

2006 TWAH HOTELING GUIDELINES

Section 1. Background

1.1 Introduction

The U.S. Patent & Trademark Office (USPTO) Trademark Work at Home (TWAH) program has had considerable benefits to both employees and the agency since its inception in March of 1997.

1.2 Partnership

The USPTO TWAH Program is conducted in partnership with the National Treasury Employees Union, Chapter 245.

1.3 Partnership Working Group

The USPTO TWAH Program is administered by the Trademark Work at Home (TWAH) Partnership Working Group in accordance with Section 4.2 of these guidelines. This group shall be comprised of the TWAH Coordinator, who is a management representative, one additional management representative, and two representatives of NTEU 245, unless otherwise agreed to by the parties. The Working Group will meet periodically.

Section 2. Scope

2.1 Applicability of Provisions

The provisions of this document apply to all USPTO employees participating in TWAH, including those included in the bargaining unit and their supervisors.

2.2 Non-Discrimination Statement

Participants will be selected without regard to race, color, gender, religion, national origin, age or disability.

2.3 Ethical Standards

Employees are reminded that all standards governing ethical behavior remain in effect regardless of where or when work is performed.

2.4 Federal Statutes

Nothing under this agreement will abrogate an individual's rights under federal laws, including, but not limited to, the Americans with Disabilities Act, the Family and Medical Leave Act, and the Rehabilitation Act.

2.5 Unforeseen Circumstances

Unusual and unforeseen circumstances concerning the administration of the program that are not fully addressed by these guidelines shall be resolved in consultation with NTEU 245 through the TWAH Working Group.

Section 3. Employee Participation

3.1 Participants

Current TWAH participants may continue in the program under these guidelines without reapplying; however all technical requirements for performing work at home must be available at the alternate worksite and all other requirements for remaining on the program must be met. If a current participant moves their home office, broadband connectivity must be available in the new alternate worksite for the participant to remain on the program.

3.2 Selection and Participation Criteria

a. When future openings occur, attorney advisors (Trademarks) will be notified in writing that they may volunteer to participate.

b. To be eligible for selection for the TWAH program, attorney advisors (Trademarks) must meet the following requirements:

- 1.) At least 45 days on production as a GS-13 and the employee has received at least one quarterly rating based on the production levels of a GS-13, and be performing at least at a fully successful level in each critical element of the performance appraisal plan as of the current fiscal year to date;
- 2.) Have not been subject to a PIP in the previous 18-month period prior to the date of application for the program;
- 3.) As of the last rating of record have achieved at least an overall rating of fully successful; or for those without a rating of record as of the latest rating period, been on production for at least a full quarter year;
- 4.) Have not been subject to disciplinary action in the previous 18 month period;
- 5.) Have the capability for high-speed broadband connectivity at the alternative worksite and meet all other technical requirements as stated in the guidelines.

Part-time employees may apply for the program, but must agree to change to a full time schedule once they begin working at home. They may be selected if a full time position is available. In addition, all participants must be on the Increased Flexibility Program (IFP) schedule.

If there are more eligible applicants than available slots, participants will be chosen according to Section 3.2(c).

c. Upon expansion of the program or to fill vacancies, participants will be chosen among the qualified applicants Office wide by seniority. Seniority will be based on time in service from the date of commencement of employment performing Trademark Examining functions. Total time in service will not be reduced by part-time status, career details, work projects, any extended periods of leave taken while serving as an Examining Attorney, or time served in other parts of the USPTO. Total time in service will be reduced by any breaks in such service, such

as when a person leaves the Office entirely or when a person takes a position outside the USPTO even if the person's status as an employee of the USPTO remains intact. In the event of ties in seniority, such ties will be broken by choosing the volunteer with the highest overall rating point score as of the last rating of record.

