

PATENTS TELEWORK PROGRAM

The Patents Telework Program (PTP) is an ongoing work arrangement that allows eligible employees under the Commissioner for Patents in the POPA bargaining unit to work at an alternate work site during paid work hours to conduct their officially assigned duties without diminished employee performance. As used herein, “alternate work site” is defined as a location in the employee's home designated by the employee as the location they will use to perform their official USPTO duties, or another location approved by the Agency. The PTP will be evaluated on an ongoing basis.

The goal of the PTP is to establish a program under which eligible employees of the POPA bargaining unit may participate in telework to the maximum extent possible without diminished employee performance as set forth in Section 359 of Public Law 106-346, October 23, 2000.

A. Implementation Procedures

A1. Employee Participation

- 1) The pool of participating employees will be comprised of sixty (60) percent of primary examiners and equivalent employees (GS-14 and above) working under the Commissioner for Patents. This pool is based on the number of employees the Agency can allow to be away from the worksite during normal business hours and still maintain sufficient resources on site to train junior examiners, provide internal and external customers service and maintain the normal functions and performance of the agency. One hundred percent of this pool of employees will be allowed to participate so long as they meet the requirements of this agreement. The PTP allows participants to work from the alternate worksite one day per week.
- 2) The USPTO has many other flexible programs in place such as compressed work schedules, increased flex-time program (IFP), and compensatory time programs which allow work outside of normal business hours and work on weekends in lieu of Monday to Friday. The PTO must maintain sufficient experienced staff levels during normal business hours to train junior staff and provide internal customer service. In order to participate in the PTP, and to ensure that the PTO can meet its needs, PTP participants must work at the PTO site for a minimum of 3 days per week of at least 6 hours per day, between 6:30 a.m. and 6:00 p.m. The three days must be worked Monday through Friday. Approved leave, including religious compensatory time and compensatory time earned for the purpose of maternity/paternity, may be used

to meet the minimum required hours. Other forms of compensatory time may not be used, except in the case of absences of 1 week or longer.

- 3) Participants may not work at the alternate work site and at the USPTO on the same day unless directed to do so by the SPE.
- 4) On days employees telework, they will complete 6 hours of their workday between 6:30 a.m. and 7:00 p.m., Monday-Friday. A maximum of 10 hours may be worked on a telework day. If the employee works less than 6 hours, all hours worked must be completed during this band. Any other hours worked on this day must be completed during the hours appropriate to the work schedule for the employee. All forms of approved leave, including compensatory time, may be used to meet the required hours on telework days.
- 5) All examiners are expected to provide customer service to both internal and external customers by being accessible and available during working hours. Participants who use their own telephones will forward their work phone calls to their home phone on telework days or will give their home phone number to their supervisor and art unit or equivalent. Participants working at the alternate work site must check voicemail near the beginning and midpoint of their telework day.
- 6) Participation in the PTP is voluntary.
- 7) To withdraw from the Program, including for the purpose of promotion or retirement, employees will e-mail their supervisor and the program coordinator. Management will notify POPA of new vacancies within 1 biweek.
- 8) Participants cannot work paid overtime or compensatory time on the day they work at the alternate work site during the program.

A2. Selection Criteria

Within each Technology Center or other business unit within Patents, priority of selection shall be given first to participants in the former Work at Home Pilot Program under the Millennium Agreement (for the first application period only); then according to the grade of the employee, and next, according to the amount of time served in the employee's current and previous higher grades (as in the case of downgraded employees) while an employee of the USPTO. Employees must meet eligibility requirements set forth herein.

There will be eight separate selection pools under the Commissioner for Patents. Each of Technology Centers 1600, 1700, 2100, 2600, 2800, 3600, and 3700/2900 will be one of seven separate selection pools and the eighth pool will consist of the combined organizations under the Deputy Commissioner for Patent Examination Policy and the Deputy Commissioner for Patent Resources and

Planning. The slots will be apportioned between the 8 pools based on the ratio of the number of those eligible employees in each pool divided by the total number of those eligible employees under the Commissioner for Patents. Slots that are not filled in any of the 8 pools will be redistributed throughout the remaining pools in a manner that redistribution does not impede the Agency's ability to accomplish its mission.

