

Management's
POPA Term Contract Proposals
March 3, 2005

TABLE OF CONTENTS

0	PREFACE	7
1	PARTIES, RECOGNITION, AND REPRESENTATION	8
	Section 1: Parties to the Agreement	8
	Section 2: Unit of Recognition	8
	Section 3: Representation	8
	Section 4: Coverage of Agreement	8
2	PRECEDENCE OF LAW, REGULATION AND OTHER MATERIAL	9
	Section 1: Relationship to Law and Regulations	9
3	DEFINITIONS	10
4	MANAGEMENT RIGHTS	11
	Section 1: Reserved Rights	11
	Section 2: Refusal to Bargain Permissive Topics to Impasse	11
	Section 3: Reassigning Employees	11
	Section 4: Pilot Programs	11
5	MANAGEMENT OBLIGATIONS	12
	Section 1: Notification of Formal Meetings	12
	Section 2: Notification of Rights to Representation in Investigatory Meetings	12
6	EMPLOYEE RIGHTS	13
	Section 1: Right to Representation during Investigatory Meetings	13
	Section 2: Right to Form, Join, or Assist Labor Organizations	13
7	EMPLOYEE OBLIGATIONS	14
	Section 1: Knowledge of Law and Policy	14
	Section 2: Claiming Non-Production Time	14
	Section 3: Emergency Contact Information	14
	Section 4: Employee Appearance	14
	Section 5: Professional Behavior	14
	Section 6: Telephone Calls	14
	Section 7: Extended Absence Message	14
	Section 8: Mandatory Use of E-mail	14
	Section 9: Use of Government Equipment	14
	Section 10: Accuracy of Reporting	14
	Section 11: No Children in Workplace	15
	Section 12: Automated Reports and Information:	15
8	UNION RIGHTS AND OBLIGATIONS	16
	Section 1: Right to Represent Employees	16
	Section 2: Right to Bargain	16
	Section 3: Maintenance of Relationship and Management Bypass	16
	Section 4: Advance Notice before Filing a Unfair Labor Practice	16
9	UNION REPRESENTATIVES AND OFFICIAL TIME	17
	Section 1: Recognition of Representatives	17
	Section 2: Number of Stewards and Officers	17
	Section 3: Use of Official Time (General)	17
	Section 4: Activities for Which Nonbank Time May Be Used	17
	Section 5: Bank Time Activities	18
	Section 6: Amount of Bank Time	18
	Section 7: Employee Use of Official Time	18
	Section 8: Performance of Job Related Activity	18

Section 9: Requesting Official Time and Release Procedure.....	18
Section 10: Restriction on Use of Official Time.....	19
10 USE OF OFFICIAL FACILITIES AND EQUIPMENT	20
Section 1: Union Office Space.....	20
Section 2: Telephones.....	20
Section 3 - Equipment.....	20
Section 4: Interoffice Mail System.....	20
Section 5: E-Mail.....	20
11 DUES WITHHOLDING	21
Section 1: Eligibility.....	21
Section 2: Union Responsibilities.....	21
Section 3: Management Responsibilities.....	21
Section 4: Procedures for Withholding.....	21
Section 5: Changes in Dues Amount.....	21
Section 6: Revocation.....	21
12 GRIEVANCE PROCEDURE.....	22
Section 1- Definitions.....	22
Section 2- General Provisions.....	23
Section 3- Grievance Procedure.....	24
Section 4- Association Grievance Procedure.....	26
Section 5- Agency Grievance Procedure.....	26
Section 6- Arbitration.....	27
13 ARBITRATION PROCEDURE.....	28
Section 1- General.....	28
Section 2- Invocation.....	28
Section 3- Selection.....	28
Section 4- Scheduling.....	29
Section 5- Arbitration Procedures.....	30
14 MID-TERM BARGAINING; GROUND RULES	32
Section 1: General.....	32
Section 2: Substantive Bargaining.....	32
Section 3: Bargaining Pursuant to 5 U.S.C. § 7106 (b)(2) and § 7106 (b)(3).....	32
Section 4: Rules Applicable to All Bargaining.....	32
15 LABOR MANAGEMENT COMMITTEES	35
Section 1: Security, Health, and Safety Committee.....	35
16 COMPETITIVE SOURCING	36
17 RECEIPT OF PAY/LEAVE AND EARNINGS STATEMENTS	37
Section 1: Report Nonreceipt of Pay and Other Issues.....	37
Section 2: Investigation and Response.....	37
18 PERFORMANCE MANAGEMENT	38
Section 1: Performance Appraisals.....	38
Section 2: Performance-Based Actions.....	39
19 PERFORMANCE AWARDS	40
Section 1: Requirement for Fully Successful Performance.....	40
Section 2: Quality Step Increases.....	40
Section 3: Employees on Production (except as set out below).....	41
Section 4: Patent Examiner Superior Quality Performance Award.....	43
Section 5: Patent Examiner Award for Assisting SPE in Training New Examiners.....	45
Section 6: Hybrid Classifier Awards.....	46
Section 6: Awards for Employees other than Patent Examiners and Hybrids.....	47

Section 7: Miscellaneous Provisions	48
Section 8: Duration and Termination	48
20 MERIT STAFFING	49
Section 1: Filling Positions in the Bargaining Unit.....	49
Section 2: Application and Evaluation Process.....	49
Section 3: Evaluation of Qualified Candidates.....	49
Section 4: Selection Certificates.....	49
Section 5: Release Dates	50
21 NONCOMPETITIVE PROMOTIONS	51
Section 1: Career Ladder Promotions.....	51
22 SIGNATORY AUTHORITY PROGRAM	53
Section 1: Establishment of Programs.....	53
Section 2: Participation.....	53
Section 3: Procedures for Review	53
Section 4: Minimum Work Requirements.....	53
Section 5: Modification of Part-Time Schedules	54
23 CAREER DEVELOPMENT AND WORK DETAILS	55
Section 1: Career Development Details	55
Section 2: Announcement and Rosters.....	55
Section 3: Selection for Career Development Details	55
Section 4: Early Termination of Detail	55
Section 5: Right to Detail Employees Without Application Process	56
Section 6: Work Schedules for Employees on Detail.....	56
Section 7: Work Details.....	56
24 ACCESS TO PERSONNEL RECORDS	57
25 AUTOMATION	58
Section 1: Introduction of New Technology	58
Section 2: General	58
26 PHYSICAL FACILITIES AND SERVICES	59
Section 1: Work Space and Selection.....	59
Section 2: Physical Facilities.....	59
Section 3: Moves.....	59
Section 4: Appearance and Maintenance	60
Section 5: Parking	60
Section 6: Other.....	61
27 PROFESSIONAL TRAINING AND DEVELOPMENT	62
Section 1: Training and Testing for Promotion	62
Section 2: Employee Requests for Training	62
Section 3: Training Opportunities	62
Section 4: Repeat Training.....	62
Section 5: Reimbursement for Training.....	62
Section 6: Technical Training Program.....	62
Section 7: Legal Studies Program	64
28 WORK SCHEDULES	66
Section 1: Work Schedule Options.....	66
Section 2: Mid-Day Flex	67
Section 3: Election of Work Schedule.....	67
Section 4: Withdrawal from Work Schedule.....	68
Section 5: Probationary Employee Work Schedule	68
Section 6: Work Schedules for Transferring Employees	68

Section 7: Removal from Work Schedules II or III.....	68
Section 8: Work Schedules While on Travel.....	68
Section 9: General Leave/Holiday/Administrative Leave.....	69
Section 10: Hours of Operation and Core Hours.....	69
Section 11: Time and Attendance.....	69
Section 12: Part-Time Program.....	69
29 ANNUAL LEAVE.....	72
Section 1: Requesting Annual Leave.....	72
Section 2: Conflicting Requests for Annual Leave.....	72
Section 3: Cancellation of Annual Leave.....	73
Section 4: Forfeiture of Annual Leave.....	73
Section 5: Denial of Requests for Annual Leave.....	73
Section 6: Substituting Sick Leave for Annual Leave.....	73
Section 7: Advanced Annual Leave.....	73
30 SICK LEAVE.....	74
Section 1: General.....	74
Section 2: Requesting Sick Leave.....	74
Section 3: Leave Restriction.....	75
Section 4: Advanced Sick Leave.....	75
Section 5: Substituting Annual Leave for Sick Leave.....	75
31 LEAVE WITHOUT PAY.....	76
Section 1: Requesting Leave Without Pay.....	76
Section 2: Requests for Leave Without Pay for 30 Days or More.....	76
32 OVERTIME.....	77
Section 1: Overtime in General.....	77
Section 2: Limits on Overtime Hours.....	77
Section 3: Availability of Overtime.....	77
Section 4: When Overtime May be Worked.....	77
Section 5: Requirement for a Break.....	77
Section 6: Performance.....	77
Section 7: Conduct.....	77
Section 8: Probationary Employees.....	77
Section 9: FLSA Requirements.....	78
Section 10: Mandatory Overtime.....	78
33 COMPENSATORY TIME.....	79
Section 1: Compensatory Time.....	79
Section 2: Use of Compensatory Time.....	80
Section 3: Maternity/Paternity Compensatory Time.....	80
Section 4: Religious Compensatory Time.....	80
34 MATERNITY/PATERNITY LEAVE.....	82
Section 1: USPTO Policy.....	82
Section 2: Sick Leave used for Maternity/Paternity Purposes.....	82
Section 3: Family and Medical Leave Act (FMLA).....	82
Section 4: Leave for Adoption Purposes.....	82
Section 5: Notice to Supervisor.....	82
35 ADMINISTRATIVE LEAVE.....	83
Section 1: Voting.....	83
Section 2: Jury Duty.....	83
Section 3: Donations of Blood.....	83
36 CREDIT HOURS.....	84

37	REDUCTION IN FORCE (RIF)	85
	Section 1: Union Notification.....	85
	Section 2: Meeting with Employees.....	85
	Section 3: Provisions Applying to Employees Included in the Competitive Level.....	85
38	REORGANIZATIONS	86
	Section 1: Union Notification.....	86
	Section 2: Consultation with Union	86
39	PATENTS HOTELING	87
	Section 1: General Provisions	87
	Section 2: Remote Access to USPTO IT Systems	88
40	DURATION OF AGREEMENT	90
	Section 1: Duration.....	90
	Section 2: Roll-Over Provision	90
	Section 3: Amendment of Agreement	90
	Section 4: Limited Reopening Provision.....	90
	Section 5: Procedures for Renegotiation of the Basic Agreement	90
41	DISTRIBUTION OF AGREEMENT	91
	Section 1: Period for Clerical Review	91
	Section 2: Electronic Availability	91
42	SUPPLEMENTAL AND OTHER AGREEMENTS	92
	Section 1: Status of Existing Agreements	92
	Section 2: Status of Agreements Reached During Midterm Bargaining	92
43	APPENDICES	93

PREFACE

The Purpose of this agreement is to bring certainty and stability to the relationship between the Agency and its employees represented by the Patent Office Professional Association (POPA) as well as the relationship between the Agency and POPA.

This agreement, including its supplements and attachments, constitutes the complete understanding of the parties.

ARTICLE 1

PARTIES, RECOGNITION, AND REPRESENTATION

Section 1: Parties to the Agreement

The parties to this Agreement are the U.S. Patent and Trademark Office (hereinafter "Agency", "PTO", or "USPTO") and the Patent Office Professional Association, (hereinafter "Union", "Association", or "POPA").

Section 2: Unit of Recognition

The unit of recognition covered by this Agreement is:

Included: All professional employees at PTO other than Trademark professionals.

Excluded: Management officials, employees engaged in Federal personnel work in other than a purely clerical capacity, confidential employees, Trademark professionals, non-professionals and supervisors.

Section 3: Representation

The Agency recognizes the Union as the exclusive representative of all employees in the bargaining unit as defined above. The Union recognizes that it is responsible for representing the interests of all such bargaining unit employees, with respect to grievances, bargaining and working with management regarding personnel policies, practices, or matters affecting their general working conditions without discrimination and without regard to Union membership and in accordance with applicable laws, rules, and regulations.

Section 4: Coverage of Agreement

This Agreement covers only those positions included in the bargaining unit. Where the term "employee" or "employees" is used, it is understood that it includes only bargaining unit employees unless otherwise expressly stated.

ARTICLE 2

PRECEDENCE OF LAW, REGULATION AND OTHER MATERIAL

Section 1: Relationship to Law and Regulations

In the administration of all matters covered by this Agreement, the Agency, the Union and bargaining unit employees are governed by existing and future laws; existing government-wide regulations; and, to the extent consistent with law, existing and future regulations of the Department of Commerce and the Agency.

ARTICLE 3

DEFINITIONS

When used in this agreement:

- a. **Days** shall refer to calendar days, with one being the first day following the triggering event (for example, delivery of a notice). If the last day to take an action falls on a Saturday, Sunday, or Federal holiday, the time shall be extended until the next business day as defined in paragraph b below.
- b. **Business Day** shall refer to each Monday through Friday except Federal holidays. Business hours shall run from 8:30 A.M. to 5:00 P.M.
- c. **Employee** shall refer to members of the bargaining unit unless specifically noted in the text.
- d. **Fully Successful Performance** for continued eligibility for overtime and other programs (excluding the signatory authority program, law school program and technical training program) for patent examiners shall mean: (1) performance during last full quarter was at least fully successful; and (2) during quarters 2-4, year to date achievement (at the end of each biweek) is at least fully successful. For other bargaining unit members, supervisors will determine when the employee's performance has fallen below the fully successful level.
- e. **Reassignment** is the change of an employee, while serving continuously within the same agency, from one position to another without promotion or demotion.
- f. **Realignment** is the movement of an employee and his/her position when (1) a transfer of function or other organization change occurs, and (2) the employee stays in the same agency, and (3) there is no change in the employee's position, grade, or pay.
- g. **Duty hours** shall refer to the hours that an employee is present at the worksite or at an alternative worksite (e.g. working at home or on travel) in a paid status.
- h. **Seniority** shall be determined by grade, degree of signatory authority (if applicable), and then service computation date for leave. Ties in seniority shall be broken on a case by case basis through random means such as a coin flip or drawing for highest card.
- i. **Official Time** is time used by union officials or grievants in accordance with Article 9 of this agreement in which the employee would otherwise be in a duty status and performing the work of the Agency. Time used must be reasonable. This time is broken into "bank time", which is drawn against a set amount, and nonbank time, which is unlimited.
- j. **Non-production time** refers to time allowed by management to patent examiners and certain other employees for which the employee need not account for production.

ARTICLE 4

MANAGEMENT RIGHTS

Section 1: Reserved Rights

Subject to the provisions of 5 U.S.C. 7106 (b)(2) and (b)(3), nothing in this Agreement shall affect the authority of any Management official--

- A. to determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and
- B. in accordance with applicable laws--
 - (1) to hire, assign, direct, layoff, and retain employees in the Agency or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - (2) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;
 - (3) with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or any other appropriate source; and
 - (4) to take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section 2: Refusal to Bargain Permissive Topics to Impasse

The Agency elects not to bargain to impasse on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

Section 3: Reassigning Employees

When management determines it is appropriate to reassign employees, management will consider employees' qualifications, and current duties before making the reassignment.

Section 4: Pilot Programs

The Office may establish pilot programs involving up to 20% of the bargaining unit to test concepts and initiatives for improving the efficiency and effectiveness of the Agency. Such pilots may last for up to two years. Management will consult with POPA before and during any such pilot to allow the union to make suggestions for reducing potential impact on employees and to help evaluate the pilot program.

ARTICLE 5

MANAGEMENT OBLIGATIONS

Section 1: Notification of Formal Meetings

Generally, the Agency will provide a minimum of four hours notice to the Union of any formal meeting with bargaining unit members. The Union shall be allowed to send one representative. The representative must introduce him or herself to the management representative conducting the meeting (or the labor relations specialist if one is present), prior to the beginning of the meeting. The Union representative may participate in the meetings by asking questions as appropriate, but may not hinder the progress of the meeting. Union representatives must conduct themselves in a courteous, professional manner.

Section 2: Notification of Rights to Representation in Investigatory Meetings

Annually the Agency will notify bargaining unit members of their right to representation at meetings during an investigation of alleged misconduct when the employee has a reasonable belief that participating in the meeting will result in a disciplinary or adverse action against the employee being directed to participate in the meeting. The notice will be posted electronically. See Article 6, section 1, below.

ARTICLE 6

EMPLOYEE RIGHTS

Section 1: Right to Representation during Investigatory Meetings

- A. When the Agency directs an employee to participate in an investigatory meeting and the employee has a reasonable belief that participation in the meeting will lead to disciplinary action against the employee, the employee may request that a union representative attend the meeting.
- B. This section does not apply to investigatory meetings based solely on the performance of the employee.

Section 2: Right to Form, Join, or Assist Labor Organizations

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal.

