

MEMORANDUM OF UNDERSTANDING
for the
PUBLIC TRANSPORTATION SUBSIDY PROGRAM
(Revised May 2008)

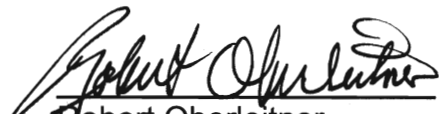
The United States Patent and Trademark Office and the Patent Office Professional Association agree that the provisions set forth in the attached document on the PUBLIC TRANSPORTATION SUBSIDY PROGRAM will be incorporated as an Article of the parties' next collective bargaining agreement, except that section 12 shall read as follows:

Increases in Maximum Monthly Amounts for the Transit Subsidy Program. If the maximum monthly transit subsidy amount increases in the future, the maximum amount paid under this program will also increase, with the other provisions set forth above remaining unchanged, unless the Agency or POPA requests to bargain before the effective date of the new amount. So long as there are no other changes to law, rule, or regulation (including Executive Orders) pertaining to the PTS program, IRS adjustments to the maximum benefit, as set out in 26 U.S.C. § 132 (f)(6), shall be automatically applied to this program.

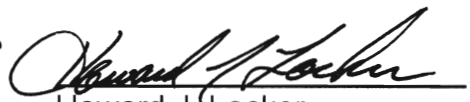
The parties further agree that these provisions will be effective immediately upon signature of the parties, and that the Agency will implement the changes to the program as soon as possible. Only a request to bargain by the USPTO or POPA will reopen the PTS Program Agreement pursuant to section 12.

For USPTO

For the Union


Robert Oberleitner
Group Director

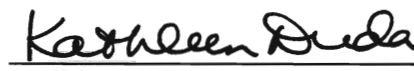
5/12/08
Date


Howard J. Locker
Union Representative, POPA

5/12/08
Date


Tom Hellmer

5/12/08
Date


Kathleen Duda

5/12/08
Date

Kimberly Oliver

Kimberly Oliver
Labor Relations

12 May 08

Date

PUBLIC TRANSPORTATION SUBSIDY PROGRAM
(Effective May 2008)

1. **Authority and Purpose.** This Program is established pursuant to 5 U.S.C. § 7905 which provides for “programs to encourage commuting by means other than single-occupancy motor vehicles.”
2. **Basic Benefit.** Starting no later than the first full calendar quarter beginning after the implementation of the revised program, the USPTO will provide, to any employee who elects to participate and qualifies for the PTS program, payments limited to the current maximum of \$115.00 per month, per employee, or as adjusted due to changes to the PTS program budget pursuant to Section 9 or for inflation pursuant to Section 12. The amount cannot exceed the actual public transportation expenses of the eligible employee. Benefits are to be provided using MetroCheks (until such time as they are no longer available) or Washington Metropolitan Area Transit Authority’s (WMATA’s) SmartBenefits system, but the USPTO may choose to offer any other form of payment at its discretion. For the purposes of this program, MetroCheks, WMATA farecards, SmartBenefits and any other Agency-approved fare media or transit passes will cover any and all forms of payment. Use of this benefit is limited solely to the costs of commuting to and/or from work via public transportation systems, which are participating in the MetroChek or SmartBenefits programs, or any successor or alternate program approved by the Agency.
3. **Eligibility.** All employees are eligible to participate in the PTS program, provided that the employee:
 - a. Commutes or will commute to and/or from work on those systems participating in the MetroChek and/or SmartBenefits programs;
 - b. Does not use a monthly parking space at or near the workplace during regular working hours, except for vehicles used in the WMATA MetroChek or SmartBenefits programs; and
 - c. Does not have a parking permit for a currently assigned USPTO parking space during regular work hours, except for vehicles used in the WMATA MetroChek or SmartBenefits programs. This does not include weekend/evening parking permits.
4. **Misuse and Availability of Benefits.**
 - a. The MetroChek transit passes and the subsidies provided via SmartBenefits are not transferable and are to be used only for the commute to and/or from work. Misuse of the subsidy, such as, giving, selling, trading, or transferring the MetroChek transit pass or the subsidies provided via SmartBenefits to other individuals, or purchasing the same from another individual is prohibited, even if the other individual is eligible to receive the subsidy. At the end of each quarter, employees should return unused portions of the subsidy to the Transit Subsidy Coordinator or designee in the Office of Finance in a timely manner. Misuse of the subsidy or failure to timely return unused subsidies may result in disciplinary action.

