

Office of Policy and International Affairs (OPIA) Telework Program,
a Memorandum of Understanding

May 2, 2022

The parties to this Memorandum of Understanding (MOU), the Patent Office Professional Association (POPA) and the United States Patent and Trademark Office (USPTO or Agency), agree to this MOU covering the terms and implementation of a telework program for the Office of Policy and International Affairs (OPIA). The parties have worked collaboratively to develop the terms of the program, which are attached to this MOU as Appendix A (the Program) along with a list of bargaining unit position eligibility as Appendix B. This MOU covers bargaining unit members from POPA working in OPIA. This MOU supersedes any other telework agreements covering OPIA bargaining unit employees. In addition, the parties agree as follows:

- 1. Meeting of Bargaining Obligations:** POPA acknowledges that the Agency has met its notice and bargaining obligations regarding the implementation of the Program.
- 2. Implementation of Program:** The Program will begin implementation during the notice period provided to employees regarding the reopening of the Alexandria Headquarters of the USPTO. Employees who have completed all of the actions necessary to participate in the program during that period will begin their new telework arrangement once the Office is no longer on maximum telework.
- 3. Reviewing Positions for Eligibility:** No later than November 15, 2022 and May first each year thereafter, OPIA will notify POPA of all bargaining unit positions it has identified as eligible for telework, the number of days per week each position is eligible to telework, and whether a position eligible to telework five days per week is also eligible for TEAP. OPIA will meet with POPA to discuss these determinations, including any positions OPIA has identified as ineligible for telework and the reason(s) therefore. OPIA will publish individual position eligibility lists after discussing eligibility determinations with the Union.

4. Future Discussions and Cooperation:

- a.** The parties agree that they will meet periodically at the request of either party to discuss proposed changes to the Program. The party wishing to propose a change in the Program will contact the other party to set up a meeting to discuss the topic. The parties will agree to further meetings as long as resolution of any issue(s) remain a possibility through informal and collaborative efforts.
- b.** Changes agreed upon by the parties will be implemented as soon as practicable and reasonable notice will be given to the impacted participants.
- c.** If agreement is not reached informally pursuant to the provisions above, either party may reopen this agreement after one year from implementation, by giving notice to the other parties of their request to renegotiate.

Signatures

For the USPTO

For the Unions



Scott Ewalt
OPIA

05/02/2022

Date

5/2/2022

Date

Kathleen Duda
POPA

**Office of Policy and
International Affairs
POPA Bargaining Unit
Telework Program**

April 2022

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

Table of Contents

I. Provisions Applicable to all Telework Participants.....	2
A. Introduction.....	2
B. Eligibility.....	3
C. Application.....	5
D. Worksites.....	9
E. Equipment, Tools, and Supplies.....	11
F. Collaboration and Engagement.....	14
G. Schedules and Time and Attendance.....	14
H. In-person Events.....	16
I. Changes to Operating Status and Unscheduled Telework (e.g., Inclement Weather).....	16
J. Performance Management.....	17
K. Miscellaneous Provisions.....	18
II. Provisions Applicable to Situational Telework Participants.....	19
III. Provisions Applicable to Routine Telework Participants.....	20
IV. Temporary Medical Exception.....	21

[Appendix A: Safety Guidelines for the Alternate Worksite](#)

[Appendix B: OPIA Telework Position Eligibility Chart](#)

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

I. Provisions Applicable to all Telework Participants

A. Introduction

1. **Program Overview.** The Office of Policy and International Affairs (OPIA) Telework Program (Program) allows eligible employees to perform assigned duties at an approved telework location, including their home. The Program is designed to deliver on the missions of OPIA and its customers while providing employees with workplace flexibility. The Program includes two telework options: situational and routine. Participation in the Program is voluntary and does not change the conditions of employment except as specified in these provisions.

[Section I](#) of this document is applicable to all Program participants (participants). [Section II](#) outlines additional provisions applicable to participants who elect situational telework. [Section III](#) outlines additional provisions applicable to participants who elect routine telework for one to three days per week. [Section IV](#) outlines provisions for a temporary medical exception to leverage telework options for which their position is otherwise not eligible.

2. **Definitions.** The following definitions are used for the purposes of the Program:
 - a. USPTO office is defined as the USPTO headquarters in Alexandria, VA, unless otherwise designated as another location.
 - b. Official duty station is the city/town and state in which an employee's official worksite is located. For purposes of this program, the official duty station will always be in the United States (currently defined as the 50 United States, the District of Columbia, and Puerto Rico). An employee's official duty station is the location that is documented on the most recent SF-50, *Notification of Personnel Action*.
 - c. Official worksite is the location where an employee regularly performs their assigned duties. This may be a USPTO office or a primary alternate worksite.
 - d. Alternate worksite is an approved telework location. Approval must be received in advance of teleworking from an alternate worksite. A teleworking employee may have both a **primary alternate worksite** (i.e., the principal telework location, likely an employee's home) and one or more **secondary alternate worksites** (e.g., a relative's home, or a vacation or second property). See [Section I.D.](#) for alternate worksite requirements.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

- e. Situational telework is defined as performing assigned duties at an approved alternate worksite occasionally and on a case-by-case basis (i.e., the employee does not telework on an ongoing and regular telework schedule). Supervisory approval is required each time the employee teleworks. Situational telework may also be referred to as episodic, intermittent, or ad-hoc. A participant's official worksite, and therefore official duty station, will remain as the USPTO office. See [Section II](#) for situational telework provisions.
- f. Routine telework is defined as performing assigned duties at an approved alternate worksite on an approved ongoing and regular telework schedule. The participant routinely teleworks for one to three days per week and performs assigned duties at the USPTO office for four days to two days per week. The participant works at both the alternate worksite and at the USPTO office during each bi-week. The number of days eligible for telework are determined assuming a five-day workweek. This does not preclude an employee from using work schedule flexibilities to work less than the number of days eligible for telework at the approved alternate worksite, so long as the participant is working at the USPTO office in accordance with the expected number of days defined in the position eligibility. A participant's official worksite, and therefore official duty station, will remain as the USPTO office. See [Section III](#) for routine telework provisions.