ARTICLE 7

EMPLOYEE OBLIGATIONS

Section 1: Knowledge of Law and Policy

Employees must know and comply with all laws, regulations, and policies that relate to their employment and conduct. The fact that the Agency may not call a particular law, regulation, or policy to an employee's attention will not excuse any violation thereof by the employee.

Section 2: Claiming Non-Production Time

A supervisor must approve all claims for non-production time in advance of the time being used.

Section 3: Emergency Contact Information

Employees must provide emergency contact information, a current mailing address, and a home telephone number to their immediate supervisor.

Section 4: Employee Appearance

Employees must maintain a neat and clean appearance for a professional business environment during the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday.

Section 5: Professional Behavior

Employees must conduct themselves with courtesy, proper decorum, and with due respect for the rights of others.

Section 6: Telephone Calls

Employees must return business-related telephone messages within one business day.

Section 7: Extended Absence Message

Employees must create an extended absence outgoing message on their voicemail to notify callers of absences from the workplace.

Section 8: Mandatory Use of E-mail

Employees must use the electronic mail (e-mail) system for the purpose of both receiving work related messages and information and for responding to work related inquiries made by electronic mail. Electronic messages must be viewed at least once every day that the employee works. Employees must also recognize the Agency's use of electronic mail for dissemination and issuance of Agency policies and procedures. When an employee expects to be out of the office on a business day, the employee must use the "out-of-office" assistant to indicate the expected schedule.

Section 9: Use of Government Equipment

Employees must comply with Agency policy concerning the use of Government owned equipment such as computers, telephones, fax machines, and copiers, etc.

Section 10: Accuracy of Reporting

Employees must record accurate information on all Agency and business records. Falsification of any Agency records may be the basis for disciplinary and/or adverse action.

Section 11: No Children in Workplace

Children are not allowed in the workplace without prior supervisory approval, other than for occasional brief visits not to exceed 30 minutes and under the supervision of a parent.

Section 12: Automated Reports and Information:

Employees may be required to use automated systems to access information such as docket and production reports and to use automated systems for reporting time and attendance.

ARTICLE 8

UNION RIGHTS AND OBLIGATIONS

Section 1: Right to Represent Employees

In accordance with 5 U.S.C. 7114, and other provisions of this agreement, the Union shall be afforded the opportunity to be represented at –

- (a) any formal discussion between one or more representatives of the Agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or
- (b) any examination of an employee in the unit by a representative of the Agency in connection with an investigation if – (i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and (ii) the employee requests representation.

Section 2: Right to Bargain

The Union shall have the right to bargain concerning any changes in the conditions of employment of unit members to the extent required by law. Such bargaining shall be conducted in accordance with Article 14 governing bargaining during the term of this Agreement.

Section 3: Maintenance of Relationship and Management Bypass

The parties recognize that a professional, businesslike, and contractual relationship between the Union and the Agency is essential for effective labor management relations. Union representatives shall observe the chain of command in carrying out their representational responsibilities except as otherwise agreed by the parties. Management may enforce this provision under the procedures of Article 12, Negotiated Grievance Procedure.

Section 4: Advance Notice before Filing a Unfair Labor Practice

The Union and Management agree to give advance notice of no less than 10 days, of the intent to file an unfair labor practice (ULP) charge with the Federal Labor Relations Authority (FLRA) so as to allow an opportunity for an informal disposition of the matter.

ARTICLE 9

UNION REPRESENTATIVES AND OFFICIAL TIME

Section 1: Recognition of Representatives

The USPTO agrees to recognize representatives designated by the Union in writing. At the beginning of each fiscal year (by October 5), the Union must submit a list of all representatives to the Chief of Labor Relations. The Union may make changes to the list of recognized representatives, but any changes will not be effective until the Agency has been notified. The notice must include the name, phone number and supervisor for each representative.

Section 2: Number of Stewards and Officers

The Agency agrees to recognize one steward for every 200 employees in Patents as measured at the beginning of the last biweek of the fiscal year for use during the next fiscal year, and one steward each from the Office of the Chief Information Officer and from the Office of the Chief Finance Officer. In addition, the Agency will recognize three officers of the Union. The Agency will notify the Union of the number of employees in Patents by September 30 of each year.

Section 3: Use of Official Time (General)

In accordance with the provisions of this agreement, union stewards and officials may charge appropriate and reasonable official time to time codes provided by management. Such time codes will be divided between codes that are “nonbank” and “bank” and may be altered as determined by management.

Section 4: Activities for Which Nonbank Time May Be Used

Nonbank time may be claimed for each of the following activities:

- a. Negotiating with management (excluding preparation time) on topics over which management has a duty to bargain, including participation in proceedings before the Federal Mediation and Conciliation Service and the Federal Service Impasses Panel.
- b. Participation in any activity before the Federal Labor Relations Authority, including Negotiability Appeals, ULP investigations, etc.
- c. Attending meetings initiated by management.
- d. Any other activity as approved by management on a case-by-case basis, or as provided by law. Such management determinations are nonprecedential and may not be appealed.

The time that may be claimed includes the actual time taken for the activity and a reasonable amount of time to travel to the location of the activity. Only one steward may use nonbank time for any activity listed above unless otherwise set forth in this agreement, provided by law, or as agreed to by management on a case-by-case, nonprecedential basis. For bargaining sessions, including those before the Federal Mediation and Conciliation Service and the Federal Service Impasses Panel, the Union may have as many representatives as management will have at the table.

Section 5: Bank Time Activities

The union may use bank time to:

- a. Prepare and present grievances
- b. Participate in arbitration hearings
- c. Prepare for negotiations, including proceedings before the Federal Mediation and Conciliation Service and the Federal Service Impasses Panel
- d. Prepare for any activity before the Federal Labor Relations Authority
- e. Participate in union initiated meetings with management.
- f. Represent the Union in formal discussions between management and bargaining unit members.
- g. Participate as a representative of employees in investigatory interviews where the employees are entitled to, and request, such representation.
- h. Prepare oral and written replies to proposed disciplinary or adverse actions on behalf of employees, whether based on performance or conduct.
- i. Prepare for meetings with management.
- j. Prepare responses to management correspondence.
- k. Any other activity approved by management on a nonprecedential, case-by-case basis.

Such time includes reasonable travel time to engage in the activity.

Section 6: Amount of Bank Time

The Union will be given a bank of 6,000 hours per fiscal year to conduct the activities listed in section 5 above. Unused time may not be carried over to the next fiscal year.

Section 7: Employee Use of Official Time

Employees may claim official time for grievance presentations and for arbitration. In addition, employees may claim an additional amount of time for preparation as follows:

- a. 1 hour for the initial grievance filing
- b. 1 hour for the second step grievance filing
- c. 2 hours for preparation for arbitration

Section 8: Performance of Job Related Activity

Each steward must spend a minimum of 70% of his or her duty hours in a job-related activity (i.e. not on official time). Officers must spend at least 50% of their duty hours in such activities.

Section 9: Requesting Official Time and Release Procedure

Union representatives will secure approval of their immediate supervisors or designee before performing activities on official time. Representatives must request the use of official time by submitting a written request (on a management-approved form) to their immediate supervisor or designee. The form will include the general nature of the activity for which official time is requested, the anticipated amount of time of the activity, the name of at least one manager participating in the activity, or of the employee(s) participating in the activity, if applicable, and the location of the activity. If the activity takes longer than originally anticipated, the union representative and the employee(s) must contact their respective supervisors for approval to extend the time.

Official time requests will generally be approved, unless work circumstances do not warrant such approval. In the event that a request is disapproved, the employee will be given an alternate time for the activity. Union representatives and employees must notify their supervisors when they return to the work area.

Section 10: Restriction on Use of Official Time

Official time may not be used for internal union business. This includes but is not limited to:

- a. Matters pertaining to internal management of the Union;
- b. Soliciting membership;
- c. Collecting dues or assessments;
- d. Campaigning for Union office;
- e. Conducting elections for union office; and
- f. Preparing, distributing or posting union literature and notices.

ARTICLE 10

USE OF OFFICIAL FACILITIES AND EQUIPMENT

Section 1: Union Office Space

The Agency agrees to furnish office space of approximately 450 square feet to the Union to carry out its representational responsibilities. The Union agrees that the space and equipment (as provided for in this article) will not be used for any purpose other than representational activity under Federal labor law and this agreement. The Union further agrees that the Office of Administrative Services and the Office of the Chief Information Officer will have access to this area for cleaning, safety, and security purposes.

Section 2: Telephones

- A. The Agency will make telephones available to the Union for handling representational duties and conducting labor-management relations activities. The Union will use these phones in a reasonable, prudent, and cost-conscious manner and only for purposes consistent with this agreement. The Union will reimburse the Agency for any call for which there is a charge by the service provider.
- B. The Union will not install a modem or any other electronic device on any Agency equipment without the specific advance written approval of the Agency's Human Resources Director and the Office of the Chief Information Officer.

Section 3 - Equipment

- A. The Union will comply with all Agency computer security policies, software licensing agreements and Agency policies governing employee computer use.
- B. The Union agrees to exercise prudence and responsibility in the use of Agency equipment.

Section 4: Interoffice Mail System

The Union and its representatives may use the interoffice mail system for regular representation communications (e.g., grievances correspondence or memos to Management).

Section 5: E-Mail

- A. Employees serving as union officials, while conducting representational activities, are only permitted use of the Agency's e-mail for representational purposes authorized by applicable law and regulation and by this agreement.
- B. The Union is not permitted to use the e-mail to make general announcements or to send E-mail with over 40 USPTO addressees.
- C. Under this agreement, email shall not be used for the conduct of internal Union business, including, but not limited to the solicitation of membership; the collection of dues; or the election of Union officials.

ARTICLE 11

DUES WITHHOLDING

Section 1: Eligibility

Any bargaining unit employee may have dues deducted through payroll deductions. Such deductions will be discontinued when the employee leaves the unit of recognition, ceases to be a member in good standing of the Union, or submits a timely revocation form under the procedures of this article.

Section 2: Union Responsibilities

- A. The Union agrees to inform management, in writing, of the following:
1. The dues amount(s) or changes in the dues amounts,
 2. The names of the Union officials responsible for certifying each employee's authorization form, the amount of dues to be withheld, and
 3. The name and address of the payee to whom the remittance should be made.
- B. The Union agrees to promptly forward completed and certified dues withholding form(s) to the appropriate administrative office, as designated by management.

Section 3: Management Responsibilities

It is the responsibility of management to:

- A. Process voluntary allotments of dues in accordance with this article and in amounts certified by the Union;
- B. Withhold employee dues on a bi-weekly basis; and
- C. Transmit remittance to the official designated by the Union in accordance with this article, as expeditiously as possible at the end of each pay period.

Section 4: Procedures for Withholding

Bargaining unit members wishing to have their dues withheld by payroll deduction will submit their completed and certified SF 1187s to the Agency's Human Resources Office, Labor Relations Division. If the employee already has the maximum number of allotments that can be processed, the employee will inform the Agency of which allotment to cancel in order to process the allotment for dues withholding. In the event a question exists concerning whether an employee is in the unit of recognition and eligible for payroll deduction of Union dues, the employee's dues will not be withheld until the issue is resolved.

Section 5: Changes in Dues Amount

When there is a change in dues structure, the Union will send a memorandum to the Agency's Human Resources Director, noting the amount of the change. The memorandum must be signed by one of the Union officials designated to certify dues withholding forms. Such changes shall be limited to once per year. A copy of this memorandum must also be delivered to the Chief of Labor Relations Division and the Director of the Office of Finance.

Section 6: Revocation

Employees may revoke their dues withholding once they have paid dues for a one year period by submitting the appropriate form to the Chief of the Labor Relations Division.

ARTICLE 12

GRIEVANCE PROCEDURE

Section 1- Definitions

- A. “Grievance” means any complaint (other than those listed in paragraph B below)-
1. By an employee against the Agency concerning any matter relating to the employment of that employee;
 2. By the Association against the Agency concerning any matter relating to the employment of an employee or employees;
 3. By an employee or the Association against the Agency concerning the effect or interpretation of any agreement between the parties or law, rule or regulation affecting conditions of employment.
 4. By the Agency against the union.
- B. “Grievance” does not include complaints related to-
1. Any matter excluded by 5 U.S.C. § 7121(c) or any other law;
 2. Any alleged unfair labor practice under 5 U.S.C. Chapter 71;
 3. Termination of probationary employees;
 4. Filling of supervisory positions or other positions outside the bargaining unit;
 5. Any matter which the employee could assert in procedures established under 29 CFR Part 1614 (EEO matters);
 6. Any matter over which the Merit Systems Protection Board has jurisdiction;
 7. Nonselection for promotion from a group of properly ranked and certified candidates;
 8. Warnings or counseling, whether verbal or written;
 9. Written proposed notices of actions which, if effected, would be covered by this procedure or any statutory appeals procedure;
 10. Denials of Signatory Authority
- C. “Association Grievance” means any complaint by the Association concerning the effect or interpretation, or a claim of a breach of the provisions of any agreement relating to the rights and benefits that accrue to the Association as the exclusive representative of bargaining unit employees. Grievances on behalf of employees, or that relate to the employment of employees, or that concern any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment of employees are not Association Grievances within the meaning of this agreement.
- D. “Agency Grievance” means any claim by the Agency against the Association concerning any claimed violation of rule, regulation, law or agreement.

Section 2- General Provisions

A. This procedure will be the only procedure available to bargaining unit employees for the processing and disposition of grievances as defined above.

B. The parties agree that the expeditious processing of grievances is beneficial to the Agency and the employees of the bargaining unit. Thus, the parties agree to limit the extensions requested and granted. The parties may, by mutual agreement only, extend any time frame contained within this procedure, provided that not more than one 14-day extension may be granted to each side during the processing of any grievance. The refusal to agree to an extension of the time frames set forth in this agreement will not form the basis of any grievance under this agreement. All requests for extensions must be made in writing and state the reasons for the request for the extension.

C. In accordance with 5 U.S.C. § 7121(b), employees may present grievances on their own behalf. The Association has the right to be present at any meetings that are held during the processing of a grievance presented by an employee on his or her own behalf.

D. When two (2) or more employees file individual grievances involving the same facts, events and issues arising out of the same incident, the grievances may be consolidated and processed through the grievance and arbitration procedure together by mutual agreement of the Association and the Agency on a case-by-base basis.

E. Failure of the grievant or the Association to observe the time limits contained in this procedure, where no extension has been granted, will result in the termination of the grievance.

F. In the event that the Agency fails to abide by the time limits contained in this procedure where no extension has been granted, the grievant, or the Association where the Association has filed the grievance or is representing the grievant, is entitled to elevate the grievance to the next level. If the grievance is not elevated to the next step by fourteen (14) days from the deadline by which the Agency should have issued the relevant decision, then the grievance is terminated.

G. Each party will ensure that its representatives do not submit frivolous grievances or use the grievance procedure as a harassment tactic against the other party.

H. Any meetings held pursuant to this agreement will be held during business hours at a location of the Agency's choosing.

I. In the event that the defending party asserts that the grievance is procedurally defective or that the grievance is not arbitrable, that matter will be processed through the grievance procedure, including arbitration, prior to the further processing, or the resolution, of the merits of the underlying grievance. The underlying grievance will be held in abeyance until the issue of the procedural defectiveness is resolved.

J. Issues not raised by the party filing the grievance during the grievance procedure may not be raised at arbitration except by written agreement of the parties.

K. It is understood that an employee processing a grievance under this agreement shall be limited to Association representation or self-representation.

Section 3- Grievance Procedure

A. STEP ONE

1. All grievances must be filed in writing with the Agency's Chief, Labor Relations Division, and with a copy presented to the employee's immediate supervisor.

2. All grievances must be filed on a form developed by the Office of Human Resources. The Agency will make the form available for employees and the Association. The failure of the employee or the Association to file a grievance using the official grievance form described in this Paragraph will result in the dismissal of the grievance. The failure of an employee or the Association to use the proper form will not result in the tolling of any time limits contained in this agreement.

3. A grievance must include all of the following information:

- A. The name or names of the employee or employees involved, if there are multiple employees involved, the grievance must include information as to how the employees are similarly situated;
- B. An account of the incident giving rise to the grievance;
- C. A reference to the appropriate contractual provision, law, rule or regulation alleged to have been violated;
- D. A statement of the remedy sought.
- E. If an employee is filing a grievance on his own behalf, the grievance must include the name of the Association representative, if any.
- F. If the Association files a grievance on behalf of an employee or employees, the grievance must contain the name of the Association representative handling the grievance.

4. A grievance must be filed within fourteen (14) days of the incident giving rise to the grievance, or fourteen (14) days after the aggrieved employee knew or should have known of the incident giving rise to the grievance. In no circumstances shall a grievance be filed more than 180 days after the incident giving rise to the grievance.

5. The Agency retains the exclusive right to designate the management official to decide the grievance at the first step.

