where a power outage or ISP interruption does not allow the participant to complete their scheduled number of hours at the alternate worksite.
10. Participants will not be permitted to voluntarily switch to the 20 hour option for at least one year, once approved for the 32 hour option. This limitation only applies to participants who remain eligible for the 32 hour option.
11. Participants who withdraw from the 32 hour option voluntarily are responsible for the return of the USPTO-issued monitor. Participants who wish to transfer from the 32 hour option to the 20 hour option will not be approved for the 20 hour option until the monitor has been returned to the designated location.

### **C. 32 HOURS per pay period**

1. Participants may work at the alternate worksite for up to 32 hours per pay period, except for instances when the participant is required to be at their duty station for

training or for other work related activities.

2. To telework on a given day when the participant will not report to the duty station, participants must notify their supervisor prior to teleworking.
3. Participants will be provided with office space at their duty station as defined in current agreements.
4. Participants must arrange for and have access to high-speed broadband internet service.
5. Participants will access USPTO email periodically throughout their workday during business hours.
6. Participants will check their USPTO voicemail near the beginning and midpoint of their workday and respond, as appropriate.
7. Participants must have separate authorization to work overtime or earn compensatory hours at the alternate worksite. Overtime hours may be worked at the alternate worksite and do not count toward the 32 hour limit.
8. Compensatory time and credit hours may be worked at the alternate worksite and will count towards the 32 hour cap. To earn credit hours at the alternate worksite under the Credit Hour Program, participants must be eligible for the program.
9. Participants may work at both their duty station and the alternate worksite on the same day.
  - a. Participants on fixed schedules must include their commute time as part of their unpaid break when determining their beginning and end times for the day they work in both locations.
  - b. Participants on the IFP must include their commute time as part of a mid-day flex or their unpaid break.
10. Participants who plan to both 1) work at the duty station and 2) telework on a single day need not schedule telework in advance. For notification purposes, participants will be treated as other participants who are scheduled to report to the duty station.
11. Participants will not be permitted to voluntarily switch to the 20 hour option for at least one year, once approved for the 32 hour option. This limitation only applies to participants who remain eligible for the 32 hour option.
12. Participants who withdraw from the 32 hour option voluntarily are responsible for the return of the USPTO-issued monitor. Participants who wish to transfer from the 32 hour option to the 20 hour option will not be approved for the 20 hour option until the monitor has been returned to the designated location.

### **III. REQUIREMENTS TO BEGIN PARTICIPATION**

#### **A. 10 HOUR OPTION (1 day per pay period, up to 10 hours)**

In order to begin participation in this option, the employee must:

1. be a GS-9 or GS-11;
2. have at least 1 year of continuous service at the USPTO immediately prior to beginning participation;
3. (for patent examiners): have cumulative performance at least at the Fully Successful level in all elements of the non-probationary Patent Examiner PAP for their grade for the 13 pay periods immediately prior to application;
4. (for employees other than patent examiners): have cumulative performance at least at the Fully Successful level in all elements of their PAP for the 13 pay periods immediately prior to application;
5. have access to high-speed broadband internet service;
6. have received an ERA fob;
7. not be under an active investigation or proposal for disciplinary or adverse action for misconduct that would warrant suspension or removal from the program;
8. not have been suspended pursuant to a disciplinary or adverse action within the last 12 months; and
9. not currently be on an oral or written warning improvement period or be in a quarter in which the participant received a safety zone letter in any critical element of their Performance Appraisal Plan.

#### **B. 20 HOUR OPTION (1 day per week, up to 10 hours per day)**

In order to begin participation in this option, the employee must:

1. be a GS-12 or higher;
2. have at least 1 year of continuous service at the USPTO immediately prior to beginning participation;
3. have at least a fully successful rating of record;
4. for those on the option with ERA fob, have access to high-speed broadband internet

service;

5. for those on the option with ERA fob, have received an ERA fob;
6. not be under an active investigation or proposal for disciplinary or adverse action for misconduct that would warrant suspension or removal from the program;
7. not have been suspended pursuant to a disciplinary or adverse action within the last 12 months;
8. not currently be on an oral or written warning improvement period or be in a quarter in which the participant received a safety zone letter in any critical element of their Performance Appraisal Plan; and
9. Must not have been approved to participate in the 32 hour option within the last year.