- b. Should the Office decide to investigate any employee's eligibility for participation in the PTS program or for the amount of benefits claimed, the employee will continue to receive benefits pending the Office's determination concerning eligibility. The Office may, however reduce or stop benefits once it makes a determination of ineligibility or reduced eligibility. Employees may be required to repay benefits improperly claimed, and may be subject to disciplinary action.
5. **Employee Obligation to Report to Work.** Receipt or non-receipt of the subsidy does not alter an employee's responsibility to report to work.

6. **Procedures.**

- a. Social Security numbers will not be used or required for the application process or for any other purpose related to the PTS program.
- b. Employees who want to participate in the PTS program must do so by submitting an application via the USPTO's Transit Subsidy System (TSS), on or before the first business day of the month preceding the month in which the employee wishes to begin receiving the subsidy. Each employee will be required to specify on the application form either the mailing address to which MetroCheks are to be delivered or the SmartBenefits account for which subsidies are to be made available, provide a detailed description of commuting costs to be covered by this program, and designate whether the subsidy is to be provided via MetroCheks or the SmartBenefits account. This application must be completed each calendar quarter, on or before the first business day of the month preceding the month in which the employee wishes to continue receiving the subsidy. Submissions must be made while the employee is logged into the USPTO's PTONET system and shall be the equivalent of the employee's signature. The Office of Finance will provide an automated response to each application submitted.

Exceptions to mandatory TSS application process:

- 1) PTS Program Application Forms may be submitted to the Transit Subsidy Coordinator or designee via the USPTO's e-mail system only when:

The USPTO's TSS is malfunctioning on the date the form is due, or on the last date the employee expects to be present in the office prior to that date.

Employees must submit this form to the Transit Subsidy Coordinator or designee on or before the applicable due date and provide an indication that it is being submitted as a result of the fact that the TSS is malfunctioning or otherwise not operational. The Transit Subsidy Coordinator or designee will provide an automated response to each application submitted.
- 2) PTS Program Application Forms may be submitted, hand-delivered or faxed (to 571-273-6400), to the Transit Subsidy Coordinator or designee in the Office of Finance when:

- i. The employee has been newly hired (during the last 30 days).

Paper applications will be given to new employees during the morning of the first day of new employee orientation, and new employees will be given instructions and the opportunity to fill out the paper applications during the morning of the first day of new employee orientation. Paper applications from new employees that are submitted to the Transit Subsidy Coordinator, or their Office of Finance designee, by Noon on the first day of new employee orientation will be provided a prorated benefit for the remainder of the quarter, plus the following month for applications filed in the last month of the quarter.

The Transit Subsidy Coordinator, or their Office of Finance designee, will be present at new employee orientation to provide copies of this document, paper copies of the PTS Program Application Form, and instructions/guidance on the PTS program and the PTS Program Application Form. The Transit Subsidy Coordinator, or an Office of Finance designee, will continue to be available at new employee orientation, as needed, through Noon on the first day of orientation to accept applications and provide one-on-one guidance on completing the PTS Program Application Form.

Subsidies for new employees submitting paper applications to the Transit Subsidy Coordinator, or their Office of Finance designee, by Noon on the first day of new employee orientation will be distributed in person during the afternoon of the first day of orientation to all employees who are available at the orientation site at the time of the distribution. Subsidies that cannot be distributed in person will be mailed the next business day.

- ii. The employee lacks access to the USPTO's PTONET system; or
- iii. The employee's workstation or the network is malfunctioning on the date the form is due, or on the last date the employee expects to be present in the office prior to that date.

Application forms may be obtained from the Office of Finance or from the USPTO's intranet site.

Upon request, the Office of Finance will provide a time stamped copy of a submitted paper application.

- c. A copy of this document and all forms used in the PTS program shall be maintained on the USPTO Intranet webpage entitled Transit Subsidy under the Employees heading on the OHR web page.