6. The grievant, one Association representative, the Step One deciding official, and any other management representative(s) determined helpful by the Agency shall meet within five (5) days of the filing of the grievance to discuss the matter. The scheduling of the meeting will have no effect on the time period set forth in Paragraph (A)(7) of this Section. In situations where the Association is not representing the grievant, the Step One meeting will be held without

the Association if the Association declines to designate a representative. The Step One grievance meeting may be waived by mutual agreement. If the employee or Union representative (if the employee is represented by the Union) fails to attend the meeting, the grievance is closed.

7. The Step One deciding official shall issue a written decision on the grievance within fourteen (14) days of the filing of the grievance. In the event that the Association filed the grievance or the Association represents the grievant or grievants, then the decision will be delivered to the Association only. If the Association does not represent the grievant, then the Step One decision will be delivered to the grievant and the Association.

8. Employees are encouraged to informally discuss issues of concern to them with their supervisors at any time. However, any such discussions, including any requests that a supervisor reconsider a decision, will not toll the time period in which employees must file a grievance.

B. STEP TWO

1. In the event that the grievant is not satisfied with the decision of the Step One deciding official, the grievant may appeal the decision in writing within fourteen (14) days of the delivery of the Step One decision. If the Association has filed the grievance or is representing the grievant, then it may appeal the decision in accordance with the procedures established in this section.

2. The appeal must be filed with the Chief, Labor Relations Division.

3. The appeal will set forth the basis of the appeal. The appeal shall include a copy of the original grievance filed and a copy of the Step One official's decision. If the grievant or the Association wishes to have a Step Two meeting, then the appeal shall so state.

4. The Agency retains the exclusive right to designate the management official to serve as the Step Two deciding official.

5. If both parties agree that a meeting would be beneficial to the resolution of the grievance, then the grievant, one Association representative, the Step Two deciding official, and any other management representative(s) of its own choosing shall meet within five (5) days of the filing of the grievance to discuss the matter. The scheduling of the meeting will have no effect on the time period set forth in Paragraph (B)(6) of this Section. If the Association fails or declines to designate a representative, then the meeting will be held without the Association. If the grievant or representative (if represented by the Union) fails to attend the meeting, the grievance will be closed.

6. The Step Two deciding official shall issue a written decision on the grievance within fourteen (14) days of the filing of the appeal. In the event that the Association filed the appeal or the Association represents the grievant or grievants, then the decision will be delivered

to the Association only. If the Association does not represent the grievant, then the Step Two decision will be delivered to the grievant and the Association.

Section 4- Association Grievance Procedure

A. The procedure contained in this section is limited to Association grievances, as defined above.

B. Association grievances will be filed with the Agency's Chief, Labor Relations Division. A grievance must be filed within fourteen (14) days of the incident giving rise to the grievance, or fourteen (14) days after the Association should have known of the incident giving rise to the grievance.

C. Association grievances shall contain the following information:

1. The provision of the agreement alleged to have been violated;
2. A description of the alleged violation with sufficient specificity to advise the Agency of the nature of the harm;
3. A statement of the remedy sought;
4. The name of the Association's representative in the matter

D. Only the Association President may file Association grievances.

E. Within 5 days of filing the grievance, a meeting will be held between representatives of the parties to address the grievance, unless both parties agree not to hold it. The parties will be limited to two representatives per side. The scheduling of the meeting will have no effect on the time period set forth in Paragraph (F) of this Section.

F. The Agency will issue a written decision on the Association grievance within fourteen (14) days of the filing of the grievance.

Section 5- Agency Grievance Procedure

A. In those instances when the Agency alleges that the Association has violated law, rule, regulation or this or any other agreement, the Agency may file a written grievance with the Association.

B. A grievance must be filed within fourteen (14) days of the incident giving rise to the grievance, or fourteen (14) days after the Agency should have known of the incident giving rise to the grievance.

C. The grievance will contain the following information:

1. The provision of the law, rule, regulation or agreement alleged to have been violated;
2. A description of the alleged violation with sufficient specificity to advise the Association of the nature of the harm;

3. A statement of the remedy sought.

D. Within 5 days of filing the grievance, a meeting will be held between representatives of the parties to address the grievance, unless both parties agree not to hold it. The parties will be limited to two representatives per side. The scheduling of the meeting will have no effect on the time period set forth in Paragraph (E) of this Section.

E. The Association will issue a decision within fourteen (14) days of the filing of the grievance.

Section 6- Arbitration

In the event that Sections 3 through 5 fail to produce a satisfactory resolution, then either the Agency or the Association may proceed to arbitration as provided in this agreement's provisions on arbitration.

ARTICLE 13

ARBITRATION PROCEDURE

Section 1- General

The parties may, by mutual agreement only, extend any time frame contained within this procedure, provided that not more than one 14-day extension may be granted per grievance per party once arbitration has been invoked. The refusal to agree to an extension of the time frames established in this procedure will not form the basis of any grievance under this agreement.

Section 2- Invocation

A. The Agency and the Association shall each have the right to invoke arbitration within fourteen (14) days after a final decision has been issued under the applicable section of the negotiated grievance procedure.

B. In the event that a party has failed to provide a final decision on a grievance as required, the Agency and the Association shall each have the right to invoke arbitration within fourteen (14) days from the deadline by which the decision should have issued under the applicable section of the negotiated grievance procedure.

C. If a party fails to exercise its rights within the time frames set forth in this Section, then the grievance is terminated.

D. Only the Association may invoke arbitration over grievances filed by, or on behalf of, bargaining unit employees. In accordance with 5 U.S.C. § 7121(b)(1)(C)(iii), employees have no right to invoke arbitration.

E. If the Association wishes to invoke arbitration, then it must submit such an invocation in writing to the Chief of Labor Relations.

F. If the Agency wishes to invoke arbitration, then it must submit such an invocation in writing to the Association.

Section 3- Selection

A. Within fourteen (14) days after invoking arbitration, the Party invoking arbitration shall request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) impartial persons qualified to act as arbitrators. A copy of such a request must be served on the opposing party. The request must state that the arbitrators must be located in the Washington, D.C., metropolitan area and that the arbitrators have Federal Sector arbitration experience.

B. The party invoking arbitration shall bear the fee imposed by FMCS for such a service.

C. If the party invoking arbitration fails to submit a request to FMCS for a panel of arbitrators within the time period set forth in Section 3 (A), then the grievance is terminated.

D. The parties shall meet within fourteen (14) days of the receipt of the list of qualified arbitrators from FMCS to select an arbitrator to hear the grievance. If the party invoking Arbitration fails to request a meeting within that time frame, then the grievance is terminated. If the parties cannot agree on an arbitrator at this meeting, then, at the same meeting, the parties will each strike one arbitrator's name from the list of seven (7) and will then repeat this procedure until one name remains; that person shall be the duly selected arbitrator. The party requesting arbitration shall strike the first name.

E. Once the meeting described in Paragraph (D) above has been scheduled, the FMCS shall be empowered to make a direct designation of an arbitrator to hear the case in the event that the defending party refuses to participate in the selection of an arbitrator as set forth above. If the moving party fails to participate in the meeting described in Paragraph (D) above, then the grievance shall be terminated.

Section 4- Scheduling

A. Once an arbitrator has been selected, the party invoking arbitration shall contact the arbitrator within fourteen (14) days of his or her selection, inform him or her of his or her appointment and request the arbitrator's availability. Failure to contact the selected arbitrator within that time frame shall result in the termination of the grievance.

B. The Association and the Agency shall have a telephonic conference with the Arbitrator no later than forty-five (45) days from the date of the selection of the arbitrator. The parties agree to cooperate in good faith in the scheduling of arbitration dates. If the party defending the grievance refuses to participate in good faith in the scheduling of arbitration, then the arbitrator shall set the date for arbitration. If the party invoking arbitration fails to participate in good faith in the scheduling of arbitration within 45 days of the date of the selection of the Arbitrator, the Arbitrator shall dismiss the grievance.

C. The first date for the arbitration must be no later than 180 days following the close of the 45-day time frame established in Section 4(B), subject to the availability of the Arbitrator.

D. Following the establishment of a date for arbitration, either party may request a postponement of the hearing for up to two months. Such postponements will only be granted in extraordinary circumstances and must be made at least 5 days prior to the hearing. Indefinite extensions shall not be granted. Any fee for postponement will be borne by the party seeking the postponement.

E. In the event that the grievance settles following the scheduling of a hearing, the parties shall equally bear any cancellation fees imposed by the arbitrator. The hearing shall not be cancelled until the agreement is signed.

F. The following procedure applies to grievances pending as of the date of the execution of this agreement:

1. For those grievances over which arbitration has been invoked, arbitration must be scheduled immediately using the procedures established in Sections 3 and 4. In any event, those grievances that are not arbitrated within 270 days of the

execution of this agreement will be terminated, subject to the availability of the Arbitrator.

2. For those grievances currently being processed through the grievance procedure, the previous grievance procedure will continue to apply. However, the arbitration procedures, commencing with the procedures established for invoking arbitration, set forth in this agreement will be used to adjudicate the grievance.

Section 5- Arbitration Procedures

A. In the event that the Agency asserts that a grievance is procedurally defective or not arbitrable during the processing of the grievance, then, in accordance with procedures set forth above, the arbitrator will hear and decide that threshold issue prior to the further processing of the underlying grievance. If the arbitrator determines that the grievance is arbitrable and is not procedurally defective, the arbitrator who decided the procedural issue shall not serve as the arbitrator who hears and adjudicates the underlying grievance.

B. In the event that the Agency asserts that the grievance is procedurally defective or not arbitrable due to a failure to comply with the arbitration procedures set forth herein, then the arbitrator will first hear and decide that threshold issue only. If the arbitrator determines that the grievance is arbitrable in this circumstance, then the Association will have fourteen (14) days from the service of that decision to invoke arbitration over the underlying grievance. All procedures contained herein will apply to the adjudication of that grievance. The Arbitrator who decided the procedural issue shall not serve as the arbitrator who hears and adjudicates the underlying grievance.

C. The issues at arbitration shall be limited to those issues raised by the grievant in the grievance procedure.

D. The parties shall agree in advance to the total number of hearing days. All dates shall be scheduled prior to the start of the hearing. The parties agree to expeditiously present their case, and the Arbitrator will ensure that the hearing is conducted in a fair but expeditious manner.

E. The parties shall exchange the following items at least 14 days prior to the first date of the arbitration:

1. *Witnesses*. Proposed witness lists, including a brief synopsis of the expected testimony of each witness.
2. *Documents*. Copies of documents, with an index, proposed to be offered into evidence.

Each party shall serve a copy of the information on the arbitrator. A party may not call any witness or enter into evidence any documents not provided to the other side and the arbitrator in accordance with this provision.

F. Both parties shall be entitled to call witnesses before the arbitrator. Witnesses shall be limited to a reasonable number and must have personal knowledge of facts relevant to the matter being

arbitrated. Cross-examination will be permitted of all witnesses. All testimony shall be made under oath or affirmation.

G. The arbitration hearing shall not be open to the public or the press. Attendance at the hearing shall be limited to those individuals serving as advocates of witnesses. All witnesses shall be sequestered prior to their testimony. Under no circumstances shall an individual who is serving as a representative on a case serve as a witness at the hearing on that case. Under no circumstances shall an individual who has served as a witness at a hearing on a case later serve as a representative on that same case.

H. The arbitration hearing will be held on the Agency's premises. The grievant, the grievant's Association representative (one employee) and all employees called as witnesses, and who are on active duty status, shall be granted official time to the extent necessary to participate in the arbitration proceedings.

I. A verbatim transcript of the proceeding shall be made by a court reporter unless the parties mutually agree that one is not needed.

J. The arbitrator shall have no authority to add to, subtract from, alter, amend or modify any provisions of this or any other agreement between the parties.

K. The arbitrator's remedy may not exceed the remedy specifically requested in the original grievance.

L. Post-hearing briefs will be exchanged unless the parties mutually agree to eliminate them on a case-by-case basis. The arbitrator shall set a date, not more than 75 days from the close of the hearing, for the submission of post-hearing briefs. Extensions may only be granted by mutual agreement.

M. The arbitrator's decision shall be mailed to the parties no later than thirty (30) days after the conclusion of the hearing or receipt of the post-hearing briefs, whichever is later.

N. Unless otherwise established in this agreement, the arbitrator's fee and any other expenses (including court reporting fees) will be borne equally by the parties.

ARTICLE 14

MID-TERM BARGAINING; GROUND RULES

Section 1: General

All of these rules apply unless both parties expressly agree to the contrary.

Section 2: Substantive Bargaining

Upon either party's submission of proposals for substantive bargaining, the receiving party will have seven (7) days to request a meeting with the proposing party to discuss the proposals. The meeting must be offered within seven (7) days of the request. The meeting will last no more than two hours. If the receiving party does not request a meeting, any counter proposals must be submitted within fourteen (14) days of the date it receives the proposals. If the receiving party timely requests a meeting, counterproposals must be submitted within fourteen (14) days following the meeting. The meeting will be held during business hours. Counterproposals must be limited to the specific issue raised in the proposals.

Section 3: Bargaining Pursuant to 5 U.S.C. § 7106 (b)(2) and § 7106 (b)(3)

A. In the case of a change in the way the Agency exercises any reserved management rights, the union may request to meet with management within seven (7) days of receiving notice of the intended change. The meeting must be held within seven (7) days of the request. The meeting will be limited to two hours. If no meeting is requested or a meeting is not timely held, a request to bargain in response to a management change must be submitted within fourteen (14) days of notice of the change. The request to bargain must include all proposals. If the Union requests a meeting, the Union must submit the request to bargain and its proposals no later than fourteen (14) days following the meeting. Proposals must be limited to procedures and appropriate arrangements in response to the announced management change. The union must identify whether a proposal is intended as a procedure or as an appropriate arrangement. The Union may not raise other topics in negotiations initiated by a change in exercise of any reserved management right.

B. When the Union elects to initiate bargaining over procedures and appropriate arrangements under 5 U.S.C. § 7106 (b)(2) and (b)(3), management may request a meeting to help it understand the Union's proposals within seven (7) days of the Union's submission of its proposals. The meeting shall not last longer than two hours and must be held within seven (7) days of the request. Bargaining will begin on the third Tuesday following the meeting if one is held, or following the union's submission of proposals if a meeting is not requested.

Section 4: Rules Applicable to All Bargaining

A. All proposals must be submitted at one time, in writing, and in advance of the beginning of formal bargaining. Subsequent counterproposals from each party must be aimed at narrowing the difference between the parties, although a party does not need to put forward a counterproposal for each issue. Failure to present a counterproposal shall not be construed as agreement to the proposal.

- B. Notification as set forth in these rules may be electronic. All proposals will be shared electronically by the end of the next business day following the session in which they are presented. A party not receiving an electronic version of the proposals shall request the document and the other party has one business day to respond.
- C. Agreements on any proposals are conditional until agreement is reached on all issues.
- D. No conditional agreement can be reopened without the consent of the other party, except during impasse proceedings.
- E. No more than four (4) people will represent each party at the table at any given time. Either party may, however, request permission to bring an observer who may not serve as note taker or participate in the session, but who may observe the process. Such requests will not be unreasonably denied.
- F. The parties agree to have at least one person authorized to speak for their party at every bargaining session. This authority includes the ability to sign off on proposals on which conditional agreement has been reached.
- G. Bargaining will be conducted from 9:30 a.m. to 4:30 p.m.
- H. Negotiations will last no more than 4 weeks.
- I. The parties will meet three (3) days per week (Tuesday – Thursday).
- J. Counterproposals may be presented during negotiations as the parties discuss the issues raised in the notice and proposals.
- K. Either party may declare impasse once the parties have discussed the proposals and any timely-submitted counterproposals.
- L. After the exchange of proposals and timely-submitted counterproposals, no other issues may be raised without the consent of the other party.
- M. Mediation will last for no more than two weeks, and both parties are required to request release from the mediator at the end of this period. The parties will be free to make a recommendation as to the procedure used by the Federal Service Impasses Panel (FSIP) to resolve the dispute.
- N. Union representatives may use official time as covered in Article 9 of this agreement. Time used for this purpose must be reasonable, and the representative or the union Chief Negotiator may be asked to justify the amount of time claimed.
- O. Documents shared electronically will be of the file type associated with the document preparation software officially used by the Agency.

P. All documents provided to the Agency from the Union will be addressed and delivered electronically or by hand-delivery to the Chief of Labor Relations or his/her designee. Agency documents shall be delivered to the union office or sent to the Union President electronically. Once chief negotiators have been appointed, documents will be exchanged through chief negotiators.

Q. The Union must invoke impasse procedures, as appropriate, within three days after a party declares impasse at the table. If the Union does not invoke assistance from either FSIP or FMCS management may implement its last offer, without further bargaining.

R. Any proposal declared nonnegotiable by the Agency upon a written request for a declaration of nonnegotiability shall be severed from the negotiations so that the parties may continue bargaining over the remaining proposals. If the FLRA finds the proposal(s) negotiable, the parties may conduct negotiations on that proposal only, upon the union's request within fifteen days of the date of FLRA decision. If the FLRA finds the proposal(s) to be not negotiable, then no further negotiations will be conducted over the topic of the proposal(s) found to be not negotiable.