B. Eligibility

1. **Activities Not Suitable for Telework.** Positions generally eligible for telework are those positions with a sufficient volume of tasks that are suitable to be performed at an alternate worksite. Examples of the type of work that cannot be performed at an alternate worksite and will therefore limit the number of days a position is eligible for telework are:
 - a. Activities that require physical face-to-face personal contacts;
 - b. Activities that are restricted to a certain location;
 - c. Intake or distribution of postal mail or otherwise working with paper-based documentation not maintained in electronic format that are not portable and must not be duplicated;
 - d. Hands-on contact with machinery, equipment, vehicles, or files; or
 - e. Direct handling of classified or other secure materials that are not appropriate to access remotely.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

2. **Position Eligibility.** The number of days a position is eligible to telework will be determined by evaluating the daily volume of tasks that are suitable to be performed at an alternate worksite and the daily volume of tasks that must be performed at the USPTO office. There are five possible outcomes for each position's eligibility determination, based on a five-day workweek:
 - a. Not eligible for telework: the position's duties can only effectively be performed at the USPTO office.
 - b. Situational Telework: the position's duties are typically only able to be effectively performed at the USPTO office, but occasionally the employee's duties and the USPTO's needs are capable of being modified on a case-by-case basis to support non-routine performances of duties at an approved alternate worksite.
 - c. Routine Telework
 - i. *One day per week:* the position's duties, and the USPTO's needs, are suitable for allowing one day per week of routine telework. Employees in the position are expected to work at the USPTO office at least four days per week.
 - ii. *Two days per week:* the position's duties, and USPTO's needs, are suitable for allowing two days per week of routine telework. Employees in the position are expected to work at the USPTO office at least three days per week.
 - iii. *Three days per week:* the position's duties, and the USPTO's needs, are suitable for allowing three days per week of routine telework. Employees in the position are expected to work at the USPTO office at least two days per week.
3. **Review Positions for Eligibility.** OPIA will review positions to determine the number of days each position is eligible to telework within the first 6 months of program implementation, and annually thereafter.
4. **Individual Eligibility.** Employees in a position deemed telework eligible are eligible to telework after they satisfy the minimum requirements outlined in the provisions of the Program [See requirements at [1.C.2.](#)] and they meet the statutory eligibility requirements [See Section [I.B.5.](#)]. The number of days a position is deemed eligible for telework will decree the maximum number of days an employee is eligible to telework.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

5. **Statutory Eligibility**¹. An employee is not eligible to participate in the Program if they: 1) have been officially disciplined for being absent without permission (i.e., absent without leave (AWOL)) for more than five days in any calendar year, or 2) have been officially disciplined for violations of subpart G of the [Standard of Ethical Conduct of Employees of the Executive Branch](#) for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

6. **Position Changes**. Employees joining OPIA from another USPTO position will be required to apply for participation in the Program, subject to their new position's eligibility determination. Employees moving from one position to another within OPIA are not required to reapply to the Program, but may be required to adjust their selected telework option and/or telework days based on their new position's eligibility and/or OPIA's needs, as the case may be. The employee must discuss their schedule, the assigned duties to be performed at the alternate worksite, duty station and reporting requirements, and agreed-upon methods for communication and collaboration with their new position's supervisor.

C. Application

1. **Request**. An employee may participate in the Program to the maximum extent permitted by their position eligibility, or participate less than the maximum permissible, if applicable. (E.g., an employee in a position eligible for three days of telework per week may elect to participate on a three day per week basis, a fewer number of days per week, or not to telework at all.)

As described in [I.C.2.](#), below, employees wishing to participate in the Program will submit a request through the USPTO's [Enterprise Telework Information System \(ETIS\)](#), specifying the program option and number of days per week they wish to telework, as follows:

- a. **Situational**. As described in [Section II](#), participants in this telework option generally report to the USPTO office five days per week, but are authorized to occasionally telework, up to the maximum number of days per week for which their position is eligible, as the employees' duties and/or circumstances make desirable.

¹ Telework Enhancement Act of 2010, as amended, 35 U.S.C § 6502(a)(2) (2016).

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

- b. Routine: one day per week. As described in [Section III.B.](#), participants in this option report to the USPTO office four days per week. When at the USPTO office, a one day per week participant will maintain their status quo office.
- c. Routine: two days per week. As described in [Section III.B.](#), participants in this option report to the USPTO office three days per week. When at the USPTO office, a two day per week participant will maintain their status quo office.
- d. Routine: three days per week. As described in [Section III.B.](#), participants in this option report to the USPTO office two days per week. When at the USPTO office, a three day per week participant will share an office with another employee.

2. Requirements. All employees who wish to participate in the Program must meet or complete the following requirements. Additional information about each item is located at the referenced section of this document.

- a. Be in an eligible position. [See [Section I.B.](#)]
- b. Read the Program Guidelines (this document).
- c. Hold a conversation with your immediate supervisor to discuss:
 - i. The desired telework program option and schedule based on position eligibility. [See Sections [I.B.](#), [I.C.1.](#) [I.G.](#), and [III.B.1.](#)]
 - ii. The assigned duties to be performed at the alternate worksite(s). [See Sections [I.B.](#), [III.A.](#), and [III.B.](#)]
 - iii. Worksites, including the primary alternate worksite, the official worksite, and whether there will be more than one alternate worksite. [See [Section I.D.](#)]
 - iv. If working on campus two days per week, which requires a participant to share an office, discuss office move and sharing logistics to execute the move. [See [Section III.B.3.](#)]
- d. Review the alternate worksite(s) safety and security guidelines located on the USPTO Telework Resources website. [See Sections [I.D.5.](#) and [I.D.6.](#)] See Appendix B.
- e. Secure approved internet service. [See [Section I.E.2.](#)]

