

Telework Program B

Attachment to the Interim Agreement

between the

USPTO and POPA

Date: October 8, 2008

This program is open to all employees in positions that both parties agree are included in the POPA bargaining unit who are not patent examiners, central reexamination unit (CRU) examiners, petitions employees and PCT employees.

This program is an arrangement that allows eligible employees to work at an alternate work site as defined below. As used herein, "alternate work site" is defined as an approved location in the employee's home (or another fixed location approved by the Agency) designated by the employee as the location they will use to perform their official USPTO assigned duties. The alternate work site must be located in the United States (currently defined as the 50 states and the District of Columbia).

I. The Telework Program

A. General

1. Participation is voluntary.
2. Subject to provisions of this program, employees may be allowed to telework 1, 2, or 3, days per week depending on their assigned duties. Employees are not precluded from teleworking on fewer days than their scheduled number of days.
3. Participants may work no more than ten hours per day at the alternate work site.
4. Information including a copy of this program, dates of selection periods, and orientations that explain the details of the program as well as the application process will be available on the intranet via the "Telework Resource" webpage or equivalent.
5. Upon implementation of this program, there will be a three-week application period. All eligible employees in each office will be ranked in seniority order and will be allowed to begin training and participation based on that order. After the initial application period, applications will be accepted on a continuous basis.

6. All applicants will be notified within one month following completion of their application regarding acceptance or non-acceptance in the program. The notification of non-acceptance will include the reason for non-acceptance.
7. Participants who do not require equipment, software, and tools when working at the alternate worksite may begin teleworking the next pay period following notification of selection. Participants who require equipment, software, and tools when working at the alternate worksite will begin teleworking the first full pay period after completing the required training and receiving the equipment.
8. All employees wishing to participate in this program must complete the application process.
9. The USPTO will provide POPA with the name, grade, organization, and the number of days permitted to telework each week for each participant, approximately twice each year at six month intervals. If the Agency has a list of participants' e-mail addresses, that information will also be included. If the Agency does not supply the information set forth in this provision, POPA will remind the Agency to supply the information and wait a reasonable time for the Agency to do so. If this information can easily be provided electronically, the Agency will do so.
10. At its discretion, management may allow employees to work at an alternate work site on an episodic or intermittent basis. Additional telework may be permitted on a case by case basis for employees who telework 1-3 days per week, and for employees who are otherwise ineligible to telework. These employees will need to sign a Telework Program work agreement and self-certify the safety of the alternate work site. The discretion to allow episodic or intermittent telework includes the ability to allow otherwise ineligible employees to telework because of serious short-term medical needs of the employee or a family member.
11. Subject to funding, each year, for the first three years, the Agency will provide equipment to a minimum of one third of the eligible applicants in each business unit who need equipment in order to participate in the program. Equipment will be delivered in seniority order. Otherwise eligible employees who have not received equipment will be allowed to work one day per week at home if they have work that can be performed remotely without equipment.
12. Participants will be informed of the number of days that they are permitted to telework per week and if teleworking 1 day per week, whether they will be required to accept USPTO equipment as a requirement for participation in the program.
13. Participants are responsible for ensuring that sufficient work is available to perform at the alternate work site.

B. Application Requirements

Employees must meet the following requirements to apply for and participate in this telework program:

1. Be in an eligible Position as defined in C. below.
2. Have a rating of record of at least Fully Successful and be performing at a fully successful level or above.
3. If receiving equipment as a requirement for participation in this program, have access to high speed broadband internet service (cable or FiOS), regardless of the number of days to be worked at the alternate worksite.
4. Have access to a phone and web mail if not issued Agency-owned equipment.
5. Sign a Telework Program work agreement (appended to this program) and complete a self-certification of the safety of the alternate work site.
6. Be:
 - a) below GS-11 at the full performance level with at least 2 years of service at the USPTO; or
 - b) GS-11 or higher with 2 years of service at the USPTO; or
 - c) a GS-13 or higher with at least 6 months of service at the full performance level at the USPTO.

Exception: The two year requirement in a) and b) above may be reduced to one year if the Agency determines that the employee possesses sufficient experience in the job functions and the employee is not serving a trial or probationary period.