d. Attorney advisors (Trademarks) may participate in any career development details, pursuant to NTEU 245 agreements, while participating in the hoteling TWAH program. Employees should not assume that the duties of a detail can be performed at the alternative work site. To the extent that they can be, participants selected for a detail should work out an arrangement with the detail manager. Any examination may continue to be performed at the alternate worksite, and the employee may work out temporary arrangements with their law office manager and the TWAH Coordinator taking into consideration the requirements of their specific detail and operational needs of the Office. Further, Attorney advisors (Trademarks) may participate in work projects, training activities and other employment related non-examining activities, subject to operational needs and with the agreement of the management members of the TWAH Working Group, while participating in the hoteling TWAH program. Details, work projects, training activities and any other work-related nonexamining activities shall not total more than consecutive 120 days in any given fiscal year, unless otherwise approved by the TWAH Working Group.

e. Participants will not have a designated workstation in the Office; rather, they will use the hotels that will be made available for temporary use through a reservation system. Hotels will be equipped with locking storage space and supplies. Participants must leave pedestal keys in the hotel office for the next user. In addition, participants must leave hotel offices in general order for the next user. In particular, participants will leave general office items in the hotel for the next user and will replace any supplies used up so the next user will not be disadvantaged.

f. Participants will use a computerized reservation system on a first-come, first-served basis to reserve one of the hotel workstations. In the event the computerized system is unavailable, alternative reservation procedures will be utilized. Participants will follow reservation procedures and timelines provided to them.

g. Schedules will increase in flexibility; 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 contractual, work at home guidelines, PAP and IFP schedule requirements concerning customer service and performance. Employees will work from home the majority of their working hours but are required to be in the Office as necessary to meet all TWAH Program

and performance requirements, to attend training, to attend meetings, and as otherwise required by management.

3.3 Termination of Participation

Participants may terminate participation at any time by giving written notification to the hoteling TWAH Coordinator. Notice of termination should be given one month in advance unless exigent circumstances exist. The USPTO may terminate an employee's participation on the grounds outlined in Section 6.2 of the Guidelines. Extended periods of leave for up to one hundred twenty (120) consecutive calendar days are permitted. Periods of leave totaling up to six months for family or medical reasons must be authorized. 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 TWAH Program will not be eligible to reapply for participation in the program from six months from the date of termination and will not be selected unless there is a vacant slot available, the employee meets the criteria of the Selection and Participation Criteria (Section 3.2), and no other volunteer has been an examining attorney for more than five years.

3.4 Return from Program to Working in Office

In the event a participant leaves the program, either voluntarily or involuntarily, the participant must return to working in the Office and occupy an available vacant office, subject to operational needs. The employee's rights of seniority for office selection under the Collective Bargaining Agreement will be deferred until the next time an office is vacated and offered in accordance with the relevant provisions.

3.5 Federal Employee's Compensation Act

The employee is covered under the Federal Employee's Compensation Act if injured in the course of actually performing official duties at the alternative work site. If so injured, the employee will notify the supervisor or another designated USPTO official as soon as possible (in accordance with FECA).

3.6 Liability for Damages

The Government 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 Government equipment in the employee's residence, except to the extent the Government is held liable by the Federal Tort Claims Acts or the Military Personnel and Civilian Employees Claims Act.

3.7 Privacy Act Statement

Employees will apply approved safeguards to protect Government/Agency records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the Privacy Act of 1974, Public Law 93-579, codified at 5 U.S.C. Section 552a.

Section 4. Responsibilities

4.1 Office of the Commissioner for Trademarks

The Office of the Commissioner for Trademarks is responsible for the overall administration of the Patent and Trademark Office TWAH Program for the Trademark Examining Operation.

4.2 Trademark Coordinator

The responsibilities of the Trademark Coordinator in consultation with Trademark TWAH Working Group are to:

- a. Review and approve TWAH applications based upon criteria identified in this document in consultation with NTEU 245.
- b. Ensure that participating employees, their managers, and law office staff receive training and/or orientation.
- c. Ensure that the TWAH Workplace Project Work Agreement is completed and signed. (This agreement spells out the terms, conditions, and expectations relating to TWAH.)
- d. Recommend hardware and equipment needs for participating employees.
- e. Ensure that information system procedures are in place at remote work sites.
- f. Ensure that each employee is provided with accessible contacts and alternates for reporting problems and requesting guidance.
- g. Conduct periodic inspections as needed during the employee's normal working hours to ensure that government owned property is properly maintained and that the work site conforms to safety standards and other established specifications, in accordance with the work agreement. As per Section 5.13, the TWAH Program Coordinator must provide reasonable advance notice of the need to enter the employee's alternate work site during Employee's normal working hours.
- h. Promptly investigate all accident and injury reports, following notification, that occur at the remote work sites.
- i. In conjunction with the managing attorney, advise employees in writing when it is necessary to terminate participation in the program in accordance with the criteria in the Section 6.2 of the guidelines.
- j. Notify NTEU 245 bargaining unit members of any vacancies in the program on a contemporaneous basis.
- k. Coordinate focus groups, surveys, and other methods used to monitor the success of the TWAH program.

4.3 Managing Attorneys

The responsibilities of the Managing Attorneys are to:

- a. Review employee requests for participation in accordance with established criteria. Certify eligibility for participation to the TWAH Working Group.
- b. Work with employees to resolve any logistical issues associated with the employee's participation in TWAH.
- c. Monitor work and provide appropriate feedback to TWAH employees regarding any changes in performance expectations or results or other nonconformance issues.
- d. In conjunction with the TWAH Coordinator, advise employees when it is necessary to terminate participation in the program in accordance with the criteria in the Work Agreement and Section 6.2 of the guidelines.
- e. Complete all necessary reports and participate in Focus groups as may be required by the TWAH program.
- f. Direct that law office personnel not divulge the addresses and private home telephone numbers of participating employees to the public or to any other USPTO personnel who have no need to know such information.
- g. Work with the Supervisory Legal Instrument Examiners and support staff to follow procedures for handling case requests and phone calls from the public involving files assigned to TWAH attorneys when at alternate work sites.

4.4 Employees

The responsibilities of the Employees are to:

- a. Complete the TWAH Hoteling Program Work Agreement.
- b. Use the reservation system for scheduling time and day in the Office. The Employee must also inform the Manager of the location of the alternative work site, and home phone number.
- c. Maintain, at a minimum, a fully successful level of performance in each critical element of the performance appraisal plan.
- d. Complete all necessary forms and reports and participate in focus groups as may be required by TWAH.

- e. Comply with the requirements of the Increased Flexibility Program (IFP). Advise their manager when they are unable to perform work and request changes in location, scheduling, and appropriate leave (i.e., annual, sick, LWOP, etc.).
- f. Comply with all required security measures. Protect all government records and data against unauthorized disclosure, access, mutilation, obliteration, or destruction.
- g. Ensure that government-owned equipment is used only for official purposes.
- h. Have appropriate childcare, elder care and any other dependent care arrangements so that the participant's ability to work at home is not adversely affected.
- i. Maintain all shared equipment in a clean and organized fashion.
- j. Use automated examination and administration of applications for examination.
- k. All trademark examining attorneys are expected to provide customer service to both internal and external customers by being accessible and available during working hours. Participants shall be courteous, timely and responsive to all internal and external customer requests. Because TWAH hoteling participants are physically unavailable for the majority of the workweek while working at the alternative work site, participants should utilize their technology to optimize their level of customer service. To that end, participants should leave their electronic mail window open and answer their business telephone whenever doing so will not unduly interfere with accomplishing their work. During any period an employee closes the e-mail window or does not answer the telephone, voice mail and e-mail should be checked at least at the beginning of the work day, between 11 a.m. and 1 p.m., if such hours fall within the day's tour of duty, and before ending the work day.

Section 5 Facilities and Equipment

5.1 Alternate Duty Station

All participants must designate the location of the alternate worksite and notify management of any change in a timely manner. Any location outside of the Washington, D.C. metropolitan area must be pre-approved by the TWAH coordinator. The Office will endeavor to treat similarly situated individuals in a similar manner and if a request is denied, the working group will be notified.

