

MEMORANDUM OF UNDERSTANDING
for the
PUBLIC TRANSPORTATION SUBSIDY PROGRAM
(Revised September 1, 2005)

This agreement is entered into by the United States Patent and Trademark Office (USPTO), the Patent Office Professional Association (POPA), the National Treasury Employees Union, Chapter 243, (NTEU, Chapter 243), and the National Treasury Employees Union, Chapter 245 (NTEU, Chapter 245) to address the Public Transportation Subsidy (PTS) Program.

- 1. Authority and Purpose.** This agreement is established pursuant to 5 U.S.C. § 7905 which provides for “programs to encourage commuting by means other than single-occupancy motor vehicles.”

- 2. Basic Benefit.** Starting with the first full quarter beginning after the signing of this agreement by all parties, the USPTO agrees to provide to any bargaining unit member who elects to participate and qualifies for the PTS Program payments limited to a maximum of \$105.00 per month, per employee. The amount cannot exceed the actual public transportation expenses of the eligible employee. Current payments are made via MetroChek, but the USPTO may choose to offer any other form of payment at its discretion. For the purposes of this agreement, MetroChek will cover any and all forms of payment. Use of this benefit is limited solely to the costs of commuting to and/or from work via public transportation systems, which are participating in the MetroChek Program or any successor or alternate program approved by the Agency.

- 3. Eligibility.** All members of each bargaining unit are eligible to participate in the PTS program, provided that the employee:
 - a.** Commutes or will commute to and/or from work on those systems participating in the MetroChek program;
 - b.** Does not use a monthly parking space at or near the workplace during regular working hours, except for vehicles used in the WMATA MetroChek program; and
 - c.** Does not have a parking permit for a currently assigned USPTO parking space during regular work hours, except for vehicles used in the WMATA MetroChek program. This does not include weekend/evening parking permits.

- 4. Misuse and Availability of Benefits.**
 - a.** The MetroChek transit passes are not transferable and are to be used only for the commute to and/or from work. Giving, selling, trading, or transferring the MetroChek transit pass to other individuals, or purchasing the same from another individual is prohibited, even if the other individual is eligible to receive the subsidy. Any portion of the subsidy unused at the end of the quarter should be returned to the PTS Coordinator in the Office of Finance. Misuse of the subsidy or failure to timely return unused subsidies may result in disciplinary action.

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

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

- The employee is reporting an address change or correction;
- The employee lacks access to a USPTO provided workstation; or
- The employee's workstation or the network is malfunctioning on the date the form is due, or on the last date the employee expects to be present in the office prior to that date.

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

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

- c.** Paper copies of PTS Application Form must be submitted to the Office of Finance when eligibility is based upon the applicants request to cancel a PTO assigned parking space at a future date.
- d.** Newly hired bargaining unit employees will be provided PTS program information and an application form during the new employee orientation process. In addition, a copy of this agreement and all forms used in the PTS program shall be maintained on the USPTO Intranet site in a folder entitled transit subsidy under the OHR web page.
- e.** Employees will be notified each quarter (during the three weeks before the PTS Application form is due) by announcements in all "What's News" or successor means. These messages will provide electronic access to the application form and include the availability and specific location of information concerning this program on the USPTO Intranet site.

- f. Any employee who wishes to discontinue his/her participation in the PTS program must notify the PTS Coordinator in writing, must return all unused MetroCheks, and must not complete another PTS application form until they wish to resume participation. At that point, the employee should fill out a PTS application form on or before the 1st day of the month preceding the month in which the employee wishes to begin receiving the subsidy again.

- g. Address corrections/changes may be made in the Office of Finance by filling out a new PTS application form and showing USPTO identification. Alternatively, address corrections/changes may be made via the USPTO's e-mail system by filling out a new PTS application form and E-mailing same to the Office of Finance from the employee's official agency mailbox (or equivalent).

7. Delivery of MetroCheks.

- a. The MetroChek transit passes will be mailed to each participant using the U.S. Postal Service, except as provided in Sections 6(b) and 7(d) of this agreement. When an employee is late in submitting the PTS application form, the employee will not receive the full transit subsidy for the current time period. The employee will receive the portion of the subsidy for those months for which the PTS Application form has been received by the 1st of the preceding month.

