

PATENTS HOTELING PROGRAM

The Patents Hoteling Program (PHP) will allow eligible employees under the Commissioner for Patents in the POPA bargaining unit to perform officially assigned duties at an alternate work site for a work schedule as defined in Section A2, below. As used herein, “alternate work site” is defined as a location in the employee's home designated by the employee as the location they will use to perform their official USPTO duties, or another location approved by the Agency. The alternate work site must be located in the United States. The “USPTO work site” is defined as the USPTO headquarters in Alexandria, VA, or another location approved by the Agency.

A. Implementation Procedures

A1. Employee Participation

- 1) Participation in the PHP is voluntary.
- 2) The Agency anticipates that up to 40 employees may be added to PHP in a pay period during the initial implementation period. However, participants may not necessarily be added to PHP every pay period (e.g., pay periods with holidays or at the end of a quarter may not be utilized). The initial implementation period will require approximately 10-15 pay periods where participants are added, provided there are no implementation problems.
- 3) The Agency will determine size and positions of the eligibility pool for PHP participation. One hundred percent of the PHP eligibility pool may participate in PHP.
- 4) The Agency shall establish and implement Automated Information System (AIS) procedures for reviewing and counting of actions from the alternate work site as such becomes technologically and operationally feasible. Existing procedures will be utilized until the AIS procedures are implemented.
- 5) When working at the alternate work site, examiners must perform patent examining functions and related activities. Non-examiners must work on tasks directly related to their job functions as defined in their performance appraisal plan when working at the alternate work site. Union representation duties may not be performed at the alternate work site.

- 6) To ensure PHP participants possess the legal competencies necessary for working in a hoteling environment, examiners must have:
 1. Passed their most recent Recertification; or,
 2. In the event that the examiner has not yet undergone the Recertification process:
 - i. Passed the Certification Exam; or,
 - ii. Passed the Registration Exam.

A2. Work Schedules

- 1) Participants will be on the full-time Increased Flexibility Plan (IFP) work schedule as otherwise supplemented in this Agreement, and shall adjust their schedule to attend all meetings and training. Training includes, but is not limited to, Hoteling certification and training, and training at both the USPTO work site and computer-based training (CBT) at the alternate work site.
- 2) Participants shall work using Office hotel work space at the USPTO work site one day per week, Monday through Friday, between 7:30 am and 6:00 pm. The duration of use will be a minimum of one (1) hour and a maximum of ten (10) hours. Management may approve or disapprove requests to use hotel work space on a space available basis. Circumstances of the future may permit the Agency to reduce or eliminate this requirement to work at the USPTO work site. All forms of approved leave, including compensatory time, may be used to meet the required hour(s) on this day. Leave, of any sort, however, may not be used on a regular basis to avoid the requirements of this paragraph to work at the USPTO work site one day per week.
- 3) Participants will use the Agency's computerized reservation system to reserve an undesignated workspace and workstation ("hotel work space") in order to fulfill their required time at the USPTO work site each week. Participants will not have a designated (i.e., permanently assigned) workspace or workstation at the USPTO work site. Workstations and workspace in the hotel work space will be available on a first-come, first-served basis. In the event the computerized system is unavailable, alternative reservation procedures will be utilized.
- 4) Participants will be given priority to schedule mandatory minimum times in the hotel work space before other participants are allowed to schedule additional hotel work space time. Participants will follow reservation procedures and timelines provided to them.