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

- f. Complete USPTO Teleworker Training: Telework Effectiveness and submit your certificate to your supervisor and the Business Unit Telework Coordinator. Maintain future Telework Recertification Training as deployed by the agency. [See [Section I.C.5.](#)]
- g. Submit an application for telework through [ETIS](#).
- h. Request and receive applicable telework equipment. The universal laptop and SecurID are the minimum equipment required to begin teleworking. [See Sections [I.C.5.](#) and [I.E.1.](#)]

3. Approval

- a. Decisions to grant or deny telework requests will be made by the participant's immediate supervisor based on whether the position is eligible, whether the employee meets the requirements to participate in the Program [See [Section I.C.2.](#)], and whether the employee's request is otherwise consistent with the Program. The maximum number of days per week an employee may participate will be based on the number of days the position is eligible for telework.
- b. Decisions on requests to grant or deny a telework request will be made promptly using [ETIS](#), generally within one week of submission of the request. Decisions to grant will include the number of days the employee is permitted to telework per week. Decisions to deny will include the reason for denial. An employee may appeal a decision to deny to the second level supervisor with a copy to the Business Unit Telework Coordinator.
- c. Employees approved to telework who are not already teleworking or onboarding virtually will be authorized to begin telework the first full pay period after completing the required training and receiving the minimum amount of equipment to telework. The immediate supervisor may permit teleworking sooner at their discretion. Refer to [Section I.C.9.](#) for additional guidance about modifications to telework program options.

- 4. **Telework Agreement.** All participants must have an approved telework agreement denoting the telework option selected and signed by the employee and supervisor to begin telework. The telework agreement will be completed when applying for telework through [ETIS](#).

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

5. **Equipment Deployment.** All participants must receive the minimum amount of equipment to perform official duties at the alternate worksite before teleworking. Follow the steps outlined below to request and receive your equipment. Participants will be provided with the minimum amount of equipment as soon as practicable after the approval of the telework request. [See [Section I.E.1.](#)]
 - a. Contact the Telework Coordinator after completing [Section I.C.2 steps a. through g.](#)
 - b. The Telework Coordinator will send the employee a Telework Equipment Deployment spreadsheet template to finalize in accordance with the guidelines included in [Section I.E.1.](#)
 - c. Deliver the completed spreadsheet to immediate supervisor for approval.
 - d. The supervisor will review the spreadsheet for compliance with equipment listed in [Section I.E.1](#) and submit it to the Telework Coordinator representing their approval.
 - e. The Telework Coordinator will request the equipment.
 - f. The employee will be notified when the equipment is ready to be delivered or retrieved from the [USPTO Telework Depot.](#)
6. **Training.** All participants teleworking for the first time must complete telework training before an employee is permitted to telework. The employee may contact the Telework Coordinator for assistance in locating the training. Managers should also complete [Manager Training: Telework Effectiveness.](#) The Office will ensure that such training is made available promptly to all participants whose requests to telework are approved.
7. **Telework Agreement Updates.** Participants will use [ETIS](#) to update their telework agreement when participant telework information changes and annually for recertification, including that the participant reviewed the safety guidelines for alternate worksite(s). The Agency will remind all participants of the recertification requirement annually. The safety guidelines are posted on the [Telework Program Office](#) website. Participants are responsible for updating [ETIS](#) and telework agreement to ensure the Program option and address(es) of the alternate worksite(s) are accurate at all times.
8. **Participant Telework Program Changes.** The participant's telework schedule should reflect the program option selected in ETIS and recorded on the telework agreement. If a participant is regularly teleworking or working in the office on a schedule different than the program option selected, the participant or the supervisor should

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

initiate a conversation about modifying the telework program option selected in ETIS using the procedures outlined in [Section I.C.9.](#), below.

- 9. Modifications.** Participants may permanently modify their telework program option by selecting telework program option and days up to the maximum number of days for which the position is eligible using [ETIS](#). There are no advance notification requirements for participants whose positions are eligible to telework who request to update their telework program option in a manner that does not impact office arrangements (e.g., changing from one day to two days per week telework).

Participants who encumber positions eligible to telework three days per week must discuss schedule changes with their supervisor if requesting to reduce the number of days working at the USPTO Office.

Otherwise, to allow for office arrangements, participants will notify their supervisor and the Telework Program Coordinator via email at least two weeks in advance of modifying a telework program option from three days per week telework to two or less days per week telework or withdrawing from the program. For exigent circumstances the Office will process employee requests in less than 4 weeks by providing hoteling or temporary office space to the employee until a permanent workspace can be arranged.

See [Section III. B. 2.](#) for guidance on temporary schedule changes.

D. Worksites

- 1. Locations.** Participants will designate a primary alternate worksite as the location where hours will be worked while not at the USPTO office. If a participant desires, they may designate an additional location as a secondary alternate worksite. All alternate worksites must be located in the fifty (50) states of the United States, the District of Columbia, or Puerto Rico. Both situational and routine telework participants' official worksite and official duty station is the USPTO office.
- 2. Alternate Worksites.** An alternate worksite may be the participant's home or other approved appropriate location. The participant must designate a room or location in their alternate worksite for placement and use of the equipment provided for the Program. Participants are responsible for purchasing and maintaining all office furniture at the alternate worksites.

Participants are responsible for ensuring compliance with all local laws or rules governing an office in their home. Participants who are renters are responsible for

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

ensuring that their lease allows the installation of all the necessary equipment and connection services (e.g., compliant internet service) for the Program.

Participants are responsible for any utility cost, cooling, heating, and lighting at the alternate worksites. Participants are responsible for any re-wiring, updating, and improvements necessary to bring the electrical connections in an alternate worksite up to the required standards.

