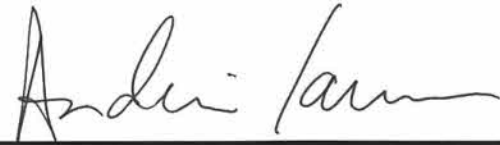


Administrative Patent Judge	Total Points	Overall Rating	Current Salary	Recommended Bonus	Pay Adj. Increase (%)	Pay Adj. Increase Amount	Pay Adj. Salary for 2020	COMMENTS
(b)(6)	(b)(6)		\$176,900	(b)(6)				
			\$176,900					
			\$176,900					
			\$165,812					
			\$176,900					
			\$164,500					

Notes:

*Pay Adjustments - Awaiting OPM issuance of guidance and approval for range of basic pay to the Executive Schedule Pay Table for 2020. OHR anticipates a 1.375% increase bringing the Judge cap to \$179,332. If OPM issues a different % amount, OHR will adjust the 2020 recommended adjustments accordingly. Salaries will be capped at new ATJ limit regardless of recommended salary percentage increase.



Under Secretary and Director



Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Quality

Objective: Ensuring quality decision-making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

35

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text limit in field is approximately 1100 characters. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent review, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Written decisions demonstrate clear understanding of the facts of each appeal or case, the technology, and the applicable legal statutes and case law. Written decisions are logically presented, soundly reasoned, have accurate analysis, and are concise.

Proper judicial tone is maintained throughout written decisions.

Panel discussions are attended as an active participant. The Judge promptly provides sound and helpful input to improve decisions where appropriate and bring the deliberations and proceeding forward efficiently.

Oral arguments are attended and conducted skillfully.

Surveys are completed periodically, assessing the work of other Judges or staff, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the surveys.

Decisions authored by other judges are evaluated and comments are promptly provided, offering frank, accurate and timely assessments of the quality of other Judges' decisions.

Senior management is promptly alerted to substantive, process-related, and professional issues of concern.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text limit in field is approximately 950 characters. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Production / Pendency

Objective: Effective and efficient Decision-Making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

35

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent reviews, derivation proceedings, interference proceedings, and other Board proceedings are authored and mailed.

Matters are disposed of efficiently, prioritizing older appeals, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business methods patent reviews, derivation proceedings, and interference proceedings before newer ones.

Monthly production is generally consistent throughout the year. Variations in output are minimized to the extent possible.

Decisions are sent for processing immediately when prepared, routed to panel members immediately when processed, reviewed, and mailed immediately after being approved by the panel, not withheld until a later date (e.g., to normalize production between months and/or between fiscal years).

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Standard for the General Workforce, the following Supplemental Standards apply:

Outstanding performance in this element is demonstrated by the employee making significant efforts toward reducing the Board's backlog. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. Exceptions are completely justified. End loading is virtually non-existent and fully justified.

Commendable performance in this element is demonstrated by the employee making considerable efforts toward reducing the Board's backlog. Production will be of a very high volume, while producing well above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. End loading is virtually non-existent.

(CONTINUED)

Optional Initial Block

Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production / Pendency

Please identify item(s) continued:

**(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 2. Major Activities (Continued)

End-loading is avoided, helping ensure regular workloads for peers and the support staff. End-loading (i.e., excessive production at mid-year and/or end-of-year) is generally identified when decisional units earned are at least 2x the median monthly decisional units earned throughout the period of review.

Item 3. Criteria for Evaluation (Continued)

The Fully Successful Judge will earn no fewer than 84 decisional units annually, and will generally earn no fewer than 6 decisional units monthly. Reasonable efforts are made to manage the Board's existing and incoming case-load. The docket is effectively managed to ensure older cases are worked generally before newer cases. End loading is kept to a minimum.

The Marginal Judge will earn at least 79 decisional units annually (but fewer than 84), and will generally earn no fewer than 6 decisional units monthly. Efforts to manage the Board's existing and incoming case-load are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence of end-loading exists. Evidence may exist that decisions have been delayed at any stage without justification or authorization.

The Unacceptable Judge will earn fewer than 79 decisional units annually or will generally earn fewer than 6 decisional units monthly. Efforts to manage the Board's existing and incoming case-load are well below what is expected. Newer cases are frequently worked before older cases. End-loading is obvious and egregious (generally 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the reviewing period). Decisions were delayed at any stage without authorization.

NOTE:

One mailed regular ex parte appeal decision is generally worth 1 decisional unit. One mailed regular ex parte reexamination proceeding appeal decision is generally worth 2.5 decisional units. One mailed inter partes reexamination proceeding appeal decision is generally worth 4 decisional units.

Decisions based on Trial Proceedings will be assessed on a case-by-case basis, based on the complexity of the proceeding. Determination will be made by the Vice Chief Judge or a designee of the Vice Chief Judge. This assessment may change once benchmarks are established.

Decisions prepared with the assistance of Patent Attorneys on behalf of the Judge are generally worth 0.5 decisional units to a Judge.

Judges may request additional decisional units for extraordinarily complex cases from the Vice Chief Judge.

Judges will be provided the opportunity to explain and justify low decisional units earned and unusual patterns of case mailing, as they have additional responsibilities.

Production goals will be measured annually as well as monthly. Judges will be updated regularly of the Board's production rates.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Leadership / Supporting the Mission of the Board

Objective: Assisting in the effective operation of the U.S. Patent and Trademark Office (USPTO) and the Patent Trial and Appeal Board (PTAB) by providing leadership for supporting the missions of the USPTO and PTAB.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

20

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Calm, dignified, judicial demeanor is demonstrated at all times, in all settings. Respect and courtesy is given to all participants in any Board proceeding.
 Accurate and thorough understanding of laws and regulations is demonstrated at all times, in all settings.
 Assistance is provide to the Board in various aspects other than producing decisions. This may include (but is not limited to), development of rules or policies, representing the Board to outside organizations (either visiting the Board or at other locations), and/or participating on resume review panels.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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Name

Element

Sheet

Leadership / Supporting the Mission of

No. 1 of _____

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.)

Text field is limited. if more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (Support rating in space below.)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (Required only if approving official/appointing authority changes rating official's element rating in Item 5.)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Customer Service

Objective: To ensure responsive assistance to internal and external customers, and the public, to the extent permitted by law and regulation.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 10

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Appropriate questions and requests from internal and external stakeholders and the public are addressed courteously and to the extent reasonable, while ensuring, both in appearance and fact, the independence, and the objective and neutral nature, of the Board.

Where questions from external customers and the public are not appropriately answered by the Judge, the questioner is redirected to appropriate Board staff. The Judge is expected to recognize the need for confidentiality, discretion and judgment and apply as appropriate.

Inquiries from internal staff are addressed promptly and courteously, providing needed information or assistance where appropriate.

Prompt execution of the Board's duties under Title 35 of the United States Code, and prompt execution of any other required duties, is rendered to the public.

Interactions with all customers, internal or external, are highly professional and appropriate to the nature of the Judge's position, and to preserve the dignity of the Board.

Senior management is consulted before communicating outside of the Board. Any requests for public speaking or teaching engagements are cleared through Board management in advance.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block			
Employee	Date	Supervisor	Date

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION II—PERFORMANCE SUMMARY AND RATING

Name _____

ITEM 1. INSTRUCTIONS:

1. List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it.
2. Assign a rating level for each element: **(5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal/Minimally Satisfactory (SES) (1) Unacceptable/Unsatisfactory (SES)**
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute total score by summing all individual scores. Total score can range from 100 to 500.

Performance Element	Critical or Non-critical (C or NC)	Individual Weights (Sum must total 100)	Element Rating (1-5)	Score
Quality	C	35		0
Production / Pendency	C	35		0
Leadership / Supporting the Mission of the Board	C	20		0
Customer Service	C	10		0
				0
				0
TOTAL SCORE:				0

For SES turn to reverse side and continue with Item 3.

ITEM 2. PERFORMANCE RATING: *(Based on total score except that if any critical element is less than fully successful the rating can be no higher than the lowest critical element rating.)*

Outstanding (460–500)
 Commendable (380–459)
 Fully Successful (290–379)
 Marginal (200–289)
 Unacceptable (100–199)

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Employee's Signature <i>(Indicates appraisal meeting held)</i>	Employee comments attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	Date

SECTION III—PERFORMANCE RECOGNITION *(General Workforce Only)*

Performance Award \$ _____ (___ %)
 For performance awards: Has employee been promoted during the appraisal cycle?
 YES NO

QSI (Outstanding Rating Required)
 Appropriation No. _____

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Final Approving Authority's Signature		Date
Payment Authorized By Personnel Office		Date

APPENDIX A GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

The generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

When evaluating an element, the rater should:

1. Read carefully each performance standard level beginning with the fully successful one. (It is considered the base level standard.)
2. Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in absolute terms for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
3. Provide in writing, on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating, the rating official need only document in writing that: (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally, when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may have performed at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgement as to the appropriate rating level he/she will assign. The rationale for the decision must be documented on the rating form, citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement the GPS, not supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

OUTSTANDING

SES

This is a level of rare, high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work, often ahead of established schedules and with little supervision.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

GENERAL WORK FORCE

This is a level of rare, high-quality performance. The quality and quantity of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. The impact of the employee's work is of such significance that organizational objectives were accomplished that otherwise would not have been. The accuracy and thoroughness of the employee's work on this element are exceptionally reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and products for which he or she is responsible. Thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, increase the employee's usefulness.

This person plans so that work follows the most logical and practical sequence; inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems and adapts quickly to new priorities and changes in procedures and programs without losing sight of the longer-term purposes of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's planning skills result in cost-savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments related to this element at increasing levels of difficulty. The quality of such work is high and is done on time without disrupting regular work. Appropriate problems are brought to the supervisor's attention; most problems are dealt with routinely and with exceptional skill.

The employee's oral and written expression are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

SUPERVISORY*

The employee is a strong leader who works well with others and handles difficult situations with dignity and effectiveness. The employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to the views of others, the employee promotes cooperation among peers and subordinates, while guiding, motivating, and stimulating positive responses. The employee's work performance demonstrates a strong commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

COMMENDABLE

SES

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and the procedures for meeting them.

The effective planning of the employee has improved the quality of management practices, op-

erating procedures, task assignments, or program activities. The employee has developed or implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

GENERAL WORK FORCE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Thoroughness and accuracy of work are reliable. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she uses contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are considered in the employees' work planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort. He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with; supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well-presented.

SUPERVISORY*

The employee is a good leader, establishes sound working relationships and shows good judgment in dealing with subordinates, considering their views. He/she provides opportunities for staff to have a meaningful role in accomplishing organizational objectives and makes special efforts to improve each subordinate's performance.

FULLY SUCCESSFUL

SES

This is the level of good, sound performance. The employee has contributed positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organization knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee also works well as a team member, supporting the group's efforts and showing an ability to handle a variety of interpersonal situations.

The employee communicates clearly and effectively.

All employees at this level and above have followed a management system by which work is planned, tasks are assigned, and deadlines are met.

GENERAL WORK FORCE

This is the level of good, sound performance. The quality and quantity of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary; most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of costs to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments so their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

SUPERVISORY*

The employee is a capable leader who works successfully with others and listens to suggestions.

The employee rewards good performance and corrects poor performance through sound use of performance appraisal systems, performance-based incentives and, when needed, adverse actions; and selects and assigns employees in ways that use their skills effectively.

The employee's work performance shows a commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

MARGINAL

SES

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective. The employee's work under this element is at a level which may result in removal from the position.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other

personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinders achievement of the purpose of the communications. The listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

GENERAL WORK FORCE

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written communication usually considers the nature and complexity of the subject and the intended audience. It conveys the central points of information important to accomplishing the work. However, too often the communication is not focused, contains too much or too little information, and/or is conveyed in a tone that hinders achievement of the purpose of the communication. In communication to coworkers, the listener must question the employee at times to secure complete information or avoid misunderstandings.

SUPERVISORY*

Inadequacies surface in performing supervisory duties. Deficiencies in areas of supervision over an extended period of time affect adversely employee

productivity or morale, or organizational effectiveness. The marginal employee does not provide strong leadership or take the appropriate initiative to improve organizational effectiveness. For example, he/she too often fails to make decisions or fulfill supervisory responsibilities in a timely manner, to provide sufficient direction to subordinates on how to carry out programs, to give clear assignments and/or performance requirements, and/or to show an understanding of the goals of the organization or subordinates' roles in meeting those goals.

UNSATISFACTORY

SES

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Little or no contribution to organizational goals;
- Failure to meet work objectives;
- Inattention to organizational priorities and administrative requirements;
- Poor work habits resulting in missed deadlines, incomplete work products;
- Strained work relationships;
- Failure to respond to client needs; and/or
- Lack of response to supervisor's corrective efforts.

GENERAL WORK FORCE

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products, or it produces technically inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work; the employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or by loss of credibility due to irresponsible speech or work activity.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete the projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks the necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

SUPERVISORY*

Most of the following deficiencies are typically, but not always, common, characteristics of the employee's work:

- Inadequate guidance to subordinates;
- Inattention to work progress; and
- Failure to stimulate subordinates to meet goals.

* Supervisory standards must be applied to SES and General Work Force supervisors.

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

INSTRUCTIONS: This form must be used to assign final summary ratings when interim ratings must be considered in determining the final rating. The form will serve as the certification of the final rating. It must be signed by the rating and approving officials of record and attached to the original CD-516 forms that were completed by the rating and approving officials of record and those completed by interim rating and approving officials. Forward all original forms to the servicing personnel office. A copy must be given to the employee.

A. In the space provided below, compute the final summary rating using the appropriate formula. Use block (1) when computing one interim rating and block (2) when computing two interim ratings. Round off final summary rating to nearest whole number.

NOTE: If the position of record rating contains a non-critical element(s) please refer to Section 6.03a4 of Appendix A, or Section 6.03a7 of Appendix C of DAO 202-430.

(1)

a. Enter interim rating total score and multiply by 1: _____ × 1= _____

b. Enter position of record rating total score and multiply by 2: _____ × 2= _____

c. Add the results of a and b: TOTAL= _____

d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3= _____

(2)

a. Enter interim rating total score and multiply by 1: _____ × 1= _____

b. Enter interim rating total score and multiply by 1: _____ × 1= _____

c. Enter position of record rating total score and multiply by 2: _____ × 2= _____

d. Add the results of a, b and c: TOTAL= _____

e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4= _____

B. FINAL SUMMARY RATING (Check appropriate rating based on either 1d. or 2e. above)

- Outstanding (460-500) Commendable (380-459) Fully Successful (290-379)
- Marginal/Minimally Satisfactory (SES)—must be assigned if employee is given a marginal rating on one or more critical element(s). (200-289)
- Unacceptable/Unsatisfactory (SES)—must be assigned if employee is given an unsatisfactory rating on one or more critical element(s).

C. SIGNATURES

Rating Official (Immediate Supervisor)

Date

Approving Official

Date

Employee (Signature indicates appraisal meeting held)

Date

EMPLOYEE COMMENTS ATTACHED YES

D. GENERAL WORK FORCE EMPLOYEES ONLY:

If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-326, attach a copy of the rating justification and appraisal (CD-516) and forward through the appropriate channels.