- b. Due to the negotiable nature of the MetroChek transit passes, lost subsidies will be replaced only in rare circumstances and under no circumstances will more than one lost subsidy be replaced per employee within a two-year period. In instances of lost subsidies, an employee must, in writing, provide the following information:
 - 1. Certify that the subsidy was not received at the most recent address provided by the employee;
 - 2. provide the employee's name, position and organization;
 - 3. state whether the employee is representing himself/herself, or is represented by a union representative;
 - 4. provide a specific account of the employee's belief as to why the subsidy was not received at the address provided by the employee; and
 - 5. list and certify all prior subsidies that were replaced for the employee during the last five (5) years.

c. Any claim of non-receipt of a subsidy must be submitted by the participant to the PTS Coordinator within 10 business days of the first day of the month in which the employee was to receive the subsidy. Any claim not submitted within this period will not be considered. A meeting, during which the employee may be represented by a union representative, may be requested by either party within 5 business days of filing the claim. This meeting shall be scheduled by mutual agreement for a time between 9:30 a.m. and 3:00 p.m. during the next 6 business days. A written decision will be rendered 10 business days following the filing of the claim or 5 business days after the meeting, whichever is later. This decision will be considered the equivalent of a USPTO decision at the first or informal stage of the grievance procedure. The union and/or grievant may decide to continue with the grievance process if unsatisfied with the results. Only the union may appeal the final Agency decision to arbitration.

d. In those instances where lost subsidies are replaced, the employee will be required to pick up, in person, the replacement subsidies from the PTS Coordinator. As determined by the PTS Coordinator, the employee may be required to pick up future subsidies for the following two years, in person, in the Office of Finance. The employee will be required to produce a USPTO identification card to receive the replacement subsidies and future subsidies.

8. Grievances Concerning the PTS Program. Any participant who is aggrieved over any aspect of the PTS Program other than the non-receipt of the MetroChek transit passes may appeal in writing to the PTS Coordinator within 15 business days after the matter or the date the employee becomes (or should have become) aware of the occurrence. The appeal must contain the following information:

1. the employee's name, position, and organization;
2. an indication of whether the employee is representing himself/herself or is represented by the Union;
3. a specific account of the incident giving rise to the grievance;
4. specific reference to the provisions of this agreement in dispute;
5. an explanation of how the provisions of the program have been violated; and
6. a detailed statement of the specific remedy sought.

Any claim not submitted within this period will not be considered. A meeting, during which the employee may be represented by a union representative, may be requested by either party within 5 business days of filing the claim. This meeting shall be scheduled by mutual agreement for a time between 9:30 a.m. and 3:00 p.m. during the next 6 business days. A written decision will be rendered within 10 business days following the filing of the claim or 5 business days after the meeting, whichever is later. This decision will be considered the equivalent of a USPTO decision at the first or informal stage of the grievance procedure.


- 9. Changes to the PTS Program Budget.** If management determines it to be necessary to reduce or terminate funding for the PTS Program, members of the bargaining units will not receive a greater reduction in their individual maximum subsidies than any other person in the USPTO. When the program funding is reduced or terminated, it will be reinstated when such action is no longer necessary.
- 10. Meaning of Dates Provided in this Agreement.** Deadlines established in this agreement are automatically extended to the next business day when they fall on a Saturday, Sunday, or Federal holiday.
- 11. Reinstatement of Parking:** Employees who forfeit a parking space controlled by the USPTO to participate in this program shall be eligible for reinstatement of their parking permit on a priority basis when:
- a. They end participation in the PTS program on or before December 31, 2002, and notify the PTS coordinator and the Office of Administrative Services by that date;
 - b. New participants decide to terminate their participation before the end of the first full quarter they have participated in the program; or
 - c. They suffer a ten percent or greater reduction in benefits resulting from funding cutbacks to the PTS program.

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

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


Signatures

For the USPTO

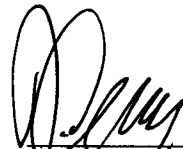

Michelle I. Picard
Director, Office of Finance

9/1/05
Date

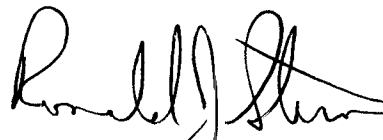
For the Unions


Sharon West
Vice President, NTEU 243

9/1/05
Date


Howard D. Friedman
President, NTEU, 245

9/1/05
Date


Ronald J. Stern
President, POPA

9-1-05
Date