5.2 In-Home Work Area

All employees participating in the TWAH hoteling Program should have a specific room or area of a room, which is designated for the performance of official duties. The Office is under no obligation to provide chairs, desks or other office furniture. The Office will provide the necessary telecommunications equipment, including facsimile capability and office supplies to accomplish the duties of the position, subject to available funds. The procurement and assignment of government property will be accomplished through coordination with the local facilities management organization.

5.3 Landlord Approval

Employees who are renters may be required to clear work-at-home arrangements with their landlord. Obtaining permissions from the Landlord for necessary adjustments to accommodate electronic equipment, room temperature requirements for computers, wiring and electrical connections and the like is the responsibility of the employee.

5.4 Technical Connections

The Office will not be responsible for any re-wiring or improvements necessary to bring participants' residences up to the required standards for electrical connections. The Office will provide ISP service for government business use except in cases where a participant is in temporary residence for less than six months. The participant in temporary residence must supply the ISP connection consistent with operational requirements.

5.5 Smoke/Fire Detectors

Smoke/fire detectors are required and will be the responsibility of the employee.

5.6 Utility Costs/Moving Costs

Increases in utility cost, which have been shown to be minimal in other work-at-home programs, are the responsibility of the employee.

In the event a participant moves from the previously designated alternate worksite, the participant must notify the TWAH Coordinator and the Managing Attorney in advance of the move of the new address and telephone number of the new residence and comply with provisions set out section 3.1 and 5.1. and other management instructions.

5.7 Telephones

The Office will provide telephone service for government business calls. If the government provides VOIP telephone service, the employee will maintain a personal phone and use that phone to report any outages in the event that VOIP is not functioning.

5.8 Scanner

The Office will equip employees with a scanner apparatus on a case by case basis in order to facilitate communication with the Office and customers.

5.9 Government Ownership of Equipment

The Office retains ownership and control of any and all hardware, software, telecommunications equipment and data placed in the residence of employees. Government equipment is to be used for official business only. Employees are prohibited from using the equipment for private purposes.

5.10 Repair of Government Equipment

The Office is responsible for the maintenance and repair of all government owned equipment that is placed in the employee's residence. The participant is responsible for bringing government equipment to the Agency for repair and maintenance. With permission, the participant may ship the equipment to the Agency for repair and maintenance.

5.11 Equipment Security

All computer equipment, peripherals, Office provided telephones, fax machines, system documentation, removable media, etc., must be protected during non-working hours from theft, access or tampering and other physical hazards. Locks and/or restraining devices are appropriate to provide such protection.

5.12 Equipment Provision

The USPTO will provide the equipment necessary to the performance of the job. USPTO equipment will be serviced and maintained by the agency.

5.13 Inspections by USPTO

Upon reasonable advance notice by USPTO, the employee agrees to permit inspections by the USPTO of the work area at the employee's alternate work site during employee's normal working hours for the purpose of ensuring proper maintenance of Government owned property and work site conformance with safety standards. Said inspections will not occur more than once per six 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 the TWAH program. Routine inspections will be scheduled at the convenience of the parties.

5.14 Non-Government Equipment Prohibited

For the whole period of an employee's participation in the program, only hardware and software procured by the Federal government and authorized by an approving official for the alternative work site will 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 the home workstation. Employees must insure that the designated workspace has reasonable physical security to protect the equipment from being accessed by unauthorized individuals.

5.15 Reporting Equipment Failures

Employees are to contact the USPTO HelpDesk to report equipment failures or problems. The employee will report such failures or problems as soon as they are discovered. Employees must notify their Managing Attorneys in the event the problem is not resolved in a reasonable time by the Helpdesk following procedures delineated in Section 7.8.

5.16 Union Representation at Meetings

Upon reasonable advance notice, the employee agrees to meet with the management representatives of the TWAH working group and other members of management at the alternative work site. The employee will be informed when a meeting under this section is required. An employee may request the presence of a union representative at any such meeting of the alternative work site. The Union representatives will be entitled to use non-bank official time for travel. However, the scheduling of a non-routine on-site visit by the USPTO will not be affected by the availability of a union representative. Nothing in this agreement abrogates the rights of the employee under Article 7, Section 7, of the current Collective Bargaining Agreement, or the relevant articles of any subsequent agreements, between the USPTO and NTEU 245.