U.S. PATENT & TRADEMARK OFFICE

SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING

Name:

Appraisal Period: FY 2013

Title/Unit: Chief Administrative Patent Judge/Patent Trial and Appeal Board (PTAB)

Performance Definitions (see Instructions page for detailed definitions)

Outstanding (O) – Performance targets consistently met and exceeded, and level of performance consistently exemplary.

Commendable (C) – Performance expectations and goals met and often exceeded.

Fully Successful (FS) – Performance expectations and goals met.

Minimally Satisfactory (MS) – Performance level marginally acceptable, needs improvement.

Unsatisfactory (U) – Performance level undeniably unacceptable.

Mandatory Critical Element 1: Leadership/Management (25%)

The executive exhibits the sound judgment and decisiveness, personal accountability, integrity and ethical standards, and resilience integral to serving the American public and to functioning in a leadership role in the Department of Commerce. In demonstrating leadership, the executive:

- o establishes organizational goals that are consistent with priorities established by the Secretary and Deputy Secretary of Commerce, government-wide initiatives established by the Administration, and strategic goals of the Department; and ensures that they are appropriately reflected in performance plans throughout the organization with meaningful measures and clear priorities;
- o works collaboratively to foster economic growth and opportunity, to meet the needs of businesses and entrepreneurs, and to create jobs to benefit the American people;
- o exhibits vision and strategic thinking to address concerns that cross organizational boundaries and to meet the long-term interests of the Department; and
- o uses creativity and innovation, and encourages new ideas and unconventional approaches in response to evolving conditions.

The executive demonstrates sound management of human, financial and technological resources in order to achieve established priorities, goals, and objectives. In doing so, the executive:

- o manages program performance throughout the year to maximize operational efficiency and effectiveness within established budgetary resources;
- o builds and manages an appropriately skilled and diverse workforce based on organizational goals, budget considerations, and staffing needs; oversees the recruitment, selection, and appraisal and recognition of employees based on performance; provides training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns; encourages team commitment and trust; and engages in succession planning as needed for long-term organizational effectiveness;
- o makes effective use of available information technology (IT) to achieve organizational goals; works collaboratively with IT professionals at the operating unit and Department levels, as appropriate, to safeguard IT equipment, software and data; and ensures appropriate training of employees to avoid cyber-security threats;
- o fosters a work environment that is safe, secure and conducive to the retention of a skilled and effective workforce, which includes continuity of operations planning and emergency preparedness, addressing unsafe working conditions or environmental concerns, and facilitating employee awareness of the procedures to follow in the event of an emergency; and
- o adheres to applicable administrative and programmatic laws, regulations, policies and procedures that provide the internal controls needed to safeguard resources, achieve organizational objectives, and protect the confidentiality of information provided to the agency, and respect individual privacy.
- o builds and manages an appropriately skilled workforce while embracing equal opportunity principles; fosters an inclusive environment characterized by cultural sensitivity and respect for divergent employee backgrounds; promptly and appropriately addresses allegations of harassment or discrimination; oversees the recruitment, selection, appraisal, and recognition of employees based on individual performance; supports Agency efforts that promote diversity (e.g., Community Day, Affinity Groups, etc.); and supports Agency efforts to train employees on equal opportunity principles.”

Hiring Reform:

Improve the recruitment and hiring process to acquire highly qualified employees, reduce hiring time, and support new hires successful transition into the Federal Service by:

- Assessing current and future staffing needs at on a regular basis
- Implementing Business Unit’s HC Strategic Plans that include recruitment strategies that support organizational objectives and hiring reform initiatives by the end of FY 2013
- Engaging actively in the recruitment process by working collaboratively with OHR to identify skills required for vacant positions; participating in panel and interview processes, and by making timely selections that will support OPM’s 80-day timeframes for hiring.

Employee Survey:

Support employee overall job satisfaction by:

- Using results of the Federal Employee Viewpoint Survey to improve designated areas of opportunity for your Business Unit (BU) and improve scores in those areas;

List designated areas of opportunity for your BU:

AIA Implementation:

Ensures success of the America Invents Act (AIA) by actively supporting timely implementation, devoting sufficient resources, increasing awareness of new initiatives, and collaborating with all necessary parties to ensure an innovative, effective, and efficient reformed patent system.

For USPTO Business Unit Heads and Deputies:

Assure that each business unit participates in the formulation of clear, concise, and effective communication strategies, including providing appropriate information and documentation to the Office of the Chief Communication Officer.

Sub-Elements for Critical Element 1: Leadership/Management

Sub-Element: Leadership of the PTAB

Description and Strategic Goal 1/Objective Alignment 5

Serve as Chief Judge. Provide policy direction and guidance to the PTAB. Perform Business Unit Head functions on the Policy Council, the Management Council and otherwise, as appropriate. Work in conjunction with the Vice Chief Judge on reducing the backlog of ex parte appeals, maintaining the current reexamination workflow, maintaining the residual interference program, and achieving timely completion of the new trial proceedings under the America Invents Act.

Continue to drive implementation of AIA legislation by managing the hiring of personnel, carrying forward initial use of the rules for the new proceedings, acquiring space (including for new offices) and IT systems, and conducting specialized training for presiding over new proceedings and the preparation of materials for use in training.

Make or otherwise administer decisions on Petitions delegated to the Chief Judge by the Director.

O C FS MS U

Mandatory Critical Element 2: Customer/Client Service Responsiveness (15%)

The executive demonstrates a high degree of responsiveness to the full range of clients, including end users of goods and services for which the executive is responsible, Departmental and operating unit leadership, members of Congress and their staffs, and the public in general. In order to appropriately address client needs, the executive:

- develops strategic alliances both within and across organizational lines to achieve common goals, meets evolving requirements, and shares knowledge, skills and experience needed for personal development and professional performance;
- builds consensus of opinion among stakeholders; and
- seeks to identify client needs and expectations, responds to identified concerns promptly, professionally and fairly, and improves business and management processes based on customer and employee feedback.
- solicits employee feedback on direction received, opportunities provided, and recognition given, as inputs for improving how employees are led and motivated.

The executive develops and/or participates in formal cross-organizational boundary collaboration activities whenever appropriate to enhance service delivery and comprehensive mission coordination within the Department, among organizations with complimentary missions, and within the USPTO.

For USPTO Business Unit Heads:

To promote inter- and intra-agency collaboration, Business Unit heads are expected to accomplish the following during the rating period:

- Establish at least one taskforce with another business unit, focusing on specific matter of significance to both business units (e.g., 2012 budget plan, patents/finance, hiring planning).
- Speak at a meeting held by another business unit, at least once a quarter.
- Arrange for a detail opportunity to or from another business unit, for at least one person each quarter.
- Promote intra-agency cooperation by ensuring that all SES within their organizations incorporate specific measurable teaming/collaboration tasks in the development of their individual results sub-elements

Sub-Elements for Critical Element 2: Customer/Client Service Responsiveness

Sub-Element: Backlog Reduction/AIA Implementation

Description and Strategic Goal 1/Objective Alignment 1, 4, 5 (the underscore is a placeholder for number(s)):

Collaborate with business units, where possible, to implement strategies for reducing backlog of ex parte appeals at the PTAB.

Collaborate with the public in receiving feedback to implement the AIA, including receiving input on strategies for expanding the PTAB in the new USPTO cities, and obtaining input on further development of the AIA case management system.

O C FS MS U

Critical Element 3: Results (60%)

Individual and organizational performance requirements expected to support of USPTO strategic initiatives. The executive is accountable for up to three sub-elements aligned/linked to the USPTO’s mission, strategic goals, program/policy objectives and/or annual performance plan, which contribute to the success of the agency effectively achieving goals in conformance with the Government Performance and Results Act. Performance meets or exceeds quality standards, is effective and efficient and produces significant benefits. Results reflect balanced consideration of public’s and other stakeholders’ concerns. Within his/her program area the executive provides leadership to ensure program objectives are met for quality, timeliness, efficiency, or other factors. The executive communicates USPTO objectives to employees; sets clear standards for their achievement and provide appropriate support for their achievement. Sub-elements may be weighed individually for a total of 60 percent and no sub-element should be weighted lower than 10 percent. Include specific measurable teaming/collaboration tasks designed to ensure collaboration and teamwork across business unit organization boundaries. *Over the course of the appraisal cycle, it is acknowledged that certain performance commitments may be overtaken by events outside of the executive’s control such as funding, additional initiatives, or changes in USPTO priorities.]*

Sub-Elements for Critical Element 3: Results

Sub-element A: Appeal Timeliness / 25 percent

Sub-element Description and Strategic Goal 1/Objective Alignment 5 (the underscore is a placeholder for number(s)):

- Achieve patent appeal timeliness of decided appeals of 26 or fewer months.**
- Achieve patent appeal Board inventory of 45 or fewer months.**

O C FS MS U

Sub-Elements for Critical Element 3: Results

Sub-element B: AIA Trial Timeliness / 25 percent

Sub-element Description and Strategic Goal 1/Objective Alignment 5 (the underscore is a placeholder for number(s)):

Reach AIA trial completion in 12 or fewer months or in 18 months where extensions are granted.

O C FS MS U

Sub-Elements for Critical Element 3: Results

Sub-element C: PTAB Expansion

/ 10 percent

Sub-element Description and Strategic Goal ___/Objective Alignment ___ (the underscore is a placeholder for number(s)):

Facilitate Judge appointments; submit for consideration by the Secretary of Commerce names of 35 Administrative Patent Judge Candidates by March 31, 2013.

O C FS MS U

SES Performance Documentation

The executive may attach a separate sheet describing individual and organizational achievements and results related to the critical elements of your performance plan. The attached narrative may be no longer than 6 pages.

The supervisor will attach a separate sheet summarizing your assessment of the executive's performance. Describe individual and organizational achievements and results related to the critical elements of the performance plan. The attached narrative may be no longer than 3 pages.

Signatures/Dates of Performance Management Activities

1. Acknowledges consultation and receipt of Plan

_____ Supervisor	_____ Executive	_____ Date*
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2. Progress Review OR Interim Rating

_____ Supervisor	_____ Executive	_____ Date*
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3. Initial Summary Rating– Summary Rating and Score transferred from computation worksheet, last page.

_____ Supervisor	_____ Executive	_____ Date*
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O (460-500)	C (380-459)	FS (290-379)	MS (200-289)	U (100-199)	Options: Written Response Higher Level Review	Yes Yes	No No	**
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4. PRB Recommended Summary Rating O C FS MS U

5. Final Annual Summary Rating O C FS MS U

Chair, Performance Review Board/Date

Under Secretary of Commerce for Intellectual Property &
Director of the United States Patent and Trademark Office

* Acknowledges consultation & receipt
** Not applicable for direct reports to the Under Secretary

U.S. PATENT & TRADEMARK OFFICE

SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING

SES Performance Plan/Rating Instructions

Performance Plan

All elements of the performance plan are critical. Established requirements are written at the Fully Successful level in support of Agency objectives. All executives will be rated on the Leadership/Management, Customer/Client Service Responsiveness, and Results elements.

In addition, the supervisor, in consultation with the executive, will develop and establish specific priorities in support of agency strategic initiatives, Commissioner level priorities and corporate work plans to be included as critical elements for Individualized Objectives.

The performance plan will be signed and dated by the supervisor and the executive* in Item 1 (*Signature/Dates of Performance Management Activities*). Written performance plans will be provided to the executive at the beginning of the appraisal period and a copy of the plan will be forwarded to the Office of Human Resources, Executive Resources Division (OHR/ExRD).

Progress Review

Supervisors will conduct at least one progress review. Supervisors must provide written documentation if performance on any element is less than the fully successful level. The supervisor and the executive must sign and date in Item 2 (*Signature/Dates of Performance Management Activities*) after a progress review is conducted. A copy of the signed progress review will be forwarded to the OHR/ExRD.

Performance Definitions

Outstanding (O): Performance targets consistently met and exceeded, and level of performance consistently exemplary, despite constantly changing priorities and/or externally driven deadlines or insufficient or unanticipated resource shortages. Consistently demonstrated exceptional integrity and performance in promoting the annual business plan and the USPTO strategic goals and objectives. His/her contributions had impact beyond his/her purview.

Commendable (C): Performance expectations and goals are met and often exceeded. In addition to placing appropriate emphasis on all stated responsibilities, actions taken were admirable in promoting accomplishment of the strategic goals and annual business plan. Overcame significant organizational challenges such as coordination with external stakeholders or insufficient resources. Effectiveness and contributions impact areas beyond his/her purview.

Fully Successful (FS): Performance expectations and goals are met. Places appropriate emphasis on each area of responsibility with dependable performance. Appropriate actions were taken to support accomplishment of the strategic goals and annual business plan and demonstrated ability to meet the requirements of the job.

Minimally Satisfactory (MS): Performance level marginally acceptable, needs improvement. Placed insufficient emphasis on one or more sets of responsibilities. Actions taken were inappropriate or ineffective in meeting strategic goals or annual business plan accomplishments. Repeated observations of performance indicated negative consequences in key outcomes. Immediate improvement is essential.

Unsatisfactory (U): Performance undeniably unacceptable.

SES Performance Plan/Rating Instructions (cont'd)

Performance Assessment

Performance is assessed at the Outstanding (O) level, Commendable (C) level, Fully Successful (FS) level, Minimally Satisfactory (MS) level, or Unsatisfactory (U) level by a process described below:

At the end of the appraisal period, the executive may document accomplishments related to the critical elements. **Documentation will not exceed six pages**, will speak to results and as appropriate customer satisfaction and employee perspectives, and refrain from use of superlatives.

The supervisor will prepare a summarized assessment of the executives' performance. **Documentation will not exceed 3 pages**. The supervisor will also assign a rating for each element, and an Initial Summary rating for the plan. The supervisor and executive will sign and date in Item 3 (*Signature/Dates of Performance Management Activities*). A copy will be provided to the executive and the original forwarded to the OHR/ExRD. *[For your convenience, a summary rating and score computation worksheet is attached. The Initial Summary Rating must be transferred/annotated to page 6, Item 3, where the supervisor and executive will sign and date].*

Executives may (1) request a higher-level review** of their Initial Summary rating and/or (2) may provide a written response prior to the Performance Review Board (PRB) review.

If a higher-level review is requested, the reviewing official must make a separate written comment/recommendation to the PRB. The reviewing official (normally the 2nd line supervisor) may not change the Initial Summary rating. A copy of the reviewing official's input must be given to the executive and the supervisor and forwarded to the OHR/ExRD. The executive will be given the opportunity to provide additional comments to the PRB.

All performance documentation will be forwarded to the OHR/ExRD. The OHR/ExRD will provide the Initial Summary rating, and additional documentation and any higher-level review to the PRB for their review.

The PRB will consider the Initial Summary rating, any executive's response and other pertinent input. The PRB Chair will recommend a rating and sign Item 4 (*Signature/Dates of Performance Management Activities*).

Final Rating

The Under Secretary will assign the Annual Summary ratings after considering recommendations of the PRB and other appropriate input.

The Annual summary rating will be provided to executives.

* Acknowledges consultation and receipt.