- 5) A maximum of 10 regular hours may be worked at the alternate work site on a given day. On days employees work 6 or more hours at the alternate work site Monday-Friday, at least 6 will be completed between 6:30 a.m. and 7:00 p.m. If the employee works less than 6 hours, all hours worked must be completed during this band. Any other hours worked on this day must be completed during the hours appropriate to the IFP work schedule as supplemented by this agreement. All forms of approved leave, including compensatory time, may be used to meet the required hours on these days. Leave, of any sort, however, may not be used on a regular basis to avoid the requirements of this paragraph.
- 6) Employees who have been approved in advance to work overtime or compensatory time may work these hours at the alternate work site or by scheduling hoteling space in accordance with hours appropriate to the IFP work schedule as supplemented by this agreement.
- 7) Hoteling participants detailed to other activities may be required to work at the USPTO work site for prescribed periods of time in accordance with the business needs for the activity, at the discretion of the Agency.
- 8) All participants in the PHP program are required to use an electronic Timecard and Attendance (T&A) program set forth by the Agency. Participants will indicate on their timesheets (e.g., 690-E) which days were worked at the alternate work site.
- 9) Participants working at the alternate work site will be granted the same holidays as employees at the USPTO work site.
- 10) Early or partial dismissals or delayed arrivals due to road conditions or conditions that affect part or all of the USPTO work site normally do not affect the status of the employees working at an alternate work site. In the absence of exigent circumstances, the employee will continue to work during these conditions and will not normally be granted administrative leave. If these conditions limit the employee's ability to perform their duties, supervisors will consider requests for administrative leave. Employees scheduled to work at the USPTO work site shall follow the same rules and guidelines as other employees at the USPTO work site.
- 11) In the event that remote access or equipment problems prohibit working at an alternate work site, the Agency may direct affected employees to report to the USPTO work site, change their work schedule or request appropriate leave, at the employee's option.

- 12) The combination of the IFP work schedule and mid-day flex afford significant flexibility in the workday. Therefore, requests for non-production time will normally not be granted for service disruptions of short duration to power at the alternate work site or with the employee's Internet Service Provider (ISP). In the event the employee believes that such disruption will significantly impact their ability to complete their work or work schedule obligations, the employee should immediately contact the Agency to schedule hotel work space. Space permitting, requests for hotel work space will normally be granted under these circumstances, even if the employee has already completed their hotel work space requirements for the week. Alternatively, the employee may request appropriate leave.
- 13) Participants must identify their hoteling day in advance and obtain prior supervisory approval of that day. In order that participants not be disturbed during non-duty hours when at the alternate work site, participants will notify their supervisor when their work-day commences, or prior thereto, of the hours to be worked. Employees working a set schedule each week may so notify their supervisors and will not need to meet the daily approval and notification requirements of this paragraph.

A3. Participation Requirements

To be eligible for PHP, applicants and participants must:

- 1) Have and maintain at least a Fully Successful rating of record.
- 2) Not currently be under an oral or written warning improvement period in any critical element of the Performance Appraisal Plan. If an employee's performance diminishes and the employee is placed on an oral or written warning improvement period, he or she may be suspended or removed from remote access and the PHP.
- 3) Sign and comply with the Patents Hoteling Program Work Agreement .
- 4) Consult and collaborate with PHP Participants and between PHP Participants and the USPTO work site.
- 5) Demonstrate ability to work remotely.
- 6) Not be under an active investigation or proposal for disciplinary or adverse action for misconduct that would warrant suspension or removal from the program.
- 7) Not have been suspended pursuant to a disciplinary or adverse action within the last 12 months.

- 8) Have arranged for and have access to high speed broadband Internet service (as specified in section C(1) of this agreement) at the alternate work cite room location. Fees for the service will be paid for by the Agency after participation begins and will continue as long as the employee remains on the program.

A4. Application Process

- 1) In preparation for the initial implementation period, there will be an application period prior to the commencement of the PHP Program. The Agency will place an announcement of the application period on the USPTO Weekly or through the chain of command with appropriate links to a copy of this agreement, any other program guidelines developed, and an application including instructions on how to apply for the program.
- 2) The Agency will provide written notification (e.g. via e-mail) to all employees who file an application for the program of their acceptance or non-acceptance at least 2 weeks prior to the commencement of the program.
- 3) Subsequent to the initial implementation period, there will be three (3) application period closings for participation in PHP each year, the second Saturday in January, April and July. All applicants will be notified within the next pay period following the selection, and selected participants will subsequently be scheduled for appropriate training.
- 4) If the alternate work site is the participant's home, the participant must designate a room or location in their home for placement and use of the equipment and material for the PHP.
- 5) Participants will complete a self-certification of the safety of their alternate work site and update the self-certification if the designated room or location changes.