A3. Application Process

- 1) There will be an application period prior to the commencement of the PTP Program. Thereafter, any eligible employee may apply. USPTO will place an announcement of the application period on the bulletin board email or through the chain of command and intranet page with appropriate links to a copy of this agreement and any other program guidelines developed, and an application including instructions on how to apply for the program.
- 2) For the first application period, individual notification will be given to the prior participants in the former Patents Work at Home Pilot Program under the Millennium Agreement.
- 3) USPTO will provide written notification (e.g. via e-mail) to all employees who file an application for the program of their acceptance or non-acceptance at least 2 weeks prior to the commencement of the program. Written notification of non-acceptance will include the reason for non-acceptance, when the reason for non-acceptance is a reason other than seniority.
- 4) USPTO will provide POPA with the names of all employees participating in the PTP.
- 5) Vacancies will be filled at the end of the first, second, and third quarters of the fiscal year. Newly selected employees will be trained prior to participating.

A4. Requirements for participating in the program

Participants are required to comply with the following:

- 1) Be a GS-14 or higher and if an examiner, have Full Signatory Authority.
- 2) Have and maintain at least a Fully Successful rating of record.
- 3) Are not currently under an oral or written warning improvement period in any critical element of the Performance Appraisal Plan. If an employee's performance diminishes and the employee is placed on an oral or written warning improvement period, he or she will be removed from the telework program. Employees will be reinstated in the program not later than 4 weeks following successful completion of the performance improvement period for

matters of workflow and production. For other matters, employees will be reinstated not later than 3 months following successful completion of the improvement period. Employees will be reinstated even if the number of participants temporarily exceeds the number defined in A1.1 above.

- 4) Sign the Patents Telework Program Work Agreement (See **Attachment 1**).
- 5) The USPTO will give employees being removed from the program two weeks advance notice, unless exigent circumstances exist.

A5. Medical Exception

USPTO will consider requests from employees to work at home based on short-term medical needs within a reasonable time period, generally 15 days. These employees must meet all eligibility requirements, except for seniority. Applicants must submit documentation from a licensed physician or equivalent medical professional describing the medical condition and how the ability to telework one day per week will alleviate the condition.

Approval will be for the duration of the medical need, up to 4 months. Training and needs of the Agency will be considered in making a determination on the application. Approval of these requests will not be considered as evidence of the Agency treating an employee as handicapped. Exceptions granted under this provision will not be counted in the participation level set forth in A1.1.

B. Files and Documents

- B1. Participants will be able to work on patent applications and documents at the employee's designated alternate worksite without any hardware or software support. Only for the purposes of this program, participants will be permitted to remove USPTO patent applications and documents from the USPTO in order to perform their officially assigned duties at the alternate work site. The participant is responsible for the transportation of the patent applications and documents to and from the alternate work site. Participants are also responsible for taking sufficient work for the time worked at the alternate work site.
- B2. At its discretion, the agency may provide equipment, software, and other materials to participants for use at the alternate worksite. Employee use of these items will be voluntary. The USPTO may require return or exchange of this equipment. Catastrophic time may be granted for loss of work due to failure of USPTO provided equipment. The USPTO is not responsible for non-USPTO provided equipment and non-examining time will not be granted for installation of software or if problems occur. If the participant has installed USPTO provided email capability, the participant must access email periodically throughout the workday during USPTO business hours when working at the alternate work site.

- B3. The USPTO maintains ownership and control of any and all equipment, software, other materials, and data provided to the participant.
- B4. USPTO will provide telephone calling cards 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, telephone number, and category and will turn the phone logs in to their supervisor on a monthly basis. Participants will not be reimbursed for use of their own phone. If no phone calls are made using the agency's credit card, then no log needs to be turned in.
- B5. Any USPTO-owned equipment, including the telephone calling card, is for official use. Use of the equipment for private purposes is prohibited except as permitted by USPTO.
- B6. The participants will use PALM ExPo to charge cases out to the alternate work site location as specified in **Attachment 2**. In the event that PALM ExPo is not working, the participants will notify their supervisor by appropriate means of the applications they are removing to the alternate work site and when they are returned. No patent application or document shall remain at the alternate work site longer than ten (10) business days, unless prior supervisory approval is granted. Participants on scheduled leave longer than three workdays should return all patent applications and documents to the USPTO.