** Not applicable for direct reports

U.S. PATENT & TRADEMARK OFFICE
SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING
Summary Rating and Score Computation Worksheet

Name: _____ **Appraisal Period: FY 2013**

Title/Unit: _____

Instructions:

1. Each critical element in the performance plan and its assigned weight has been listed below.
2. Assign a rating level for each element: (5) Outstanding, (4) Commendable, (3) Fully Successful, (2) Minimally Satisfactory, and (1) Unsatisfactory
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute the total score by summing all individual scores.
5. The performance rating is based on the total score except that if any critical element is less than fully successful, the rating can be no higher than the lowest critical element rating.

Performance Element	Individual Weight	Element Rating Level (1-5)	Score
I. Leadership/Management (25%)			
A.	25%		
II. Customer/Client Service Responsiveness (15%)			
A.	15%		
III. Results (60%)			
A.			
B.			
C.			
TOTAL SCORE			

***Initial Summary Rating**

O C FS MS U
(460-500) (380-459) (290-379) (200-289) (100-199)


*** The Initial Summary Rating must be transferred/annotated on page 6, Item 3, of the Performance Plan, where the supervisor and executive will sign and date.**



UNITED STATES PATENT AND TRADEMARK OFFICE

Office of the Chief Administrative Officer

MEMORANDUM TO All Managers and Supervisors

FROM: Karen Karlinchak 
Director, Human Capital Management

SUBJECT: FY '13 Performance Appraisal and End-of-Year Award Information

- ❖ **October 25, 2013** - Issue Ratings
- ❖ **October 28, 2013** - Submit forms to OHR*

The purpose of this memorandum is to provide guidance concerning this year's performance ratings for the general workforce. Annual employee performance ratings are required by law. The rating period for employees of the United States Patent and Trademark Office is October 1, 2012 through September 30, 2013.

Supervisors must complete and issue FY '13 performance appraisal ratings by **Friday, October 25, 2013**. Each employee must receive a complete copy of his or her performance appraisal plan and rating. This is also the due date for completing and issuing the FY '14 Performance Appraisal Plans (PAPs).

All paperwork needs to be submitted to your Business Unit (BU) point of contact (POC). The POC will compile all the data for the BU, have the BU gatekeeper certify all awards, and present all appraisals and award forms to the Awards Processing Team. Performance appraisals and award forms will not be accepted or processed by the Office Human Resources (OHR) outside of this procedure.

The Supervisor must complete an award form for each employee who is receiving an award or a Quality Step Increase (QSI). A form is not needed if an employee is not receiving an award; the Performance Appraisal Plan (CD-516) will be sufficient for the BU POC to submit all necessary information.

The performance appraisal and award forms should be provided to your POC by the date established by your BU. The POC will enter the rating and award information into a database. After the information is compiled, the POC will provide it to OHR in an electronic file from the database. This electronic file will, in turn, be used by the OHR to transmit rating and award information to the National Finance Center (NFC). **If this information is not submitted to OHR from the BU POC by Monday, October 28, 2013, it will delay the payment of awards for the BU.** *EXCEPTION: The Technology Centers (TC) and the Patent Academy will use the SPE Management Database for the electronic file submission. The TCs will provide their paperwork to the TC POCs shown below. A description of the TC process for submitting awards and performance appraisal plans can be found on page 8 of this document.

The Business Unit POC's are identified as follows:

Under Secretary's Office	Lisa Houston
Patents	Janell Hospital/Kelly Boudreau
Trademarks	Melissa McGrath
CAO	Roger Williams
CFO	Jackie Davis-Maxfield
CIO	Cheryl Newberger
External Affairs/OGA	Nina Birch
OGC	Paulo Mendes
OFFOD	Clint Janes
OCCO	Patrick Ross

The Technology Center POC's are identified as follows:

TC	TC Award POC	SPE Mgmt Database POC
1600	Joe Weitach	Joe Weitach
1700	Mark Huff	Jeff Barton
2100	Naveen Abel-Jalil	Naveen Abel-Jalil
2400	Scott Beliveau	Scott Beliveau
2600	Matt Bella	Matt Bela
2800	John Barlow	John Barlow
2900	Ian Simmons	Khawaja Anwar
3600	Dave Dunn	Dave Dunn
3700	Nathan Newhouse	Nathan Newhouse
4100	Craig Sokol	Gary Welch/Sue Loving
OPIM	Lisa Tran	Greg Vidovich/Kristine Kincaid

Questions regarding the award process should be directed to your POC.

RATINGS

Every employee who occupies a covered position on the last day of the appraisal cycle and who has been in a covered position for at least 120 days during the appraisal cycle must receive an annual performance appraisal rating.

If an employee enters on duty with the USPTO during the last 120 days of the appraisal cycle, then a rating must be prepared for the employee within 30 days after completion of the minimum appraisal period (120 days) and submitted to Angela Marshall, Office of Human Resources, Elizabeth Townhouse, 2nd floor, room 2A21, for manual entry of the rating information into NFC.

Appraisal Meetings

The rating official initiates the appraisal by providing advance notice to the employee of the date and time for the **formal appraisal meeting**.

The employee may request a **pre-appraisal meeting** with the rating official to:

- Present his or her assessment of results achieved against the Generic Performance Standards as well as any supplemental standards set in the performance plan;
- Inform the rating official of aspects of his or her work of which the rating official may not be aware; and
- Identify objectives he or she would like to include in the performance plan for the next period.

During the pre-appraisal meeting, the rating official may ask questions to clarify his or her understanding of the employee's performance.

Once the advance notice of the formal appraisal meeting has been given, and after any pre-appraisal meeting, the rating official (after conferring with the approving official) prepares and discusses with the employee a written performance rating. **This rating must be based on an assessment of the employee's performance against the Generic Performance Standards as well as any supplemental standards set at the beginning of the period (or as modified and documented during a progress review).**

Rating Justifications

In accordance with the Generic Performance Standards, Fully Successful performance is the level of good sound performance. Fully Successful means the employee has contributed positively to organizational goals and completed all critical element activities. The employee effectively applies technical skills and organizational knowledge to get the job done. The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

Managers and supervisors must justify ratings that rise above or fall below the Fully Successful level. The following process will be followed for all employees except as noted:

- Each element must be rated using the five-level scale shown below. Ratings of elements above and below Fully Successful must be supported by a narrative justification. If an element is rated as Fully Successful, the rating official need only document in writing that:
 1. the Fully Successful standards were met, and
 2. the rating was discussed with the employee, unless the employee requests full written justification of the Fully Successful rating. In such a case, the rating official shall provide written justification of the rating.
- The performance appraisal system allows the use of narrative summary rating justifications instead of individual element rating justifications, except for elements rated below Fully Successful and for any required diversity elements. What this means is that instead of writing single rating justifications, a summary justification can be written if all critical elements are rated Fully Successful and above. However, you must still indicate the rating level achieved for each critical element on the CD-516 form. Justifications must be completed for each element that is rated below Fully Successful.

To obtain the overall summary rating, each element must be rated using the five-level rating scale (Outstanding = 5, Commendable = 4, Fully Successful = 3, Marginal = 2, and Unacceptable = 1). Then each individual element rating will be multiplied by the weight assigned to that element (e.g., critical element #1 is weighted at 30% and receives a rating of Commendable or 4; $4 \times 30\% = 120$ points). The points assigned the individual elements are then totaled to determine an overall summary rating based on the following scale:

Outstanding	460 - 500
Commendable	380 - 459
Fully Successful	290 - 379
Marginal*	200 - 289
Unacceptable*	000 - 199

***If an employee receives a Marginal or Unacceptable critical element rating, then the employee's performance rating can be no higher than the lowest critical element rating.**

IMPORTANT REQUIREMENT: THE RATING OFFICIAL MUST CONFER WITH THE APPROVING OFFICIAL AND GAIN APPROVAL OF THE RECOMMENDED RATING, INCLUDING HIS/HER SIGNATURE BEFORE DISCUSSING THE RATING WITH THE EMPLOYEE.

The employee must sign the rating to indicate that it has been discussed. If the employee refuses to sign, the rating official should so note. A copy must be given to the employee no later than October 25, 2013.

Interim Ratings

If an employee has received an interim summary performance rating for service in another covered position within the department during the appraisal period, then that summary rating (or ratings) must be considered as follows in determining the employee's final rating of record and by using Form CD-516. The Form CD-516 can be found by cutting and pasting the following link into your browser: <http://ptoweb.uspto.gov/ptointranet/ohr/forms/cd516.pdf>.

The rating official completes his or her appraisal of the employee on his/her current position (if in that position for 120 days or more of the appraisal period) and assigns a total score. The score for the current position is doubled and added to the interim rating score(s) given by any other supervisors. This new total is then divided by the number of positions occupied for 120 days or more, plus 1, and a final total score is assigned.

For example:

Interim rating score:	$360 \times 1 = 360$
Current rating official's score:	$480 \times 2 = 960$
	1,320
$1,320 \div 3 = 440$	

The employee's recommended rating would be 440 points -- Commendable.

(If the employee has not been in his/her current position for 120 days, but has received an interim rating, the appraisal period is not extended. Instead, the employee's interim rating will become the employee's rating of record for the appraisal period. The remaining time is then added to the FY '14 performance appraisal period. This means that the appraisal period for FY '14 will encompass more than 12 months.)

In computing a final performance rating using this formula, the rating assigned by the current supervisor (the one that is to be doubled) must be checked carefully to make sure that a non-critical element is not given more weight (because of the doubling) than any critical element in the other interim ratings. (OPM regulations prohibit giving more weight to non-critical elements than to critical elements in deriving final ratings.) If, because of the doubling, the non-critical element score exceeds that of any of the critical element scores, the point score of the non-critical element must be reduced to its original total (before the doubling) and the summary point total adjusted appropriately.

Promotions based on accretion of duties, career ladder promotions, promotions from less than the full performance level of a position, and reclassification actions due to changes in the classification standard or its application, do not necessarily require an interim rating and new performance plan.

Performance Rating Evaluation Disagreement

Employees should deal directly with their supervisors/approving officials to settle any performance rating evaluation disagreements. If the employee disagrees with the rating, he or she may comment in writing to the approving official within five workdays of receipt of the appraisal and rating. The approving official must respond in writing to the employee within 10 working days. If the approving official changes a rating at this point, he/she must document the reasons for the change on form CD-516 and provide a copy to the employee and Human Resources. If such steps do not result in mutual agreement, employees may then utilize their grievance rights, without restraint, interference, coercion, discrimination or reprisal.

Unacceptable Performance Ratings

Unacceptable performance in one or more critical elements requires that an Unacceptable rating be given to the employee. The rating official should be alert to Unacceptable performance so that the

problem can be pinpointed and discussed with the employee at an early date and corrective measures taken.

Prior written notice of an Unacceptable rating is not required. Therefore, an employee may be given an Unacceptable rating without a prior written warning. Proposals to remove or demote are not based on the rating itself, but are based on the underlying performance. Before an action based on Unacceptable performance can be taken, an employee must receive a specific warning of Unacceptable performance to give the employee a reasonable time to improve. For example, in a bargaining unit, the warning is usually for a period of at least 90 days. For non-bargaining unit employees, the period must be "reasonable." If you plan to give an employee a warning of Unacceptable performance, you must first consult a specialist of the Employee Relations Division to ensure that your action is procedurally correct. When an employee has started and not yet completed a performance improvement period on the last day of the appraisal cycle, the rating can be delayed until the completion of the opportunity period.

Performance Awards

When determining performance award amounts, management officials must consider the value of any awards granted during the appraisal period that are related to the employee's job responsibilities. The total monetary recognition given must be proportionate to the employee's contributions. There is not a restriction against mentioning in the performance appraisal write-up (even if the rating is not based on it) an act or exceptional performance that was recognized with a special act award. Supervisors can state the employee accomplishment and even note that the employee received an award for that accomplishment. The employee should not be given additional award money for the same accomplishment.

Bargaining Unit Employees

Performance based awards for **POPA employees** are described in the "Agreement on Awards" dated June 7, 1983, and in the "Agreement on Trial Gainsharing Program" dated October 6, 1988.

Performance awards for **NTEU Chapter 245 employees** are described in Article 31 of the basic agreement dated December 22, 2000.

For **NTEU Chapter 243 employees**, the following rules apply for cash awards as described in Article 42 of the basic agreement dated September 29, 2003. To qualify:

The employee must have occupied the same grade and type of position for at least six (6) months in the appraisal year. If the employee did not spend, at any time of the year, at least 6 months in the same grade and type of position, then no award can be granted:

- the employee must hold a position covered by the Employee Performance Appraisal System on September 30;
- the employee must have a Fully Successful rating with a summary score of at least **350** points;
- the employee must have worked in his/her job functions for a minimum of 1,250 hours to be eligible for a full performance award. If the employee has worked less than 1,250 hours in his/her job functions, then the award must be prorated. If the employee has worked less than 600 hours, then no Award can be granted. Remember, time in a non-pay status (e.g. LWOP and AWOL), as well as "other" time, must be subtracted from the number of hours worked to determine award eligibility;
- awards for part-time employees must be reduced in proportion to the employees' scheduled bi-weekly workweek compared to 80 hours;
- adverse actions initiated (e.g. suspensions of more than 14 days, downgrades, or removals) may serve to disqualify an employee for the appraisal period in which the offense occurred.

Quality Step Increases

A Quality Step Increase (QSI) is an increase in an employee's rate of basic pay from one step of his or her position to the next higher step of the grade. An employee must have an outstanding rating with at least 475 points to be eligible for a QSI and must have held the same grade and position for at least six months before the end of the appraisal cycle. The QSI is in lieu of any other end-of-year performance award. If an employee received a QSI in the previous rating year, the employee must demonstrate current performance that is at a significantly higher level to warrant another QSI and the rating must be approved by the business unit head. **You must submit a FY13 Performance Rating and Award Nomination Form requesting the QSI to your BU POC by Monday, October 28, 2013, along with the rating. QSIs cannot be processed via the electronic file/database.**

Normally a QSI does not affect the timing of an employee's next regular WGI unless the QSI places the employee in step 4 or step 7 of her grade. In these cases, the employee becomes subject to the full waiting period for the new step -- i.e., 104 weeks or 156 weeks, respectively.

An employee may not receive both a QSI and a performance award, both of which recognize the same performance during an appraisal period.

For **POPA bargaining unit employees**, the eligibility requirements for QSIs can be found in the "Agreement on Awards" dated June 7, 1983.

For **NTEU 245 bargaining unit employees**, the eligibility requirements for QSIs can be found in Article 31 of the basic agreement dated December 22, 2000.

Non-Bargaining Unit Employees

Guidance for Non-Bargaining Unit, Category 3 employees will be forthcoming.

Patent Business Unit -- Technology Centers and Patent Academy End-of Year submission process

Supervisors must complete and issue FY '13 performance appraisal ratings, FY '13 Awards and FY '14 Performance Appraisal Plans (PAPs) by **Friday, October 25, 2013**.

Separate award forms have been eliminated by incorporating the awards information into Section III of the PAP's Rating Summary sheet. All documentation must be submitted to your Technology Center Awards POCs (see list of Award POCs on page 2). The TC Awards POCs will validate that all PAPs have been submitted, and that they include accurate award information when appropriate.