7. For part-time employees, be scheduled to work at least 60 hours per pay period. The number of hours that may be worked at the alternate work site will be prorated as determined by the percentage of the employee's part-time schedule compared to a full-time schedule, times the number of days (in hours) approved for telework, i.e. (scheduled hours divided by 80) x (10, 20 or 30). Employees should arrange their schedule to minimize the number of days the employee works at both the USPTO work site and the alternate work site.
8. Have not been suspended in the last 12 months. However, the Agency has the discretion to waive the last six months of this period.

C. Eligible Positions

1. To participate, an employee must work in an eligible position.
 - a. Positions generally eligible for telework are those positions with a sufficient volume of tasks that are suitable to be performed remotely. Examples of the type of work that *can* be performed remotely are:
 - i. Data analysis or reconciliation, where sufficient research & analysis tools are electronic;
 - ii. Writing documents or policies, where sufficient research information is electronic;
 - iii. Document preparation, review, comment, and approval;
 - iv. Daily work activities where processes are automated and required resources, tools, and instructions to complete work are available at the alternate worksite;
 - v. Answering e-mail and telephone calls; and
 - vi. Collaboration, brainstorming, and most meetings.
 - b. Examples of the type of positions not eligible and work that *cannot* be performed remotely are:
 - i. Activities that require face-to-face interaction;
 - ii. Activities that require information, resources, and tools that are not portable, not maintained in an electronic format, or where paper should not be duplicated;
 - iii. Activities that require an approving signature, unless other employees can sign the document and sufficient office coverage is maintained; and
 - iv. Intern positions.
2. The number of days per week an employee may participate will be at management's discretion but will be based on factors such as those provided above to determine position eligibility and ensuring business and customer needs are addressed. The Agency will review each position at least annually to see if circumstances have changed so that the number of days the employee is allowed to telework can be increased. Participants may periodically request review of this decision if they believe circumstances have changed sufficiently to allow additional days of telework.

D. Equipment

1. The USPTO may require return or exchange of Agency provided equipment. The USPTO is not responsible for non-Agency provided equipment.
2. USPTO maintains ownership and control of any and all equipment, software, other materials, and data provided to the participant.

E. Records and Data

1. 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, participants will be permitted to remove USPTO copies of documents and data files from the USPTO work site in order to perform their officially assigned duties at the alternate work site, unless such files have been identified by management as being inappropriate for removal from the office. The participant is responsible for the transportation and safeguarding of the documents and data files to and from the alternate work site. The Agency may impose limitations on the number of documents and data files and the time limit that the files are taken out of the office. Further, the Agency may mandate the use of specific media for transporting documents and data. Original or official files may not be removed from the USPTO work site unless specifically approved by the Agency.
2. 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.
3. When the USPTO has an unusual need for a document, data file or other information that is located at the alternate worksite, the employee may be directed to provide the requested document, data file or other information to the USPTO work site 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 employee's scheduled return to the USPTO work site or be resolved through other means. If the request requires the employee to return to USPTO work site on a day the participant is scheduled to be away from the Office, transportation time to and from the official duty station will be treated as duty time. When there is a normal need for an application or document, the participant will bring the application or document into the Office on his or her next workday at the USPTO work site.

F. Rights & Responsibilities

1. Participation in the telework program will not change the conditions of employment except as specified in these provisions.

2. Participants who are renters are responsible for ensuring that their lease allows the installation of all the necessary equipment and lines for the program.
3. Participants are responsible for ensuring compliance with all local laws or rules governing an office in their home.
4. All Agency-owned equipment is for official use. Use of the equipment for private purposes is prohibited except as permitted by USPTO. Participants may not add non-government owned or unauthorized hardware or software to government provided equipment.
5. Employees working more than one day per week at home must work the Increased Flex Plan.
6. 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. An employee may be removed from the program for up to 12 months if the employee has received a disciplinary or adverse action while on the telework program. 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 an employee 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.
7. 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.
8. 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.
9. Participants are covered under the Federal Employee's Compensation Act if injured in the course of performing official duties at the alternate work site. If so injured, the participant will notify their supervisor or another designated USPTO official as soon as possible (in accordance with FECA).
10. Abuse of the program guidelines may result in removal from the program.
11. Absent unusual circumstances, if a participant's performance diminishes and the employee is subject to a Performance Improvement Plan, or if the participant's rating of record falls below fully successful, the employee will be suspended from

the program. Employees will be reinstated once they meet the eligibility requirements and necessary equipment is available.