S. If an agreement is disapproved on Agency Head Review, the Agency will notify the union of the disapproved provision(s). The provision(s) will be severed from the parties' agreement with the remainder of the agreement going into effect. If, upon a timely appeal, the Federal Labor Relations Authority finds any of the disapproved provision(s) to be negotiable, the provision(s) found to be negotiable will be added back into the agreement. No further bargaining will be conducted over the provisions found to be not negotiable.

ARTICLE 15

LABOR MANAGEMENT COMMITTEES

Section 1: Security, Health, and Safety Committee

- A. The parties will form a joint Security, Health, and Safety Committee to gather information and make recommendations on changes in security, health, and safety policies at the USPTO. The Committee shall have standing meetings once every six months at mutually agreed upon times, and special meetings may be called in between by mutual agreement of management and the Union to address issues that arise. This committee shall replace any existing labor-management committees on these topics.

- B. Each of management and the Union may have up to four regular Committee members, but if at any time management determines that it needs more individuals present at a meeting, the Union may have an equal number present.

ARTICLE 16

COMPETITIVE SOURCING

The Agency shall have no obligation to bargain over a decision to exercise its right to competitively source work. Should a decision to competitively source work lead to reductions-in-force or reductions in grade, the Agency will follow the RIF provisions established in Article 37.

ARTICLE 17

RECEIPT OF PAY/LEAVE AND EARNINGS STATEMENTS

Section 1: Report Nonreceipt of Pay and Other Issues

Employees are responsible for reviewing their leave and earnings statement each biweek to ensure the accuracy of the information. Employees who believe that they have not received the correct amount of pay, or that the leave and earnings statement or other documents are incorrect must contact the Compensation and Benefits Division of the Office of Human Resources. Employees should provide as much information as possible to expedite the investigation.

Section 2: Investigation and Response

The Office of Human Resources will investigate each claim and take corrective action, if necessary, in an expeditious manner.

ARTICLE 18

PERFORMANCE MANAGEMENT

Section 1: Performance Appraisals

- 44 A. Establishment/modification of performance elements and performance standards:
1. Performance elements and Performance standards will be established in writing in accordance with applicable regulations and communicated in writing to the employee within 30 days of the beginning of the appraisal cycle, within 30 days of an employee entering on duty, or within 30 days of a detail or reassignment to a new position.
 2. Performance elements and Performance standards will be prepared based upon the duties and responsibilities of the employee's position.
 3. Before establishing any new or revising existing performance elements or standards, supervisors will so inform affected employee(s), and provide them with a copy of the new elements or standards, unless exigent circumstances exist.
 4. Employees will be given 10 days to comment on the change, and management will take those comments into account prior to issuing the final version of the new or revised performance elements or standards.
 5. This process will be used to change individual employee performance plans, and/or to change performance plans for groups of employees.
- 45 B. Timetable of the appraisal period:
1. The annual performance appraisal shall be based on the performance for the rating year or that part of a rating year that the employee has worked provided that it is at least 120 days. The rating shall normally be completed within 30 days of the end of the appraisal cycle.
 2. If the employee has been in the position less than 120 days during the rating year, the rating will be deferred until the employee has been in the position for 120 days.
 3. The employee will sign and date a copy of the evaluation to indicate that the rating was discussed with the rating official.
 4. If the employee disagrees with the rating, he or she may comment in writing to the approving official within 5 days, with a written explanation with supporting evidence to justify his or her position. If the employee disagrees with the response from the approving official, then he or she may file a grievance to the next higher management official, and this response shall constitute the final step in the grievance process before arbitration.
 5. A new performance appraisal plan for an employee who has had a substantial change in job functions or reassignment within the rating year will be communicated to the employee within 60 days of reassignment. If the employee served in the previous position for 120 days or more, the prior supervisor will issue an interim rating which will be factored in to the end of year rating in accordance with the General Workforce Performance Appraisal System.
 6. Performance standards will be communicated to the employee at the beginning of the rating year. At approximately the midpoint in the employee's rating year, the supervisor shall communicate a progress review with regard to how the employee has performed, and what actions the employee should take to improve performance.

C. Records Retention: Records pertaining to performance appraisals shall be maintained in accordance with applicable law and regulation.

Section 2: Performance-Based Actions

A. If at any time an employee's performance is Unacceptable in one or more critical elements, the employee will be provided written notice of such, in accordance with 5 CFR 432, and given a reasonable period (known as a Performance Improvement Period or PIP) to demonstrate at least marginal performance in that critical element(s).

B. During a Performance Improvement Period (PIP) it is the employee's responsibility to demonstrate the ability to perform at least at a Marginal level in the critical element(s) where his performance was deemed Unacceptable.

C. For patent examiners or other employees under a PIP for quality, the PIP may be extended for a defined period of time if the employee has not submitted an adequate amount of work for credit and review under the quality element during the time period designated in the PIP.

ARTICLE 19

PERFORMANCE AWARDS

Section 1: Requirement for Fully Successful Performance

To be eligible for any awards under this Article, employees must perform at least at the Fully Successful level during the award period.

Section 2: Quality Step Increases

A. An employee is eligible for a quality step increase if, in accordance with the employee's performance appraisal plan, the employee performs at an outstanding level in all critical performance elements and achieves at least a satisfactory level in all other performance elements over a period of the four consecutive quarters of a FY. Because a quality increase will indefinitely raise the employee's salary, the employee's performance must give promise of continuing at the same high level in the same grade and type of position.

B. Where a standard that measures the quantity of accomplishment for a critical element is included in the performance appraisal plan, an achievement of 110% of an assigned goal shall be the award goal on the factor of quantity to warrant the grant of a QSI. An achievement of 120% of an assigned goal shall be prima facie evidence of sufficiently exceptional performance on the factor of quantity to warrant the grant of an additional QSI to an employee having one effective QSI. Achievements of 130%, 140% and 150% are the award goals for employees having two, three and four effective QSI's, respectively. With respect to all performance standards other than quantity, the achievement required for second and subsequent QSIs shall be the same as for the first QSI. Second and subsequent QSI's may be subject to Agency Head or higher-level approval.

C. An "effective" QSI is a QSI that raises the salary of an employee above the salary level the employee would be at had the employee received the most recent within-grade increase (if applicable) in the employee's current grade in the minimum time provided by law and regulation. When an examiner is promoted from GS-14 to GS-15 examiner position any effective QSIs are still effective. When a salary increase due to a QSI is blocked by a pay cap, that QSI is not an effective QSI. An effective QSI raises the assigned goal of the production goal achievement under the examiners PAP by the same percent required to obtain the QSI as noted in Section 1, part B above.

D. To be eligible for a quality step increase, an employee must have spent a minimum of 1600 hours during the four-quarter fiscal year award period performing the functions of the employee's job, including paid overtime. The functions of a patent examiner's job are patent examining and examining related activities. Hours spent assisting SPE in training new examiners in the range of 300 to 600 hours in a fiscal year are excluded.

E. An employee is only eligible for a QSI if the employee has reached the position's full performance level.

F. If the employee performs at an outstanding level in all critical performance elements and achieves at least a satisfactory level in all other performance elements over a period of the four consecutive quarters of a fiscal year, an employee who does not have a PAP productivity element will not be prima facie eligible for a second or subsequent QSI, at the same grade. The employee may however request to be considered for the second or subsequent QSI.

G. An employee cannot receive a promotion within the same period as the period for a QSI.

H. Goal adjustments will not be considered for award purposes.

Section 3: Employees on Production (except as set out below)

A. A patent examiner is entitled to a production performance award in an amount based upon the percentages listed below of the examiner's base annual salary as of the end of the award period if, in accordance with the employee's performance appraisal plan, the employee performs at the following production goal achievement levels in the specified two-quarter award periods.

<u>Production Goal Achievement</u>	<u>Award</u> (percent of base annual salary as of the end of an award period)
Achieve 105%	1.0%
Achieve 110%	1.5%
Achieve 115%	2.0%
Achieve 120%	2.5%
Achieve 125%	3.5%
Achieve 130%	4.5%
Achieve 135%	5.5%
Achieve 140%	6.5%

B. The examiner must be at least fully successful in all other elements of the performance appraisal plan during the award period. For employees with effective QSIs, the performance necessary for award considerations under this section are the stated percentages (5, 10, 15, etc., in Section 2, part A) above the minimum quantitative achievement necessary to qualify for the employees most recent effective QSI.

C. Two production performance awards may be paid out each fiscal year, after the first two quarters of the fiscal year and at the end of the fiscal year. These two award periods equate to the period encompassing the 1st and 2nd quarters of a fiscal year, and a period encompassing the 3rd and 4th quarters of a fiscal year.

D. Goal adjustments will not be considered for award purposes. .

E. The above listed award amounts will be prorated based on the number of hours spent performing employee job functions, including paid overtime. The functions of a patent examiner's job are patent examining and examining related activities. Hours spent assisting SPE in training new examiners in the range of 150 to 300 hours in an award period are excluded.

F. An employee who has spent at least 800 hours during a 13-pay period award period performing the above-described functions shall receive the full amount. An employee who has spent at least 400 hours, but less than 800 hours, shall receive a proportional amount. The proportional amount shall be the specified percentage of the employee's base annual salary times the number of hours spent performing the above described functions divided by the 800-hour base.

Because any two quarters of a fiscal year are not always 13 pay periods, the following chart designates the hours performing the above-described functions:

Number of pay periods in the award period	Minimum hours performing functions for the full award amount	Minimum hours performing functions for a prorated award amount
12 pay periods	740	370
13 pay periods	800	400
14 pay periods	860	430

G. For part-time employees, the minimum hours performing functions for a prorated award amount will be reduced based on the reduced hours of the employee's part-time schedule. For example, an employee working a 60-hour pay period part-time schedule would have the minimum hours for a prorated award amount adjusted at 75% (60 divided by 80) of 400, or 300 hours in a 13-pay period award period.

H. If the award period for a production performance award encompasses the date(s) when an employee has received a promotion or a permanent increase in signatory authority, the quantitative achievement required to earn an award shall be the sum of:

1. The award level percentage achieved above the minimum quantitative achievement necessary to qualify for the promotion or permanent increase in signatory authority for the number of pay periods prior to said date(s); and
2. The achievement that would be otherwise necessary for an award during the periods outside those number of pay periods.

I. No employee may receive both a QSI and a production performance award for the same period used to justify the award. An employee whose performance merits either a quality step increase or a production performance award shall have the option to refuse either award or both awards.

J. Employees are not eligible to earn this award until they have completed their probationary period or earned their first promotion, whichever is earlier.

Section 4: Patent Examiner Superior Quality Performance Award

A. A patent examiner is entitled to a superior examination quality award (SQPA) if, in accordance with the examiner's performance appraisal plan (PAP), the employee performs at the following level over a period of a Fiscal Year:

1. For Non-Full-Signatory Patent Examiners, GS 12 and above, performance at least at the outstanding level, including all indicia, in all quality elements for a fiscal year; and, zero errors in any work product reviews during the Fiscal Year.
2. For Full Signatory Patent Examiners, performance at least at the outstanding level, including all indicia, in all quality elements for a fiscal year; and, zero errors in any work product reviews during the Fiscal Year and zero (0) patentability errors discovered during any work product reviews.

The error rate is determined by the number of errors in the Examiner's work product occurring during the award period with term "error" being as defined in the Examiner's Performance Appraisal Plan (PAP).

3. For all Patent Examiners, in addition to the rating and error rate criteria, the following indicia items are characteristic of the Examiners' work:
 - a. The statements of rejection, objection, requirement and responses to arguments clearly and concisely present the technical, legal and procedural basis for the positions taken or recommended.
 - i. The Office actions provide a full explanation of the rationale for each rejection, objection and requirement rather than merely conclusory statements. Similarly, the main or major arguments in an applicant's response are specifically addressed in the subsequent Office action.
 - ii. The Office actions address the substantive claim limitations with reference to prior art element numerals and figures in order to provide a clear explanation of how the prior art is being relied upon in the action so that the applicant is not left to guess at the examiner's interpretations.
 - iii. The explanatory portions of the Office action provide clear direction to the applicant on how to proceed in the next response.
 - b. The file wrapper record developed by the examiner usually evidences an indication of allowable subject matter at the earliest possible time consistent with the file wrapper record and prosecution by the applicant.
 - i. An appropriate line of patentability is established through the objections, rejections and arguments made by the examiner.
 - ii. Reasons for allowance are provided when the reason the application has been allowed is not clearly evident from the record. For example, where the allowance is based on persuasive arguments, affidavits, and/or withdrawal of a rejection.

- iii. When a Reasons for Allowance is present, it will address the patentable feature of each independent claim without merely being a restatement of the entire claim.
 - c. The prior art searches performed by the examiner in the examination of most applications, except in rare instances appropriate for the claimed and disclosed subject matter, include a search of the relevant US and foreign patent documents and non-patent literature (NPL). The search includes an appropriate classified search as well as an automated text search. Further, searches that are performed are properly recorded in the file wrapper record in accordance with the provisions of MPEP section 719.05.
 - i. The focus of this item is the performance of a thorough search including each of the resource areas of US patent documents, foreign patent documents and NPL. In some applications the disclosed and claimed subject matter may not be appropriate for search in one or more of these resource areas. However, this situation is expected to be rare and allowed applications are expected to routinely include a search of all search resources.
 - d. The prior art cited in the file wrapper record by the examiner includes the closest available prior art from each of the relevant US and foreign patent documents and NPL along with a statement of relevance thereof unless appropriately developed by the submission of an Information Disclosure Statement for any omitted category of prior art resources listed herein.
 - i. This indicia would require more than merely using the closest prior art in the rejections and/or listing the closest prior art found, which is expected in every application. This requires typically a search and citation with statement of relevance of the closest prior art found from a search of each of the relevant US and foreign patent documents and NPL including at least one reference citation from each of these three sources of prior art. It is noted that if the closest prior art found from any of the three sources were used in a rejection, cited and discussed in an IDS, or included on the record in a PCT-style search report, no separate statement of relevance would be required for those references. Mere statements that the reference shows the state of the art, or repetitive use of the same references in different applications to merely show state of the art would not suffice to meet these criteria.
 - e. Except for rare occurrences, the principles of compact prosecution are followed and premature Final rejections are avoided.
 - i. Examiner's action facilitates compact prosecution such as through the application of the closest prior art and where appropriate via input or suggestion of a specific way to correct a defective affidavit or avoid a prior art rejection.
 - ii. The occurrence of a second or any subsequent non-final rejection (as a result of the examiner failing to make all appropriate rejections/objections that should have been made in the prior Office action) would be rare.
- B. The justification for this award will come from two sources, management and the employee.

Management will review at a minimum representative case sample. The review sample will include all applications that are reviewed from those that are submitted for credit during the course of the fiscal year.

The second source will be a separate representative sample that the patent examiner is responsible for providing to the SPE. This sample will be at least ten (10) applications that he/she has examined and presented as representative of the examiner's work that exhibit the above noted criteria.

C. The amount of a superior quality achievement award shall be 3% of an employee's salary as of the end of the current award period.

D. Minimum base hours to qualify for the full award shall be 1600. An employee who has spent at least 800 hours but less than 1600 hours during the Fiscal Year award period performing the functions of the employee's job shall receive a proportionate amount. The proportionate amount shall be 3% of the employee's base per annum salary times the number of hours spent performing the job functions divided by the 1600-hour base.

The functions of a patent examiner's job are patent examining and examining related activities. Overtime hours are included in the calculation of total hours for purposes of award eligibility.

E. If the award period for a superior quality performance award encompasses the date when an employee has received a promotion to a GS-12, the employee will be not eligible until the next full Fiscal Year.

F. Because an employee will be informed of and/or given the opportunity to challenge errors in accordance with existing procedures, an employee will not be afforded a written explanation of the reasons for denial of an award.

G. Employees are not eligible to earn this award until they have completed their probationary period or earned their first promotion, whichever is earlier.

G. This award will be effective the first full year following the implementation of the collective bargaining agreement between POPA and management.

Section 5: Patent Examiner Award for Assisting SPE in Training New Examiners

A. Hours spent assisting SPE in training new examiners in a satisfactory manner may be recognized by receiving an award of 1.5% of salary if at least 300 hours are spent on this activity during a two-quarter award period. Two awards may be paid out each fiscal year, after the first two quarters of the fiscal year and at the end of the fiscal year. These two award periods equate to the period encompassing the 1st and 2nd quarters of a fiscal year, and a period encompassing the 3rd and 4th quarters of a fiscal year.

B. An employee who has spent at least 150 hours, but less than 300 hours, during a 13-pay period (two-quarter) award periods performing the above-described functions shall receive a proportional amount.