The Award POCs will have until Friday, November 1, 2013, to verify PAPs/Awards are properly completed, have the Patent's gatekeeper certify all awards, and deliver the documentation to the Office of Human Resources (OHR). Also on this date, the SPE Management Database (examiners) and the TC database (non-examiners) will generate and transmit an electronic file/database which will be used by OHR to transmit rating and award information to the National Finance Center (NFC). **If this information is not submitted to OHR by Friday, November 1, 2013, it will delay**

the payment of awards. Performance appraisals and award forms will not be accepted or processed by Human Resources outside of this procedure.

Specific instructions for processing examiner awards and PAPs

All examiner PAPs (except PAPs for hybrid examiners) and awards will be completed and submitted for electronic Director approval using the SPE Management Database. SPEs may begin writing PAPs immediately following the end of the fiscal year. However, managers should keep in mind that since the award information is now incorporated into the Section III of the PAP, the completed PAPs may not be submitted for electronic verification until the latest salary tables have been uploaded.

To expedite processing for most employees, the salary table upload will be handled in two phases depending on the date of the employee's last promotion or Within-Grade Increase (WGI):

- **Promotion or WGI received prior to September 7, 2013** Awards and PAPs may be submitted to the Director for approval any time after Tuesday, October 1, 2013.
- **Promotion or WGI received between September 8 and September 30, 2013-** Awards and PAPs may be submitted to the Director for approval any time after Tuesday, October 15, 2013.

The Director will approve the PAP and Award together as a single document. Once the PAP/Award is approved by the Director, the SPE will print the PAP/Award document and conduct the performance review meeting with the examiner. After the performance review meeting, the SPE will forward the signed PAP/Award to the Awards POC. Managers should note that both Sections II and III of the PAP must be signed.

If an examiner should receive an award, but does not meet the business rules set forth in the SPE Management Database, the SPE must complete a paper award form and discuss with the Director to obtain approval. Once the Director's signature is obtained, the paper award form must be given to the Award POC for manual entry into the SPE Management Database. If the corresponding PAP has not been submitted to the Director, the award amount will then be incorporated into the rating summary of the PAP, such that the PAP and award will be in a single document. If the corresponding PAP had been previously approved and the performance review meeting held, then the paper award form will be separately attached to the PAP.

Specific instructions for processing non-examiner awards and PAPs

All non-examiner PAPs will be completed using the steps above, except non-examiner PAP and award information will be entered into a TC database for non-examiners (versus the SPE Management Database). The Award POC will batch print the documents and will obtain necessary signatures.

Attachments

FY13 Performance Rating and Award Nomination Form For POPA Employees

Name: _____ SSN: _____
(Last) (First) (MI)

PART A: FISCAL YEAR 2013 RATING

If the employee has left the agency, indicate the date: _____

(460-500) Outstanding	(380-459) Commendable	(290-379) Fully Successful	(200-289) Marginal	(100-199) Unacceptable
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
5	4	3	2	1

Point Score: _____ FY14 PAP in Place? Yes No
 Period Covered: 10-01-12 to 9-30-13 If not, why? _____

PART B: TYPE OF RECOGNITION

<input type="checkbox"/> Quality Step Increase 892/RBM (Must be Rated Outstanding) Period Covered: <u>10/1/12</u> to <u>9/30/13</u>	<input type="checkbox"/> Productivity Gainsharing* PPRAAAM0000100000 849/C023 _____ % Amount: _____ Period Covered: _____ to _____
<input type="checkbox"/> SAA Award* APERSP0000A00128 840/C011 3% Amount: _____ Period Covered: _____ to _____	<input type="checkbox"/> Pendency Reduction* PPEAAM0000100001 849/C023 0.5% Amount: _____ Period Covered: _____ to _____

* Is the award prorated? Yes No
If yes, you MUST show/attach the math.

Note: There is a maximum of 1400 hours for full SAA and Productivity Gainsharing; 700 for full Pendency Reduction. A minimum of 700 for pro-rated SAA and Productivity Gainsharing; 350 for pro-rated Pendency Reduction.
 SAA hrs = _____ Productivity Gainsharing hrs = _____ Pendency Reduction hrs = _____

* Is the award period less than full period, i.e. less than 4 full quarters for productivity award (SAA or Gainsharing) or less than 2 full quarters for pendency award? If yes, please indicate reason below.

	Employee left PTO
	Employee moved from POPA to non-POPA covered position at end of award period
	Employee moved from non-POPA to POPA covered position at the beginning of award period
	Employee entered PTO during quarter 1 of award period

PART C: CERTIFICATIONS

Certification of Completion of FY13 Rating, FY14 Plan and to Accuracy and Award Eligibility:

_____/_____/_____
(Immediate Supervisor's Signature) (Date) (Phone #)

Certification of Compliance with Appropriate Award Agreement or DAO:

_____/_____/_____
(Reviewing/Approving Official's Signature) (Date) (Phone #)

Office of Human Resources Use Only

Rating Entered _____	Award(s) Entered _____	QSI - New Grade/Step _____
Rating Verified _____	Award(s) Verified _____	New Salary _____

FY13 Performance Rating and Award Nomination Form For NTEU 243 and Non-Bargaining Employees*

Name: _____ SSN: _____
(Last) (First) (MI)

PART A: FISCAL YEAR 2013 RATING

If the employee has left the agency, indicate the date: _____

(460-500) Outstanding <input style="width: 40px; height: 20px;" type="text"/> 5	(380-459) Commendable <input style="width: 40px; height: 20px;" type="text"/> 4	(290-379) Fully Successful <input style="width: 40px; height: 20px;" type="text"/> 3	(200-289) Marginal <input style="width: 40px; height: 20px;" type="text"/> 2	(100-199) Unacceptable <input style="width: 40px; height: 20px;" type="text"/> 1
--	--	---	---	---

Point Score: _____ FY 14 Plan in Place? Yes No
 Period Covered: 10-01-12 to 09-30-13 If not, why? _____

PART B: TYPE OF RECOGNITION

- CAT 1 - Performance Award*** _____ %
840/C011 APERSP0000A00128
- CAT 2 - Performance Award*** _____ %
849/C002 APERSP0000A00129
- CAT 3 - Performance Award*** _____ %
840/C011 APERSP0000A00129

Amount: \$ _____
 Period Covered: 10/1/12 to 9/30/13

- Quality Step Increase**
892/RBM
 (Must be Rated Outstanding)
 Period Covered: 10/1/12 to 9/30/13

Is the award prorated? Yes No
 If yes, please refer to the appropriate agreement on awards and show mathematical calculations in the space above.

PART C: CERTIFICATIONS

Certification of Completion of FY13 Rating, FY14 Plan and to Accuracy and Award Eligibility:

(Immediate Supervisor's Signature) (Date) (Phone #)

Certification of Compliance with Appropriate Award Agreement or DAO:

(Reviewing/Approving Official's Signature) (Date) (Phone #)

Office of Human Resources Use Only

Rating Entered _____ Award(s) Entered _____ QSI - New Grade/Step _____
 Rating Verified _____ Award(s) Verified _____ New Salary _____

***EXCEPTION:** This form should not be used for NTEU 245 or NTEU 243, and non-bargaining unit employees in the TC's, PCT OPS, Petitions, OIPE Classifiers

**FY13 PERFORMANCE RATING AND AWARD NOMINATION FORM
FOR PATENTS NTEU 243 AND PATENTS NON-BARGAINING UNIT EMPLOYEES**

Name _____ SSN _____
(Last) (First) (MI)

If the employee has left the agency, indicate the date: _____

PART A: FISCAL YEAR 2013 RATING

(460-500) Outstanding <input type="checkbox"/> 5	(380-459) Commendable <input type="checkbox"/> 4	(290-379) Fully Successful <input type="checkbox"/> 3	(200-289) Marginal <input type="checkbox"/> 2	(100-199) Unacceptable <input type="checkbox"/> 1
---	---	--	--	--

Point Score: _____ FY14 PAP in Place? Yes No

Period Covered: 10-01-12 to 9-30-13 If not, why? _____

PART B: TYPE OF RECOGNITION

<p>1 <input type="checkbox"/> <i>Period covered 10-01-12 TO 9-30-13</i> Cat 1 - Performance Award Only* 840/C011 . APERSP00002A05128 Amount: \$ _____ %</p> <p><input type="checkbox"/> Cat 2 - Performance Award Only* 849/C002 . APERSP00002A05129 Amount: \$ _____ %</p>	<p>2 <input type="checkbox"/> Quality Step Increase 892/RBM (Must be Rated Outstanding) 10-01-12 TO 9-30-13</p>
---	--

<p>3. Business Unit <input type="checkbox"/> Tech Center <input type="checkbox"/> Patents <input type="checkbox"/> Publications</p> <p><input type="checkbox"/> PCT <input type="checkbox"/> OIPE</p> <p><input type="checkbox"/> Publications</p> <p><input type="checkbox"/> Period covered 10-1-12 to 9-30-13</p>	<p align="center">Business Unit Award</p> <p><input type="checkbox"/> CAT 1 - Business Unit Award-- Worksheet Attached 849/C023 PNCSPA0000119075 Amount: \$ _____</p> <p><input type="checkbox"/> CAT 2 - Business Unit Award-- Worksheet Attached 849/C002 PNCSPA0000119075 Amount: \$ _____</p>
--	--

* Is the award prorated? Yes No

If yes, please refer to the appropriate agreement on awards and attach mathematical calculations to this form.

PART C: CERTIFICATIONS

Certification of Completion of FY13 Rating, FY14 Plan and Accuracy and Award Eligibility:

(Immediate Supervisor's Signature) (Date) (Phone)

Certification of Compliance with Appropriate Award Agreement or DAO

(Reviewing/Approving Official's Signature) (Date) (Phone)

Office of Human Resources Use Only

Rating Entered _____	Award(s) Entered _____	QSI - New Grade/Step _____
Rating Verified _____	Award(s) Verified _____	New Salary _____

**FY13 PERFORMANCE RATING AND AWARD NOMINATION FORM
FOR PATENTS NON-BARGAINING UNIT EMPLOYEES (SPE/QAS/SPRE)**

Name _____ SSN _____
(Last) (First) (M)

PART A: FISCAL YEAR 2013 RATING

if the employee has left the agency, indicate the date: _____

(460-500)	(380-459)	(290-379)	(200-289)	(100-199)
Outstanding	Commendable	Fully Successful	Marginal	Unacceptable
[]	[]	[]	[]	[]
5	4	3	2	1

Point Score: _____ FY 14 PAP in Place? Yes No
 Period Covered: 10-01-12 to 9-30-13 If not, why? _____

PART B: TYPE OF RECOGNITION

<input type="checkbox"/> CAT 2 - Performance Award 849/C002 APERSP0000A00129 _____ % Amount: \$ _____	<input type="checkbox"/> Quality Step Increase 892/RBM (Must be Rated Outstanding) 10-01-12 to 09-30-13
<input type="checkbox"/> SPE/QAS/SPRE Business Unit Performance Award Must be Rated (Commendable or Outstanding) 849/C002 PNGSPA0000119075	
_____ Total Points Earned \$ _____ = Business Unit Award \$ _____	

* Is the award prorated? Yes No

If yes, please refer to the appropriate agreement on awards and show mathematical calculations in the space above.

PART C: CERTIFICATIONS

Certification of Completion of FY13 Rating, FY14 Plan and Accuracy and Award Eligibility:

(Immediate Supervisor's Signature) (Date) (Phone)

Certification of Compliance with Appropriate Award Agreement or DAO

(Reviewing/Approving Official's Signature) (Date) (Phone)

Office of Human Resources Use Only

Rating Entered _____ Award(s) Entered _____ QSI - New Grade/Step _____
 Rating Verified _____ Award(s) Verified _____ New Salary _____

FY13 AWARD NOMINATION FORM FOR TRADEMARK ESU NTEU 243 BARGAINING UNIT EMPLOYEES

Name _____ SSN _____
(Last) (First) (MI)

If the employee has left the agency, indicate the date: _____

PART A: FISCAL YEAR 2013 RATING

(460-500) Outstanding <input type="text"/> 5	(380-459) Commendable <input type="text"/> 4	(290-379) Fully Successful <input type="text"/> 3	(200-289) Marginal <input type="text"/> 2	(100-199) Unacceptable <input type="text"/> 1
---	---	--	--	--

Point Score: _____ FY 14 Plan in Place? Yes No
 Period Covered: 10/1/12 to 9/30/13 If not, why? _____

PART B: TYPE OF RECOGNITION

Cat 1 - OVERALL PERFORMANCE AWARD 840/C011 APERSP0000A00128		
<input type="text"/> % Award for Overall Outstanding Rating	Salary: \$ _____	<input type="text"/>
<input type="text"/> % Award for Overall Commendable Rating		
<input type="text"/> % Award for Overall Fully Successful Rating		
If necessary, complete the following formula to prorate: _____		
or <input type="checkbox"/> Quality Step Increase 10-01-12 to 09-30-13		
892/RBM (Must be Rated Outstanding)		
PRODUCTIVITY AND QUALITY AWARD 849/C023 APERSP0000A00130		
Production: _____ %	Award Percentage = _____ %	<input type="text"/>
Quality Rating: _____	Salary: \$ _____	
If necessary, complete the following formula to prorate: _____		
Hours x Salary x Award % = Award		
1250		
Hours x Salary x Award % = Award		
625		

PART C: CERTIFICATIONS

Certification of FY13 Performance Rating, FY14 Plan and to Accuracy and Award Eligibility:

(Immediate Supervisor's Signature) (Date) (Phone #)

Certification of Compliance with Article 31 and MOU:

(Reviewing/Approving Official's Signature) (Date) (Phone #)

Office of Human Resources Use Only

Rating Entered _____	Award(s) Entered _____	QSI - New Grade/Step _____
Rating Verified _____	Award(s) Verified _____	New Salary _____

FY 13 PERFORMANCE RATING AND AWARD NOMINATION FORM

NTEU 245 BARGAINING UNIT EMPLOYEES

4th Quarter Trademark

Name _____ SSN _____
(Last) (First) (MI)

If the employee has left the agency, indicate the date: _____

PART A: FISCAL YEAR 2013 RATING

(460-500)	(380-459)	(290-379)	(200-289)	(100-199)
Outstanding	Commendable	Fully Successful	Marginal	Unacceptable
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	4	3	2	1

Point Score: _____ FY14 PAP in Place? Yes No

Period Covered: 10-01-12 to 9-30-13 If not, why? _____

PART B: AWARDS

1B. PRODUCTIVITY AWARD – 4th Quarter		849/C023	TETMAP0000330150	
	OUTSTANDING in Production/Pendency Element	BDs: _____		1B. \$ _____
	COMMENDABLE in Production/Pendency Element	BDs: _____		
2B. QUALITY AWARD		849/C023	TETMAP0000330151	
	3% Award for Outstanding Quality	Salary: \$ _____		2B. \$ _____
	If necessary, complete the following formula to prorate: _____ BDs _____ x Salary x 0.03 = Award (1100, 1200, 1300, 1400, 1500)			
3B. MENTORING AWARD		849/C023	TETMAP0000330155	
	Award for Outstanding Mentoring	Months of Mentoring _____ No Signatory Authority: _____ Partial Signatory Authority: _____		3B. \$ _____
	If applicable, complete the following formula: (0.0025 x No Sig Months x Salary) + (.001 x Partial Sig Months x Salary) = Award			
TOTAL (Productivity Award + Quality Award + Mentoring Award)				TOTALS _____