- 3. Working at a Secondary Alternate Worksite.** Secondary alternate worksites are subject to the rules outlined in [Section I.D.2.](#) above. Participants must request approval to work at a secondary alternate worksite through [ETIS](#) prior to working from that location.

Requests are not necessary for each use of a secondary alternate worksite once the secondary alternate worksite is approved through ETIS. However, the participant must communicate the routine and recurring schedule with their immediate supervisor.

- 4. Transporting Equipment.** When a participant has been approved to work at a secondary alternate worksite they are responsible for safely and securely transporting equipment to and from the alternate worksites [See [Section I.E.7.](#)]. The participant is also responsible for determining the equipment necessary to successfully perform their official duties at the secondary alternate worksite. A participant will only be issued one set of telework equipment in accordance with the standards outlined in [Section I.E.1.](#)
- 5. Safety Guidelines.** All participants will review the alternate worksite(s) safety and security guidelines located on the USPTO Telework Resources intranet site.
- 6. Security.** All alternate worksites must meet security and privacy requirements, including those established and occasionally updated by OCIO regarding IT security [See [Section I.E.4.](#)]. Participants are not permitted to work in a public area, e.g., a coffee shop, an airport terminal, or outside in a park.
- 7. Inspection.** 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. Accessing the alternate worksite will be for the purpose of installing, repairing, maintaining, or removing work equipment, software, or other USPTO property, 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 Program. The parties may mutually agree to a time outside of these hours.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

E. Equipment, Tools, and Supplies

1. **Standard Equipment.** Participants will be provided with a standard suite of IT equipment necessary to perform official assigned duties remotely at the primary alternate worksite as soon as practicable after the approval of the telework request. A participant may decline deployment of equipment if, after consultation with their supervisor, they deem the equipment is not necessary to productively perform official assigned duties at the primary alternate worksite (e.g., no printer, one monitor instead of two, etc.). Standard equipment includes the following:
 - a. Three days per week. A universal laptop (which will be used both at home and in the USPTO facility), docking station, one monitor, webcam, telephone headset, SecurID (FOB) or other means of alternate authentication, keyboard, mouse, and other related peripherals. A second monitor or a printer may be issued if the immediate supervisor deems it necessary to perform assigned official duties. If a participant is issued an approved printer to use at the alternate worksite, the employee may be requested to relinquish their personal office printer and use a shared network printer.
 - b. Two days per week or less. A universal laptop (which will be used both at home and in the USPTO facility), docking station, one monitor, webcam, telephone headset, SecurID (FOB) or other means of alternate authentication, keyboard, mouse, and other related peripherals.
 - c. Situational telework. A universal laptop (which will be used both at home and in the USPTO facility) and SecurID (FOB) or other means of alternate authentication.

To ensure a seamless customer experience, participants are required to use USPTO assigned phone numbers for communication with colleagues and customers.

Necessary equipment will be provided to the participant as soon as practicable after the approval of the telework request. The universal laptop and SecureID (FOB), or other designated authentication technology, is the minimum equipment required to begin teleworking.

2. Internet Service

- a. Requirements. All participants must have high-speed broadband internet service such as cable or fiber optic that meets [USPTO's virtual private network \(VPN\) connection requirements](#) at all alternate worksites. Wired connectivity is recommended. Employees may choose to work either wired or wirelessly, but must be able to connect with a wired connection as needed to improve

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

connectivity or upon OCIO request (e.g., in responding to a service request or to facilitate updates).

3. **Collaboration Tools.** Participants must use USPTO collaboration tools in accordance with the USPTO's [Time and Attendance Tools, Communication, and Collaboration \(TACC\) Policy](#), or any policy that supersedes it. Collaboration tools include, but are not limited to: instant messaging and chat; document/desktop sharing and whiteboard features; virtual meeting tools; video communication and conferencing equipment; and presence indicator. Employees will be required to use their video communication tools (i.e., camera) in accordance with POPA and negotiated agreements.
4. **IT Security.** Participants are responsible for the security of Federal government property, information, and information systems at all alternate worksites. If not properly implemented, telework may introduce vulnerabilities into USPTO systems and networks. To prevent security incidents, participants are required to protect information and information systems commensurate with risk and complete the annual USPTO mandatory IT Security Awareness Training.

Information associated with official business should be stored in controlled, accessible, and safeguarded locations. Participants should store information in places that are adequately accessible to other colleagues (with a need to know) and backed up (e.g., shared drives, SharePoint) and refrain from desktop storage. Participants will not store USPTO information on personal devices or accounts.

The creation of paper copies containing sensitive information should be minimized to the greatest extent possible while teleworking. Most home or non-industrial shredders do not meet the General Services Administration's (GSA) approved cross-cut shredder requirement; therefore, these paper files must be stored in a locked drawer or room until participants can return to campus and utilize GSA-approved shredders. Please contact the USPTO Records Officers or CUI Managers if you have hard copies at your alternate worksite and are unable to adequately secure and store the documents until you can return to the USPTO. Please email CUI@uspto.gov with any questions related to properly disposing of records.

- a. Care must be taken to ensure records subject to the [Privacy Act](#) (5 U.S.C. § 552a, Records Maintained on Individuals) and sensitive but non-classified data are not disclosed to anyone except those who have authorized access to perform their duties. Participants should refer to the [Rules of the Road](#).
- b. Participants are responsible for the security of all official information, protection of any government furnished equipment and property, and the execution of the

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

mission of the USPTO at the alternate worksite(s) in accordance with existing USPTO and DOC policies.