Because any two quarters of a fiscal year are not always 13 pay periods, the following chart designates the hours performing the above-described functions:

Number of pay periods in the award period	Minimum hours performing functions for the full award amount	Minimum hours performing functions for a prorated award amount
12 pay periods	275	140
13 pay periods	300	150
14 pay periods	325	160

C. For part-time employees, the minimum hours performing functions for a prorated award amount will be reduced based on the reduced hours of the employee’s part-time schedule. For example, an employee working a 60-hour pay period part-time schedule would have the minimum hours for a prorated award amount adjusted at 75% (60 divided by 80) of 300, or 225 hours in a 13-pay period award period.

D. In order to be eligible for this award, the employee doing the training (trainer) must perform at least at the commendable level in all quality elements of their PAP and at least fully successful level in all other elements of their PAP. The function of assisting an SPE in training new examiners must be specifically delegated and authorized by the SPE. Performance of the training functions in a satisfactory manner will be determined by the SPE evaluating the effectiveness of the trainer based on assessing the quality of the work done by the junior examiner(s) being trained relative to the quality elements in the PAP of the junior examiner(s), and the quality of the junior examiner(s) work that is signed by the trainer.

Section 6: Hybrid Classifier Awards

A. For employees in the Hybrid Classifier (hereinafter “Hybrid”) position, all the provisions of Section 2 of this article apply in regard to an examiner production performance award for any patent examining functions.

B. A Hybrid is entitled to a classifier performance award in an amount based upon the percentages listed below of the employee’s base annual salary as of the end of the award period if, in accordance with the employee’s performance appraisal plan, the employee performs at the following level of achievement of classifier goal for the same specified two-quarter award periods in Section 2, part C of this article.

<u>Achievement of Classifier Goal</u>	<u>Award</u> (percent of base annual salary as of the end of an award period)
Achieve 110%	0.5%
Achieve 120%	1.5%
Achieve 130%	2.5%

C. The above listed award amounts in Section 5, part B will be prorated based on the number of hours spent performing the employee's job functions. The additional functions of a Hybrid are classifying and classifying-related activities. Specifics related to hours, overtime, part-time, and promotions are the same as in Section 3, parts E-J, with the following exceptions:

Section 3, paragraph F of this Article is modified as follows relating to Hybrids:
If a Hybrid is eligible for an award based solely on examining functions, the provisions of Section 2, Part F apply;

If a Hybrid is eligible for an award based solely on classifying functions or for combined examining and classifying duties, the award applicable hours for classifying and classifying-related activities cannot exceed (800 - (examining + examining related hours)) for a 13 pay period award period (adjusted consistent with the schedules above for other award period lengths); and,

Production Performance Award periods cannot overlap. Thus, it is a single Production Performance Award that may be justified by examining duties, classification duties or both, not separate Production Performance Awards for the individual duties.

D. The classification components of the Hybrid's production shall be reduced to a single percentage achievement by creating a weighted average of the percent achievement for all production tasks with the weighting factor being the time spent on each task. Solely for purposes of the award for the Hybrid position, time spent as a classifier or performing classification-related activities is not examining-related for examiner production performance award purposes, and time spent examining or performing examining-related work will not count as classifier award hours. All other performance standards, as stated in Section 3, are applicable.

E. The provisions of Section 4 of this Article for a Superior Quality Performance Award (SQPA) are applicable to hybrids. This includes the GS-12 requirement. Thus, a hybrid at the GS-12 learning curve level for Patent Examining Functions (for the entire award period) and GS-12 or GS-13 learning curve level for productivity (for the entire award period) is eligible to earn a SEPA. Note that there will be NO adjustment for any classifying hours.

Section 6: Awards for Employees other than Patent Examiners and Hybrids

A. For bargaining unit employees without a production performance element in their PAP is entitled to a special achievement award if, in accordance with the employees performance appraisal plan, the employee performs at the following level over a period of one fiscal year:

<u>PAP Rating</u>	<u>Amount of Base Annual Salary at end of the award period</u>
Commendable	2%
Outstanding	4%

B. An employee who has spent at least 1600 hours during the award period performing the functions of the employee's assigned job shall receive the above basic amount. An employee who has spent at least 800 hours, but less than 1600 hours, shall receive a proportional amount.

C. No employee may receive both a QSI and a production performance award for the same period used to justify the award. An employee whose performance merits either a quality step increase or a production performance award shall have the option to refuse either award or both awards.

Section 7: Miscellaneous Provisions

A. If an employee moves into a job position covered by these awards after the beginning an award period, or out of a job position covered by these awards prior to the end, the employee may still be eligible for an award if they meet the minimum hour criteria and other criteria for the award.

B. An employee put on a performance improvement plan (PIP) for work performed during an award period may not receive an award unless they successfully complete the PIP. If that PIP extends beyond the end of the award period, the final determination of that award will be delayed until the completion of the PIP. Hours worked and work credited between the end of the award period and the end of a PIP will not be considered in determining eligibility for that award.

Section 8: Duration and Termination

A. This article on awards shall remain in effect subject to availability of funds, and subject to a determination by the Office of the continuing exigencies and effectiveness of these awards.

B. If the Office determines that any of these awards are no longer effective in promoting the goals of the agency, or that funding is not available, any or all of these awards may be modified or terminated subject to the provisions noted below.

C. Upon providing notice of termination of any of the awards in this article, any award shall terminate at the end of the fiscal quarter in which notice is given. Eligibility standards and award amounts shall be prorated relative to the award periods depending upon the quarter the termination is given. When the Office terminates any award in this article, it will provide notice to POPA. POPA will be given an opportunity to bargain over the impact resulting from the termination. (Comment: Make it clear that any bargaining would not effect termination date)

D. The Agency may request re-opening of this article to modify this article outside of any mid-term bargaining article.

ARTICLE 20

MERIT STAFFING

Section 1: Filling Positions in the Bargaining Unit

Internal vacancies will be filled consistent with the Agency's Merit Assignment Program (MAP).

Section 2: Application and Evaluation Process

A. Vacancy Announcements: Vacancy announcements, where required, will be posted electronically on the Agency's internal network and on the USAJOBS web site maintained by the Office of Personnel Management (OPM).

B. Applications and resumes must include accompanying narrative statements addressing the selective and evaluation factors listed under Evaluation of Qualified Candidates in the announcement. Applications will be considered only if they (1) indicate the vacancy announcement for which the candidate applied; (2) contain sufficient information to enable a determination of whether the candidate meets the minimum qualification requirements for the advertised position; (3) are not delivered through the U.S. mail in an official government franked envelope; (4) are not submitted by fax (supporting documents, such as a Notification of Personnel Action (SF-50), college transcripts, or performance appraisals may be submitted by fax when requested in the announcement or by OHR); (5) are not submitted by email; (6) are within the area of consideration specified in the vacancy announcement; and (7) are received by the close of business hours in the Office of Human Resources on or before the closing date of the announcement.

C. The Agency may require use of an electronic application system in lieu of a paper application.

Section 3: Evaluation of Qualified Candidates

A. Candidates will be evaluated in accordance with applicable regulations and OPM standards and guidance.

B. All eligible candidates competing for promotion or for a position with greater promotion potential than previously held on a permanent basis will be evaluated using the job-related criteria identified in the vacancy announcement.

Section 4: Selection Certificates

A. A group of best-qualified candidates will be referred to the selecting official in alphabetical order on a selection certificate. The number of persons referred will be based on such factors as natural breaks in scores, the number of vacancies, and the difficulty in filling the position. If multiple grade levels are involved, a separate selection certificate may be issued for each grade level.

B. Selection certificates remain active for 90 days from the issue date. If no selection is made during the 90-day period, the certificate automatically expires and the vacancy may be re-announced.

C. Additional selections may be made from a MAP certificate for vacancies that occur within the 90-day timeframe with the same title, series, grade, similar job requirements, and same business unit location as the advertised vacancy.

Section 5: Release Dates

A. OHR will arrange for the release of a selected candidate from his or her current employing organization.

B. USPTO employees selected for a permanent or temporary promotion to a higher graded position or for a position with promotion potential normally will be released within two full pay periods of receipt of the request. Under unusual circumstances, such as to permit completion of essential assignments, the release period may be extended when mutually agreed to by the employee, the supervisor losing the employee and the supervisor gaining the employee. If mutual agreement for release cannot be reached, OHR will set the release date.

C. Employees selected for positions at the same or a lower grade normally will be released within two pay periods.

ARTICLE 21

NONCOMPETITIVE PROMOTIONS

Section 1: Career Ladder Promotions

Employees of the Federal government may be selected through competitive or merit procedures for an entry level developmental position that progresses over a period of time and usually through a series of grade levels to a pre-established full performance level. Such a position usually is referred to as a *career ladder position*. A promotion after assignment to a career ladder position usually is referred to as a *career ladder promotion*.

A. Requirements for a Career Ladder Promotion: Assignment to a career ladder position does not guarantee future advancement. Employees must meet all of the following requirements to qualify for a career ladder promotion:

- Obtain sufficient service credit to satisfy the time-in-grade requirement;
- Maintain work performance at the Fully Successful level or higher;
- Meet all general experience or specialized experience requirements set forth in the OPM Qualification Standards for General Schedule Positions handbook;
- Demonstrate an ability to perform work satisfactorily at the next higher grade level; and
- Be recommended for a promotion by the immediate supervisor or other authorizing official who has determined that work at the higher grade level exists, that the employee has satisfied all regulatory requirements for promotion, and that the employee has demonstrated an ability to perform successfully at the next higher grade level.

B. Accelerated Career Ladder Promotions for Patent Examiners: Patent Examiners hired at the GS-05, GS-07, or GS-09 grade levels in all disciplines and specializations are eligible for a one-time accelerated promotion after six months in grade with the recommendation and approval of the Supervisory Patent Examiner (SPE) and Technology Center Director. This applies to the first promotion only and may only be implemented before the end of the Examiner's first year of employment.

As with all career ladder advancements, promotion is neither guaranteed nor an absolute right. The SPE will evaluate the progress of a newly hired Examiner at the end of six months and make a recommendation based upon successful completion of at least six months of formal and on-the-job training and demonstrated ability to work at the next higher grade level.

C. Career Ladder Promotions for Part-Time Employees: A part-time employee (an employee who works an approved, pre-arranged work schedule each week of between 16 and 32 hours) may receive a career ladder promotion when all qualifications discussed above are met, including time in grade and specialized experience requirements.

Credit for experience is determined based upon the actual time a part-time employee spends in pay status. The computation of hours in pay status shall include all regular duty time, administrative leave, holidays, annual leave, sick leave, and other paid leave but will not include

overtime or continuation of pay under Workers Compensation. One (1) year of general or specialized experience will be credited for each 2087 hours in pay status.

ARTICLE 22

SIGNATORY AUTHORITY PROGRAM

Section 1: Establishment of Programs

The USPTO will provide a Signatory Authority Program for patent examiners and may provide a signatory authority program for certain other bargaining unit members such as petitions attorneys, conveying authority to perform the duties of the respective position. Details of the other programs will be modeled on the program for patent examiners, but will be adjusted by management to fit the specific jobs in question.

Section 2: Participation

Full-time and part-time examiners may participate in the Signatory Authority Program. Every part-time examiner who enters a trial period under the Signatory Authority program must, prior to the beginning of the trial period, elect either a) a trial period of the same duration as a full time examiner or b) an extended trial period. The examiner's election must be submitted in writing and is irrevocable and final.

Section 3: Procedures for Review

A. An examiner may be removed from the program for conduct infractions related to performance of assigned patent examining duties.

B. Where an examiner has timely submitted the reviewable office actions during the trial period, the Agency shall transmit to the examiner the written decision on the grant or denial of permanent Signatory Authority within two (2) pay periods after the expiration of the trial period. Where an examiner has failed to timely submit the reviewable office actions during the trial period, the Agency shall transmit to the examiner the written decision on the grant or denial of permanent Signatory Authority within five (5) pay periods after the expiration of the trial period.

C. If any potential errors found during the evaluation could lead to an adverse decision, the examiner will be given an opportunity to respond prior to the final decision. Up to a total of eight hours of non-examining time shall be authorized, with appropriate supervisory approval, for preparation of the examiner's response. The notice of potential errors will be communicated to the examiner no later than ten (10) calendar days before the final decision to grant or deny permanent Signatory Authority is due and the examiner's comments to the Director will be delivered within seven (7) calendar days thereafter.

D. If the final decision is a denial of the permanent grant, a written explanation for the denial will be given to the examiner

Section 4: Minimum Work Requirements

All examiners participating in a Signatory Authority trial period are required to meet the minimum trial period hour requirement.

Section 5: Modification of Part-Time Schedules

The Agency will consider a request by an examiner, under a part-time work schedule which has previously been approved by the Agency, who meets the requirements for the eligibility period and desires to enter the trial period under a temporary grant of Signatory Authority to modify his/her part-time schedule during the trial period in order to meet the minimum hour requirement.

ARTICLE 23

CAREER DEVELOPMENT AND WORK DETAILS

Section 1: Career Development Details

The USPTO shall designate certain recurring details as “career development details.” A career development detail is the temporary assignment of an employee (including nonbargaining unit members) to a different position for a specified period with the employee returning to their regular position upon completion. Career development details assist the Agency in efficiently meeting workload requirements, and provide employees an opportunity to develop their knowledge, skills, abilities, and improve their performance in administrative and technical fields for possible future advancement to higher grade level positions.

Section 2: Announcement and Rosters

The Agency reserves the right to announce multiple career development details simultaneously and establish a roster of qualified candidates from the responses to the announcement that is valid for up to one year. An announcement of a career development detail shall include the location of the detail, duration, nature of the work, work schedules available, application procedures, and minimum qualification and requirements of an applicant, as appropriate. The Agency also reserves the right to limit the announcement to employees in a specific Technology Center, workgroup, or other unit.

Section 3: Selection for Career Development Details

Selection for participation on a detail shall be based on the employee’s demonstrated knowledge, skills and abilities and the needs of the Agency. When applicable, the Agency may consider additional selection factors including but not limited to:

- previous relevant experience;
- writing samples;
- most recent performance appraisal rating;
- current performance;
- references;
- grade or level of signatory authority;
- employment status;
- length of service;
- interview; and
- letters of recommendation.

Selection shall be made from the most qualified applicants.

Section 4: Early Termination of Detail

The Agency reserves the right to preclude continuing participation of an employee on a career development detail, when workload, conduct, or performance matters arise.

Section 5: Right to Detail Employees Without Application Process

The Agency reserves the right to assign employees to work details. A work detail is the assignment of an employee for a specified duration to do work which may otherwise normally be attributed to a career development detail, without regard to the provisions of this article, when time constraints and workload requirements exist so as to make assignment to a work detail necessary.

Section 6: Work Schedules for Employees on Detail

The Agency reserves the right to designate the work schedule of any participant in either a career development or work detail.

Section 7: Work Details

As determined reasonable by management, the Agency may detail employees to other positions for which management has a need. Such details may be full or part time. In selecting the bargaining unit employee to fill such a detail, management may consider factors such as the nature of the work to be done, the availability of current work for the bargaining unit employee, and the qualifications of the employee.

ARTICLE 24

ACCESS TO PERSONNEL RECORDS

An employee may view his or her Official Personnel Folder (OPF) during business hours at the Office of Human Resources.

ARTICLE 25

AUTOMATION

Section 1: Introduction of New Technology

A. The Agency may develop, implement, and modify automated systems and technology. This includes the ability to conduct pilot programs. When implementing new automated systems, the Agency will provide reasonable training and assistance in adjusting to the new system or technology.

B. The Agency may establish a temporary system to gain information regarding effectiveness of new systems. This system may include beta testing and feedback sessions.

Section 2: General

A. On government computers, the automation system is to be maintained in the format provided by the Agency. No programs, peripherals, or enhancements may be added to employees' computer equipment without the express written consent of management.

B. Bargaining unit members must timely report issues related to automated tools to their supervisors and to the help desk or automation support mailboxes as appropriate.

C. Where information is available in an automated format, the Agency is not obligated to maintain duplicate hard copies.

D. Employees are required to use automated tools to perform job functions for which such tools are available.

ARTICLE 26

PHYSICAL FACILITIES AND SERVICES

Section 1: Work Space and Selection

A. The workspace that will be provided to each professional will be based on the employee's position, organizational unit, seniority, work schedule (full versus part time), participation in a telework program, and the available space that can practicably be assigned.

B. When a pool of offices or workspaces is assigned by management for selection by a number of professionals, the order of selection will be based on seniority as defined in Article 3 of this agreement.

Section 2: Physical Facilities

A. HVAC will be provided:

1. Monday through Friday (excluding Federal Holidays) from 6:00 am to 7:00 pm;
2. Saturdays from 1:00 pm to 4:00 pm; and
3. Federal Holidays from 1:00 pm to 4:00 pm when examiner overtime is authorized and approved in advance.
4. In facilities where management determines that a constant temperature is needed for equipment operation.