PART C: CAT 1 - PERFORMANCE AWARD

Performance Award 840/C011 APERSP0000A00128 _____ % \$ _____	
Quality Step Increase(QSI) 892/RBI (Must be rated Outstanding)	

Certification of Completion of FY13 Rating, FY14 Plan and to Accuracy and Award Eligibility:

(Immediate Supervisor's Signature) (Date) (Phone #)

Certification of Compliance with Article 31 and MOU:

(Reviewing/Approving Official's Signature) (Date) (Phone #)

Office of Human Resources Use Only

Rating Entered _____	Award(s) Entered _____	QSI - New Grade/Step _____
Rating Verified _____	Award(s) Verified _____	New Salary _____

**FY 13 PERFORMANCE RATING AND AWARD NOMINATION FORM
FOR PATENTS NTEU 243 AND PATENTS NON-BARGAINING UNIT
EMPLOYEES- OPIM**

Name _____ SSN _____
(Last) (First) (Mi)

If the employee has left the agency, indicate the date: _____

PART A: FISCAL YEAR 2013 RATING

(460-500) Outstanding [] 5	(380-459) Commendable [] 4	(290-379) Fully Successful [] 3	(200-289) Marginal [] 2	(100-199) Unacceptable [] 1
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Point Score: _____ FY14 Plan in Place? Yes No
Period Covered: 10/1/12 to 9/30/13 If not, why? _____

PART B: TYPE OF RECOGNITION

<p><input type="checkbox"/> CAT 1 - Performance Award Only* 840/C011 APERSP0000A00128 _____ % Amount: \$ _____</p> <p>CAT 2 - Performance Award Only* 840/C002 APERSP0000A00129 _____ % Amount: \$ _____</p> <p>10/01/2012 – 09/30/2013</p>	<p><input type="checkbox"/> Quality Step Increase 892/RBM (Must be Rated Outstanding)</p> <p>10/01/2012 – 09/30/2013</p>						
<p><input type="checkbox"/> NTEU 243, Supervisor And Non-Bargaining Unit Employees Business Unit Performance Award (Must be Rated Fully Successful, Commendable or Outstanding)</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 33%;">Business Unit</th> <th style="width: 33%;">Period Covered</th> <th style="width: 33%;">Award Criteria</th> </tr> </thead> <tbody> <tr> <td>OPIM Division _____</td> <td><input type="checkbox"/> Oct. 1, 2012 to Sep. 30, 2013</td> <td><input type="checkbox"/> Attached –Award Eligibility Worksheet</td> </tr> </tbody> </table>		Business Unit	Period Covered	Award Criteria	OPIM Division _____	<input type="checkbox"/> Oct. 1, 2012 to Sep. 30, 2013	<input type="checkbox"/> Attached –Award Eligibility Worksheet
Business Unit	Period Covered	Award Criteria					
OPIM Division _____	<input type="checkbox"/> Oct. 1, 2012 to Sep. 30, 2013	<input type="checkbox"/> Attached –Award Eligibility Worksheet					
<p>CAT 1 - Business Unit Award 849/C023 PNCSPA0000119075 Amount: \$ _____</p>	<p>Cat 2 - Business Unit Award 849/C002 PNCSPA0000119075 Amount: \$ _____</p>						

* Is the award prorated? Yes No
If yes, please refer to the appropriate agreement on awards and attach mathematical calculations to this form.

PART C: CERTIFICATIONS

Certification of Completion of FY13 Rating, FY14 Plan and Accuracy and Award Eligibility:

(Immediate Supervisor's Signature) (Date) (Phone)

Certification of Compliance with Appropriate Award Agreement or DAO

(Reviewing/Approving Official's Signature) (Date) (Phone)

Office of Human Resources Use Only

Rating Entered _____	Award(s) Entered _____	QSI – New Grade/Step _____
Rating Verified _____	Award(s) Verified _____	New Salary _____

**FY 13 PERFORMANCE RATING AND AWARD NOMINATION FORM
FOR NTEU 243 AND NON-BARGAINING UNIT
EMPLOYEES- OCIO**

Name _____ SSN _____
(Last) (First) (Mi)

If the employee has left the agency, indicate the date: _____

PART A: FISCAL YEAR 2013 RATING

(460-500) Outstanding [] 5	(380-459) Commendable [] 4	(290-379) Fully Successful [] 3	(200-289) Marginal [] 2	(100-199) Unacceptable [] 1
--	--	---	---	---

Point Score: _____ FY14 Plan in Place? Yes No
Period Covered: 10/1/12 to 9/30/13 If not, why? _____

PART B: TYPE OF RECOGNITION

<input type="checkbox"/> CAT 1 - Performance Award Only* 840/C011 APERSP0000A00128 _____ % Amount: \$ _____ <input type="checkbox"/> CAT 2 - Performance Award Only* 849/C002 APERSP0000A00129 _____ % Amount: \$ _____ 10/01/2012 – 09/30/2013	<input type="checkbox"/> Quality Step Increase 892/RBM (Must be Rated Outstanding) 10/01/2012 – 09/30/2013	
<input type="checkbox"/> NTEU 243, Supervisor And Non-Bargaining Unit Employees Business Unit Performance Award (Must be Rated Fully Successful, Commendable or Outstanding)		
Business Unit OCIO Division _____	Period Covered <input type="checkbox"/> Oct. 1, 2012 to Sep. 30, 2013	Award Criteria <input type="checkbox"/> Attached -Award Eligibility Worksheet
<input type="checkbox"/> CAT 1 - Business Unit Award 849/C023 PNCSPA0000119075 Amount: \$ _____	<input type="checkbox"/> Cat 2 - Business Unit Award 849/C062 PNCSPA0000119075 Amount: \$ _____	

* Is the award prorated? Yes No
If yes, please refer to the appropriate agreement on awards and attach mathematical calculations to this form.

PART C: CERTIFICATIONS

Certification of Completion of FY13 Rating, FY14 Plan and Accuracy and Award Eligibility.

(Immediate Supervisor's Signature) (Date) (Phone)

Certification of Compliance with Appropriate Award Agreement or DAO

(Reviewing/Approving Official's Signature) (Date) (Phone)

***** Office of Human Resources Use Only *****

Rating Entered _____	Award(s) Entered _____	QSI - New Grade/Step _____
Rating Verified _____	Award(s) Verified _____	New Salary _____

CALCULATION INSTRUCTIONS FOR NTEU 245 AWARD FORM

I. Productivity Award

All productivity awards are based on the table in Appendix A of the Memorandum of Understanding dated January 17, 2007. The award for Commendable rating in the Pendency is half the amount shown in the chart.

II. Quality Award

The Quality award is 3% of salary (salary x .03) unless the award must be prorated due to insufficient balanced disposals for the entire rating period.

GS-9: If the examining attorney has less than 550 balanced disposals for the fiscal year, no Quality award is given. If the examining attorney has at least 550 but fewer than 1100 BDs for the fiscal year, the award is prorated as follows, and the calculation must be shown on the award form:

$$\frac{\text{Total Fiscal Year BDs} \times \text{Salary} \times 0.03}{1100} = \text{Award}$$

GS-11: If the examining attorney has less than 600 balanced disposals for the fiscal year, no Quality award is given. If the examining attorney has at least 600 but fewer than 1200 BDs for the fiscal year, the award is prorated as follows, and the calculation must be shown on the award form:

$$\frac{\text{Total Fiscal Year BDs} \times \text{Salary} \times 0.03}{1200} = \text{Award}$$

GS-12: If the examining attorney has less than 650 balanced disposals for the fiscal year, no Quality award is given. If the examining attorney has at least 650 but fewer than 1300 BDs for the fiscal year, the award is prorated as follows, and the calculation must be shown on the award form:

$$\frac{\text{Total Fiscal Year BDs} \times \text{Salary} \times 0.03}{1300} = \text{Award}$$

GS-13: If the examining attorney has less than 700 balanced disposals for the fiscal year, no Quality award is given. If the examining attorney has at least 700 but fewer than 1400 BDs for the fiscal year, the award is prorated as follows, and the calculation must be shown on the award form:

$$\frac{\text{Total Fiscal Year BDs} \times \text{Salary} \times 0.03}{1400} = \text{Award}$$

GS-14: If the examining attorney has less than 750 balanced disposals for the fiscal year, no Quality award is given. If the examining attorney has at least 750 but fewer than 1500 BDs for the fiscal year, the award is prorated as follows, and the calculation must be shown on the award form:

$$\frac{\text{Total Fiscal Year BDs} \times \text{Salary} \times 0.03}{1500} = \text{Award}$$

III. Mentoring Award

The Mentoring award is 1/4% of salary for each month where the examining attorney trained a new attorney with no signatory authority plus 1/10% of salary for each month where the examining attorney trained a new attorney with partial signatory authority. If an examining attorney trained more than one new attorney during a month, these are counted separately. The award is calculated as follows and, and the calculation must be shown on the award form:

$$(.0025 \times \text{No Sig Months} \times \text{Salary}) + (.001 \times \text{Partial Sig Months} \times \text{Salary}) = \text{Award}$$

IV. Total Awards

The total sum of the Productivity, Quality and Mentoring awards must be shown on the form.

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

INSTRUCTIONS: This form must be used to assign final summary ratings when interim ratings must be considered in determining the final rating. The form will serve as the certification of the final rating. It must be signed by the rating and approving officials of record and attached to the original CD-518 forms that were completed by the rating and approving officials of record and those completed by interim rating and approving officials. Forward all original forms to the servicing personnel office. A copy must be given to the employee.

A. In the space provided below, compute the final summary rating using the appropriate formula. Use block (1) when computing one interim rating and block (2) when computing two interim ratings. Round off final summary rating to nearest whole number.

NOTE: If the position of record rating contains a non-critical element(s) please refer to Section 0.03a4 of Appendix A, or Section 0.03a7 of Appendix C of DAO 202-430.

<p>(1)</p> <p>a. Enter interim rating total score and multiply by 1: _____ x 1= _____</p> <p>b. Enter position of record rating total score and multiply by 2: _____ x 2= _____</p> <p>c. Add the results of a and b: TOTAL= _____</p> <p>d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3= _____</p>	<p>(2)</p> <p>a. Enter interim rating total score and multiply by 1: _____ x 1= _____</p> <p>b. Enter interim rating total score and multiply by 1: _____ x 1= _____</p> <p>c. Enter position of record rating total score and multiply by 2: _____ x 2= _____</p> <p>d. Add the results of a, b and c: TOTAL= _____</p> <p>e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4= _____</p>
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B. FINAL SUMMARY RATING (Check appropriate rating based on either 1d. or 2e. above)

Outstanding (460-500)
 Commendable (380-450)
 Fully Successful (280-370)

Marginal/Minimally Satisfactory (SES)—must be assigned if employee is given a marginal rating on one or more critical element(s). (200-280)

Unacceptable/Unsatisfactory (SES)—must be assigned if employee is given an unsatisfactory rating on one or more critical element(s).

C. SIGNATURES

Rating Official (Immediate Supervisor)	Date
Approving Official	Date
Employee (Signature indicates appraisal meeting held)	Date

EMPLOYEE COMMENTS ATTACHED YES

D. GENERAL WORK FORCE EMPLOYEES ONLY:
 If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-325, attach a copy of the rating justification and appraisal (CD-518) and forward through the appropriate channels.

NEW

I/A: _____

MR#: _____

IP#: _____

CLASSIFICATION AND PERFORMANCE MANAGEMENT RECORD

- Performance Plan
- Performance Appraisal
- Performance Recognition
- Progress Review
- Position Description

Employee's Name: _____ Social Security No.: _____

Position Title: Lead Administrative Patent Judge

Pay Plan, Series, Grade/Step: AD-1222-00

- Organization:
- | | |
|--|---|
| 1. <u>US Department of Commerce</u> | 4. <u>Patent Trial and Appeal Board</u> |
| 2. <u>US Patent & Trademark Office</u> | 5. _____ |
| 3. <u>Office of the Under Secretary & Director</u> | 6. _____ |

Rating Period: 2/10/2013 thru 9/30/2013

Covered By: Senior Executive Service Other AD

General Workforce _____

PART A—POSITION DESCRIPTION

POSITION CERTIFICATION—I certify that this is an accurate statement of the major duties and responsibilities of the position and its organization relationships and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds and that false or misleading statements may constitute violation of such statute or their implementing regulations.

SUPERVISOR'S SIGNATURE	DATE	SECOND LEVEL SUPERVISOR	DATE
------------------------	------	-------------------------	------

CLASSIFICATION CERTIFICATION	OFFICIAL TITLE:				
	PP:	SERIES:	FUNC:	GRADE:	I/A: <input type="checkbox"/> YES <input type="checkbox"/> NO

I certify that this position has been classified as required by Title 5, US Code, in conformance with standards published by the OPM or, if no published standard applies directly, consistently with the most applicable published standards.

NAME AND TITLE OF CLASSIFIER	SIGNATURE	DATE
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PART B—PERFORMANCE PLAN

This plan is an accurate statement of the work that will be the basis of the employee's performance appraisal.

NAME AND TITLE OF FIRST LINE SUPERVISOR/RATING OFFICIAL	SIGNATURE	DATE
<u>Vice Chief Administrative Patent Judge</u>		

APPROVAL—I agree with the certification of the position description and approve the performance plan.

NAME AND TITLE OF APPROVING OFFICIAL OR SES APPOINTING AUTHORITY	SIGNATURE	DATE
<u>Chief Administrative Patent Judge</u>		

EMPLOYEE ACKNOWLEDGEMENT—My signature acknowledges discussion of the position description and receipt of the plan, and does not necessarily signify agreement.	SIGNATURE	DATE
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PRIVACY ACT STATEMENT—Disclosure of your social security number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Quality

Objective: Ensuring quality decision-making by the Board of Patent Appeals and Interferences

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text limit in field is approximately 1100 characters. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent review, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Written decisions demonstrate clear understanding of the facts of each appeal or case, the technology, and the applicable legal statutes and case law. Written decisions are logically presented, soundly reasoned, and concise.

Proper judicial tone is maintained throughout written decisions.

Panel discussions are attended as an active participant. The Judge promptly provides sound and helpful input to improve decisions where appropriate and bring the deliberations/proceeding forward efficiently.

Oral arguments are attended/conducted skillfully.

Surveys are completed periodically assessing the work of other Judges or staff, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the surveys.

Decisions authored by other judges are evaluated and comments are promptly provided, offering frank and timely assessments of the quality of other Judges' decisions.

Senior management is promptly alerted to substantive, process-related, and professional issues of concern.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text limit in field is approximately 950 characters. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Production / Pendency

Objective: Effective and efficient Decision-Making by the Board of Patent Appeals and Interferences

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent reviews, derivation proceedings, interference proceedings, and other Board proceedings are authored and mailed.

Matters are disposed of efficiently, prioritizing older appeals, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business methods patent reviews, derivation proceedings, and interference proceedings before newer ones.

Monthly production is generally consistent throughout the year. Variations in output are minimized to the extent possible.

Decisions are sent for processing immediately when prepared, routed to panel members immediately when processed, reviewed, and mailed immediately after being approved by the panel, not withheld until a later date (e.g., to normalize production between months and/or between fiscal years).