- d. Employees will be notified of PTS program application deadlines each calendar quarter by announcements in the “USPTO Weekly” or successor means (in all issues published during the three weeks before the PTS Program Application form is due). These messages will provide electronic access to the USPTO TSS and the PTS Program Application Form and include the availability and specific location of information concerning this program on the USPTO Intranet site.
- e. Any employee who wishes to discontinue his/her participation in the PTS program at any time other than at the end of a calendar quarter must notify the Transit Subsidy Coordinator or designee in writing or via the USPTO’s TSS, must return all unused subsidies, and must not complete another PTS Program Application Form until they wish to resume participation. At that point, the employee should submit a PTS Program Application Form on or before the first business day of the month preceding the month in which the employee wishes to begin receiving the subsidy again.
- f. Address corrections/changes may be made using the USPTO’s TSS. Alternatively, when qualifying under Section 6. b. 1. or 6. b. 2. of this document, address corrections/changes may be made via the USPTO’s e-mail system by filling out a new PTS Program Application Form and E-mailing same to the Office of Finance/Transit Subsidy Coordinator or designee from the employee’s official agency mailbox (or equivalent), or in the Office of Finance by filling out a new PTS Program Application Form and showing USPTO identification.
- g. Where a timely filed application has been reviewed and not approved due to questions regarding information provided by the employee, the employee will be notified by the Transit Subsidy Coordinator or designee. The employee shall have 10 business days from the day they are notified that the application was reviewed and not approved to either resubmit their application or respond to the notification, as applicable, for their application to be considered for the applicable benefit period. If the notification is not responded to within 10 business days after notification, the application will be considered abandoned. If the notification is not resolved by the 2nd business day of the month preceding the benefit period, the election of distribution via the SmartBenefits system will no longer be available, and accordingly any distribution(s) will be made via MetroChek or WMATA farecards.
- h. Late applications may be considered on a case by case basis.

7. Delivery of Subsidies.

- a. SmartBenefits
 - 1) Subsidies to be provided via SmartBenefits are to be made available within the SmartBenefits system on a monthly basis.
 - 2) Subsidies are to be available for allocation to vanpools and other transit or fare media providers by the 16th day of the month prior to the month for which the subsidy is to be used. Information regarding the allocation of benefits to vanpools and other transit or fare media providers is available on the USPTO Intranet webpage entitled Transit Subsidy under the Employees heading on the OHR web page. Subsidies not so allocated will

be available for download directly to the designated SmarTrip card only from the first day of the month through the last day of the month for which the subsidy is to be used.

- 3) When an employee is late in submitting the PTS Program Application Form, the employee will not receive the full transit subsidy for the current full calendar quarter. The employee will receive the portion of the subsidy for those months for which the PTS Program Application Form has been received by the 1st business day of the preceding month.
- 4) If benefits are not received, the employee must notify the Transit Subsidy Coordinator or designee as noted below.

If benefits are not received as a result of the employee providing an incorrect SmartBenefits account number, the employee must request via the TSS that the remaining benefits be re-applied to the correct SmartBenefits account. Any benefits lost due to misapplication of benefits as a result of the employee providing an incorrect SmartBenefits account number will not be replaced.

Benefits not received as a result of an error on the part of the USPTO through no fault on the part of the employee will be replaced. To request replacement, an employee must, in writing, provide the following information:

- i. Certify that the subsidy was not received in the SmartBenefits account provided by the employee;
- ii. provide the employee's name;
- iii. state whether the employee is representing himself/herself, or is represented by a union representative; and
- iv. provide a specific account of the employee's belief as to why the subsidy was not applied to the SmartBenefits account provided by the employee.

Any claim of non-receipt of a subsidy must be submitted by the participant to the Transit Subsidy Coordinator or designee within the first 10 business days of the month in which the employee was to receive the subsidy.

When an employee is late in submitting a claim of non-receipt, the employee will not receive the full transit subsidy for the current full calendar quarter. The employee will receive the portion of the subsidy for those months for which the claim of non-receipt was received by the 10th business day of the preceding month.

A meeting, during which the employee may be represented by a union representative, may be requested by either party within 5 business days of filing the claim of non-receipt. This meeting shall be scheduled by mutual agreement for a time between 9:30 a.m. and 3:00 p.m. during the next 6 business days. A written decision will be rendered 10 business days following the filing of the claim of non-receipt or 5 business days after the meeting, whichever is later. This decision will be considered the

equivalent of a USPTO decision at the first or informal stage of the grievance procedure. The union and/or grievant may decide to continue with the grievance process if unsatisfied with the results. Only the union may appeal the final Agency decision to arbitration.