#### **C. 32 HOUR OPTION**

In order to begin participation in this option, the employee must:

1. be a GS-12 or higher;
2. have at least 1 year of continuous service at the USPTO immediately prior to beginning participation;
3. have at least a fully successful rating of record;
4. have access to high-speed broadband internet service;
5. receive USPTO issued monitor or supply a participant-owned monitor;
6. have received an ERA fob;
7. not be under an active investigation or proposal for disciplinary or adverse action for misconduct that would warrant suspension or removal from the program;
8. not have been suspended pursuant to a disciplinary or adverse action within the last 12 months; and
9. not currently be on an oral or written warning improvement period or be in a quarter in which the participant received a safety zone letter in any critical element of their Performance Appraisal Plan.

#### **D. EXCEPTIONS FOR EMPLOYEES WITH PREVIOUS PATENT EXAMINER SERVICE**

For employees with previous service as a patent examiner the continuous service requirement is modified for PTP eligibility as follows:

1. For employees with previous patent examiner service who previously served less than a year at the USPTO, none of the time previously served will count towards the service requirement.
2. For employees with previous patent examiner service who previously served 1 year or more, performance must be at the fully successful level in all elements of the non-probationary Patent Examiner PAP for their grade for the 13 pay periods immediately prior to application. For employees with previous patent examiner service who previously served 1 year or more and who separated from the USPTO for less than 2 years immediately prior to their return, this time period is reduced to 7 pay periods.

#### **IV. GUIDELINES FOR COMMUNICATION AND RESPONSIVENESS**

Participants are expected to maintain communication and responsiveness regardless of where they work.

Means to accomplish this can include:

- Do not schedule telework when you need to be at your duty station for meetings, training or interviews.
- Provide your telework schedule or schedule appointments with colleagues who you mentor or train.
- Make colleagues comfortable with contacting you at your alternate worksite when you telework.
- If you use your own telephone, provide your phone number to your supervisor and people with whom you routinely interact.

#### **V. MEDICAL EXCEPTION**

USPTO will consider requests from employees to work from home or another authorized remote location based on a serious short-term medical need of the employee or the employee's family members. Requests should be submitted promptly to the extent possible. Requests will be considered promptly, generally within one or two weeks. The request may be to telework pursuant to the requirements set forth in the remainder of this agreement or may be for temporary additional flexibility in scheduling and number of telework days and hours.

This medical exception does not require employees to meet application requirements since eligibility is based upon a specific need. Upon request, employees must submit documentation from a health care provider describing the medical condition and how the ability to telework will alleviate the condition, help the employee to recuperate, or permit the employee to care for a family member with a medical need.

In determining whether to approve a request under this section, the Agency may consider the work available for the employee to perform from a remote location, whether or not the employee will have remote access to USPTO IT systems and the likelihood that the employee can be successful in working remotely.

Approval will be for the duration of the medical need, but may not exceed 4 months without renewed approval. The approval may be reviewed at any time and may be extended or revoked (based upon the criteria set forth above). Approval of these requests will not be considered as evidence of the Agency treating an employee as disabled.

## **VI. APPLICATION PROCESS**

All employees must complete all steps of the application process set forth below.

- A. Applicants must apply via the intranet under Telework Resource webpage or equivalent.
- B. Applicants must sign the appropriate Work Agreement (Attachment A), and if required provide a copy of their ISP (internet service provider) bill or other documentation showing the alternate worksite address.
- C. Applicants must complete a self-certification of the safety of the alternate worksite (Attachment B).
- D. Applications may be submitted at any time, but approval and notification will be on a monthly basis. Applications submitted by midnight of the 2<sup>nd</sup> Saturday of each month will be considered for that selection period.
- E. The USPTO will provide written notification (e.g. via email) to all employees who file an application for the program of their acceptance or non-acceptance by the end of the first full pay period after the monthly deadline. Written notification of non-acceptance will include the reason for non-acceptance.
- F. To switch options, participants must reapply.
- G. 10 hour option participants may begin teleworking the biweek following written notification of acceptance and receipt of ERA fob.