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Standard for the General Workforce, the following Supplemental Standards apply:

Outstanding performance in this element is demonstrated by the employee making significant efforts toward reducing the Board's backlog. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. Exceptions are completely justified. End loading is virtually non-existent and fully justified.

Commendable performance in this element is demonstrated by the employee making considerable efforts toward reducing the Board's backlog. Production will be of a very high volume, while producing well above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. End loading is virtually non-existent.

(CONTINUED)

Optional Initial Block

Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production / Pendency

Please identify item(s) continued:

**(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 2. Major Activities (Continued)

(Commendable, continued)

End-loading is avoided, helping ensure regular workloads for peers and the support staff. End-loading (i.e., excessive production at mid-year and/or end-of-year) is generally identified when decisional units earned are at least 2x the median monthly decisional units earned throughout the period of review.

Item 3. Criteria for Evaluation (Continued)

The Fully Successful Lead Judge will earn no less than 59 decisional units annually, and will generally earn no less than 4 decisional units monthly. Reasonable efforts are made to manage the Board's existing and incoming case-load. The docket is effectively managed to ensure older cases are worked generally before newer cases. End loading is kept to a minimum.

The Marginal Lead Judge will earn at least 53 decisional units annually (but less than 59), and will generally earn no less than 4 decisional units monthly. Efforts to manage the Board's existing and incoming case-load are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence of end-loading exists. Evidence may exist that decisions have been delayed at any stage without justification or authorization.

The Unacceptable Lead Judge will earn less than 53 decisional units annually or will generally earn fewer than 4 decisional units monthly. Efforts to manage the Board's existing and incoming case-load are well below what is expected. Newer cases are frequently worked before older cases. End-loading is obvious and egregious (generally 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the reviewing period). Decisions were delayed at any stage without authorization.

NOTE:

One mailed regular ex parte appeal decision is generally worth 1 decisional unit. One mailed regular ex parte reexamination proceeding appeal decision is generally worth 2.5 decisional units. One mailed inter partes reexamination proceeding appeal decision is generally worth 4 decisional units.

Decisions based on Trial Proceedings will be assessed on a case-by-case basis, based on the complexity of the proceeding. Determination will be made by the Vice Chief Judge or a designee of the Vice Chief Judge. This assessment may change once benchmarks are established.

Decisions prepared with the assistance of Patent Attorneys on behalf of the Lead Judge are generally worth 0.5 decisional units to a Lead Judge.

Lead Judges may request additional decisional units for extraordinarily complex cases from the Vice Chief Judge.

Lead Judges will be provided the opportunity to explain and justify low decisional units earned and unusual patterns of case mailing, as they have additional responsibilities.

Production goals will be measured annually as well as monthly. Lead Judges will be updated on a monthly basis of the Board's production rates.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Leadership / Supervision / Supporting the Mission of the Board

Objective: Assisting in the effective operation of the U.S. Patent and Trademark Office (USPTO) and the Board of Patent Appeals and Interferences (BPAI) by providing leadership for supporting the missions of the USPTO and BPAI.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Calm, dignified, judicial demeanor is demonstrated at all times, in all settings. Respect and courtesy is given to all participants in any Board proceeding.

Assistance is provide to the Board in various aspects other than producing decisions. This may include (but is not limited to) development of rules or policies, representing the Board to outside organizations (either visiting the Board or at other locations), and/or participating on resume review panels.

Resources are managed to accomplish the USPTO's Strategic Goals and BPAI objectives. BPAI priorities are communicated to Judges, staff, administrators, and others as needed.

Cooperation, teamwork, and flexibility are emphasized to employees to improve staff efficiencies, ability to react to changing requirements, and overall quality of BPAI deliverables.

Employees are coached to realize their potential, using individual development plans or training programs to increase staff productivity and to produce high quality products and materials.

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Leadership / Supervision / Supporting the Mission of the

Please identify item(s) continued:

**(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 2. Major Activities (CONTINUED)

Employee performance is managed through continuous feedback on performance, performance appraisals, and resolution of performance deficiencies. Recognition programs (i.e., monetary (if available), non-monetary or honor awards) are utilized to acknowledge employee performance.

Employment actions such as selections and promotions are managed, and are consistent with Merit Systems Principals, equal opportunity and diversity principles, and do not violate Prohibited Personnel Practices. Employee grievances and allegations of discrimination receive a prompt response with the goal of resolution at the lowest organizational level.

Office complies with legal and reporting obligations, the Privacy Act, and other applicable statutes, including the requirement of governmental and suppliers of data to the Board to ensure the confidentiality of Personally Identifiable Information (PII).

Staff and resources are used effectively to complete assignments and meet the responsibilities of the Office.

Office performance is consistent with Board standards and performance plans/evaluations.

Performance management system benchmarks are complied with (i.e., Performance plans are in place by October 31 for the new Fiscal Year (FY); mid-year progress reviews are conducted by April 30; and performance appraisal ratings are completed by October 31 for the previous FY) for current employees. New performance plans are in place within 30 days of starting (for new employees) or changing positions (for current employees).

Name

Element

Leadership / Supervision / Supporting

Sheet

No. 1 of _____

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.)

Text field is limited. if more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (Support rating in space below.)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (Required only if approving official/appointing authority changes rating official's element rating in Item 5.)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Customer Service

Objective: To ensure responsive assistance to internal and external customers, and the public, to the extent permitted by law and regulation.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

10

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Appropriate questions and requests from internal and external stakeholders and the public are addressed courteously and to the extent reasonable, while ensuring, both in appearance and fact, the independence, and the objective and neutral nature, of the Board.

Where questions from external customers and the public are not appropriately answered by the Judge, the questioner is redirected to appropriate Board staff. The Lead Judge is expected to recognize the need for confidentiality, discretion and judgment and apply as appropriate.

Inquiries from internal staff are addressed promptly and courteously, providing needed information or assistance where appropriate.

Prompt execution of the Board's 35 U.S.C. 6 and other duties is rendered to the public.

Interactions with all customers, internal or external, are highly professional and appropriate to the nature of the Judge's position, and to preserve the dignity of the Board.

Appropriate discretion and judgment is exercised prior to communicating outside of the Board in matters related to the USPTO and Board or any proceeding of the Board.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block			
Employee	Date	Supervisor	Date

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION II—PERFORMANCE SUMMARY AND RATING

Name _____

ITEM 1. INSTRUCTIONS:

1. List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it.
2. Assign a rating level for each element: **(5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal/Minimally Satisfactory (SES) (1) Unacceptable/Unsatisfactory (SES)**
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute total score by summing all individual scores. Total score can range from 100 to 500.

Performance Element	Critical or Non-critical (C or NC)	Individual Weights (Sum must total 100)	Element Rating (1-5)	Score
Quality	C	30		0
Production / Pendency	C	30		0
Leadership / Supervision / Supporting the Mission of the Board	C	30		0
Customer Service	C	10		0
				0
				0
TOTAL SCORE:				0

For SES turn to reverse side and continue with Item 3.

ITEM 2. PERFORMANCE RATING: *(Based on total score except that if any critical element is less than fully successful the rating can be no higher than the lowest critical element rating.)*

Outstanding (460–500)
 Commendable (380–459)
 Fully Successful (290–379)
 Marginal (200–289)
 Unacceptable (100–199)

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Employee's Signature <i>(Indicates appraisal meeting held)</i>	Employee comments attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	Date

SECTION III—PERFORMANCE RECOGNITION *(General Workforce Only)*

Performance Award \$ _____ (___ %)
 For performance awards: Has employee been promoted during the appraisal cycle?
 YES NO

QSI (Outstanding Rating Required)
 Appropriation No. _____

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Final Approving Authority's Signature		Date
Payment Authorized By Personnel Office		Date

APPENDIX A GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

The generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

When evaluating an element, the rater should:

1. Read carefully each performance standard level beginning with the fully successful one. (It is considered the base level standard.)
2. Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in absolute terms for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
3. Provide in writing, on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating, the rating official need only document in writing that: (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally, when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may have performed at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgement as to the appropriate rating level he/she will assign. The rationale for the decision must be documented on the rating form, citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement the GPS, not supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

OUTSTANDING

SES

This is a level of rare, high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work, often ahead of established schedules and with little supervision.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

GENERAL WORK FORCE

This is a level of rare, high-quality performance. The quality and quantity of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. The impact of the employee's work is of such significance that organizational objectives were accomplished that otherwise would not have been. The accuracy and thoroughness of the employee's work on this element are exceptionally reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and products for which he or she is responsible. Thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, increase the employee's usefulness.

This person plans so that work follows the most logical and practical sequence; inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems and adapts quickly to new priorities and changes in procedures and programs without losing sight of the longer-term purposes of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's planning skills result in cost-savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments related to this element at increasing levels of difficulty. The quality of such work is high and is done on time without disrupting regular work. Appropriate problems are brought to the supervisor's attention; most problems are dealt with routinely and with exceptional skill.

The employee's oral and written expression are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

SUPERVISORY*

The employee is a strong leader who works well with others and handles difficult situations with dignity and effectiveness. The employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to the views of others, the employee promotes cooperation among peers and subordinates, while guiding, motivating, and stimulating positive responses. The employee's work performance demonstrates a strong commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

COMMENDABLE

SES

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and the procedures for meeting them.

The effective planning of the employee has improved the quality of management practices, op-

erating procedures, task assignments, or program activities. The employee has developed or implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

GENERAL WORK FORCE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Thoroughness and accuracy of work are reliable. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she uses contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are considered in the employees' work planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort. He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with; supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well-presented.

SUPERVISORY*

The employee is a good leader, establishes sound working relationships and shows good judgment in dealing with subordinates, considering their views. He/she provides opportunities for staff to have a meaningful role in accomplishing organizational objectives and makes special efforts to improve each subordinate's performance.

FULLY SUCCESSFUL

SES

This is the level of good, sound performance. The employee has contributed positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organization knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee also works well as a team member, supporting the group's efforts and showing an ability to handle a variety of interpersonal situations.

The employee communicates clearly and effectively.

All employees at this level and above have followed a management system by which work is planned, tasks are assigned, and deadlines are met.

GENERAL WORK FORCE

This is the level of good, sound performance. The quality and quantity of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary; most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of costs to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments so their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

SUPERVISORY*

The employee is a capable leader who works successfully with others and listens to suggestions.

The employee rewards good performance and corrects poor performance through sound use of performance appraisal systems, performance-based incentives and, when needed, adverse actions; and selects and assigns employees in ways that use their skills effectively.

The employee's work performance shows a commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

MARGINAL

SES

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective. The employee's work under this element is at a level which may result in removal from the position.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other

personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinders achievement of the purpose of the communications. The listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

GENERAL WORK FORCE

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written communication usually considers the nature and complexity of the subject and the intended audience. It conveys the central points of information important to accomplishing the work. However, too often the communication is not focused, contains too much or too little information, and/or is conveyed in a tone that hinders achievement of the purpose of the communication. In communication to coworkers, the listener must question the employee at times to secure complete information or avoid misunderstandings.

SUPERVISORY*

Inadequacies surface in performing supervisory duties. Deficiencies in areas of supervision over an extended period of time affect adversely employee

productivity or morale, or organizational effectiveness. The marginal employee does not provide strong leadership or take the appropriate initiative to improve organizational effectiveness. For example, he/she too often fails to make decisions or fulfill supervisory responsibilities in a timely manner, to provide sufficient direction to subordinates on how to carry out programs, to give clear assignments and/or performance requirements, and/or to show an understanding of the goals of the organization or subordinates' roles in meeting those goals.

UNSATISFACTORY

SES

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Little or no contribution to organizational goals;
- Failure to meet work objectives;
- Inattention to organizational priorities and administrative requirements;
- Poor work habits resulting in missed deadlines, incomplete work products;
- Strained work relationships;
- Failure to respond to client needs; and/or
- Lack of response to supervisor's corrective efforts.

GENERAL WORK FORCE

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products, or it produces technically inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work; the employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or by loss of credibility due to irresponsible speech or work activity.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete the projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks the necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

SUPERVISORY*

Most of the following deficiencies are typically, but not always, common, characteristics of the employee's work:

- Inadequate guidance to subordinates;
- Inattention to work progress; and
- Failure to stimulate subordinates to meet goals.

* Supervisory standards must be applied to SES and General Work Force supervisors.

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

INSTRUCTIONS: This form must be used to assign final summary ratings when interim ratings must be considered in determining the final rating. The form will serve as the certification of the final rating. It must be signed by the rating and approving officials of record and attached to the original CD-516 forms that were completed by the rating and approving officials of record and those completed by interim rating and approving officials. Forward all original forms to the servicing personnel office. A copy must be given to the employee.

A. In the space provided below, compute the final summary rating using the appropriate formula. Use block (1) when computing one interim rating and block (2) when computing two interim ratings. Round off final summary rating to nearest whole number.

NOTE: If the position of record rating contains a non-critical element(s) please refer to Section 6.03a4 of Appendix A, or Section 6.03a7 of Appendix C of DAO 202-430.

(1)

a. Enter interim rating total score and multiply by 1: _____ × 1= _____

b. Enter position of record rating total score and multiply by 2: _____ × 2= _____

c. Add the results of a and b: TOTAL= _____

d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3= _____

(2)

a. Enter interim rating total score and multiply by 1: _____ × 1= _____

b. Enter interim rating total score and multiply by 1: _____ × 1= _____

c. Enter position of record rating total score and multiply by 2: _____ × 2= _____

d. Add the results of a, b and c: TOTAL= _____

e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4= _____

B. FINAL SUMMARY RATING (Check appropriate rating based on either 1d. or 2e. above)

- Outstanding (460-500) Commendable (380-459) Fully Successful (290-379)
- Marginal/Minimally Satisfactory (SES)—must be assigned if employee is given a marginal rating on one or more critical element(s). (200-289)
- Unacceptable/Unsatisfactory (SES)—must be assigned if employee is given an unsatisfactory rating on one or more critical element(s).

C. SIGNATURES

Rating Official (Immediate Supervisor)

Date

Approving Official

Date

Employee (Signature indicates appraisal meeting held)

Date

EMPLOYEE COMMENTS ATTACHED YES

D. GENERAL WORK FORCE EMPLOYEES ONLY:

If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-326, attach a copy of the rating justification and appraisal (CD-516) and forward through the appropriate channels.

U.S. PATENT & TRADEMARK OFFICE

SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING

Name:

Appraisal Period: FY 2013

Title/Unit: Vice Chief Administrative Patent Judge (VCJ) /Patent Trial and Appeal Board (PTAB)

Performance Definitions (see Instructions page for detailed definitions)

Outstanding (O) – Performance targets consistently met and exceeded, and level of performance consistently exemplary.

Commendable (C) – Performance expectations and goals met and often exceeded.

Fully Successful (FS) – Performance expectations and goals met.

Minimally Satisfactory (MS) – Performance level marginally acceptable, needs improvement.

Unsatisfactory (U) – Performance level undeniably unacceptable.