- c. Any USPTO owned equipment is for official use only. Use of the equipment for private purposes is prohibited except as permitted by the USPTO [Rules of the Road](#). Family members and friends of Participants are not authorized to use any government furnished equipment.
 - d. Participants are to comply with all security related USPTO policies including the USPTO [Rules of the Road](#). These policies may be found on the USPTO intranet website.
- 5. USPTO Equipment Failures.** Participants are to contact the USPTO Service Desk to report Agency-provided equipment or software failures or problems, including connecting via the VPN, as soon as they are discovered and follow the procedures provided by the Service Desk. In the event that VPN or Agency provided equipment problems (including USPTO power outages) prohibit working at an alternate worksite, the participant must notify their immediate supervisor. The participant may consult with their immediate supervisor to determine if there is non-equipment related work available at the alternate worksite and determine how to record time. See [Section I.G.7](#) for guidance about non-weather related equipment failures at the alternate worksite(s) (e.g., participant power outages and interruptions in internet access) and [Section I.I.1](#) for weather related outages.
- 6. Ownership and Maintenance.** USPTO maintains ownership and control of any and all equipment, software, other materials, and data provided to the participant by the agency. The USPTO acts as the insurer for damage, theft, or other loss (e.g., fire, flood, etc.) of the USPTO equipment and materials only. Equipment provided by the Agency will be serviced and maintained by the Agency.
- 7. Safeguarding Assets.** All participants are responsible for reasonably safeguarding and protecting government issued equipment. The accountability and security of IT resources [See [Section I.E.4](#)] extends to your alternate worksite(s), residence, other approved telework location, and/or other areas in which you use, travel with, and store the equipment. When a participant chooses to work at a secondary alternate worksite they are responsible for safely and securely transporting equipment to and from the alternate worksites. Reasonable safeguards must be consistently exercised to ensure that government property is not vulnerable to any negligence or potential criminal activity. When a participant is assigned a piece of equipment, including the Universal Laptop, the participant is responsible for reasonable safeguards of its physical safety, as well as the data stored on it. Suggestions for safeguarding

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

equipment and procedures for reporting lost, stolen, or damaged equipment are available on the [USPTO's Asset Management intranet page](#).

Participants will provide property custodians with all information requested to inventory assets and will provide timely notice of equipment changes and issues.

- 8. Returning Equipment.** Any equipment provided to the participant for use at the alternate worksite(s) should be returned to the Agency generally within five business days from the end of the participant's participation in the Program, unless exigent circumstances exist. Any equipment that was deployed to the participant and is not needed to perform official duties should be returned as soon as the participant deems the equipment as unnecessary.

A participant returning equipment must notify the Telework Coordinator to facilitate the return.

The USPTO may require return or exchange of Agency provided equipment. Participants may be required to report to the USPTO office to receive equipment or to repair or exchange equipment.

- 9. Supplies.** Unless otherwise defined, all telework participants may pick up small office supplies required to carry out their official assigned duties from the USPTO office and those who have been issued a printer may pick up paper and toner from the USPTO office.

- F. Collaboration and Engagement.** Employee engagement is a priority for OPIA and to facilitate collaboration and successful interactive relationships employees should leverage collaboration tools, such as video conferencing, instant messaging or chat tools, and other USPTO approved collaboration software to stay connected. Employees are permitted to upload a workplace appropriate picture of themselves in USPTO collaboration tools so that colleagues and customers can associate names and faces.

G. Schedules and Time and Attendance

- 1. Work Schedules.** Employees teleworking three days per week are encouraged (but not required) to work the Increased Flexitime Program (IFP) work schedule.
- 2. Timesheets.** Participants will use the "Telework Home" transaction code (or other designated method to report telework time) with the appropriate PPA codes to indicate in the time and attendance system which days were worked at the alternate worksite(s) and the number of hours worked at the USPTO office and alternate worksite(s) each day.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

3. **Holidays.** Participants working at an alternate worksite will be granted the same holidays as employees at the USPTO office, unless otherwise determined by the Office of Personnel Management. Early dismissal of USPTO employees or closure of the USPTO office for non-emergency conditions, such as on the day prior to a Federal holiday, will be granted to participants working at an alternate worksite.
4. **Overtime and Compensatory Time.** Overtime and compensatory time may be worked at an alternate worksite so long as the time has been approved by the participant's supervisor prior to working the additional hours.
5. **Leave.** All forms of approved leave, including compensatory time, may be used on days on which the participant is scheduled to work at the USPTO office or approved alternate worksite. Leave, however, may not be used on a regular basis to avoid working at the USPTO office on a non-telework day or to avoid meeting a routine telework participant's twice per bi-week reporting requirement.
6. **Multiple Locations in a Given Day.** A participant may work at the USPTO office and/or multiple alternate worksites on the same day. The 2 day in office requirement generally comprises 12-16 hours over the 2 day period each week. A participant who chooses to work at multiple locations on the same day must notify their immediate supervisor and comply with the requirements of the policy on communication and collaboration with respect to posting work hours (to include time zone, if outside of Eastern Time zone) regardless of where they work. Participants must mid-day flex (if on IFP) or take leave to accommodate travel time required for commuting to and from the various work sites. [See [Section III.B.](#) for routine telework schedule requirements.]
7. **Inability to Work at an Alternate worksite.** If an employee is prevented from working at an alternate worksite for reasons other than inclement weather (e.g., non-weather related power or internet outage at the alternate worksite or lack of dependent care), the participant must either (1) report to the USPTO office to perform official duties, (2) obtain approval to work at a secondary alternate worksite, (3) if on IFP, change their work schedule by reducing the number of hours worked on that day, or (4) request appropriate leave, at the participant's option. If able to work, the participant may also consult with their immediate supervisor to determine if there is non-equipment related work available at the alternate worksite. The participant will not be reimbursed for any travel or related expenses for commuting between their alternate worksite(s) and the USPTO office and all trips will not be on duty time. See [Section I.E.5.](#) for guidance related to a USPTO equipment failure and [Section I.I.1.](#) for weather related conditions.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

H. In-person Events

1. **Virtual First.** When technology is available, and consistent with the purpose of the event, meetings will be held so that participants working remotely can participate fully via video conference. Employees may call in to meetings without video unless camera use is specifically required. Camera use is required for meetings with stakeholders outside of OPIA when video conferencing is made available.
2. **Mandatory Attendance.** Notwithstanding paragraph 1, participants may be required to report to the USPTO office to address business needs and office coverage for non-portable work activities, attend training, meetings, or other individual, team-, Office-, or Business Unit-wide events. Participants will be given as much notice as possible of any meeting or activity that they must attend in person. Absent exigent circumstances, participants will not be required to report to the USPTO office on the same day that notice is provided to the participant and generally, notice to report to the USPTO office will not be less than two days.