H. 20 hour option participants may begin teleworking the biweek following notification of acceptance and receipt of ERA fob, if required.

I. 32 hour option:

Participants must have a monitor and may be required to take to the alternate worksite the webcam that is normally used at the duty station on days they telework, so that the participants can meet the performance and stakeholder responsiveness requirements of the position as well as the requirements of this agreement.

1. Participants who use a participant-owned monitor may begin teleworking up to 32 hours per pay period the biweek following notification of acceptance and after receiving an ERA fob.
2. Participants who do not have a participant-owned monitor and have not yet received a USPTO-issued monitor may begin teleworking under the guidelines of the 20 hour option the biweek following notification of acceptance and receiving an ERA fob. Once participants have an ERA fob and a monitor, participants may telework up to 32 hours per pay period. Participants must receive the USPTO-issued monitor within 30 days of acceptance into the 32 hour option otherwise participant will be removed from PTP entirely and will need to reapply and be approved in order to telework.

## **VII. GENERAL GUIDELINES FOR ALL OPTIONS**

### **A. GENERAL**

1. Participation is voluntary.
2. Participants are not required to telework. However, see Section VII.C.1.a.
3. This program is not open to participants on other telework programs.
4. Participant's duty station does not change due to participation in this program.
5. Participation will not change the conditions of employment except as specified in this agreement.
6. Participants will have their performance evaluated under the criteria set out in their Performance Appraisal Plan.
7. Participants are responsible for having sufficient work and appropriate tools available for the time worked at the alternate worksite.

8. Participants may take approved leave and approved compensatory time and credit hours on a telework day.
9. All pay, leave and travel entitlements will be based on participants' duty station.
10. Holidays, such as Inauguration Day, which are only granted for the Washington, D.C. area will only be granted to participants whose duty station is the Alexandria, VA headquarters.
11. Participants are eligible for transit subsidies as set out in the Transit Subsidy Agreement, including for transit to the alternate worksite for the purposes of doing work if that site is different from the participant's home and has been approved by the Agency.
12. Except for a participant's chain of command and those administering this program or as ordered by an administrative or judicial body of competent jurisdiction, the USPTO will ensure that participants' home addresses and phone numbers gathered for this program are not divulged to unauthorized USPTO personnel or members of the public without the participant's consent.
13. Information including a copy of this agreement, orientation and training materials consistent with this agreement, as well as the on-line application process will be available on the intranet via the Telework Resource webpage or equivalent.
14. Participants must read and agree to adhere to the USPTO's IT "Rules of the Road".

## **B. SCHEDULE**

1. Participants may work any full-time schedule approved by the USPTO. Part time employees may participant if they comply with "POPA Part Time Program" agreement, Section 18, dated August 13, 2009.
2. Generally, participants will be given advance notice of at least two business days for all meetings, legal lectures, training, or other events that require their attendance at their duty station. Participants will be permitted to participate remotely to the extent possible.
3. All participants in the program will indicate on their timesheets (WebTA) which days and the number of hours that were worked at the alternate worksite in accordance with the instructions given by management.