Mandatory Critical Element 1: Leadership/Management (25%)

The executive exhibits the sound judgment and decisiveness, personal accountability, integrity and ethical standards, and resilience integral to serving the American public and to functioning in a leadership role in the Department of Commerce. In demonstrating leadership, the executive:

- establishes organizational goals that are consistent with priorities established by the Secretary and Deputy Secretary of Commerce, government-wide initiatives established by the Administration, and strategic goals of the Department; and ensures that they are appropriately reflected in performance plans throughout the organization with meaningful measures and clear priorities;
- works collaboratively to foster economic growth and opportunity, to meet the needs of businesses and entrepreneurs, and to create jobs to benefit the American people;
- exhibits vision and strategic thinking to address concerns that cross organizational boundaries and to meet the long-term interests of the Department; and
- uses creativity and innovation, and encourages new ideas and unconventional approaches in response to evolving conditions.

The executive demonstrates sound management of human, financial and technological resources in order to achieve established priorities, goals, and objectives. In doing so, the executive:

- manages program performance throughout the year to maximize operational efficiency and effectiveness within established budgetary resources;
- builds and manages an appropriately skilled and diverse workforce based on organizational goals, budget considerations, and staffing needs; oversees the recruitment, selection, and appraisal and recognition of employees based on performance; provides training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns; encourages team commitment and trust; and engages in succession planning as needed for long-term organizational effectiveness;
- makes effective use of available information technology (IT) to achieve organizational goals; works collaboratively with IT professionals at the operating unit and Department levels, as appropriate, to safeguard IT equipment, software and data; and ensures appropriate training of employees to avoid cyber-security threats;
- fosters a work environment that is safe, secure and conducive to the retention of a skilled and effective workforce, which includes continuity of operations planning and emergency preparedness, addressing unsafe working conditions or environmental concerns, and facilitating employee awareness of the procedures to follow in the event of an emergency; and
- adheres to applicable administrative and programmatic laws, regulations, policies and procedures that provide the internal controls needed to safeguard resources, achieve organizational objectives, and protect the confidentiality of information provided to the agency, and respect individual privacy.
- builds and manages an appropriately skilled workforce while embracing equal opportunity principles; fosters an inclusive environment characterized by cultural sensitivity and respect for divergent employee backgrounds; promptly and appropriately addresses allegations of harassment or discrimination; oversees the recruitment, selection, appraisal, and recognition of employees based on individual performance; supports Agency efforts that promote diversity (e.g., Community Day, Affinity Groups, etc.); and supports Agency efforts to train employees on equal opportunity principles.”

Hiring Reform:

Improve the recruitment and hiring process to acquire highly qualified employees, reduce hiring time, and support new hires successful transition into the Federal Service by:

- Assessing current and future staffing needs at on a regular basis
- Implementing Business Unit's HC Strategic Plans that include recruitment strategies that support organizational objectives and hiring reform initiatives by the end of FY 2013
- Engaging actively in the recruitment process by working collaboratively with OHR to identify skills required for vacant positions; participating in panel and interview processes, and by making timely selections that will support OPM's 80-day timeframes for hiring.

Employee Survey:

Support employee overall job satisfaction by:

- Using results of the Federal Employee Viewpoint Survey to improve designated areas of opportunity for your Business Unit (BU) and improve scores in those areas;

List designated areas of opportunity for your BU:

AIA Implementation:

Ensures success of the America Invents Act (AIA) by actively supporting timely implementation, devoting sufficient resources, increasing awareness of new initiatives, and collaborating with all necessary parties to ensure an innovative, effective, and efficient reformed patent system.

For USPTO Business Unit Heads and Deputies:

Assure that each business unit participates in the formulation of clear, concise, and effective communication strategies, including providing appropriate information and documentation to the Office of the Chief Communication Officer.

Sub-Elements for Critical Element 1: Leadership/Management

Description and Strategic Goal 1/Objective Alignment 5

Sub-Element: Leadership of the PTAB

Serve as Vice Chief Judge, Division 1, and Acting Vice Chief Judge, Division 2. Work in conjunction with the Chief Judge on reducing the backlog of ex-parte appeals, maintaining the current reexamination workflow, maintaining the residual interference program, and achieving timely completion of the new trial proceedings under the America Invents Act. Act as Chief Judge's deputy or for Chief Judge as need arises.

Continue to drive implementation of AIA legislation by managing the hiring of personnel, development of rules for new proceedings, acquisition of space (including for new offices) and IT systems, and conducting specialized training for presiding over new proceedings and the preparation of materials for use in training.

O C FS MS U

Mandatory Critical Element 2: Customer/Client Service Responsiveness (15%)

The executive demonstrates a high degree of responsiveness to the full range of clients, including end users of goods and services for which the executive is responsible, Departmental and operating unit leadership, members of Congress and their staffs, and the public in general. In order to appropriately address client needs, the executive:

- develops strategic alliances both within and across organizational lines to achieve common goals, meets evolving requirements, and shares knowledge, skills and experience needed for personal development and professional performance;
- builds consensus of opinion among stakeholders; and
- seeks to identify client needs and expectations, responds to identified concerns promptly, professionally and fairly, and improves business and management processes based on customer and employee feedback.
- solicits employee feedback on direction received, opportunities provided, and recognition given, as inputs for improving how employees are led and motivated.

The executive develops and/or participates in formal cross-organizational boundary collaboration activities whenever appropriate to enhance service delivery and comprehensive mission coordination within the Department, among organizations with complimentary missions, and within the USPTO.

For USPTO Business Unit Heads:

To promote inter- and intra-agency collaboration, Business Unit heads are expected to accomplish the following during the rating period:

- Establish at least one taskforce with another business unit, focusing on specific matter of significance to both business units (e.g., 2012 budget plan, patents/finance, hiring planning).
- Speak at a meeting held by another business unit, at least once a quarter.
- Arrange for a detail opportunity to or from another business unit, for at least one person each quarter.
- Promote intra-agency cooperation by ensuring that all SES within their organizations incorporate specific measurable teaming/collaboration tasks in the development of their individual results sub-elements

Sub-Elements for Critical Element 2: Customer/Client Service Responsiveness

Sub-Element: Backlog Reduction/AIA Implementation

Description and Strategic Goal 1/Objective Alignment 1, 4, 5

Collaborate with business units, where possible, to implement strategies for reducing backlog of ex parte appeals at the PTAB.

Collaborate with the public in receiving feedback to implement the AIA, including receiving input on strategies for expanding the PTAB in the new USPTO cities, and obtaining input on further development of the AIA case management system.

Critical Element 3: Results (60%)

Individual and organizational performance requirements expected to support of USPTO strategic initiatives. The executive is accountable for up to three sub-elements aligned/linked to the USPTO's mission, strategic goals, program/policy objectives and/or annual performance plan, which contribute to the success of the agency effectively achieving goals in conformance with the Government Performance and Results Act. Performance meets or exceeds quality standards, is effective and efficient and produces significant benefits. Results reflect balanced consideration of public's and other stakeholders' concerns. Within his/her program area the executive provides leadership to ensure program objectives are met for quality, timeliness, efficiency, or other factors. The executive communicates USPTO objectives to employees; sets clear standards for their achievement and provide appropriate support for their achievement. Sub-elements may be weighed individually for a total of 60 percent and no sub-element should be weighted lower than 10 percent. Include specific measurable teaming/collaboration tasks designed to ensure collaboration and teamwork across business unit organization boundaries. *Over the course of the appraisal cycle, it is acknowledged that certain performance commitments may be overtaken by events outside of the executive's control such as funding, additional initiatives, or changes in USPTO priorities.]*

Sub-Elements for Critical Element 3: Results**Sub-element A: Appeal Timeliness**

/ 25 percent

Sub-element Description and Strategic Goal 1/Objective Alignment 5 (the underscore is a placeholder for number(s)):

**Achieve patent appeal timeliness of decided appeals of 26 or fewer months.
Achieve patent appeal Board inventory of 45 or fewer months.**

Sub-Elements for Critical Element 3: Results**Sub-element B: AIA Trial Timeliness**

/ 25 percent

Sub-element Description and Strategic Goal 1/Objective Alignment 5 (the underscore is a placeholder for number(s)):

Reach AIA trial completion in 12 or fewer months or in 18 months where extensions are granted.

Sub-Elements for Critical Element 3: Results

Sub-element C: PTAB Expansion

/ 10 percent

Sub-element Description and Strategic Goal ___/Objective Alignment ___ (the underscore is a placeholder for number(s)):

Facilitate Judge appointments; submit for consideration by the Secretary of Commerce names of 35 Administrative Patent Judge Candidates by March 31, 2013.

SES Performance Documentation

The executive may attach a separate sheet describing individual and organizational achievements and results related to the critical elements of your performance plan. The attached narrative may be no longer than 6 pages.

The supervisor will attach a separate sheet summarizing your assessment of the executive's performance. Describe individual and organizational achievements and results related to the critical elements of the performance plan. The attached narrative may be no longer than 3 pages.

U.S. PATENT & TRADEMARK OFFICE

SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING

SES Performance Plan/Rating Instructions

Performance Plan

All elements of the performance plan are critical. Established requirements are written at the Fully Successful level in support of Agency objectives. All executives will be rated on the Leadership/Management, Customer/Client Service Responsiveness, and Results elements.

In addition, the supervisor, in consultation with the executive, will develop and establish specific priorities in support of agency strategic initiatives, Commissioner level priorities and corporate work plans to be included as critical elements for Individualized Objectives.

The performance plan will be signed and dated by the supervisor and the executive* in Item 1 (*Signature/Dates of Performance Management Activities*). Written performance plans will be provided to the executive at the beginning of the appraisal period and a copy of the plan will be forwarded to the Office of Human Resources, Executive Resources Division (OHR/ExRD).

Progress Review

Supervisors will conduct at least one progress review. Supervisors must provide written documentation if performance on any element is less than the fully successful level. The supervisor and the executive must sign and date in Item 2 (*Signature/Dates of Performance Management Activities*) after a progress review is conducted. A copy of the signed progress review will be forwarded to the OHR/ExRD.

Performance Definitions

Outstanding (O): Performance targets consistently met and exceeded, and level of performance consistently exemplary, despite constantly changing priorities and/or externally driven deadlines or insufficient or unanticipated resource shortages. Consistently demonstrated exceptional integrity and performance in promoting the annual business plan and the USPTO strategic goals and objectives. His/her contributions had impact beyond his/her purview.

Commendable (C): Performance expectations and goals are met and often exceeded. In addition to placing appropriate emphasis on all stated responsibilities, actions taken were admirable in promoting accomplishment of the strategic goals and annual business plan. Overcame significant organizational challenges such as coordination with external stakeholders or insufficient resources. Effectiveness and contributions impact areas beyond his/her purview.

Fully Successful (FS): Performance expectations and goals are met. Places appropriate emphasis on each area of responsibility with dependable performance. Appropriate actions were taken to support accomplishment of the strategic goals and annual business plan and demonstrated ability to meet the requirements of the job.

Minimally Satisfactory (MS): Performance level marginally acceptable, needs improvement. Placed insufficient emphasis on one or more sets of responsibilities. Actions taken were inappropriate or ineffective in meeting strategic goals or annual business plan accomplishments. Repeated observations of performance indicated negative consequences in key outcomes. Immediate improvement is essential.

Unsatisfactory (U): Performance undeniably unacceptable.

SES Performance Plan/Rating Instructions (cont'd)

Performance Assessment

Performance is assessed at the Outstanding (O) level, Commendable (C) level, Fully Successful (FS) level, Minimally Satisfactory (MS) level, or Unsatisfactory (U) level by a process described below:

At the end of the appraisal period, the executive may document accomplishments related to the critical elements. **Documentation will not exceed six pages**, will speak to results and as appropriate customer satisfaction and employee perspectives, and refrain from use of superlatives.

The supervisor will prepare a summarized assessment of the executives' performance. **Documentation will not exceed 3 pages**. The supervisor will also assign a rating for each element, and an Initial Summary rating for the plan. The supervisor and executive will sign and date in Item 3 (*Signature/Dates of Performance Management Activities*). A copy will be provided to the executive and the original forwarded to the OHR/ExRD. *[For your convenience, a summary rating and score computation worksheet is attached. The Initial Summary Rating must be transferred/annotated to page 6, Item 3, where the supervisor and executive will sign and date].*

Executives may (1) request a higher-level review** of their Initial Summary rating and/or (2) may provide a written response prior to the Performance Review Board (PRB) review.

If a higher-level review is requested, the reviewing official must make a separate written comment/recommendation to the PRB. The reviewing official (normally the 2nd line supervisor) may not change the Initial Summary rating. A copy of the reviewing official's input must be given to the executive and the supervisor and forwarded to the OHR/ExRD. The executive will be given the opportunity to provide additional comments to the PRB.

All performance documentation will be forwarded to the OHR/ExRD. The OHR/ExRD will provide the Initial Summary rating, and additional documentation and any higher-level review to the PRB for their review.

The PRB will consider the Initial Summary rating, any executive's response and other pertinent input. The PRB Chair will recommend a rating and sign Item 4 (*Signature/Dates of Performance Management Activities*).

Final Rating

The Under Secretary will assign the Annual Summary ratings after considering recommendations of the PRB and other appropriate input.

The Annual summary rating will be provided to executives.

* Acknowledges consultation and receipt.

** Not applicable for direct reports

U.S. PATENT & TRADEMARK OFFICE
SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING
Summary Rating and Score Computation Worksheet

Name: _____ **Appraisal Period: FY 2013**

Title/Unit: _____

Instructions:

1. Each critical element in the performance plan and its assigned weight has been listed below.
2. Assign a rating level for each element: (5) Outstanding, (4) Commendable, (3) Fully Successful, (2) Minimally Satisfactory, and (1) Unsatisfactory
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute the total score by summing all individual scores.
5. The performance rating is based on the total score except that if any critical element is less than fully successful, the rating can be no higher than the lowest critical element rating.

Performance Element	Individual Weight	Element Rating Level (1-5)	Score
I. Leadership/Management (25%)			
A.	25%		
II. Customer/Client Service Responsiveness (15%)			
A.	15%		
III. Results (60%)			
A.			
B.			
C.			
TOTAL SCORE			

***Initial Summary Rating**

O C FS MS U
(460-500) (380-459) (290-379) (200-289) (100-199)

*** The Initial Summary Rating must be transferred/annotated on page 6, Item 3, of the Performance Plan, where the supervisor and executive will sign and date.**

NEW

I/A: _____

MR#: _____

IP#: _____

CLASSIFICATION AND PERFORMANCE MANAGEMENT RECORD

- Performance Plan
- Performance Appraisal
- Performance Recognition
- Progress Review
- Position Description

Employee's Name: _____ Social Security No.: _____

Position Title: Administrative Patent Judge

Pay Plan, Series, Grade/Step: AD-1222-00

- Organization:
- | | |
|--|---|
| 1. <u>US Department of Commerce</u> | 4. <u>Patent Trial and Appeal Board</u> |
| 2. <u>US Patent & Trademark Office</u> | 5. _____ |
| 3. <u>Office of the Under Secretary & Director</u> | 6. _____ |

Rating Period: 10/1/2015 - 9/30/2016

- Covered By:
- Senior Executive Service Other AD
- General Workforce

PART A—POSITION DESCRIPTION

POSITION CERTIFICATION—I certify that this is an accurate statement of the major duties and responsibilities of the position and its organization relationships and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds and that false or misleading statements may constitute violation of such statute or their implementing regulations.