I. Changes to Operating Status and Unscheduled Telework (e.g., Inclement Weather)

1. **Office Closures, Early Departures and Delayed Arrivals Due to Weather or Safety Events.** When a foreseeable weather or safety event causes the agency to close or authorize late arrival or early departure, any employee with a signed telework agreement (i.e., a Program participant) must be prepared to telework, flex around the full or partial closure, and/or take leave. Except as provided below, no employee with a signed telework agreement of any type (regular, situational, etc.) may receive Weather and Safety leave, regardless of whether the employee was scheduled to telework that day. In order to telework during a weather or safety event, participants must have their Universal Laptop at their alternate worksite. Unscheduled telework due to a closure, early dismissal, or delayed arrival due to weather or safety events will not count against the allowable telework days provided by this Program.

If weather related physical conditions affect the alternate worksite in a way that limits the employee's ability to perform their duties (e.g., power or internet outages at the participant's alternate worksite or the USPTO office), the employee may request Weather and Safety administrative leave or to work at a secondary alternate worksite. Participants may telework at an alternate worksite where there are dependents or others. However, for any time that the employee claims as work time, their attention must be oriented to work activities and not dependent care. If dependent care prohibits the ability to perform telework for some portion of the work day during an office closure, early dismissal or delayed arrival, an employee may use a combination of flex time and unscheduled leave, with supervisory approval, to meet any

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

dependent care needs and still accomplish work. See [Section I.K.1.](#) for additional information on dependent care.

Weather and Safety leave may be available to a Program participant if the participant was not prepared to telework at their approved alternate worksite because either (1) the weather or safety event that caused the agency to close or authorize late arrival or early departure was not foreseeable or (2) reasonable circumstances prevented the employee from preparing to telework (e.g., the participant had been on leave until the day of the weather event, and the participant was not able to obtain their laptop before the weather or safety event). Find additional information on weather and safety leave at [Leave Administration, Appendix A: Impact of Weather and Safety Events on the Alexandria Campus and Randolph Square Building.](#)

- 2. Unscheduled Leave or Unscheduled Telework.** In the event OPM or USPTO declares that Federal agencies are open for the entire day with the option for “unscheduled leave or unscheduled telework,” Program participants may report to the USPTO office, telework on a non-telework day (if consistent with the employee’s work obligations), take unscheduled annual leave, or use a combination of work and annual leave to account for all of the regularly scheduled hours of the workday. A decision to telework on a day in which unscheduled telework is allowed will not count against the allowable telework days provided by this Program.

J. Performance Management

Participants are expected to perform assigned duties and responsibilities at the alternate worksite. It is important that the alternate worksite be free from distractions that would impair a participant’s ability to perform official duties and provide the same time and level of attention to the work product as is available at the USPTO office. Participants will have their performance evaluated under the criteria set out in their performance appraisal plan. Program participants are in the best position to know whether they have sufficient work for a telework day. If the employee lacks sufficient work for a telework day, the employee should consult with the supervisor to see if there is additional work that can be done at the alternate worksite. If there is not enough work that can be done at the alternate worksite, the employee must work at the USPTO office or use leave to cover the hours for which there is no work. Participants shall provide details of work accomplished upon the request of their supervisor.

Participants who are on a Performance Improvement Plan (PIP) will not be required to change their telework arrangement due to the PIP. Whether the participant’s official worksite is the USPTO office or an approved alternate worksite, a participant who is on a PIP will be required to commit to be available to receive assistance and training. The

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

assistance may be provided at the USPTO office or virtually. The supervisor and the participant will attempt to find an agreeable time for the assistance to be provided, including providing reasonable notification in accordance with the intent of [Section I.H.2](#). The supervisor, however, retains the right to direct the participant to attend meetings or training at the USPTO office, including one-on-one training.

K. Miscellaneous Provisions

- 1. Dependent Care.** No telework arrangement is authorized which allows the participant to provide care to any individual during work hours. Participants shall have dependent care arrangements so that the participant's ability to work at the alternate worksite is not adversely affected. A dependent may be at the alternate worksite while the participant teleworks if those dependents are independently pursuing their own activities or otherwise provided for by a caretaker. For any time that the employee claims as work time, their attention must be oriented to work activities and not dependent care.
- 2. Transit Subsidy.** Participants continue to remain eligible for transit subsidies as set forth in the [USPTO Public Transit Subsidy Program](#).
- 3. FECA and Alternate Worksite Injury.** Participants are covered under the Federal Employee's Compensation Act (FECA) if injured in the course of actually performing official duties at the alternate worksite. In order for a participant to be able to file a claim for worker's compensation, the participant who has an accident or injury while working at the alternate worksite must notify their immediate supervisor and report the accident or injury to a designated USPTO official in accordance with FECA requirements. Upon notification, the USPTO may investigate any reported accidents and injuries.
- 4. Property Liability.** The USPTO will not be liable for damages to a participant's personal or real property during the course of performing official duties or while using Government equipment in the participant's residence, except to the extent the Government is held liable by the Federal Tort Claims Act, claims arising under the Military Personnel and Civilian Employees Claims Act, or other laws.
- 5. Protecting Records.** Participants will apply approved safeguards to protect Agency records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the [Privacy Act](#) of 1974, Public Law 93-579, codified at 5 U.S.C. Section 552a. See [Section I.E.4](#) for additional IT Security requirements.