C. Rights and Responsibilities

- C1. Participation in the PTP will not change the conditions of employment established by past practices, law, rule, regulation or any previous agreements except as specified in these guidelines.
- C2. Employees participating in the PTP will have their performance evaluated under the criteria set out in the Performance Appraisal Plan.
- C3. All USPTO 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 within 5 business days from the end of an individual's participation.
- C4. Participants that are renters are responsible for ensuring that their lease allows the installation of all the necessary equipment and lines for the program.
- C5. The participant is responsible for ensuring compliance with all local laws or rules governing an office in their home.

- C6. Participants may work any full time schedule approved by the USPTO, subject to the requirements of this agreement.
- C7. When working at the alternate work site, the examiner must perform patent examining functions and related activities, as defined in the Gainsharing agreement. Non-examiners must work on tasks directly related to their job functions as defined in their performance appraisal plan when working at the alternate work site.

D. Evaluation

- D1. Prior to renegotiation of the agreement, the program will be evaluated to determine the continuing feasibility of the Telework program arrangements to ensure that the duties officially assigned are performed without diminished employee performance as required by Public Law and the Agency's ability to serve the public is not adversely affected.
- D2. During the evaluation period, the program will be evaluated on criteria including but not limited to:
- Cost effectiveness/organizational costs
 - Employee satisfaction
 - Customer service
 - Performance (individual and organizational)
- D3. Participants will participate in surveys and focus sessions. Participants will adjust their work schedule as necessary to participate in the PTP evaluation. Co-workers and supervisors may also be surveyed. If conducted, the USPTO and POPA agree to provide each other with studies, evaluations, agreements, surveys, questionnaires, etc. that they develop related to evaluation of the PTP reasonably in advance of the next semi-annual meeting or renegotiation of this agreement.
- D4. The parties agree to meet at least once each six months to discuss issues related to the program. In addition, either party may reopen this agreement every 2 years so long as notice is provided to the other party at least 30 days prior to the 2 year anniversary of the effective date of this agreement.

E. Additional Guidelines

- E1. 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. 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, including proposed actions. 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.
- E2. Abuse of the program guidelines may result in removal from the program.
 - E3. 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.
 - E4. If the alternative worksite is the participant's home, the participant must designate a room or location in their home for placement and use of the material for the PTP.
 - E5. Participants will complete a self-certification of the safety of their alternate work site. See **Attachment 3**.
 - E6. Primary examiners participating in the PTP will notify the junior examiners who they train of their schedule or will schedule appointments with junior examiners who they train.
 - E7. Generally, employees in the PTP will be given advance notice of at least two USPTO business days for all meetings, legal lectures, training, or other events that require their attendance at the USPTO.
 - E8. When the USPTO has an unusual need for a patent application or other document that is located at the alternate worksite, the employee with whom the patent application or other document is located may be directed to provide the patent application or other document or other requested information to the Office within one USPTO business day. 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 or be resolved through other means. If the day the application needs to be returned is 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.
 - E9. The USPTO will provide participants in the PTP standard office supplies for use at the alternate worksite.
 - E10. 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.

- E11. Participants will maintain reasonable care of all USPTO-owned material. The USPTO acts as the insurer for damage, theft or other loss (e.g. fire, flood, etc.) of the USPTO material.
- E12. 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).
- E13. Upon notification, the USPTO may investigate all accident and injury reports that occur at the alternate work sites.
- E14. The USPTO will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using USPTO material in the employee's residence or elsewhere, except to the extent the USPTO is held liable by the Federal Tort Claims Act claims or claims arising under the Military Personnel and Civilian Employees Claims Act.
- E15. All participants in the PTP program will indicate on their timesheets (690-E) which days were worked at the alternate worksite.
- E16. Participants may take approved leave and use approved compensatory time on a telework day.
- E17. Participants working at the alternate work site will be granted the same holidays as employees at the USPTO. Early or partial dismissals or delayed arrivals due to road conditions or conditions that affect part or all of the USPTO worksite normally do not affect the status of the employees working at an alternate work site. The employee will continue to work during these closures and will not normally be granted administrative leave. If these conditions limit the employee's ability to perform their duties, supervisors will consider requests for administrative leave.
- E18. Participants must identify their telework day in advance and obtain prior Supervisory approval of that day. Approval will be granted based on Office needs for coverage of work and needed employee interactions and training. If the participant teleworks on the same schedule each week, a single notification of that schedule to the supervisor is adequate. In order that participants not be disturbed during non-duty hours when at the alternate worksite, participants will notify their supervisor when their work-day commences, or prior thereto, of the hours to be worked.
- E19. Except for a participant's chain of command and those administering this program, the USPTO will ensure that a participant's address is not divulged to other USPTO personnel or members of the public without the participant's consent.