A5. Selection Criteria

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

- 2) After the initial implementation period, there will be separate selection pools for each of the Technology Centers or equivalent organizational structure under the Commissioner for Patents, currently Technology Centers 1600, 1700, 2100, 2600, 2800, 2900, 3600, and 3700. There will be an additional separate selection pool which will consist of the combined organizations under the Deputy Commissioner for Patent Examination Policy and the Deputy Commissioner for Patent Resources and Planning or their successor organizations. The slots will be apportioned between the pools based on the ratio of the number of those eligible employees in each pool divided by the total number of those eligible employees under the Commissioner for Patents. Slots that are not filled in any of the pools will be redistributed throughout the remaining pools in a manner that redistribution does not impede the Agency's ability to accomplish its mission.
- 3) The Office will establish requirements defining the computer skills needed to work utilizing remote access to USPTO Information Technology (IT) systems to accomplish employee job tasks without a reduction in efficiency. These requirements may include intermediate level skills needed to perform installation of software and troubleshooting of computer operating problems using configuration menus and/or connection/disconnection of equipment. After completion of appropriate training, employees must demonstrate proficiency levels of these skills to participate in PHP. 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 the PHP. Employees may attempt to qualify for the PHP no more than twice per calendar year.

A6. Consultation and Collaboration

- 1) All employees are expected to provide customer service to both internal and external customers by being accessible and available during working hours. Participants will forward their work phone number to their designated personal phone number. Participants working at the alternate work site must check and respond appropriately to voicemail and e-mail periodically throughout the workday during USPTO business hours.
- 2) Participants will be available for consultation during the portion of their workday completed between 6:30 a.m. and 7:00 p.m., Monday-Friday, as set forth in Section A2, 5), above.
- 3) Primary examiners participating in the PHP will notify the junior examiners who they train of their schedule or will schedule appointments with junior examiners who they train.

- 4) Generally, employees in the PHP will be given advance notice of at least two USPTO business days for all meetings, legal lectures, training, or other events that require their attendance at the USPTO work site or to have established remote access at the alternate work site at a specified time.

A7. Termination of Participation

- 1) Participants may terminate participation by giving written notification (via e-mail) to the Hoteling Coordinator and their supervisor. Notice of termination should be given two weeks in advance unless exigent circumstances exist. The Agency may suspend or terminate an employee's participation in accordance with business needs or based on participant performance or conduct.
- 2) In the event that an employee's participation in the program is terminated, the employee will be assigned an office as determined by the Agency.
- 3) Employees suspended from PHP will be reinstated in the program not later than 4 weeks following successful completion of a performance improvement period for matters of workflow and production. For other performance improvement period suspensions, employees will be reinstated not later than 3 months following successful completion of the improvement period.
- 4) All Agency owned materials associated with this program must be returned by the employee to the USPTO work site within 3 business days from the end of the employee's participation in the program. If exigent circumstances exist which prevent such return, arrangements for return of materials must be scheduled with the Hoteling Coordinator or their designated Agency official within 5 business days from the end of the individual's participation.

B. Files and Documents

- 1) Participants will be able to work on patent applications, documents and data files at the employee's designated alternate work site. Only for the purposes of this program, participants will be permitted to remove USPTO patent applications and documents from the USPTO work site in order to perform their officially assigned duties at the alternate work site. The participant is responsible for the transportation of the patent applications and documents to and from the alternate work site. The Agency may impose limitations on the number and duration of removed patent applications, documents and data files. Further, the Agency may mandate the use of specific media for transporting documents and data. No original patent application or other official paper document taken out of the USPTO work site shall remain at the alternate work site longer than ten (10) business days without prior supervisory approval. Likewise, Participants who request leave for longer than three business days should return all patent applications and documents to the USPTO work site

prior to using the leave. Alternatively, supervisory approval for keeping the patent applications or documents at the alternate work site for the duration of the requested leave must be obtained prior to using the leave.