12. Unless on leave, participants are required to connect their USPTO-owned equipment to the USPTO's VPN, at least once per week for a minimum of fifteen minutes.
13. The movement from one position at the USPTO to another position at the USPTO may require a new decision for telework eligibility and a new application to this Program. If both positions support telework and they are in the same business unit however, the employee generally will not need to reapply. The employee must discuss his or her schedule with the new supervisor.

G. Office Sharing

1. Participants who are allowed to work two days a week or less at an alternate work site under this program will not be required to share an office because they telework.
2. If sharing of space is required for employees working 3 days per week at the alternate work site, relocation will be done in accordance with reverse seniority.

H. Information Technology (IT) Systems

For employees issued more agency equipment than a laptop:

1. The Agency will establish and periodically revise requirements for high speed broadband Internet access consistent with operational requirements for remote access. Compatibility of the Office's remote access systems will be maintained for a minimum of two (2) years once requirements are established, subject to technological and business needs.
2. For employees with a government supplied equipment, upon at least one week's advance notice by the Agency, the participant agrees to permit inspections by the Agency (including contractors) of the designated work area at the participant's alternate work site during normal working hours and on a day the employee is working at home for the purpose of ensuring proper maintenance of Agency-owned property and work site conformance with safety guidelines. Additionally, Agency materials and/or equipment may be installed and/or removed as necessary for administration of the program. The inspections will not occur more than once per six (6) month period unless necessary to maintain or repair Agency-owned property or to investigate other work-related or safety problems arising from the

administration of the program. Routine inspections will be scheduled at the convenience of the parties without undue delay.

I. Equipment & Computer Problems

Participants are to contact the USPTO Helpdesk to report Agency-provided equipment failures or problems as soon as they are discovered and follow the procedures in accordance with USPTO system failure guidelines. If the problem cannot be resolved within one hour, the participant must inform the supervisor of the problem (including via e-mail or voicemail).

J. Additional Guidelines

1. The USPTO will provide participants standard office supplies for use at the alternate worksite.
2. Participants will have their performance evaluated under the criteria set out in their performance appraisal plan.
3. If the alternate worksite is the participant's home, the participant must designate and have approved a room or location in his or her home for placement and use of USPTO assets for the program.
4. Participants will update their Telework Program application information and self-certification of safety of the alternate work site as needed. The Agency will remind all participants of this requirement annually. The safety guidelines are posted on the Agency's Telework Resources Intranet page and attached hereto.
5. Generally, participants will be given advance notice of at least one business day for all meetings, legal lectures, training, or other events that require their attendance at the USPTO work site. When such notice is not possible, management will notify the participant of the meeting as soon as management determines the need for the meeting.
6. 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 work site must report the accident or injury to the USPTO. Upon notification, the USPTO may investigate any reported accidents and injuries.
7. The Agency will not be liable for damages to an employee's personal or real property that occur in the employee's residence or elsewhere, except to the extent the Agency is held liable by the Federal Tort Claims Act claims or claims arising under the Military Personnel and Civilian Employees Claims Act.

8. Participants are eligible for transit subsidies as set out in the Transit Subsidy Agreement, including transit to the alternate work site for the purpose of doing work if that site is different from the employee's home and has been approved by the Agency.
9. In the event that remote access or equipment problems (including power outages and interruption in internet access) prohibit working at an alternate work site, the participant must notify his/her immediate supervisor. The affected participants may work on other non-equipment related work at the alternate work site, report to the USPTO work site, change their work schedule by reducing the number of hours worked on that day (if on the Increased Flex Schedule), or request appropriate leave, at the employee's option. Employees reducing the number of telework hours worked on a given day may not make up those hours on a different telework day.
10. Participants who have been provided with equipment pursuant to this program will be permitted to participate in meetings and training without returning to headquarters when the meetings and training are remotely accessible, unless the meeting is of sufficient importance to require face-to-face interaction, in which case the participant would report to the USPTO work site.
11. Early or partial dismissals, delayed arrivals or closures due to road conditions or conditions that affect part or all of the Alexandria, VA headquarters normally do not affect the status of the employees working at an alternate work site. Normally, the employee will continue to work during these closures and will not be granted administrative leave. If these weather conditions limit the employee's ability to perform their duties, e.g. cause a power outage at the employee's home or at headquarters, supervisors will consider requests for administrative leave. Supervisors will consider requests for leave under this section even though the request was not made in advance. The request should be made promptly so that it may be given consideration and so that approved leave may be recorded on the electronic time sheet. Participants scheduled to work at the USPTO work site shall follow the same rules and guidelines as other employees at the USPTO work site.
12. Early dismissal of USPTO employees or closure of the USPTO worksite for non-emergency conditions, such as on the day prior to a Federal holiday, will be granted to employees working at an alternate work site.
13. Due to special assignments or the need for continuous team work, participants may be required to work temporarily at the USPTO work site for prescribed periods of time in accordance with the business needs for the activity, at the discretion of the Agency.
14. Normally, participants may not work at the alternate work site and at the USPTO on the same day unless directed to do so by the supervisor or unless approved to