Section 6 Performance Standards and Expectations

6.1 Performance Expectations and Standards

Employees' job performances will be evaluated using standards set out in the employee's Performance Appraisal Plan. USPTO may address job-related issues by providing adjustments as appropriate. It is understood that generally work will be completed independent of immediate review, consistent with the full signatory provisions of the trademark attorney advisor position. Participation in the TWAH program will not, in and of itself, inhibit the employee's ability to earn any rating under any of the elements of the employee's Performance Appraisal Plan.

6.2 Termination of Employee from Program

The USPTO may terminate an employee from the program because of any of the following reasons: the employee violates the terms of the TWAH work agreement, written policies or guidelines; the employee's conduct demonstrates an inability to work without continuous supervision; the employee's performance is not fully successful in any of the critical elements cumulatively for the rating period, or is not fully successful in the pendency elements for each quarter of the fiscal year; the employee's home does not meet technical or safety requirements, or the program is terminated by the agency. The USPTO will give employees two weeks advance notice in writing of termination unless exigent circumstances exist. Upon involuntary termination, re-application to the program will not be accepted for twelve (12) months from the date of termination, and the employee will not be selected unless there is a vacant slot available, the employee meets the criteria of the Selection and Participation Criteria (Section 3.2); in addition, the employee's selection will be delayed until applications from all other eligible applicants have been considered.

6.3 Employee Mailboxes

Participants must maintain their employee mailboxes and empty their mailboxes every time they work at the official duty station.

6.4 File Accessibility

In the event that a participant actually removes the paper copy of an application file, all paper files must be returned to the Office when employees are on extended absence of periods exceeding five calendar days, unless arrangements are otherwise made, in exigent circumstances, with the employee's managing attorney. At all other times, paper files must be returned to the office when requested by another employee for internal use within seven calendar days. In exigent circumstances, management may require the return of a paper file within a shorter time frame.

6.5 Case Requests by the Public

In the event that a participant actually removes the paper copy of an application, the paper file must be returned to the Office when a member of the public requests a paper file. The employee with whom the case is located may be required to provide the file or other requested information to the official duty station (the Office) before 1 p.m. the next working day where the participant has received the request by 1 p.m. of the previous working day. In the alternative, the participant may work out an alternate resolution to the customer's satisfaction including faxing the relevant portions of the file. Employees will make a good faith effort to meet customers' needs promptly.

At the time of any file request, participants will be contacted by the Office by means of telephone and e-mail messages. Such notification shall be considered received by the participant on the employee's next official working day if the employee has previously given proper notice that he/she would not be working on the day notice was sent. (An official working day will not include a day on which leave is taken).

Section 7 Time and Attendance, Hours of Duty and Alternative Work Schedules

7.1 Applicable Labor Statutes/Regulations; Collective Bargaining Agreement

Provisions of Title 5, U.S.C., the Fair Labor Standards Act, and in the Collective Bargaining Agreement apply to TWAH.

7.2 Work Hours/ Tours of Duty

Participation in the Work at Home program requires that employees' work schedules maximize the flexible scheduling opportunities of the USPTO's Increased Flexibility Program. Each tour of duty that is longer than six hours will include a one-half hour, non-paid lunch period. Participants will complete the majority of their tour of duty at the alternate work site but are required to report to the official duty station on a regular basis at least once per week, to meet all

TWAH Program and performance plan requirements, to attend training, to attend meetings, and as otherwise required by management.

7.3 Change of Duty Station During Work Day

Participants are free to utilize the Mid-day flex provisions of the USPTO and relocate between duty stations during the workday. All work, whether at the alternate or official duty station, must be performed within official work hours (5:30 a.m. - 10:00 p.m. Eastern Standard Time).

7.4 Pay, Leave and Travel

All pay, leave and travel entitlements will be based on the employee's official duty station.