Participants are required to use electronic versions of documents and data whenever practical. When this is not practical, and solely for the purposes of this Program,

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

participants will be permitted to remove USPTO copies of documents from the USPTO office in order to perform their officially assigned duties at an alternate worksite, unless such files have been identified by management as being inappropriate for removal from the USPTO office. The participant is responsible for the transportation and safeguarding of the documents and files to and from the USPTO office and alternate worksite(s). Original or official files may not be removed from the USPTO office unless specifically approved by the Agency. No patent applications under secrecy orders or containing national security markings are authorized for transportation to the alternate worksite. Participants must keep in confidence patent applications and information therein in accordance with [35 U.S.C. § 122](#).

When the USPTO has an unusual need for a document or file or other information that is located at the alternate worksite, the participant may be directed to provide the requested document, file or other information to the USPTO office 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 the USPTO office or be resolved through other means.

6. **Union Activities.** Union officials may perform Union representational activities on official or bank time while teleworking.
7. **Personal Information.** Agency personnel will not divulge the addresses and private home or mobile telephone numbers of participants to the public or any other USPTO personnel who do not have a legitimate business need to know such information.

II. Provisions Applicable to Situational Telework Participants

- A. **Requesting Situational Telework.** A situational telework participant is expected to perform their assigned duties at the USPTO office regularly. Situational telework must be requested in advance and approved by the immediate supervisor. Requests for situational telework must include the dates the participant will telework and the work that will be performed at the alternate worksite on those dates.

Participants currently teleworking situationally in a position that is eligible for routine telework who would like to move to routine telework must modify their telework application in [ETIS](#) and follow the application procedures in [Section I.C.9](#). Additional information on routine telework may be found at [Section III](#).

- B. **Offices.** Participants selecting a situational telework program option will retain their status quo office.

III. Provisions Applicable to Routine Telework Participants

A. Overview. A routine telework participant's official duty station remains the USPTO office and requires the participant to work at the USPTO office for a specified amount of time each week or bi-week as designated by their position eligibility determination. Participants electing to telework one to three days per week will work at the USPTO office for four to two day(s) per week.

B. Routine Telework Participants Teleworking One to Three Days per Week

- 1. Telework Schedule.** Participants eligible for routine telework may request to telework one to three days per week, up to the number of days permitted by their position's eligibility determination. Participants electing this option are expected to perform their assigned duties at the USPTO office for four to two days per week, as set forth in their position eligibility determination. Participants who select this option must consult with their immediate supervisor to define a telework schedule that identifies regular days to perform duties at the USPTO office each bi-week. For participants whose essential functions include duties that must be done at the USPTO office, the amount of time spent at the USPTO office on a non-telework day must be long enough to complete those essential functions and if a participant chooses to work at multiple locations on the same day they must notify their immediate supervisor. Participants may not use IFP flexibilities or any combination of leave to regularly avoid any in-office requirements. Participants are not precluded from teleworking on fewer days than their position's eligible number of days. The day(s) a participant elects to perform assigned duties in the office will be the same each week and must be scheduled in advance and approved by the immediate supervisor to ensure office coverage.

On a situational basis, a one to three day per week routine telework participant's immediate supervisor may allow an employee to work additional days at an alternate worksite (i.e., supplemental situational telework) in accordance with the provisions for situational telework [See [Section II](#)]. Supplemental situational telework must be requested in advance and approved by the immediate supervisor. Requests for supplemental situational telework must include the dates the participant will telework in addition to the routine telework and the work that will be performed at the alternate worksite on those dates.

- 2. Telework Schedule Changes.** Changes in USPTO office day(s) for participants whose position is eligible for routine telework one to three days per week must be requested in advance and approved by the immediate supervisor. These requests may be for a one-time change or for a permanent switch in the days performing

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

assigned duties in the USPTO office. See Section [I.C.7.](#) and [I.C.8.](#) for permanent program changes. OPIA may require temporary adjustments to USPTO office day(s) schedules to address business needs and office coverage for non-portable work activities.

3. **Offices.** Routine telework participants who select a telework program option that places the participant at the USPTO office for two days per week will be required to share an office with another employee. Participants who share an office may coordinate their on-campus days, such that one of them uses the office at a time. Participants who select a telework program option that places the participant at the USPTO office for three days per week or more will remain their status quo office arrangements.

A Program participant whose selected telework program option places them in a shared office, and who changes the terms of their telework program and agreement in any way that places them at the USPTO office for three days per week or more, will be reassigned to an unshared office. A participant may have to remain in their shared office until individual office space is available.

The participant will be assigned an office as determined by their seniority consistent with existing Union agreements for office space. The employee should be issued the space they are entitled to within three months of notifying their immediate supervisor and Telework Program coordinator of the change.

IV. Temporary Medical Exception

- A. **Description of Program.** Management will consider requests from employees to work from home or another alternate worksite based on a serious temporary or short-term medical need of the employee or a family member which would:
 1. Significantly impair or preclude the employee from working at (or traveling to) the USPTO office;
 2. Ordinarily require the employee to use leave to be away from the USPTO office without the ability to telework; and
 3. Allow the employee to work from the alternate work site.
- B. **Flexibility:** In addition to the flexibility of where to work, the employee may request additional telework days, up to and including teleworking five days per week and specific hours of work.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

- C. Application.** The request may be from a person not eligible to telework (based on position eligibility), or from a current teleworker to expand or change the number of days of telework or change their telework program option. If the request is from an employee whose position is not normally eligible to telework and is not covered by an existing telework agreement, the employee must sign a telework agreement. Eligibility requirements based on position may be waived because the eligibility for the temporary medical exception is based upon specific need.
- D. Approval.** Requests under these circumstances (known as a Temporary Medical Exception) must be submitted to the employee's immediate supervisor (or designee) as soon as the need for the temporary medical exception is known by the employee. The supervisor or designee will promptly forward the request with any comments (to include their proposal for the terms of the medical telework) to the Business Unit Head or Deputy Business Unit Head or designee. Decisions to grant or deny requests will be made by the Business Unit Head, Deputy, or designee and communicated to the employee in writing promptly, generally within one or two weeks, and taking into consideration the date on which the employee requests to begin telework. The reason(s) for any denial will be included in the response.