F. Miscellaneous

- F1. This agreement does not affect the dispute between the parties over the termination of the work at home pilot under the Millennium Agreement.
- F2. This program shall commence no later than 2 months of the effective date from this agreement. The effective date is the date of Agency Head approval or 31 days after signing of this agreement, whichever occurs first.

Michael Ball
Michael Ball
Chief Negotiator
U.S. Patent and Trademark Office

Date 1/29/2003

Pamela Schwartz
Pamela Schwartz
as Chief Negotiator
Patent Office Professional Association

Date 1/29/03

For the USPTO:

Esther M. Kepplinger
Esther M. Kepplinger
Deputy Commissioner for
Patent Operations

1/30/03
Date

For POPA:

Ronald J. Stern
Ronald J. Stern
President Patent Office Professional
Association

Jan 30, 2003
Date



Patents Telework Program Work Agreement

The following constitutes an agreement between the U. S. Patent & Trademark Office and

_____ *(print name)*
an employee participating in the following level of the Patents Telework Program :

The employee's official duty station is:
U.S. Patent & Trademark Office
Technology Center / Organization _____
Arlington, Virginia.

The alternate work site address is:

The phone number at the alternate work site is:
() _____

The alternate work site is described as follows

(designate room or area of room to be used for Patents Telework Program)

IN GENERAL

- 1) The employee has read and agrees to adhere to Patents Telework Program Agreement (attached hereto).
- 2) All pay, leave and travel entitlements will be based on the employee's official duty station.
- 3) The employee must follow established USPTO procedures when requesting and taking leave, compensatory time or credit hours.
- 4) The employee agrees to complete surveys and attend focus group meetings and interviews to help evaluate the Patents Telework Program.
- 5) The employee will permit other USPTO employees and contractors to access the alternate worksite during the hours from 9:00AM to 5:00PM, Monday-Friday (excluding holidays) upon two business days notice to the employee for the purpose of installing, repairing, maintaining, or removing work equipment, software, or other USPTO property or to investigate an accident or a workmen's compensation claim or to investigate other work related or safety problems arising from the administration of the Patents Telework Program. The parties may mutually agree to a time outside of these hours.
- 6) Participants agree to comply with USPTO instructions regarding the return or removal of program materials. Other than for patent applications or other documents needed by the USPTO on the next business day, participants will have at least 3 business

PTP Program PALM Expo Menu

To charge a case out to your home, follow the following steps:

- 1. Launch PALM Expo Resource Center (not the Client Manager)**
To do this push START, select SSO Programs, then select PALM Expo.
- 2. Select “Dispatch to Location”.**
- 3. In the “Dispatch PALM Location”, key in one of the following:**
 - TC 1600 key in 16F0**
 - TC 1700 key in 17F0**
 - TC 2100 key in 21F0**
 - TC 2600 key in 26F0**
 - TC 2800 key in 28F0**
 - TC 3600 key in 36F0**
 - TC 3700 key in 37F0**
 - Petitions key in 47F0**
- 4. Wand the application bar code.**

To return the case to the USPTO, do the following steps:

- 1. Launch PALM Expo Resource Center (not the Client Manager)**
To do this push START, select SSO Programs, then select PALM Expo.
- 2. Select “Receipt”.**
- 3. Wand the application bar code.**

Alternate Worksite Safety Guidance

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

Workplace Environment

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