b. MetroCheks

- 1) The MetroChek transit passes will be mailed to each participant using the U.S. Postal Service, except as provided in Sections 6. b. 2) i. (newly hired employees) and 7. b. 4) (claims of non-receipt). When an employee is late in submitting the PTS Program Application Form, the employee will not receive the full transit subsidy for the current full calendar quarter. The employee will receive the portion of the subsidy for those months for which the PTS Program Application Form has been received by the 1st business day of the preceding month.
- 2) Benefits not received in the mail through no fault on the part of the employee will be replaced. To request replacement, an employee must, in writing, provide the following information:
 - i. Certify that the address provided by the employee was correct, and that the subsidy was not received at the address provided;
 - ii. provide the employee's name;
 - iii. state whether the employee is representing himself/herself, or is represented by a union representative; and
 - iv. provide a specific account of the employee's belief as to why the subsidy was not received at the address provided by the employee.
- 3) Any claim of non-receipt of a subsidy must be submitted by the participant to the Transit Subsidy Coordinator or designee within the first 10 business days of the month in which the employee was to receive the subsidy (or for new employees, within the first 10 business days of employment). When an employee is late in submitting a claim of non-receipt, the employee will not receive the full transit subsidy for the current full calendar quarter. The employee will receive the portion of the subsidy for those months for which the claim of non-receipt was received by the 10th business day of the preceding month. A meeting, during which the employee may be represented by a union representative, may be requested by either party within 5 business days of filing the claim. This meeting shall be scheduled by mutual agreement for a time between 9:30 a.m. and 3:00 p.m. during the next 6 business days. A written decision will be rendered 10 business days following the filing of the claim or 5 business days after the meeting, whichever is later. This decision will be considered the equivalent of a USPTO decision at the first or informal stage of the grievance procedure. The union and/or grievant may decide to continue with the grievance process if unsatisfied with the results. Only the union may appeal the final Agency decision to arbitration.
- 4) In those instances where lost subsidies are replaced, the employee may be

required to pick up, in person, the replacement subsidies from the Transit Subsidy Coordinator or designee. As determined by the Transit Subsidy Coordinator or designee, the employee may be required to pick up future subsidies for the following two years, in person, in the Office of Finance. The employee will be required to produce a USPTO identification card to receive the replacement subsidies and future subsidies.

8. **Grievances Concerning the PTS Program.** Any participant who is aggrieved over any aspect of the PTS program other than the non-receipt of the MetroChek transit passes may:

- a. Appeal in writing to the Transit Subsidy Coordinator or designee within 15 business days after the matter or the date the employee becomes (or should have become) aware of the occurrence. The appeal must contain the following information:
 - i. the employee's name, position, and organization;
 - ii. an account of the incident(s) giving rise to the appeal;
 - iii. reference to the provisions of the PTS program that are alleged to have been violated;
 - iv. an explanation of how the provisions of the PTS program have been violated; and
 - v. remedy sought.

A meeting may be requested by either party within 5 business days of the written appeal. This meeting shall be scheduled by mutual agreement for a time between 9:30 a.m. and 3:00 p.m. during the next 6 business days. A written decision will be given to the employee within 10 business days following the written appeal or 5 business days after the meeting, whichever is later.

Following this written decision, if issues remain, a grievance may be filed per the provisions of the Parties' negotiated grievance procedure.

OR

- b. Proceed directly to grievance per the provisions of the parties' negotiated grievance procedure.

9. **Changes to the PTS Program Budget.** If management determines it to be necessary to reduce or terminate funding for the PTS program, no USPTO employee will receive a greater reduction in their individual maximum subsidies than any other person in the USPTO. When the program funding is reduced or terminated, it will be reinstated when such action is no longer necessary.

10. **Meaning of Dates Provided in these Program Guidelines.** Deadlines established in this program are automatically extended to the next business day when they fall on a Saturday, Sunday, or Federal holiday. Calendar quarters are January 1st through March 31st, April 1st through June 30th, July 1st through September 30th and October 1st through December 31st.

11. **Reinstatement of Parking:** Employees who forfeit a parking space controlled by the USPTO to participate in this program shall be eligible for reinstatement of their parking permit on a priority basis when:
- a. New participants decide to terminate their participation before the end of the first full calendar quarter they have participated in the PTS program; or
 - b. They suffer a ten percent or greater reduction in benefits resulting from funding cutbacks to the PTS program.

Priority basis means that their names will be placed ahead of all other names on the applicable waiting list except those who also have priority status.

12. **Increases in Maximum Monthly Amounts for the Transit Subsidy Program.** If the maximum monthly transit subsidy amount increases in the future, the maximum amount paid under this program will also increase, with the other provisions set forth above remaining unchanged, unless the Agency or any of the unions request to bargain before the effective date of the new amount. So long as there are no other changes to law, rule, or regulation (including Executive Orders) pertaining to the PTS program, IRS adjustments to the maximum benefit, as set out in 26 U.S.C. § 132 (f)(6), shall be automatically applied to this program.
13. **Effective Date.** The provisions of the revised program are to become effective for benefit periods beginning on or after July 1, 2008.