In determining whether to approve a request under this section, the supervisor must consider:

1. The work available for the employee to perform from a remote location as well as the ability to successfully complete assigned tasks in accordance with the employee's performance appraisal plan;
2. Whether or not the employee will have appropriate remote access to USPTO IT systems and the likelihood that the employee can be successful in working remotely;
3. The employee's ability to work without the disruption of providing childcare, eldercare, or medical needs (the employee may mid-day flex, if on an appropriate work schedule, to accomplish these activities); and
4. The impact of the employee's absence from the USPTO office on other employees as well as the ability of OPIA to meet its business needs.

Approval to telework under this exception will be up to the duration of the medical need, depending on the work available to be performed at the approved alternate work site. In all instances, the telework granted pursuant to this medical exception may not exceed 4 months without renewed approval. However, the approval may be reviewed at any time and may be extended, adjusted, or revoked: a.) if the medical circumstances have changed; or b.) when participation is based on the medical needs of a family member

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

and business unit needs have changed significantly. Approval of these requests for a temporary medical exception is separate and independent of the Agency's reasonable accommodation process and is not considered evidence of the Agency perceiving or regarding an employee as disabled under the [Rehabilitation Act](#). Nothing in this section precludes or limits the ability of employees to request a reasonable accommodation nor limits the ability of supervisors to refer employees to the Reasonable Accommodation Program Office/OEEOD for assistance when appropriate.

- E. Documentation.** Upon request, employees must submit a written statement (or other medical documentation) from a health care provider supporting the request for a temporary medical exception.
1. The statement or documentation will:
 - a. State the general nature of the medical need and why the employee should be excused from working at the USPTO office (treatment of the employee or a family member outside of the commuting area will satisfy this requirement).
 - b. Confirm that the employee can perform work.
 - c. Include either of the following:
 - i. If the employee has the medical condition—that the employee is fit for duty at the alternate work site, including any limitations that may apply; or,
 - ii. If a family member has the medical condition—
 - (A) state that the family member will not require constant attention, or
 - (B) the employee may indicate on the application that other people will provide care when the employee is working.
 - d. The expected duration of the need based on the medical condition.
 2. The employee will not be required to reveal any details about the medical condition other than the general nature of the condition as set out in the medical documentation described in [Section IV.E.1.](#), and the OPIA may not require the employee or family member to sign a release for their medical information.
 3. The OPIA will treat as confidential any medical information given by an employee in support of the medical telework request, and may only disclose such information subject to its Privacy Act and Rehabilitation Act obligations for work-related reasons on a need to know basis.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

4. The purpose of the health care provider's statement and/or documentation is to verify the existence of the medical reason asserted in the temporary medical request, that the employee could not reasonably be expected to work at the USPTO office or that working from an alternate worksite would help alleviate the medical condition or assist with recuperation, and that the employee is fit for duty at the alternate location. OPIA will not substitute its own judgment for the medical judgment of the health care provider with respect to the validity of the medical condition, its duration, or how medical telework will alleviate the condition or help the employee (or family member) to recuperate (so long as there are sufficient details in the statement for OPIA to understand the basis for the recommendations).
- F. Work Performed.** Because of the added flexibility in terms of eligibility, scheduling and/or number of telework days and hours, the participant and the supervisor will discuss the work to be done, the hours to be worked (including both the number of hours per day and the time of these hours), and any changes in circumstances affecting the arrangement. The terms of the medical telework will be documented in writing and signed by the employee and supervisor or exchanged via email.

Appendix A

Safety Guidelines for the Alternate Worksite

Employees may use the following guidelines to assist them in a review of the overall safety and adequacy of their alternate worksite. The following are only recommendations, and do not encompass every situation that may be encountered. Employees are encouraged to obtain professional assistance with issues concerning appropriate electrical service and circuit capacity for residential worksites.

1. Develop and practice a fire evacuation plan for use in the event of an emergency.
2. Check your smoke detectors regularly and replace any batteries as needed.
3. Have a working fire extinguisher conveniently located at your alternate worksite (in the room where you work or appropriately located to help with evacuation), and check the charge regularly.
4. Computers are heavy. Place them on sturdy, level, well-maintained furniture.
5. Choose office chairs that provide good supporting backrests and allow adjustments to fit you comfortably.
6. Locate your computer to eliminate noticeable glare from windows and lighting. Place the computer monitor at a height that is comfortable and does not produce neck or back strain. Locate computer keyboards at heights that do not cause wrist strain or place the keyboard on an adjustable surface.
7. Install sufficient lighting in locations to reduce glare on the work surface.
8. Arrange file cabinets so that opened drawers do not block ingress and egress.
9. Be sure to leave space for ingress and egress, where possible, to reduce tripping hazards.
10. Be sure electrical equipment is connected to grounded outlets.
11. Avoid fire hazards by not overloading electrical circuits.
12. Inspect and repair carpeting with frayed edges or loose seams. Avoid using throw rugs that can cause triggering hazards in your workspace.
13. Locate computers, phones, and other electrical equipment in a manner that keeps power cords out of walkways.
14. Lock (CTRL+ALT+DEL) computers after the workday is over. 01/21/2022
15. Keep your workspace clean and avoid clutter which can cause fire and tripping hazards.
16. Use proper lifting techniques when moving or lifting heavy equipment and furniture.
17. Report accidents and injuries immediately to your supervisor.

OPIA BARGAINING UNIT TELEWORK PROGRAM 2.0

Appendix B

OPIA Telework Position Eligibility Chart

Position Title	# Days/week
Attorney Advisor Congressional Affairs Specialist Economist International Relations Advisor Patent Attorney	3