## C. EARLY DISMISSALS, DELAYED ARRIVALS AND CLOSURES, and UNSCHEDULED TELEWORK

### 1. General

- a. Telework ready: When participants are “telework ready” is defined below. Normally, participants who are “telework ready” on a given day will not receive administrative leave on a day that the government closes for the entire day due to emergency or weather conditions. On such days, participants may telework, notify their supervisor that they intend to flex their schedule to be absent for the entire day, or request to take leave for that day.
  - i. 10 hour option participants are “telework ready” on days they are scheduled to telework and on days for which they notify their supervisor that they will be telework ready.
  - ii. 20 hour option participants are “telework ready” on days they are scheduled to telework. Participants with a previously scheduled telework day must notify their supervisor by 10 PM the evening prior to the closure if they no longer plan to telework that day in order to be eligible for administrative leave.
  - iii. 32 hour option participants are always considered “telework ready”.
- b. Situations in which an employee’s ability to work is limited due to dependent care responsibilities are not covered by this agreement.

### 2. Early Dismissals and Delayed Arrivals

- a. Administrative leave for early/ immediate dismissal not due to emergency or weather conditions, such as dismissals prior to a Federal holiday, will be granted to participants working at the alternate worksite.
- b. Normally when participants telework all of their work hours in a given day, participants will not be granted administrative leave for early/ immediate dismissal and delayed arrivals due to emergency or weather conditions.
- c. If a participant plans to telework all of his/her work hours on a day but cannot do so because conditions limit the participant’s ability to perform his or her duties (e.g., a power outage at the participant's home or at the USPTO or interruptions to internet service) and the participant cannot come to the USPTO due to an early/ immediate dismissal occurrence, management will grant a reasonable request for administrative leave. The request should be made promptly. The grant of administrative leave will not exceed the amount of administrative leave that would have been available to the participant had he/she worked at the duty station.

- d. If a participant plans to telework all of his/her hours on a day but cannot do so because conditions limit the participant's ability to perform his or her duties (e.g., a power outage at the participant's home or at the USPTO or interruptions to internet service) and the participant cannot come directly to the USPTO due to a delayed arrival occurrence, management will grant a reasonable request for administrative leave. The request should be made promptly. The grant of administrative leave will not exceed the amount of administrative leave that would have been available to the participant had he/she planned to work the entire day at the duty station.
- e. Delayed arrival – For days a participant planned to work at both the duty station and the alternate worksite, if the participant does not telework prior to arrival at the duty station and a delayed arrival is announced, management will grant a reasonable request for administrative leave. The request should be made promptly. The grant of administrative leave will not exceed the amount of administrative leave that would have been available to the participant had he/she planned to work the entire day at the duty station.
- f. Immediate or early dismissal- For days a participant planned to work at both the duty station and the alternate worksite, if the participant is at the duty station when an immediate or early dismissal is announced for the duty station, management will grant a reasonable request for administrative leave but the participant may not telework any portion of his/her remaining day. The request should be made promptly. The grant of administrative leave will not exceed the amount of administrative leave that would have been available to the participant had he/she planned to work the entire day at the duty station.

### 3. Closures

- a. Administrative leave for closures not due to emergency or weather conditions will be granted to participants working at the alternate worksite.
- b. Closures due to emergency or weather conditions:
  - i. 10 and 20 hour options: When the Federal Government is closed on a day that a participant is scheduled to telework, the participant may telework, request to take leave for that day, or notify their supervisor that they intend to flex their schedule to be absent for the entire day if on IFP. Administrative leave will not be granted on a day the participant is scheduled to telework unless other conditions (e.g., a power outage at the participant's home or at the USPTO or interruptions to internet service) preclude the participant's ability to perform his or her duties.
  - ii. 32 hour option:

- (1) When the Federal Government is closed due to emergency or weather conditions, participants may:
  - (a) telework,
  - (b) notify their supervisor that they intend to flex their schedule to be absent for the entire day (if on IFP);
  - (c) notify their supervisor that they intend to flex their schedule and shift all authorized telework hours or any remaining authorized telework hours they do not work on the closure day for telework on another day (if on IFP). Any authorized telework hours shifted to another day will not count towards the 32 telework hour limit; or
  - (d) request to take leave for that day.
- (2) Normally, administrative leave will not be granted unless other conditions (e.g., a power outage at the participant's home or at the USPTO or interruptions to internet service) preclude the participant's ability to perform his or her duties.