- 2) 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 and follow the procedures in accordance with USPTO system failure guidelines. If the problem cannot be resolved within one hour, the employee must inform the supervisor of the problem (including via e-mail or voicemail).
- 3) Participants must ensure that the designated location at the alternate work site has reasonable physical security to protect documents, files and equipment from being accessed by unauthorized individuals. Participants will apply approved safeguards to protect all Agency records and data from unauthorized disclosure, access, damage, or destruction and will comply with the Privacy Act requirements.
- 4) The Agency maintains ownership and control of any and all equipment, software, other materials, and data provided to the participant. Use for private purposes is prohibited except as permitted by the Agency.
- 5) When the Agency has an unusual need for a patent application or other document that is located at the alternate work site, the employee with whom the patent application or other document is located may be directed to provide the patent application or other document or other requested information to the Office within one USPTO business day. An unusual need is one that does not occur on a regular basis and cannot wait for the employee's scheduled return to the USPTO work site or be resolved through other means. If the day the application needs to be returned is a day the participant is scheduled to be away from the Office, transportation time to and from the official duty station will be treated as duty time. When there is a normal need for an application or document, the participant will bring the application or document into the Office on his or her next workday at the USPTO work site.

C. Information Technology (IT) Systems

- 1) The Agency will establish and periodically revise requirements for high speed broadband Internet access consistent with operational requirements for remote access. Compatibility of the Office's remote access systems will be maintained for a minimum of two (2) years once requirements are established, subject to technological and business needs.
- 2) The Agency will take reasonable measures to ensure data response time to deliver responses to the USPTO remote access Internet firewall connection. It is understood that the response times of USPTO IT systems may have some increase in latency due to differences in transmission bandwidth and quality of service during remote

access over commercial Internet connections. Non-production time due to latency time during remote access will not be granted to participants.

- 3) When the Agency provides equipment, software, and/or other materials to participants for use at the alternate work site in accordance with this agreement, non-examining time will not be granted for the installation of such. The Agency may require the return or exchange of any or all equipment, software or other materials provided. Catastrophic time may be granted for loss of work due to failure of Agency provided equipment, software or other materials. The Agency is not responsible for non-Agency provided equipment and non-examining time will not be granted for installation of equipment and software, or if problems occur.
- 4) The Agency will establish minimum hardware and software requirements for any privately owned computer workstations used in the program. The Agency will update minimum computer workstation requirements annually and support previous requirements for at least two (2) years from establishment, subject to technological and business needs.
- 5) Hoteling participants will be selected and maintained based upon seniority and demonstrated ability to work remotely.
- 6) Hardware and software will be provided as part of the initial PHP implementation period. The Agency anticipates that future technological advances may negate the need to provide such equipment. Therefore, determination of what, if any, equipment is provided in the future is at the Agency's discretion.
- 7) For the whole period of an employee's participation in the program, only hardware and software authorized by the Agency for the alternate work site may be used. Government owned equipment at the alternate work site is to be used only for official business except as allowed by Agency Policy. Employees may not add non-government owned or unauthorized hardware or software to a government-provided home workstation or computer.
- 8) Employees will adhere to the USPTO IT Rules of the Road and Agency Administrative Orders (AAO).

D. Long Distance Telephone

- 1) Participants will not be reimbursed for use of their own phone.
- 2) The Agency will provide telephone calling cards or other mechanism(s) to cover the cost of long distance business related phone calls for participants if necessary to perform assigned duties. Participants will maintain a log of calls made at the alternate site using a provided telephone credit card or other mechanism(s) by date,

telephone number, and category of call and will e-mail the phone log to their supervisor on a monthly basis. If no phone calls are made using the Agency's credit card or other mechanism(s) for a month, then no log needs to be turned in for that month.

- 3) Any Agency-owned equipment, including a calling card, is for official use. Use of the equipment for private purposes is prohibited except as permitted by the Agency.

E. Rights and Responsibilities

- 1) Participation in the PHP will not change the conditions of employment established by past practices, law, rule, regulation or any previous agreements except as specified in these guidelines.
- 2) Employees participating in the PHP will have their performance evaluated under the criteria set out in their Performance Appraisal Plan.
- 3) Participants must maintain all shared equipment and work spaces in a clean and organized fashion.
- 4) Participants that are renters are responsible for ensuring that their lease allows the installation of all the necessary equipment and lines for the program.
- 5) The participant is responsible for ensuring compliance with all local laws or rules governing an office in their home.
- 6) Abuse of the program guidelines may result in suspension or removal from the program.
- 7) In order to continue in the program, participants must follow the Agency standards governing ethical behavior, conduct, and confidentiality regardless of where the official duties are performed. An employee may be removed from the program for up to 12 months if the employee has received a disciplinary or adverse action. If the Agency believes the employee should be precluded from participating in the program for longer than this period, the Agency will include this decision in the disciplinary/adverse action. On a case-by-case basis, the Agency may temporarily remove an employee being investigated for serious violations of the above standards, including proposed actions. Temporary removal will last no longer than 100 days from the date of removal, unless the issue is referred to the Inspector General, the Department of Justice or other law enforcement agency.
- 8) 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 agreements between the Agency and POPA. Extended periods of non-participation 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 PHP eligibility requirements.