7.5 Reservation of office space

Employees will reserve an office for the tour of duty spent at the official duty station. Reservations will be made on a first come-first served basis. All of the employees' time and attendance will be recorded as if at the official duty station.

7.6 Requesting and Taking Leave and Compensatory Time

Employees must follow established USPTO procedures when requesting and taking leave or compensatory time.

7.7 Overtime and Compensatory Time

The employee understands and agrees that only overtime and compensatory time that is approved in advance, requested on a CD-81, in accordance with normal Office policy, and officially authorized will be paid. Employee agrees that failing to obtain prior approval for paid overtime work or for work performed under the Compensatory Time Program may result in the employee's inability to be compensated for such unauthorized time. In addition, TWAH participants are eligible to work overtime solely to the extent such time is approved for Examining Attorneys of the TMEG.

7.8 Adjustments Due to Equipment Failures

Equipment failure is considered to be the interruption of the ability to work productively due to lack of access to the necessary computer software applications, either because of the inability of a remote workstation to establish a connection with USPTO or a system failure at the USPTO that causes a global outage to multiple users.

Inability to work at the alternative work site because of equipment failure must be reported to the employee's managing or senior attorney as soon as possible. If after initial efforts to resolve the problem such as rebooting the PC, or calling the HelpDesk for assistance are unsuccessful, the employee must notify his or her supervisor, leaving a message indicating the ticket number and brief synopsis of the situation. If the inability to work is the result of a system-wide failure that affects the ability to work at the official duty station, employees will be notified not to report to the official duty station.

In the event that network systems are available at the official duty station, the employee may elect to travel to the official duty site to finish his or her tour of duty. In the absence of exigent circumstances, the employee will not normally be granted travel time. The employee may invoke the provisions of the Increased Flexibility Program and defer his or her tour of duty to a later time/date. The employee may also request annual leave or may request use of accrued compensatory time rather than report to the official duty station. The circumstances of the occurrence will dictate how the employee may choose to act.

7.9 Adjustments to Schedule Due to Weather/Road Conditions/Etc.

The employee is aware that Office (official duty station) closures due to weather, road conditions, or conditions at or around the Office do not normally affect the employee's ability to work at home. In the absence of exigent circumstances, the employee will continue to work during these closures and will not normally be granted administrative leave. However, if the condition at the official duty station does impact the ability to work at the alternate work station, (e.g. the Office network servers are shut down), employees at the alternate work station will be treated in the same manner as those at the official work station.

7.10 Adjustments to Schedule Due to Holiday or Administrative Leave

Except in the event of dismissals by the Office or higher federal authorities due to emergency circumstances at the official duty station, TWAH participants working at the alternate work site will be granted the same Holiday and Administrative Leave as those at the official duty station.

7.11 Attendance at Required Meetings

Provided employees are given notice forty-eight (48) hours in advance, employees may be required to attend meetings, legal lectures, etc., or to otherwise come to the official duty station on days normally scheduled for the alternative work site. In exigent circumstances, employees shall be required to report to the official duty station with notice given twenty four (24) hours in advance.

7.12 In-Office Duty Hours Expanded

TWAH participants may work during the same hours, Eastern Standard Time, as employees in the office at either the official or alternate duty station.

7.13 Adjustments

Adjustment to PAP goals will normally not be granted for services disruptions or broadband service installations. If a participant experiences service disruptions, the participant has the option of flexing under the IFP work schedule, working in hotel space at the office or requesting leave. In the event of exigent circumstances due to global system unavailability, management may provide adjustments to PAP goals on a case-by-case basis.

Section 8: Labor Relations and Employee Grievance Rights

8.1 Grievance Procedures

Any disputes regarding the interpretation or application of the USPTO TWAH Program shall be resolved in accordance with the parties' negotiated labor management agreement.

8.2 Modification of Guidelines

These guidelines have been developed in consultation with NTEU 245. Evaluation, modification, termination or expansion of the program or these guidelines will occur only after consultation with NTEU 245.

Section 9: Work Agreement

9.1 Signatures of Participants and Managers

All participating employees and their managers must complete and sign the USPTO TWAH Hoteling Work Agreement.