#### 4. Unscheduled Telework

- a. On a day that OPM announces an operating status including unscheduled telework,
  - i. 10 hour option participants may work unscheduled telework if participants had notified their supervisor by 10 PM the previous evening that they have work that can be performed at the alternate worksite for their scheduled duty hours. All hours must be worked at the same location. Those telework hours would not apply towards the 10 hour biweekly limit. If the government subsequently closes, participants who have notified their supervisors that they have work that can be performed at the alternate worksite are considered telework ready and will not be granted administrative leave for the closure. See Section VII, paragraph C1 above.
  - ii. 20 hour option participants may work unscheduled telework as long as they have work they can perform. All hours must be worked at the same location.
  - iii. 32 hour participants may telework part or all of their workday, or work at both locations.
- b. When the Office is open but operating under an OPM status including unscheduled telework, and the participant is eligible and chooses to telework, the telework time will not count towards any limits on telework hours and days provided in this agreement. Participants are reminded of their responsibility to have sufficient work and appropriate tools available for the time worked at the

alternate worksite and to meet the requirements of Section IV on communication and responsiveness.

## VIII. EQUIPMENT, SUPPLIES AND THE ALTERNATE WORKSITE

### A. Equipment

1. Participants in the 32 hour option will be provided with at least the following equipment for use at the alternate work site:
  - a. A monitor (unless participant uses an employee owned monitor and does not request a USPTO monitor).
  - b. A docking station;
  - c. A router;
  - d. A keyboard;
  - e. A mouse; and
  - f. A webcam.
2. Participants are permitted to use a personally-owned printer compatible with the printer drivers available through the USPTO.
3. Equipment can be picked up at the telework depot or may be shipped to the alternate worksite address on record for each participant at the participant's option.
4. The USPTO maintains ownership and control of any and all equipment, software, other materials, and data provided to the participant.
5. Participants will maintain reasonable care of all USPTO-owned material and equipment. The USPTO acts as the insurer for damage, theft or other loss (e.g., fire, flood, etc.) of the USPTO assets.
6. Any USPTO-owned equipment is for official use. Use of the equipment for private purposes is prohibited except as currently permitted by USPTO.

### B. Alternate worksite and supplies

1. The alternate worksite must be located in one of the 50 states of the United States or the District of Columbia.
2. Participants will have access to CIO Service Desk support on their telework day(s). Participants with a defective UL or related USPTO hardware may be required to return the hardware to campus to obtain hardware support. Participants will be provided with a headset upon request.

3. In the event that remote access or equipment problems prohibit working at the alternate worksite, participants may report to their duty station, change anticipated work hours, or request leave. This is an exception to the limitation on working both at the alternate work site and at the duty station on the same day in the 10 and 20 hour programs.
4. Participants who are renters are responsible for ensuring that their lease allows the installation of all the necessary equipment and lines for the program.
5. Except as provided in this agreement, participants are responsible for any utility cost, heating, and lighting at the participant's home. Participants are responsible for any re-wiring, updating, and improvements necessary to bring the electrical connections in a participant's home up to the required standards of the jurisdiction of their alternate worksite.
6. Participants will update the safety self-certification and update their program information as needed. The safety guidelines are appended hereto (Attachment B) and are posted on the Telework Resource Intranet webpage or equivalent.
7. The Agency has established requirements for the type and speed of ISP needed to participate in remote-access programs. These requirements are based on operational requirements and the Agency's assessment of the technological and business needs of the USPTO, and are detailed on the Telework Resource Intranet webpage or equivalent.

To apply for and be allowed to participate in any of the Agency's ERA fob-required options, participants must comply with the Agency-wide high speed broadband internet service standards in place at the time that they begin to participate. The Agency may revise its internet service standards at any time, subject to statutory notice and bargaining requirements. A change in internet service standards is not covered by this agreement. However, once a participant in any program pursuant to this agreement is obligated to meet a new set of internet service standards, that participant will not be required to update his/her internet service again for a period of at least two years, unless necessary for the proper function of the agency. New participants may be required to update their internet service at any time until they have met newly established standards at least once during their participation.