- 9) Participants are responsible for any utility cost, heating, cooling, local phone service, and lighting at the participant's home. Participants are responsible for any re-wiring, updating, and improvements necessary to bring the electrical wiring and connections in a participant's home up to the required standards.
- 10) Participants will maintain reasonable care of all Agency-owned materials and equipment. The Agency acts as the insurer for damage, theft or other loss (e.g. fire, flood, etc.) of the Agency materials and equipment.
- 11) Participants are covered under the Federal Employee's Compensation Act if injured in the course of performing official duties at the alternate work site. If so injured, the participant will notify their supervisor or another designated Agency official as soon as possible (in accordance with FECA).

- 12) Upon notification, the Agency may investigate any accident and injury reports that occur at the alternate work sites.
- 13) Upon reasonable advance notice by the Agency, the employee agrees to permit inspections by the Agency (including contractors) of the work area at the employee's alternate work site during the employee's normal working hours for the purpose of ensuring proper maintenance of Government owned property and work site conformance with safety standards. Additionally, Agency materials and/or equipment may be installed and/or removed as necessary for administration of PHP. The inspections will not occur more than once per six (6) month period unless necessary to maintain or repair Government owned property or to investigate other work-related or safety problems arising from the administration of PHP. Routine inspections will be scheduled at the convenience of the parties.
- 14) The Agency will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using USPTO material in the employee's residence or elsewhere, except to the extent the Agency is held liable by the Federal Tort Claims Act claims or claims arising under the Military Personnel and Civilian Employees Claims Act.

F. Evaluation

- 1) The program will be evaluated to determine the continuing feasibility of the Hoteling program arrangements to ensure that the duties officially assigned are performed without diminished employee performance and the Agency's ability to serve the public is not adversely affected.
- 2) During the evaluation period, the program will be evaluated on criteria including but not limited to:
 - Cost effectiveness/organizational costs
 - Employee satisfaction
 - Customer service
 - Remote collaboration and consultation between PHP Participants and between PHP Participants and the USPTO work site.
 - Remote training
 - Performance (individual and organizational)
 - Quality
- 3) Participants will participate in surveys and focus sessions. Participants will adjust their work schedule as necessary to participate in the PHP evaluation. Co-workers and supervisors may also be surveyed.

- 4) The parties agree to meet approximately every six months to discuss issues related to the program. In addition, either party may reopen this agreement every 2 years so long as notice is provided to the other party at least 30 days prior to the 2 year anniversary of the effective date of this agreement. The duration of this agreement is each two (2) year period; however, if neither party provides notice to the other party as outlined above, this agreement will automatically be extended until the expiration of the next two (2) year period. Should the parties reach agreement on a comprehensive collective bargaining agreement (CBA) during the life of this agreement, this agreement will be added to the CBA and reopening or renegotiations will be covered by the terms of that agreement.

G. Miscellaneous

- 1) The Agency will provide participants in the PHP standard office supplies for use at the alternate work site. At least initially, the Agency will provide the supplies at the USPTO work site. However, alternate arrangements based on such factors as cost and feasibility may dictate a change in the manner the Agency provides supplies in the future.
- 2) Participants are eligible for transit subsidies as set out in the Transit Subsidy Agreement, including for transit to the alternate work site if that site is different from the employee's home.
- 3) This program shall commence no later than 2 months from the effective date of this agreement. The effective date is the date of Agency Head approval or 31 days after signing of this agreement, provided that the Agency Head does not disapprove the agreement prior to that point. If one provision is disapproved by the Agency Head, the remainder of the provisions remain in effect.