B. Professionals will not adjust or tamper with HVAC controls (e.g. thermostats).

C. The USPTO Headquarters in Alexandria is a nonsmoking facility.

Section 3: Moves

A. Employees will be responsible for packing and unpacking the contents of their offices in a timely manner.

B. Personal property that an employee has packed in Agency-provided boxes and office-type personally owned furniture will be moved by the Agency, but in no case will the Agency be responsible for damage to employees' personal property, including personally owned office-type furniture.

C. Management shall encourage accurate recording of time spent packing and unpacking. There will be no arbitrary uniform rules about the amount of time that can be spent packing and unpacking. Employees will engage in a reasonable good faith effort to diligently pack and unpack their offices. Any additional time used because the professional being moved decides that a move is an appropriate occasion to determine which items to discard or retain is not envisioned as caused by the move.

D. Non-production time for moves is not examining related time.

E. Except as provided above, employees are responsible for packing and moving their own personal items.

F. Items left behind or not properly packed or labeled by employees will be discarded.

Section 4: Appearance and Maintenance

A. Professionals will maintain their workspace and its contents in a clean and professional manner.

B. As determined by management, any decorations or contents that are obscene, unsafe, unlawful, or that may contribute to a hostile work environment, are prohibited from any professional's office or workspace. No decorations are permitted on windows or external office walls or doors.

Section 5: Parking

To the extent that the Agency controls the administration of parking at Agency facilities, the following provisions apply:

A. The USPTO will not subsidize employee parking. The goal of the Agency is to maximize monthly income in order to keep fees at a minimum. If surplus fees are collected in any given month, the surplus will not be refunded, but will be considered in defining the average operating cost of the parking facility.

B. All vehicles, including motorcycles, will be charged the same monthly, daily, or hourly fees.

C. A waiting list of USPTO employees desiring a parking permit at the parking facility will be established if necessary.

D. Parking permits for USPTO employees on the waiting list will be provided by recovering parking permits that have been sold to non-USPTO employees, if any.

E. Free parking will be available to USPTO employees from 10:30 pm to 5:00 am, Monday through Friday, and all day on Saturdays, Sundays, and Federal holidays.

F. Daily and hourly parking will be available from 5:00 am to 10:30 pm, Monday through Friday, except Federal Holidays.

G. Daily and hourly parking will be available on a first-come first-served basis. There will be no designated daily or hourly spots.

H. Daily and hourly parkers will receive a ticket each time they enter the garage and will pay each time they leave the garage. Daily and hourly parkers must exit the garage before 10:30 pm. Daily and hourly parkers that fail to exit before 10:30 pm will be charged the appropriate parking fee plus an additional release fee.

I. Parking fees will be determined based on considerations such as the lease and operating costs of the garage.

J. The availability of parking spaces for monthly parkers and USPTO-employee daily parkers will be monitored. If necessary, the number of non-USPTO employee daily parkers will be limited.

K. The daily parking rate shall at least equal the monthly rate divided by 22 and the hourly rate shall at least be equal to the monthly rate divided by 176.

Section 6: Other

A. Central files will be provided for storage of artifacts related to applications and other official documents.

B. Refrigerators, microwave ovens, hot plates, space heaters, and other appliances are not permitted in employees' offices except for medical reasons such as the need to store insulin or lactated milk.

ARTICLE 27

PROFESSIONAL TRAINING AND DEVELOPMENT

Section 1: Training and Testing for Promotion

The Agency may require specified prerequisite training and testing for promotional opportunities.

Section 2: Employee Requests for Training

With respect to an employee-initiated request for training, the supervisor may consider the following factors in determining whether the request will be approved. OCIO employees must address these points in their requests at least four weeks prior to the beginning of training.

- a. Benefits to be derived by the Agency, including link to Strategic Plan or other Agency goals
- b. Resource limitations
- c. Enhancement of employees' performance
- d. Number and type of training sessions previously attended by the employee
- e. Length of employment in the Agency
- f. Rating of record and current performance
- g. Impact on work unit

Section 3: Training Opportunities

The Agency may, under appropriate laws, rules, regulations, and funding constraints, provide:

- a. In-house training which may be subject to testing, and
- b. Opportunities for non-duty hours technical training as set forth in Section 6 below and/or non-duty hours legal training as set forth in Section 7 below.

Section 4: Repeat Training

If management determines it is in the best interest of the Agency and the employee, the employee may be required to repeat training given pursuant to Section 3a above.

Section 5: Reimbursement for Training

An employee may be required to reimburse the USPTO for any tuition and expenses related to training listed above in Section 3b if the employee fails such training or fails to complete such training.

Section 6: Technical Training Program

(A) Subject to budgetary or other considerations, the Agency may provide funding for a non-duty hours technical training program. Management may reduce, alter, suspend or terminate funding for this program at its discretion.

(B) Training under this Section is available to all POPA bargaining unit members who are full-time, permanent, non-probationary employees.

(C) The technical courses taken under this Section must be job-related. The following examples illustrate job-related technical subject matter:

- i) subject matter which is disclosed in patent applications assigned to the employee,

- ii) subject matter which is encompassed by fields of search in patent applications assigned to the employee,
 - iii) subject matter which falls under classes and subclasses assigned to the employee, or
 - iv) subject matter which would aid in the comprehension or completion of the employee's assigned work.
- (D) The technical courses must be taken for credit at an accredited college or university.
- (E) The employee's most recent rating of record must be at least at a Fully Successful level of performance and the employee's current performance must be at least fully successful as determined by the employee's cumulative most recent four (4) full quarters of work.
- (F) The employee must obtain approval of the first and second level supervisors.
- (G) The employee must meet the eligibility criteria for each request for training under this Section.
- (H) Up to \$5,000 per fiscal year is available for reimbursement to each participant for actual tuition costs. Any number of credits within this monetary limit may be taken under this Section. If the tuition costs exceed the employee's limit, the employee will be responsible for paying any overbalance to the school. For each approved course taken under this Section, the employee is allocated up to \$150 per course for required course materials. If an employee drops or withdraws from a course, the employee will repay the PTO for expenses incurred from tuition and/or course materials payment. This also applies when an employee fails a course (as defined by the school).
- (I) An employee who participates in training under this section must sign an agreement to continue in service with the Agency at the end of the training for one month for each credit or portion thereof paid by the USPTO. Failure to continue in service may result in the employee having to repay the Government for the additional expenses incurred in connection with the training.
- (J) Procedures
- i) submit for each course a completed form SF-182 with the appropriate supervisory signatures to the Training Delegate at least fourteen (14) days prior to the beginning of the course with copies of the (1) tuition rate and (2) the course description from the school catalog. An electronic SF-182 may be printed and used.
 - ii) During the school's drop/add period, if the employee changes courses, the employee will notify the Training Delegate and will submit a substitute SF-182 with appropriate supervisory signatures.
 - iii) The employee will sign the continued service agreement when the forms are submitted for processing.
 - iv) Along with the SF-182, the employee will complete and submit a Program information form with the following information: course(s) paid for in full or in part under this Section, course description, teaching institution, dates of enrollment, employee's technology center, employee's art unit or division, the employee's assigned area or technology.
 - v) The employee will submit the grade(s) to the Training Delegate within six (6) weeks after the semester ends. If the grades are not available, the employee will notify the Training Delegate within six (6) weeks after the semester ends and will submit the grade(s) as soon as they are available.
 - vi) The employee will sign and date a copy of this Section and submit it to the Training Delegate. By signing this copy, the employee is certifying that the employee

understands the employee's obligation to the PTO as a participant in training under this Section. Signing a copy of this section and participating in non-duty hours technical training constitutes permission by the participant for the PTO to obtain grades for courses which the PTO paid for in whole or in part directly from the school if the participant fails to meet the time frames for submitting his/her grades to the Training Delegate as set forth above.

vii) If the employee decides to resign, the employee will notify the Training Delegate in writing (email notification is sufficient) ten (10) business days prior to termination so that a reimbursement determination can be made. Failure to do so may result in a delay in processing of the employee's release papers.

viii) The employee must comply with the rules and procedures as set forth in this Section. Minor corrections or omissions will not be considered a failure to abide by the rules and procedures of this Section. Failure to comply may result in a denial of training requests under this Section or a denial of reimbursement.

Section 7: Legal Studies Program

(A) Subject to budgetary or other considerations, the Office may provide funding for a Non-Duty Hours Legal Studies Program. Management may reduce, alter, suspend, or terminate funding for this program at its discretion.

(B) This Program is available to any full-time, permanent patent examiner with at least 3 years of continuous service at the PTO or an employee with at least 3 years of service by October 1 of the Fall semester the participant enters the Program.

(C) In order to participate, the employee's most recent rating of record must be at least Fully Successful and the employee's current performance must be at least fully successful as determined by the employee's cumulative most recent four (4) full quarters of work. Each request for tuition assistance will be considered as a new request with regard to the eligibility requirements set forth under this section.

(D) Acceptance at an accredited (ABA) law school is required. The legal courses for which the Office provides tuition assistance under this section must be taken for credit at an accredited law school. Courses for advanced degree programs (i.e. other than J.D.) are not covered under this section. A request for payment of advanced level courses will be considered as a general request for training.

(E) The employee must obtain approval of the first and second line supervisors. Training approved and taken under this program must contribute significantly to accomplishing the goals in the USPTO's strategic plan.

(F) The employee must meet the eligibility criteria for each request for training under this Section.

(G) The PTO will reimburse employees for up to 24 credits per fiscal year, not to exceed 88 total credits under this Program. Each course that is paid for by the Office will include up to \$200.00 for required books. If the tuition costs exceed the employee's limit, the employee will be responsible for paying any overbalance to the school. A participant who withdraws from or fails a course taken under this Program will be required to repay the PTO for expenses incurred from books and tuition.

(H) An employee who participates in training under this section must sign an agreement to continue in service with the Agency at the end of the training for two years. Failure to continue in service may result in the employee having to repay the Government for the additional expenses incurred in connection with the training. An employee who leaves the Agency before

satisfying the two-year service requirement, may petition the Commissioner for Patents for a reconsideration of the recovery amount, or for a waiver of the Agency's right to recover.

(I) Continuing service agreement (CSA) in the event funding is terminated, suspended:

(1) If the Agency terminates or suspends funding while an employee is in training under this Section, the continued service period will begin immediately and will continue until either completed by the employee or funding is reestablished.

(J) If funding is reduced, available funds will first be allocated to bargaining unit members who are already in training under this Section.

(K) Procedures:

(1) Submit a completed for SF-182 with the appropriate supervisory signatures to the Training Delegate for each course at least (2) weeks prior to the last day of the registration period. An electronic SF-182 may be printed and used.

(2) During the school's drop/add period, if the participant changes courses, the employee will submit a substitute training form.

(3) The employee will sign the continuing service agreement when the forms are submitted for processing.

(4) The employee will sign and date a copy of this Section and submit it to the Training Delegate. By signing the copy, the employee is certifying that the employee has received and read the policy and understands the employee's obligation to the PTO as a participant in training under this Section. Signing a copy of this agreement and participating in non-duty hours Legal Training under this Section constitutes permission by the participant for the PTO to obtain grades for courses which the PTO paid for directly from the law school if the participant fails to meet the time frames for submitting his/her grades to the Training Delegate as set forth below.

(5) The employee will submit the grade(s) to the Patent Academy within six (6) weeks after the semester ends. If the grades are not available, the employee will notify the Training Delegate within six (6) weeks after the semester ends and will submit the grade(s) as soon as they are available.

(6) If the employee decides to resign, the employee will notify the Training Delegate in writing (e-mail notification is sufficient) ten (10) working days prior to termination so that reimbursement determination can be made. Failure to do so may result in a delay in processing of the employee's release papers.

(7) The employee must comply with the rules and procedures set forth in this Section. Minor corrections or omissions will not be considered a failure to abide by the rules and procedures of this Section. Failure to comply may result in a denial of training requests under this Section or a denial of reimbursement.

ARTICLE 28

WORK SCHEDULES

Section 1: Work Schedule Options

The Agency will make available to employees the following work schedules. Management, at its discretion, may determine that an employee may not elect schedules II or III, based on the needs of the Agency. The available schedules are:

I. Regular Tour of Duty – Fixed hours, eight hours per day, normally, Monday through Friday from 8:30 a.m. to 5:00 p.m. The regular tour of duty consists of 8 hours of work plus one half hour unpaid break.

II. Flexitime Plan – Normally, Monday through Friday but may report to work at any appropriate time (not earlier than 5:30 a.m.) during the morning flexitime band, be present during core hours and leave after the employee has performed eight hours of work, plus one half hour unpaid break. Employees may be required to alter their work schedule for training, meetings, or planned system or power outages at management's discretion.

III. Increased Flexible Plan (IFP)- Increased Flexible Plan (IFP) is a flexible work schedule that allows full-time employees to work their regular hours in less than 10 full workdays per biweek. Regular hours are those hours that constitute the 80-hour biweekly basic work requirement (*herein after referred to as the "80-hour requirement"*). Regular hours must be worked within the designated six-day workweek (*i.e., Monday through Saturday*). Under the IFP, full-time employees may vary the number of hours worked each day and the days worked each week, as long as they (1) meet the 80-hour requirement within agency set limits and (2) satisfy core hour requirements.

Employees on this schedule are entitled to 8 hours per day on a Federal holiday and may claim the number of hours they are scheduled to work in the event that the Agency is closed due to snow or other emergency. There will be no administrative leave for employees who cannot work on Saturdays. This provision does not supercede any agreement regarding telework and the responsibility of the employee to work at the alternate work site during Agency closure.

Only full time employees will be eligible to participate in IFP. IFP work schedules must be submitted in advance and approved by the supervisor. The employee's proposed schedule must comply with the following:

- a. Employees must satisfy their 80-hour requirement between the hours of 5:30 a.m. and 8:00 p.m., Monday through Saturday.
- b. Participants must schedule 8 hours of work on each holiday.
- c. Employees must submit to their supervisor their intended schedule for the following pay period prior to the beginning of that pay period. Any deviations from that schedule require prior supervisory approval.
- d. When circumstances arise which are both unusual and extenuating an individual employee upon written request may, after obtaining appropriate supervisory approval, be permitted to

amend his/her daily IFP work schedule, provided that such amendment will not prevent the unit to which the employee is assigned from providing its normal service to the public, the Agency and other agencies of the government.

- e. Regular hours may NOT be worked on a Sunday.
- f. Employees may not work more than 10 hours of regular time per day.
- g. The maximum total hours worked in a given work day, including regular hours, compensatory time, and overtime may not exceed 12 hours.
- h. The maximum total hours worked in a given work week, including regular hours, compensatory time, and overtime, may not exceed 64 hours.
- i. Employees must work a minimum of 4 days per week, including core hours. Employees may use compensatory time or leave to satisfy this requirement.
- j. The smallest period of time an employee may be in pay status (including leave and compensatory time used) to receive credit for a workday is 4 hours.
- k. Core hours for POPA bargaining unit employees are from 12:00 p.m. to 2:00 p.m. each Tuesday and Thursday.
- l. Employees may voluntarily elect to work the IFP. However, participation may be restricted due to the nature of an employee's position, e.g., requires his/her presence during USPTO business hours, to ensure office coverage, etc.
- m. If automated systems become unavailable or fail to function properly and the employee is working under the increased flexitime policy (Schedule III), the employee must leave work without administrative leave after the later of: 1) completion of all work that can be done without an automated tool, or 2) one hour after the system fails or does not work properly. Nothing in this paragraph shall be read to require the employee to stay until the occurrence of one of the events listed above.
- n. Employees may be required to alter their work schedule for training, meetings, or planned system or power outages at management's discretion.

Section 2: Mid-Day Flex

A. Employees working under either work schedules II or III as defined in Section 1 above may also Mid-Day Flex. Under Mid-Day Flex, employees may leave work in the middle of the day to attend to personal matters, without being charged leave, and return to work to complete their scheduled work hours. The number of hours an employee can Mid-Day Flex depends on the number hours the employee is scheduled to work on that particular day. Mid-day flex does not change the requirement of work schedules I, II, or III that all regularly scheduled hours of work must be completed between the hours of 5:30 a.m. and 8:00 p.m. during the designated work week.

B. Employees must request in writing and must obtain supervisory approval in advance from their supervisor or designee, prior to mid-day flexing. The request must include time and number of hours an employee intends to mid-day flex.

Section 3: Election of Work Schedule

All full-time employees are required to elect one of the work schedule plans in Section 1 above. An employee's election to participate in a work schedule plan other than the normal tour of duty must be approved by his/her supervisor. Employees must elect work schedules II or III in the

last biweek of the quarter before the newly elected schedule is effective. If an employee does not make a selection, the employee is deemed to have selected work schedule I.

Section 4: Withdrawal from Work Schedule

An employee's elected work schedule plan will remain in effect until the participant withdraws from the current work schedule. Employees participating in a work schedule plan other than the normal tour of duty (workschedule I) may withdraw from that work schedule plan at any time, by giving the supervisor two weeks advance notice. Employees who withdraw from such plans shall revert to the normal tour of duty.