8. The USPTO will provide participants standard office supplies for use at the alternate worksite.
9. The Agency will not be liable for damages to a participant's personal or real property that occur in the participant's residence or elsewhere, except to the extent the Agency is held liable by the Federal Tort Claims Act or for claims arising under the Military Personnel and Civilian Employees Claims Act.

## IX. SUSPENSION AND REMOVAL FROM PROGRAM

- A. Abuse of the program guidelines may result in suspension from the program for no longer than 6 bi-weeks. Notification of suspension will be in writing including the duration. This suspension in and of itself is not a disciplinary action.
- B. Abuse of the program guidelines requires repetitive violations of the guidelines after being reminded of the specific guideline requirements that are being violated. Participants who are suspended from the program three times in a rolling five year period for abuse of the guidelines will be removed from the program until they no longer have three suspensions within a five year period.
- C. In order to continue in the program, participants must follow the USPTO standards governing ethical behavior, conduct, and confidentiality regardless of where the official duties are performed. A participant may be removed from the program for up to 12 months if the participant has received a disciplinary or adverse action. If management believes the employee should be precluded from participating in the program for longer than this period, the agency will include this decision in the disciplinary/adverse action. On a case-by-case basis, the Agency may temporarily remove a participant being investigated for serious violations of the above standards. Temporary removal will last no longer than 100 days from the date of removal, unless the issue is referred to the Inspector General or the Department of Justice.
- D. The USPTO will give participants being suspended or removed from the program two weeks advance notice, unless exigent circumstances exist.
- E. Participants on the 10 hour option who receive an oral or written warning of unacceptable performance or a safety zone letter will not be permitted to telework until they have successfully completed the oral or written warning improvement period or until the end of the quarter in which the safety zone letter was issued.
- F. Participants on the 20 hour option who receive an oral or written warning of unacceptable performance can continue to telework one day per week (up to 10 hours per day).
- G. Participants on the 32 hour option who receive a written warning of unacceptable performance will be limited to telework in accordance with the 20 hour option. Participants who successfully complete the written warning improvement period will be permitted to telework up to the agreed upon limits of the program.

## X. RECORDS AND DATA

- A. For the purposes of this program, participants will be permitted to remove USPTO documents and data files from their duty station in order to perform their officially assigned duties at the alternate worksite. The participant is responsible for the transportation of this material to and from the alternate worksite. The Agency may impose limitations on the length of time that material is away from the duty station.

- B. Participants will apply approved safeguards to protect all USPTO records and data from unauthorized disclosure, access, damage, or destruction and will comply with the Privacy Act requirements.
- C. When the USPTO has an unusual need for a document, data file or other information that is located at the alternate worksite, the participant may be directed to provide the requested document, data file or other information to their duty station within one business day by delivery means determined by the Agency. An unusual need is one that does not occur on a regular basis and cannot wait for the participant's scheduled return to their duty station or be resolved through other means. If the request requires the participant to return to their duty station on a day the participant is scheduled to be away, transportation time to and from the duty station will be treated as duty time. When there is a normal need for material, the participant will bring the material to their duty station on his or her next workday at their duty station.

## **XI. WORKER'S COMPENSATION**

- A. Participants are covered under the Federal Employee's Compensation Act (FECA) if injured in the course of performing official duties at the alternate worksite. If so injured, the participant will notify his or her supervisor or another designated USPTO official as soon as possible (in accordance with FECA).
- B. In order for a participant to be eligible to file a claim for worker's compensation, the participant who has an accident or injury occur while working at an alternate worksite must report the accident or injury to the USPTO. Upon notification, the USPTO may investigate all accident and injury reports that occur at the alternate worksite.