do so in advance. An exception to this is in the case of a power outage or similar disruption to the ability to work at the alternate work site as set out in paragraph 9 above. Commute time is not compensated, unless the employee is directed to come in after their workday has begun.

15. The day(s) a participant elects to telework should be the same each week and must be scheduled in advance and approved by the supervisor to ensure office coverage. Changes in telework day(s) must be requested in advance and approved by the supervisor. These requests may be for a one-time change or for a permanent switch in telework days. The Agency may require adjustments to telework schedules to address business needs and office coverage.
16. Overtime and Compensatory time may be worked at the alternate work site so long as the time has been approved by the agency prior to the employee working the additional hours.
17. Participants shall provide details of work accomplished upon the request of their supervisor.
18. Participants receiving equipment under this program must adhere to the IT Rules of the Road.

K. Termination and Withdrawal

1. To withdraw from the Program, including for the purpose of promotion or retirement, employees will notify their supervisor and the program coordinator via email.
2. The USPTO will give employees being removed from the program two weeks advance notice, unless exigent circumstances exist.
3. All Agency-owned materials associated with this program must be returned to the USPTO or arrangements for their return must be scheduled with the designated agency official normally within 5 business days from the end of an individual's participation.

L. Meetings

Upon request of either party, the parties will meet at least every six months to discuss and attempt to resolve concerns with the telework program.

II. One Day Per Week Telework

In addition to the provisions in this section, the provisions in section I apply to this work arrangement.

A. General

1. Participants are expected to provide customer service to both internal and external customers by being accessible and available during their working hours. Participants must check and respond appropriately to voicemail and e-mail periodically throughout their telework day during business hours.
2. Participants will be available for consultation during their telework day.

B. Procedures

1. If equipment for telephone integration or collaboration tools is provided, participants must use the provided tools. If equipment is not provided, participants will use their own telephones and will give their personal phone number to their supervisor and people with whom they routinely work.
2. Participants will indicate on the time and attendance system which days were worked at the alternate worksite and the number of hours worked at each location each day.
3. USPTO will provide telephone calling cards or other means to cover the cost of long distance business related phone calls for participants if necessary to perform assigned duties. Participants will maintain a log of calls made at the alternate site using the telephone credit card by date and telephone number and will turn the phone logs in to their supervisor on a monthly basis. Logs are not required in months when the participant makes no calls charged to the card. Participants will not be reimbursed for use of their own phone.

III. 2 or 3 Day Per Week Telework

In addition to the provisions in this section, the provisions in section I and II apply to this work arrangement.

A. General

1. The Agency will provide the necessary hardware, software or technical support to enable participants to work at the alternate work site.
2. Participants are expected to provide customer service to both internal and external customers by being accessible and available during their working hours. Participants must check and respond appropriately to voicemail and e-mail periodically throughout their telework day during business hours.
3. Participants will be available for consultation during their telework day.

B. Termination

1. If doubled as a result of participation in this program and an employee's participation in the program is terminated, the employee will be assigned an office as determined by their seniority consistent with the physical facilities portion of this program. The employee will be returned to the space they are entitled to within 60 days. In addition, employees who return to the USPTO work site based on diminished performance will be placed in the office space arrangement to which they are entitled as soon as possible to reduce the disruption to the employee.
2. Employees on the program who fail to telework for periods of more than three months may be deemed to have voluntarily left the program. If a participant is deemed to have left the program, the participant will need to return all Agency equipment and will be relocated to office space appropriate for a person who is not teleworking. Employees sharing offices with an employee who has not worked from the alternate work site should raise this issue with their supervisor. The supervisor will investigate the issue and take appropriate action.