Section 5: Probationary Employee Work Schedule

Probationary employees will not be eligible to participate in work schedules II or III as defined in Section 1 above, for the first six months of their probationary year, and thereafter only with supervisory approval.

Section 6: Work Schedules for Transferring Employees

Employees transferring from one business unit to another will be required to obtain approval, from the new supervisor, of their previous election or make a new election at the time of the transfer. Upon supervisory approval the employee can begin participation in a work schedule other than the normal tour of duty at the beginning of the next pay period. It is recognized that it is possible that the new position may be such that the employee may have his or her participation restricted or denied.

Section 7: Removal from Work Schedules II or III

- A. Employees may be removed from the program if they do not maintain at least a fully successful level of performance.
- B. An employee who receives a disciplinary or adverse action may be removed from work schedules II or III.
- C. Employees may be prohibited from electing work schedules II or III for up to three years following a disciplinary or adverse action.

Section 8: Work Schedules While on Travel

- A. An employee participating in work schedule III who is in travel status or on Agency business outside the normal work site will revert to work schedule I or II for the biweek(s) involved. This requirement may be waived by management if such waiver prevents the employee from working overtime or compensatory time.
- B. For employees on work schedule III (IFP), when an employee is on office business away from the normal work site but in the local vicinity, and the duration of the business is less than the duration of the employee's normally scheduled work day, the employee must report to the normal work site and work for a period of time equal to the difference less reasonable travel time from the place of the Agency business to the normal work site.
- C. For employees on work schedules I or II (Normal Tour of Duty or Flexitime), when an employee is on Agency business away from the normal work site but in the local vicinity, and the duration of the business is less than eight (8) hours, the employee must report to the normal

work site and work for at least a period of time equal to the difference between the time worked and 8 hours less reasonable travel time from the place of the office business to the normal work site.

Section 9: General Leave/Holiday/Administrative Leave

General Leave - When an employee is absent from the job other than for a holiday or other administrative leave, he or she will be charged with leave equal in hours to the scheduled length of the work day. Employees working under work schedule III will be charged the number of hours that they scheduled for that day. Employees working under work schedules I or II will be charged with eight hours leave.

Section 10: Hours of Operation and Core Hours

A. In accordance with the Work Schedules I-III identified in section 1 above, the operational, flexible, and core hours are as follows:

Operational Hours for Work Schedule I: Monday – Friday 8:30 a.m. - 5:00 p.m.

Operational Hours for Work Schedule II: Monday – Friday 5:30 a.m. - 8:00 p.m.

Operational Hours for Work Schedule III: Monday – Saturday, 5:30 a.m. - 8:00 p.m.

Morning Flexible Band: 5:30 a.m. - 11:30 a.m.

Afternoon Flexible Band: 2:00 p.m. - 8:00 p.m.

Core Hours: Tuesday and Thursday 12:00p.m. - 2:00 p.m.

B. If an employee works more than 6 hours, the employee must take an uncompensated break of at least 30 minutes. The break may not be at the beginning or end of the employee's workday.

Section 11: Time and Attendance

Management shall determine the official form and procedure for recording, certifying and reporting of Time and Attendance.

Section 12: Part-Time Program

A. This program consists of two separate programs: a first component, the "childcare/ eldercare component" and a second component, the "retention component".

B. Number of participants: this program will include a maximum of 105 slots, with 90 for the childcare/eldercare component and fifteen for retention.

C. Length of Participation: Each participant will be eligible to serve a minimum of three months and a maximum of eighteen months. Participants may reapply in three to eighteen month increments so long as slots are available. When applying, employees will specify the desired length of participation and the component of the program for which they are applying. At the end of the agreed upon period of part-time status, the employee shall revert to full-time status. The Agency shall allow earlier conversion to full-time status at an employee's request, consistent with the needs of the Agency.

D. Within the Childcare and Eldercare Component employees will work a regular set schedule of between 32 and 64 hours per bi-week ("scheduled working hours"). The regular schedule will include at least 2 days per week including at least one core day (Tuesday or Thursday). Each

participant in this component will work a minimum of 4 hours and a maximum of 10 hours per day ("scheduled workday"). Employees must have a current rating of record of at least fully successful and current performance of at least fully successful to be eligible to participate in this component.

E. Within the Retention Component of this program, only employees that are GS-13 and above, with at least three-years PTO experience and a current rating of record of at least fully successful and current performance of at least fully successful, will be eligible to participate. Participants in this component will work a regular set schedule of between 40 and 64 hours per bi-week. The regular schedule will include at least three days per week, including both core days (Tuesday and Thursday). The participant will work a minimum of 4 hours and a maximum of 10 hours per scheduled workday. At least 4 hours of every scheduled workday must fall between the hours of 8:30 a.m. and 5:00 p.m.

F. Employees must notify the program administrator when they withdraw from the part time program.

G. Conditions -

(1) Subject to supervisory approval, an employee may be permitted to amend his/her choice of non-work days to another day or days in the same bi-week, provided that such amendment will not prevent the unit to which the employee is assigned from providing its normal service to the public and the Agency. No amendment can be made which results in an amended scheduled workday to fall on a holiday. Such amendment may not be used to habitually change the employee's regular work schedule.

(2) Subject to prior supervisory approval, an employee may arrange to schedule and work additional regular paid hours when necessary to meet the needs of the Agency or the employee.

(3) Subject to prior supervisory approval, an employee may be permitted to change his/her work schedule during the program (i.e. a change from 2 ten-hour days per week to 3 nine-hour days per week).

(4) If the employee converts to a part-time schedule and there is insufficient time to complete all items of work within the scheduled hours, the immediate supervisor will determine the number and priority of the items to be completed by the employee.

(5) All part-time employees may be required to share an office.

H. Procedures

(1) The Agency will allocate slots in the program to eligible applicants based on the order of receipt of their requests by date to the appropriate Group Director's or equivalent's office. Current participants will not need to reapply to maintain their slots until the end of their approved period of participation.

(2) The Agency will designate a program administrator to whom requests must be submitted. Requests shall also be forwarded to the first and second line supervisors of the employee. Employees may be required to submit requests electronically.

ARTICLE 29

ANNUAL LEAVE

The employee has a right to take earned annual leave subject to the right of the Agency to determine the time at which the leave may be taken.

Section 1: Requesting Annual Leave

A) **Scheduled Leave:** Annual leave should be scheduled in advance. An employee must submit a completed USPTO approved leave request form to his/her immediate supervisor at least three (3) business days prior to the absence. The employee has a responsibility to comply with this requirement; however, in unusual circumstances an employee request made less than three (3) business days in advance will be considered and may be approved.

B) **Unscheduled Leave:** Annual leave, including emergency annual leave, shall be granted or denied by the immediate supervisor or authorized designee. Employees must contact their supervisor or designee within the first hour of the employee's tour of duty or as soon as possible thereafter in order to obtain approval for their use of leave. If the immediate supervisor is not available to respond to such requests, the supervisor will designate another individual, with appropriate authority, who will be available to respond thereto. If unable to contact the supervisor or designee telephonically, employees may request leave by voice mail or email to the supervisor. If the employee chooses to leave a message or sends an e-mail, the employee must leave a telephone number where he/she can be reached and any information that may assist the supervisor in granting the leave. The supervisor will call or e-mail the employee if the leave is to be denied. Messages left for the supervisor do not ensure that the leave has been approved. If the leave is denied, see section 5 below.

C. Upon returning to work, an employee must complete a USPTO approved leave request form to document the unscheduled annual leave.

Section 2: Conflicting Requests for Annual Leave

In order to fairly allocate leave periods, in the event of a conflict in scheduling annual leave among employees, first consideration will be given to those who requested leave earliest in writing, provided however that a request may not be made earlier than one year before the requested leave date. In the event of identical leave request dates, preference will be given in the following order subject to the needs of the Agency:

A. To the employee who was not afforded an opportunity to take leave during the period in question during the previous year; then

B. To the employee with the most seniority. Exceptions to this provision may be made by the supervisor in those cases where determinable personal hardship exists.

Section 3: Cancellation of Annual Leave

Management reserves the right to change or cancel approved leave of an employee due to operational needs.

Section 4: Forfeiture of Annual Leave

It is the responsibility of supervisors and employees to consult in order that leave may be scheduled fairly and equitably and so that annual leave will not be forfeited.

Section 5: Denial of Requests for Annual Leave

When the supervisor denies an employee's request, the employee is expected to report to work as scheduled, or as soon as possible. If the employee reports as soon as possible, the period between the beginning of the work schedule or the time the employee is due to report back and the actual reporting time will be charged to annual leave. If the employee does not report to work as soon as possible, the employee will be placed on Absence Without Leave (AWOL) for the time which the employee does not report to work in increments of 15 minutes, and may also receive a disciplinary action.

Section 6: Substituting Sick Leave for Annual Leave

A) Whenever circumstances within a period of annual leave would clearly justify the granting of sick leave rather than annual leave, sick leave may be granted by the leave-approving official, and the charge against annual leave reduced accordingly. Application for substitution must be made not later than two working days after the employee returns to duty and must be supported by such evidence as required for a request for use of Sick Leave as set forth in Article 30, Section 2.

Section 7: Advanced Annual Leave

A. Grants of advance annual leave are rare and at the discretion of management. In no case will advance annual leave be approved if:

1. the requesting employee is ineligible to earn annual leave;
2. the requesting employee has not served more than 90 days in his/her current position;
3. the requested amount exceeds the amount of annual leave the employee would earn during the remainder of the leave year.

B) Valid requests for annual leave by other employees will take precedence over requests for advanced annual leave.

ARTICLE 30

SICK LEAVE

Section 1: General

An employee shall earn sick leave in accordance with applicable laws and regulations. An employee may use sick leave in accordance with applicable laws and regulations, and the specific procedures of this Agreement for absences due to medical, dental, optical examinations or treatment, incapacitation for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth, or certain circumstances involving communicable diseases. In accordance with applicable laws and regulations, sick leave may also be used for care of a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, optical examination or treatment, as well as to care for a family member with a serious health condition, to arrange and attend funeral services for a family member, and for purposes relating to the adoption of a child.

Section 2: Requesting Sick Leave

A. **Scheduled Leave:** Sick leave shall be requested in advance where possible, such as for routine dental, eye, or other medical examinations. An employee must submit an approved USPTO leave request form to his/her immediate supervisor prior to the anticipated sick leave. The leave request form must be completed in its entirety.

B. **Unscheduled Leave: Prior to the Start of the Workday:** Sick leave shall be authorized or denied by the immediate supervisor or authorized designee. An employee must contact his or her supervisor or designee within the first hour of the employee's tour of duty or as soon as possible thereafter, in order to obtain approval for use of sick leave. If the immediate supervisor is not available to respond to leave requests, the supervisor will designate another individual, with appropriate authority, who will be available to respond thereto. If unable to contact the supervisor or designee telephonically, employees may request leave by voice mail or e-mail to the supervisor. If the employee chooses to leave a message or sends an email, the employee must leave a telephone number where he/she can be reached and/or any information that may assist the supervisor in granting the leave. The supervisor will call or e-mail the employee if the leave is to be denied. The supervisor will leave a message on an answering device but will not be required to call back if an employee has no answering device. Messages left for the supervisor do not ensure that the leave has been approved. Upon returning to work, an employee must complete a USPTO-approved leave request form documenting any unscheduled sick leave. If the employee's leave is denied, see paragraph F below.

C. **Sickness While at the Work Site:** An employee who gets sick after the workday begins must request leave from his/her supervisor, or in the supervisor's absence, from an authorized designee prior to leaving the work site. The employee must complete a USPTO-approved leave request form prior to leaving the work site, whenever practicable.

D. **Employee Unable to Request Leave:** Where for good and sufficient reasons, an employee is unable to notify his/her supervisor of his/her inability to report for duty, another person may act in his/her behalf to notify the supervisor of the employee's absence.

E. Requesting Leave for Incapacitation Lasting More Than One Day: Employees are required to call in to report continued sickness on each business day they are absent unless sick leave for a continued period has been approved.

F. Denial of Sick Leave Request: When an employee's request for sick leave is denied, the employee is expected to report to work as scheduled or as soon as possible. If the employee does not report to work as soon as possible, the employee may be placed on Absence Without Leave (AWOL). Denial of a sick leave request will not preclude a later change in leave status for good and sufficient reasons.

G. Medical Certificates

1. An acceptable medical certificate is a written statement signed and dated by a registered practicing physician or other health care provider certifying to the incapacitation, examination, treatment, or the period of disability of an employee while he/she was undergoing professional treatment by the physician or other health care provider.

2. Employees shall not be required to furnish a medical certificate to substantiate requests for approval of sick leave unless the leave exceeds 3 consecutive business days, or the employee has been placed on leave restriction.

Section 3: Leave Restriction

Where the Agency has reasonable grounds to believe that an employee has abused sick leave, a warning may be issued informing the employee that if the described abuse continues, sick leave restriction may be imposed. If leave restriction is subsequently imposed, written notice will be provided explaining that, for a stated period not to exceed six (6) months, a medical certificate must accompany requests for approval for sick leave. At the end of the stated period, the Agency shall review the employee's situation and give the employee notice of rescission or notice of renewal of the restriction due to continued abuse.

Section 4: Advanced Sick Leave

Full-time, non-probationary employees may be granted up to 104 hours of advanced sick leave in compliance with applicable laws and regulations. The following criteria will be considered:

A. Whether the employee is expected to return to duty for a period sufficient to repay the leave and the employee has sufficient funds in his or her retirement account or any other source of monies owed to the employee by the Government to reimburse the Employer for the advance should the employee not return to work.

B. Whether the employee has provided acceptable medical documentation.

C. Whether the employee is subject to leave restriction as described above.

Section 5: Substituting Annual Leave for Sick Leave

Consistent with applicable laws and regulations and this Agreement, an approved absence, which would otherwise be chargeable to sick leave, may be chargeable to annual leave at the option of the employee.

ARTICLE 31

LEAVE WITHOUT PAY

In most circumstances, Leave Without Pay (LWOP) is not an entitlement, however, an employee who desires leave, but who does not have an adequate leave balance in the appropriate leave category, may request leave without pay.

Section 1: Requesting Leave Without Pay

A) Consistent with applicable regulations and this Agreement, an employee who desires leave, but who does not have an adequate leave balance in the appropriate leave category, may request Leave Without Pay. To request Leave Without Pay, employees must submit a completed USPTO approved leave request form to their immediate supervisor. The reason for the request must be included on the leave request form. If the leave is for sick purposes, a medical certificate as defined in Article 30, Section 2G must be submitted. Leave Without Pay will generally be granted only in extraordinary circumstances, and not merely for the personal convenience of the employee. LWOP requests must be approved by both the first and the second line supervisors.

Section 2: Requests for Leave Without Pay for 30 Days or More

If the employee requests Leave Without Pay for 30 days or more, in addition to the OPM-71, the employee must submit a written statement fully explaining the reasons for the request, and, if the request is made for health reasons, a statement from the physician indicating the need for the absence and the prognosis of the employee's ability to return to work at the end of the period of Leave Without Pay.

ARTICLE 32

OVERTIME

Section 1: Overtime in General

Authorized work performed that exceeds 8 hours in a day of 40 hours in a week (80 hours per pay period for those on a flexible schedule) is overtime work. Employees are entitled to overtime compensation or compensatory time as appropriate for overtime worked in accordance with applicable provisions of law, regulation, and Agency policy.

Section 2: Limits on Overtime Hours

Employees will be limited to a maximum number of hours of overtime each bi-weekly pay period unless the statutory limit on aggregate pay dictates a lower limit. Individual exceptions to the set hour limit may be authorized by the Group Director or equivalent in limited situations where an individual can demonstrate the ability to efficiently work at a higher limit, or to meet specific needs of the Agency.

Section 3: Availability of Overtime

Management reserves the right to grant or deny overtime in accordance with the availability of funds, operational needs, employee's qualifications, performance and/or conduct.

Section 4: When Overtime May be Worked

A. For patent examiners, overtime may be worked on any day of the week including Saturdays, Sundays and holidays. A maximum of 12 hours, including the normally scheduled workday and overtime, may be worked on any day. Paid overtime may not begin before 5:30 AM and must be completed by 11:30 PM. Hours worked on a Federal holiday during the employee's regularly scheduled work hours must be paid as holiday premium pay.

B. For other employees, management will determine when overtime may be worked. Limitations will be based on operational needs or other needs of the Agency.

Section 5: Requirement for a Break

No more than 6 consecutive hours of overtime work are permitted in the absence of an uncompensated 1/2-hour break.

Section 6: Performance

An employee must be performing at least at the Fully Successful level before being authorized to work overtime. Authorization will be on a biweekly basis.

Section 7: Conduct

An employee may be ineligible to work overtime if the employee has received a disciplinary or adverse action.

Section 8: Probationary Employees

First year employees must have a minimum of 6 months of tenure before being considered to work overtime unless otherwise authorized by management.