## **XII. VOLUNTARY WITHDRAWAL FROM THE PROGRAM**

- A. To withdraw from the PTP, including for the purpose of promotion or retirement, participants will notify their supervisor and the program coordinator via email.
- B. If withdrawing from PTP because of retirement or leaving the USPTO, all Agency-owned materials and equipment associated with this program must be returned to the duty station or arrangements for return must be scheduled with the designated agency official normally within 5 business days from the end of an individual's participation.

## **XIII. INFORMATION TO POPA**

USPTO will provide POPA with the names, grades, art units and the elected option for all participating employees approximately twice a year at six month intervals. If the Agency does not supply the information set forth, POPA will remind the Agency to supply the

information and allow the Agency a reasonable amount of time to do so.

#### **XIV. MEETINGS**

The parties agree to meet to discuss and attempt to resolve issues related to the program (including materials used for training and implementing PTP) upon request of either party. These meetings will be held at least annually and generally within one week of a request from either party.

##### **A. Training and other Implementation Materials**

1. The Agency and POPA will jointly develop the initial set of training and implementation materials for PTP. If, in the future, the Agency determines to revise PTP training or implementation materials, it will promptly provide a copy of the revised materials to POPA and schedule a meeting for the parties two weeks later. The Agency will not apply revised training or implementation materials during this time, unless delay is impractical, in which case the Agency may apply the materials immediately.
2. If POPA determines that a meeting over the revised materials is unnecessary, it will advise the Agency of such. The Agency may then apply the revised materials (if they have not already been applied), and the application of the materials from that point forward may provide the basis for determining the parties' past practice.
3. If the parties do meet to discuss the revised materials, then following the meeting, POPA will inform the Agency within two weeks of any objection to the revised materials on the grounds of inconsistency with the terms of this Agreement. If no objection is made within that two-week period, the Agency may then apply the revised materials (if they have not already been applied), and the application of the materials from that point forward may provide the basis for determining the parties' past practice.
4. If an objection is made within the two-week period, then the parties agree to discuss the proposed revisions, with the goal to either bring the materials in line with both parties' interpretations of PTP or to agree upon and memorialize changes to this Agreement consistent with the revised materials. If agreement is not reached within a reasonable period of time, then either party may refer the issue to a mediator/arbitrator.
5. Under such a referral, the mediator/arbitrator will be chosen by alternating strikes (with the coin toss winner striking second) from a list provided by FMCS. The mediator/arbitrator shall first attempt to facilitate the parties' discussions over the revised materials. If facilitation is unsuccessful, then the mediator/arbitrator shall be charged with answering only whether the Agency's revised training or implementation materials are consistent with the terms of PTP. The mediator/arbitrator will not issue an "award" or remedy, but rather only a decision as

to whether the materials are consistent with the terms of the Agreement. If the materials before the mediator/arbitrator contain more than one provision which is allegedly inconsistent with the terms of PTP, then the mediator/arbitrator shall issue a decision as to each provision. The parties agree to streamline the decision process by waiving all post-hearing briefs and by requiring a written decision from the mediator/arbitrator in no more than four weeks from the date on which the record in the case closes. Arbitration fees and expenses, if any, will be shared equally between the parties.

- 6. During the pendency of the process described in the preceding two paragraphs, any application by the agency of the disputed training or implementation materials shall not provide the basis for determining the parties' past practice.

B. General Reopener

- 1. If either party believes that changes to PTP would be useful, the parties will make a good faith effort to expeditiously resolve any issues relative to the proposed changes. Changes will be implemented upon agreement of the parties.
- 2. If agreement is not reached, either party may reopen PTP. If the USPTO determines to move forward with a change, it will provide notice to POPA and provide an opportunity to bargain to the extent required by law. Following notification, bargaining will be at POPA's request. Bargaining will be conducted in accordance with the parties' mid-term bargaining ground rules starting with the opportunity for meetings with affected employees. The USPTO will maintain the status quo regarding the proposed changes until resolution of the issue, or the completion of bargaining (including mediation and impasse proceedings), unless permitted by law to implement these proposed changes before this time.
- 3. If agreement is not reached over a POPA proposed change and at POPA's request, the parties will negotiate to the extent required by law pursuant to midterm ground rules, beginning with the submission of POPA proposals.

Signatures



Andrew Faile  
Deputy Commissioner for Patent Operations  
U.S. Patent and Trademark Office



Robert D. Budens  
President  
Patent Office Professional Association

Date: 5/12/14

Date: 12 May 2014

**Attachment A**

**Patents Telework Program 2013 Work Agreement**

The following constitutes an agreement between the United States Patent and Trademark Office (USPTO) and

Name:

Employee ID:

Art Unit:

Duty Station:

an employee participating in the following level of the Patent Telework Program 2013:

- PTP 10 hour Program
- PTP 20 hour Program
- PTP 20 hour Program without ERA fob
- PTP 32 hour Program]

The alternate worksite address is:

\_\_\_\_\_

The alternate contact phone number:

( ) \_\_\_\_\_

The alternate worksite is described as follows:

\_\_\_\_\_

**IN GENERAL**

1. The participant has read and agrees to adhere to the program set forth in Patents Telework Program 2013.
2. All pay, leave and travel entitlements will be based on the participant's official duty station.
3. The participant must follow established USPTO procedures when requesting and taking leave, compensatory time or credit hours.
4. The participant must have separate authorization to work overtime.
5. The participant will permit other USPTO employees and contractors to access the alternate worksite during the hours from 9:00 AM to 5:00 PM, Monday-Friday (excluding holidays) upon two business days' notice to the participant for the purpose of installing, repairing, maintaining, or removing work equipment, software, or other USPTO property or to investigate an accident or a worker's compensation claim or to investigate other work related or safety problems arising from the administration of the Patents Telework Program 2013. The parties may mutually agree to a time outside of these hours.

6. The participant agrees to comply with the USPTO instructions regarding the return or removal of documents, data files, or other information. The participant will have at least five business days to comply with those instructions, except in exigent circumstances.
7. The participant agrees to return or make arrangements for return of all Agency-owned equipment normally within five business days of the end of their participation in the program.
8. The participant has read the Alternate Worksite Safety Guidance. To the best of the participant's knowledge, the alternate worksite is safe and will be maintained as such.
9. The participant agrees to comply with the Agency-wide high speed broadband internet service standards in place at the time that he/she begins participation.

**SAFEGUARDING PATENT APPLICATION INFORMATION AND EQUIPMENT**

1. Patent applications are covered under a privacy agreement with legal penalties. Patent applications and certain sensitive documents including budget and procurement documents can only be worked on at the participant's home. Documents under secrecy orders or containing national security markings cannot be removed from the USPTO.
2. The participant will keep in confidence patent applications and information therein in accordance with 35 U.S.C. 122. The participant will ensure that only authorized personnel access patent information.
3. The participant will safeguard patent application and equipment during transit and at the alternate worksite.
4. The participant must return all working folders, work products, drafts and notes to the USPTO within five business days of the participant ending participation in the program.

**I certify that I have read and will comply with the aforementioned provisions**

Participant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Participant's Supervisor: \_\_\_\_\_

Participant's Supervisor /Administrator's Signature of approval: \_\_\_\_\_

Date: \_\_\_\_\_

## **Attachment B**

# **Alternate Worksite Safety Guidance**

This list constitutes general safety guidance to be maintained at the alternate worksite.

### **Workplace Environment**

1. Temperature, noise, ventilation, and lighting are maintained at levels that enable you to perform your normal duties.
2. Stairs with four or more steps are equipped with handrails.
3. Electrical systems at the alternate work site are in good working order.
4. Chairs are sturdy and safe to sit on.
5. Phone lines, electrical cords, extension wires, and cables are not in pathways and walkways.
6. Air vents on computers and other electrical equipment are not obstructed.
7. Lighting is adequate for reading.
8. If the alternate worksite is at an employee's home, it must be equipped with smoke/fire detectors that are in proper working order.