Section 9: FLSA Requirements

Employees covered by the Fair Labor Standards Act (FLSA) will not work overtime unless approved in advance and for pay (or, at the employee's election, compensatory time in lieu of pay).

Section 10: Mandatory Overtime

Management may require employees to work mandatory overtime.

ARTICLE 33

COMPENSATORY TIME

Section 1: Compensatory Time

- A. Employees will be limited to a maximum number of hours of compensatory time each bi-weekly pay period, as determined by management, unless the statutory limit on aggregate pay dictates a lower limit.
- B. Group Directors or equivalent managers may authorize individual exceptions to the set hour limit in limited situations to meet specific needs of the Agency.
- C) This compensatory time program contains no waiver of due dates. The employee is responsible for arranging to meet established due dates or obtaining adjustments as allowed by the supervisor.
- D) An employee cannot carry forward more than a cumulative of 80 hours of compensatory time per pay period including all types, except religious compensatory time, from one pay period to the next, unless management, at its sole discretion, determines that additional compensatory time for an employee is in the best interest of the Agency.
- E) Employees will be limited to earning no more than 120 hours of all types of compensatory time per fiscal year, excluding those hours earned in the maternity/paternity and religious compensatory time programs, or unless management, at its sole discretion, determines that additional compensatory time for an employee is in the best interest of the Agency.
- F) This program covers full-time employees only.
- G) Compensatory time may be earned in accordance with the regulations governing the earning of overtime. Eligibility requirements for earning compensatory time are the same as those for working overtime.
- H) The compensatory time worked will be added to the employee's production time for the bi-weekly period in which the time was worked.
- I) Compensatory time must be earned in advance of being used, except as provided in Section 4(B) of this Article.
- J) The same pay cap limitations that apply to paid overtime apply also to compensatory time.
- K) Compensatory time may not be earned on a day when the employee is incapacitated because of sickness, or uses leave for the entire day.
- L) An employee may not earn compensatory time on any normal business day until the employee has completed his/her normal work schedule. The amount of compensatory time that may be earned on Saturdays and Sundays during any one bi-week is sixteen (16) hours.

M) No more than 6 consecutive hours of compensatory time can be earned in the absence of an uncompensated 1/2-hour break.

N) First year employees may be considered eligible for compensatory time when it is determined that they meet the criteria for eligibility of paid overtime in accordance with the overtime policy.

O) An employee may be ineligible to earn compensatory time if the employee has received a pending proposed disciplinary or adverse action.

P. Compensatory time may not be earned during an employees regularly scheduled hours on a holiday. Compensatory time may, however, be earned for hours worked outside of the regularly scheduled hours on a holiday.

Section 2: Use of Compensatory Time

A. The use of compensatory time will follow the same guidelines as annual leave in that the use of compensatory time must be approved in advance except when the government is on unscheduled leave.

B. In the event of a government-wide regulation requiring the use of accrued compensatory time in a limited period, employees shall have the time set out in the regulations to be in compliance with this rule.

Section 3: Maternity/Paternity Compensatory Time

A) In addition to the compensatory time described above, an expectant parent may elect to work maternity/paternity (mat/pat) compensatory time in order to accrue and use compensatory time for maternity/paternity reasons.

B) The cap on the total number of mat/pat compensatory time hours that may be earned per calendar year is 80 hours.

C) No more than 6 consecutive hours of Maternity/Paternity compensatory time can be earned in the absence of an uncompensated 1/2-hour break.

D) An employee may be ineligible to earn Maternity/Paternity compensatory time if the employee has received a pending proposed disciplinary or adverse action.

Section 4: Religious Compensatory Time

A. Requests for religious compensatory time off must be made in advance and in writing. The employee must complete an approved USPTO leave request form identifying the date(s), number of hours requested for the absence, and a brief explanation of the religious belief that necessitates the employee's absence from work. The explanation must be indicated in the "REMARKS" section of the USPTO-approved leave request form or attached to the form as a separate statement.

- B. Religious compensatory time may be earned either before or after the absence from work. Religious compensatory time may be earned no more than four pay periods before or after the absence from work. An employee's request for religious compensatory time off should not be granted without simultaneously scheduling the hours during which the employee will work to earn the compensatory time.
- C. The employee shall provide management a clear record of the employee's adjusted work schedule.
- D. Employees are only allowed to accumulate the number of hours of compensatory time needed to make up for previous or anticipated absences from work for religious purposes.
- E. No more than 6 consecutive hours of religious compensatory time can be earned in the absence of an uncompensated 1/2-hour meal break.
- F. In the event that the employee is unable to repay advanced religious compensatory time used (e.g. prolonged illness of employee), the four pay period limit may be extended at the discretion of the supervisor.
- G. An employee with an outstanding balance of religious compensatory time must eliminate that balance before he/she may earn additional compensatory time.
- H. If an employee is absent when he/she is scheduled to perform work to make up for a planned or past absence for a religious observance, the employee must take paid leave, request leave without pay, or be charged with AWOL, if appropriate.

ARTICLE 34

MATERNITY/PATERNITY LEAVE

Section 1: USPTO Policy

Generally, the USPTO allows for absences of up to 6 months for maternity/paternity purposes for non-probationary employees. However, in considering the length of the absence, the operational needs of the Agency will be taken into account. Employees (both male and female) may use any combination of available annual leave, compensatory time, credit hours (if applicable), or leave without pay (LWOP) for maternity/paternity purposes and sick leave in accordance with applicable laws and regulations. Requests for advanced annual or sick leave will be considered in accordance with Agency policy and this agreement.

Section 2: Sick Leave used for Maternity/Paternity Purposes

A) Female employees are entitled to use available sick leave for prenatal and postnatal medical appointments or treatment and any periods of incapacitation as a result of pregnancy and childbirth. In accordance with applicable laws and regulations. In accordance with applicable laws and regulations, and depending upon available sick leave balances, fathers are entitled to use sick leave up to a maximum of 480 hours (minus any sick days taken for general family care purposes and to arrange or attend funeral of a family member) to care for the mother during the period of time she has a serious health condition for example during the period of her incapacitation due to pregnancy and childbirth, or for prenatal care.

Section 3: Family and Medical Leave Act (FMLA)

A) In accordance with the provisions of the FMLA, eligible employees (both male and female) are entitled to use up to 12 administrative work weeks (480 hours) of leave without pay under the Family and Medical Leave Act (FMLA) for the birth of a baby, or for the placement of a son or daughter with the employee for adoption of a child or foster care.

Section 4: Leave for Adoption Purposes

A) In accordance with applicable laws and regulations, an employee may use accrued sick leave for purposes relating to the adoption of a child. An adoptive parent may use sick leave for any purpose that would allow the adoption to proceed including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and for any other activities necessary to allow the adoption to proceed. Adoptive parents who voluntarily choose to be absent from work to bond with an adopted child may not use sick leave for this purpose. Parents may use annual leave or leave without pay for these purposes.

Section 5: Notice to Supervisor

A) Employees must request leave for maternity/paternity reasons indicating the type of leave and the probable duration, normally at least 30 days in advance or when practicable. It is understood that unanticipated medical circumstances and issues may arise during pregnancy that will require an employee to alter their request and not allow 30-day advance notice.

ARTICLE 35

ADMINISTRATIVE LEAVE

Section 1: Voting

When voting polls are not open at least 3 hours either before or after an employee's regular hours of work if the employee is on a regular tour of duty or a flextime plan, then he/she will, upon written request, be granted a sufficient amount of administrative time by his/her supervisor, which will permit him/her to report for work 3 hours after the polls are open or leave work 3 hours before the polls close, whichever requires the lesser amount of administrative leave.

Section 2: Jury Duty

Administrative leave shall be granted in accordance with applicable rules and regulations to employees for jury duty or for appearing in court as a witness in an official capacity or in a non-official capacity as a witness on behalf of the United States. The employee will need to provide a copy of the summons for the leave to be granted.

Section 3: Donations of Blood

Upon advance request to his/her supervisor, an employee who makes a donation of blood without compensation may receive administrative leave up to 4 hours from the time he/she leaves his/her office for donation and recuperative purposes.

ARTICLE 36

CREDIT HOURS

Employees may no longer earn credit hours. Employees with accumulated credit hours as of the effective date of this agreement must use these hours within four months of the effective date of this agreement.

ARTICLE 37

REDUCTION IN FORCE (RIF)

Section 1: Union Notification

The Agency agrees to notify the Union after a final determination has been made to undergo a RIF affecting POPA bargaining unit employees. The information to be furnished to the Union will include the competitive level affected, the number of employees involved, the effective date, and the reasons for the action.

Section 2: Meeting with Employees

After presenting notice to the union, management will meet with the affected employees to explain their rights under the statute, regulations and this agreement.

Section 3: Provisions Applying to Employees Included in the Competitive Level

- A. Employees will be given a minimum period of two weeks to make an appointment with the Office of Human Resources to review their Official Personnel Folders (OPF) to make sure that the information contained in the OPF is accurate. This information will be used to produce the RIF register.
- B. Employees receiving a RIF notice may use Agency automation equipment to conduct a job search.
- C. Employees receiving a RIF notice may request up to 8 hours of administrative leave for interviews.

ARTICLE 38

REORGANIZATIONS

Section 1: Union Notification

Before implementing a reorganization, the Agency will notify the Union of the reorganization, indicating the employees involved and the date of the reorganization.

Section 2: Consultation with Union

Before implementing the reorganization, the Office will consult with the Union concerning the reorganization. The union must request such consultation within 7 days of the notice from the Agency. Any meeting must take place within 7 days of the request. The Agency will consider issues and suggestions raised by the union and will inform the union of the disposition of these issues before reorganizing.

ARTICLE 39

PATENTS HOTELING

Section 1: General Provisions

A. Participation in the Patents Hoteling program is voluntary. Participants must meet requirements of the Patents Telework program. Participants will use Office undesignated workspaces and workstations (“hotel work space”) located at the USPTO headquarters that will be made available for temporary use through a reservation system. Participants will not have a designated workspace or workstation in the Office. Participants must maintain all shared equipment and work spaces in a clean and organized fashion.

B. Participants will schedule their “in office” time with the reservation system, subject to change to meet operational needs. Participants will be on the IFP schedule and must provide appropriate voice outgoing messages and must meet all other work at home guidelines, PAP and IFP schedule requirements concerning customer service and performance.

C. Participants may terminate participation at any time by giving written notification to the Hoteling Coordinator. Notice of termination should be given one week in advance unless exigent circumstances exist. In the event that an employee’s participation in the program is terminated, the employee will be assigned an office on a space available basis as determined by management. The USPTO may terminate an employee's participation in accordance with business needs or other grounds related to participant performance or conduct. Extended periods of leave for up to one hundred twenty (120) consecutive calendar days are permitted as set out in applicable laws, regulations, or other provisions of this Agreement. The Hoteling Coordinator must authorize periods of leave totaling up to six months for family or medical reasons. Extended periods of non-examination of more than six months may be considered a voluntary termination from the program. An employee who voluntarily terminates from the Hoteling Program will not be eligible to reapply for participation in the program unless there is a vacant slot available and the employee meets PTP eligibility requirements.

D. Participants will use a computerized reservation system on a first-come, first-served basis to reserve one of the undesignated workspace equipped with a workstation in order to fulfill their required time in the Office each week. In the event the computerized system is unavailable, alternative reservation procedures will be utilized. Participants will be given priority to schedule mandatory minimum times in the office before other participants are allowed to schedule additional office time. Participants will follow reservation procedures and timelines provided to them.

E. Employees assigned to the hoteling telework program shall be available for telephone consultation between 9:00 AM and 3:00 PM at least three days during the Monday-to-Friday workweek on a preset schedule approved by the employee's supervisor.

F. Employees participating in the hoteling telework program shall work using Office hotel work space at least once a week, for a minimum of one hour and a maximum of twelve hours.

Management may approve a request to use hotel work space for a longer period on a space available basis. .

G. Participants are eligible for transit subsidies as set out in the Transit Subsidy Agreement.

H. Hotelling participants that participate in career development activities will be scheduled to work within Office facilities for prescribed periods of time in accordance with the business needs for the activity at the discretion of management.

I. Eligibility for participation in the hotelling program will be limited to individuals that meet the requirements for eligibility under the Patents Telework Program. Hotelling participants will be selected from volunteers already approved for telework under the Patents Telework Program.

Section 2: Remote Access to USPTO IT Systems

A. The Office may provide hardware and software required for utilizing secure remote access to USPTO IT systems, subject to funding as determined by management and technological limitations. The Office will establish minimum hardware and software requirements for privately owned computer workstations. The Office will update minimum computer workstation requirements annually and support previous requirements for at least two years from establishment. If limited funding exists for hardware or software equipment, participants will be selected for hoteling based upon seniority, subject to operational needs as determined by management.

B. For the whole period of an employee's participation in the program, only hardware and software authorized by an approving official for the alternative work site may be used. Government owned equipment at the alternate work site is to be used only for official business. Employees may not add non-government owned or unauthorized hardware or software to a government-provided home workstation or computer. Employees must insure that the designated work space has reasonable physical security to protect the equipment from being accessed by unauthorized individuals. Employees are to contact the USPTO HelpDesk to report government-provided equipment failures or problems. The employee will report such failures or problems as soon as they are discovered. Employees must notify their supervisors in the event the problem is not resolved by the HelpDesk within one hour.

C. The Office will establish requirements defining the basic computer skills needed to work utilizing remote access to USPTO IT systems to accomplish employee job tasks without a reduction in efficiency. These requirements may include intermediate skills needed to perform installation of software and troubleshooting of computer operating problems using configuration menus and/or connection/disconnection of equipment. As discussed below, appropriate training will be provided.

D. The Office will establish training for participants to familiarize them with procedures for utilizing remote access to USPTO IT systems. Participants will be given two opportunities to demonstrate their computer knowledge skills after training is completed. Should a participant be unable to demonstrate the requisite knowledge and abilities needed, they will not be considered

eligible for remote access telework. Employees may attempt to qualify for remote access telework no more than twice annually.

E. Participants will utilize their own broadband cable internet data connection to remotely access USPTO IT systems. It is understood that the response times of USPTO IT systems will have some increase in latency due to differences in transmission bandwidth and quality of service during remote access over commercial internet connections. The USPTO will take reasonable measures to insure that data response time to deliver responses to the USPTO remote access internet firewall connection is comparable to average response times for internal Office workstations. Non-production time due to perceived latency time during remote access will not be granted to participants.

ARTICLE 40

DURATION OF AGREEMENT

Section 1: Duration

This agreement shall remain in effect for four years from the effective date of the agreement.

Section 2: Roll-Over Provision

Unless notice to terminate this agreement is provided pursuant to Section 4 of this Article, this agreement shall automatically roll-over for one year periods on the anniversary date of this agreement.

Section 3: Amendment of Agreement

The parties may amend this agreement only by mutual consent.

Section 4: Limited Reopening Provision

At the midpoint of this agreement, either party may reopen three Articles of this agreement. If this occurs, the other party may also choose up to three Articles to reopen. Negotiations will follow the ground rules for midterm bargaining. Notice may be given within sixty days of the two year anniversary of the effective date of this agreement, but in no event after that point.

Section 5: Procedures for Renegotiation of the Basic Agreement

At the end of the four-year period, or any year thereafter, either party may give notice of its desire to renegotiate this agreement. Such notice must be given not more than 180 days or less than 120 days prior to the expiration date of the Agreement. As ground rules for the negotiation, the parties will use the same ground rules as used for this agreement unless they mutually consent to revise them. Neither party may insist to impasse on its proposed changes to the ground rules, nor force the other party to participate in mediation or Panel proceedings.

ARTICLE 41

DISTRIBUTION OF AGREEMENT

Section 1: Period for Clerical Review

Once the final language has been agreed to, management will generate an electronic version and provide it to the Union. The parties will review the document within fourteen (14) days, clearly marking any suggested changes to text. Suggested changes should only be to correct typographical and grammatical errors. Changes will be made only by mutual consent.

Section 2: Electronic Availability

This Agreement will be available electronically to all bargaining unit members through the Agency's computer network.

ARTICLE 42

SUPPLEMENTAL AND OTHER AGREEMENTS

Section 1: Status of Existing Agreements

All agreements or understandings between the parties not included in this agreement are no longer binding on the parties, with the exception of the agreements on the following subjects: (1) transit subsidies; (2) quality initiatives; (3) Patents telework; (4) non-Patents telework. The agreement between the parties regarding the reassignment of classifiers to the classifier/examiner “hybrid” position remains in effect to the extent that it is not inconsistent with this agreement.

Section 2: Status of Agreements Reached During Midterm Bargaining

All agreements reached during the life of this agreement will be subject to the roll-over and termination clauses of Article 41 unless a separate termination date is specified in the agreement.

Appendices

Transit Subsidy Agreement
Quality Initiatives
Patents Tele-work
Non-Patents Tele-work
Hybrid Agreement