SUPERVISOR'S SIGNATURE	DATE	SECOND LEVEL SUPERVISOR	DATE
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CLASSIFICATION CERTIFICATION	OFFICIAL TITLE:				
	PP:	SERIES:	FUNC:	GRADE:	I/A: <input type="checkbox"/> YES <input type="checkbox"/> NO

I certify that this position has been classified as required by Title 5, US Code, in conformance with standards published by the OPM or, if no published standard applies directly, consistently with the most applicable published standards.

NAME AND TITLE OF CLASSIFIER	SIGNATURE	DATE
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PART B—PERFORMANCE PLAN

This plan is an accurate statement of the work that will be the basis of the employee's performance appraisal.

NAME AND TITLE OF FIRST LINE SUPERVISOR/RATING OFFICIAL	SIGNATURE	DATE
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APPROVAL—I agree with the certification of the position description and approve the performance plan.

NAME AND TITLE OF APPROVING OFFICIAL OR SES APPOINTING AUTHORITY	SIGNATURE	DATE
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EMPLOYEE ACKNOWLEDGEMENT —My signature acknowledges discussion of the position description and receipt of the plan, and does not necessarily signify agreement.	SIGNATURE	DATE
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PRIVACY ACT STATEMENT—Disclosure of your social security number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Quality

Objective: Ensuring quality decision-making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

35

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text limit in field is approximately 1100 characters. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent review, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Written decisions demonstrate clear understanding of the facts of each appeal or case, the technology, and the applicable legal statutes and case law. Written decisions are logically presented, soundly reasoned, have accurate analysis, and are concise.

Proper judicial tone is maintained throughout written decisions.

Panel discussions are attended as an active participant. The Judge promptly provides sound and helpful input to improve decisions where appropriate and bring the deliberations and proceeding forward efficiently.

Oral arguments are attended and conducted skillfully.

Surveys are completed periodically, assessing the work of other Judges or staff, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the surveys.

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text limit in field is approximately 950 characters. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

**(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 2. Major Activities (Continued)

Decisions authored by other judges are reviewed and comments are promptly provided, offering frank, accurate, and timely feedback on the quality of the decisions. Quality is ensured by avoiding undue delay when performing evaluations and providing comments. Decisions in circulation are handled in a prompt and timely manner, and a delay in processing may be identified as a failure to provide the required feedback.

Senior management is promptly alerted to substantive, process-related, and professional issues of concern.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Production / Pendency

Objective: Effective and efficient Decision-Making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

35

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent reviews, derivation proceedings, interference proceedings, and other Board proceedings are authored and mailed.

Matters are disposed of efficiently, prioritizing older appeals, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business methods patent reviews, derivation proceedings, and interference proceedings before newer ones.

Decisions are sent for processing immediately when prepared, routed to panel members immediately when processed, reviewed, and mailed immediately after being approved by the panel, not withheld until a later date (e.g., to normalize production between months and/or between fiscal years).

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Standards for the General Workforce, the following Supplemental Standards apply:

Outstanding performance in this element is demonstrated by the employee making significant efforts toward reducing the Board's backlog. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. Exceptions are completely justified. End-loading is non-existent or fully justified. Decisions are, almost without exception, placed in circulation well in advance of statutory deadlines.

(CONTINUED)

Optional Initial Block

Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 2**

Employee Name:**Performance Element:** Production / Pendency**Please identify item(s) continued:**

**(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 2. Major Activities (Continued)

Monthly production is generally consistent throughout the year. Variations in output are minimized to the extent possible. End-loading is avoided, helping ensure regular workloads for peers and the support staff. End-loading (e.g., excessive production at mid-year and/or end-of-year to reach the decisional unit requirements for Marginal or Fully Successful) is generally identified when decisional units earned in a month are at least 2x the median monthly decisional units earned throughout the remainder of the period of review. End-loading may also be identified where greater than 75% of monthly decision circulation or mailing routinely occurs during the last week of the month. When matters are subject to statutory deadlines, decisions are placed in circulation well in advance of statutory deadlines.

Efficiency gains and available resources are used to enhance annual production.

Item 3. Criteria for Evaluation (Continued)

Commendable performance in this element is demonstrated by the employee making considerable efforts toward reducing the Board's backlog. Production will be of a very high volume, while producing well above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. End-loading is virtually non-existent or fully justified. Decisions are, almost without exception, placed in circulation well in advance of statutory deadlines.

The Fully Successful Judge will earn no fewer than 85 decisional units annually. Reasonable efforts are made to manage the Board's existing and incoming case-load. The docket is effectively managed to ensure older cases are worked generally before newer cases. Reasonable efforts are made to circulate and mail decisions across a month so that quarterly and monthly end-loading is avoided and any end-loading is justified. Reasonable efforts are made to mail decisions throughout the rating period so that end-loading, including mid-year and end-of-year end-loading, is avoided. Reasonable efforts are made to place decisions in circulation well in advance of statutory deadlines.

The Marginal Judge will earn at least 80 decisional units annually (but fewer than 85). Efforts to manage the Board's existing and incoming case-load are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence of end-loading exists. Evidence may exist that decisions have been delayed at any stage without justification or authorization. Evidence may exist that decisions have been placed in circulation close to statutory deadlines.

The Unacceptable Judge will earn fewer than 80 decisional units annually. Efforts to manage the Board's existing and incoming case-load are well below what is expected. Newer cases are frequently worked before older cases. End-loading is obvious and egregious (for example, 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the remainder of the reviewing period). Decisions were delayed at any stage without authorization. Decisions frequently are placed in circulation close to statutory deadlines.

NOTES:

The Fully Successful and Marginal goals for decisional units produced annually reflect a current-year plus one (+1) adjustment for non-first year judges due to efficiency and other production gains required during the current fiscal year in view of the challenges faced by the Board in the current fiscal year.

One mailed decision in an appeal of a regular ex parte application is generally worth 1 decisional unit. One mailed regular ex parte reexamination proceeding appeal decision is generally worth 2.5 decisional units. One mailed inter partes reexamination proceeding appeal decision is generally worth 4 decisional units.

Decisions based on Trial Proceedings will be assessed on a case-by-case basis, based on the complexity of the proceeding. Determination will be made by the Vice Chief Judge for Division 2 or a designee of the Vice Chief Judge of Division 2. This assessment may change once benchmarks are established.

Decisions prepared with the assistance of Patent Attorneys on behalf of the Judge are generally worth 0.5 decisional units to a Judge.

(CONTINUED)

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production / Pendency

Please identify item(s) continued:

**(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 3. Criteria for Evaluation (Continued)

Judges may request, from their supervisor (Lead Judge), additional decisional units for extraordinarily complex decisions in an appeal of a regular ex parte application or ex parte reexamination application. Judges may request, from a designee of the Vice Chief Judge of Division 2, additional decisional units for extraordinarily complex decisions in AIA proceedings, appeals of inter partes reexamination applications, and interference proceedings. Beyond the 1 decisional unit given for a decision in an appeal of a regular ex parte application, additional decisional units typically will not be counted towards meeting the production requirements for Fully Successful or Marginal. Such additional regular ex parte decisional units will be added to the production total only after the annual production requirement for Fully Successful is achieved.

Judges will be provided the opportunity to explain and justify low decisional units earned and unusual patterns of case mailing, as they have additional responsibilities.

Production goals may be measured at any time during the appraisal year, at which point the APJ will be expected to have earned that portion of their expected annual decisional units at least equal to the percentage of the rating period that has been completed. For example, if the annual decisional unit requirement to earn a Fully Successful rating is 85 decisional units, and the APJ is being assessed after the first quarter of production, the APJ would be expected to have earned at least 21.25 decisional units to be assessed as Fully Successful $([85 \text{ decisional units required}] / [12 \text{ months per year}] \times [3 \text{ months in production}] = 21.25 \text{ decisional units required})$. Judges will be updated regularly on the Board's production rates.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical
 Non-critical

Element: Leadership / Supporting the Mission of the Board

Objective: Assisting in the effective operation of the U.S. Patent and Trademark Office (USPTO) and the Patent Trial and Appeal Board (PTAB) by providing leadership for supporting the missions of the USPTO and PTAB.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

20

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Calm, dignified, judicial demeanor is demonstrated at all times, in all settings. Respect and courtesy is given to all participants in any Board proceeding.

Accurate and thorough understanding of laws and regulations is demonstrated at all times, in all settings.

Assistance is provided to the Board (a) by producing decisions of adequate quality at well above the outstanding production level, and/or (b) in various aspects other than producing decisions. The latter may include (but is not limited to), development of rules or policies, representing the Board to outside organizations (either visiting the Board or at other locations), and/or participating on resume review panels. This assistance may also include participating in and helping the USPTO and the Board to meet goals set throughout the year and address challenges arising during the year.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
----------	------	------------	------

Name

Element

Sheet

Leadership / Supporting the Mission of

No. 1 of _____

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. if more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Customer Service

Objective: To ensure responsive assistance to internal and external customers, and the public, to the extent permitted by law and regulation.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 10

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Appropriate questions and requests from internal and external stakeholders and the public are addressed courteously and to the extent reasonable, while ensuring, both in appearance and fact, the independence, and the objective and neutral nature, of the Board. Internal stakeholders include Board co-workers (e.g., subordinates, peers, and superiors), other USPTO employees, and USPTO contractors.

Where questions from external customers and the public are not appropriately answered by the Judge, the questioner is redirected to appropriate Board staff. The Judge is expected to recognize the need for confidentiality, discretion and judgment and apply as appropriate.

Inquiries from internal staff are addressed promptly and courteously, providing needed information or assistance where appropriate.

Prompt execution of the Board's duties under Title 35 of the United States Code, and prompt execution of any other required duties, is rendered to the public.

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block			
Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Customer Service

Please identify item(s) continued:

**(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)**

Item 2. Major Activities (Continued)

Interactions with all customers, internal or external, are highly professional and appropriate to the nature of the Judge's position, and to preserve the dignity of the Board.

Senior management is consulted before communicating outside of the Board. Any requests for public speaking or teaching engagements are cleared through Board management in advance.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION II—PERFORMANCE SUMMARY AND RATING

Name

ITEM 1. INSTRUCTIONS:

1. List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it.
2. Assign a rating level for each element: **(5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal/Minimally Satisfactory (SES) (1) Unacceptable/Unsatisfactory (SES)**
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute total score by summing all individual scores. Total score can range from 100 to 500.

Performance Element	Critical or Non-critical (C or NC)	Individual Weights (Sum must total 100)	Element Rating (1-5)	Score
Quality	C	35		0
Production / Pendency	C	35		0
Leadership / Supporting the Mission of the Board	C	20		0
Customer Service	C	10		0
				0
				0
TOTAL SCORE:				0

For SES turn to reverse side and continue with Item 3.

ITEM 2. PERFORMANCE RATING: *(Based on total score except that if any critical element is less than fully successful the rating can be no higher than the lowest critical element rating.)*

Outstanding (460–500)
 Commendable (380–459)
 Fully Successful (290–379)
 Marginal (200–289)
 Unacceptable (100–199)

Rating Official's Signature	Title Lead Administrative Patent Judge	Date
Approving Official's Signature	Title Vice Chief Administrative Patent Judge	Date
Employee's Signature <i>(Indicates appraisal meeting held)</i>	Employee comments attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	Date

SECTION III—PERFORMANCE RECOGNITION *(General Workforce Only)*

Performance Award \$ _____ (___ %)
 For performance awards: Has employee been promoted during the appraisal cycle?
 YES NO

QSI (Outstanding Rating Required)
 Appropriation No. _____

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Final Approving Authority's Signature		Date
Payment Authorized By Personnel Office		Date

APPENDIX A GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

The generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

When evaluating an element, the rater should:

1. Read carefully each performance standard level beginning with the fully successful one. (It is considered the base level standard.)
2. Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in absolute terms for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
3. Provide in writing, on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating, the rating official need only document in writing that: (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally, when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may have performed at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgement as to the appropriate rating level he/she will assign. The rationale for the decision must be documented on the rating form, citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement the GPS, not supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

OUTSTANDING

SES

This is a level of rare, high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work, often ahead of established schedules and with little supervision.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

GENERAL WORK FORCE

This is a level of rare, high-quality performance. The quality and quantity of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. The impact of the employee's work is of such significance that organizational objectives were accomplished that otherwise would not have been. The accuracy and thoroughness of the employee's work on this element are exceptionally reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and products for which he or she is responsible. Thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, increase the employee's usefulness.

This person plans so that work follows the most logical and practical sequence; inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems and adapts quickly to new priorities and changes in procedures and programs without losing sight of the longer-term purposes of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's planning skills result in cost-savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments related to this element at increasing levels of difficulty. The quality of such work is high and is done on time without disrupting regular work. Appropriate problems are brought to the supervisor's attention; most problems are dealt with routinely and with exceptional skill.

The employee's oral and written expression are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

SUPERVISORY*

The employee is a strong leader who works well with others and handles difficult situations with dignity and effectiveness. The employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to the views of others, the employee promotes cooperation among peers and subordinates, while guiding, motivating, and stimulating positive responses. The employee's work performance demonstrates a strong commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

COMMENDABLE

SES

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and the procedures for meeting them.

The effective planning of the employee has improved the quality of management practices, op-

erating procedures, task assignments, or program activities. The employee has developed or implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

GENERAL WORK FORCE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Thoroughness and accuracy of work are reliable. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she uses contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are considered in the employees' work planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort. He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with; supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well-presented.

SUPERVISORY*

The employee is a good leader, establishes sound working relationships and shows good judgment in dealing with subordinates, considering their views. He/she provides opportunities for staff to have a meaningful role in accomplishing organizational objectives and makes special efforts to improve each subordinate's performance.

FULLY SUCCESSFUL

SES

This is the level of good, sound performance. The employee has contributed positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organization knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee also works well as a team member, supporting the group's efforts and showing an ability to handle a variety of interpersonal situations.

The employee communicates clearly and effectively.

All employees at this level and above have followed a management system by which work is planned, tasks are assigned, and deadlines are met.

GENERAL WORK FORCE

This is the level of good, sound performance. The quality and quantity of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary; most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of costs to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments so their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

SUPERVISORY*

The employee is a capable leader who works successfully with others and listens to suggestions.

The employee rewards good performance and corrects poor performance through sound use of performance appraisal systems, performance-based incentives and, when needed, adverse actions; and selects and assigns employees in ways that use their skills effectively.

The employee's work performance shows a commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

MARGINAL

SES

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective. The employee's work under this element is at a level which may result in removal from the position.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other

personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinders achievement of the purpose of the communications. The listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

GENERAL WORK FORCE

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written communication usually considers the nature and complexity of the subject and the intended audience. It conveys the central points of information important to accomplishing the work. However, too often the communication is not focused, contains too much or too little information, and/or is conveyed in a tone that hinders achievement of the purpose of the communication. In communication to coworkers, the listener must question the employee at times to secure complete information or avoid misunderstandings.

SUPERVISORY*

Inadequacies surface in performing supervisory duties. Deficiencies in areas of supervision over an extended period of time affect adversely employee

productivity or morale, or organizational effectiveness. The marginal employee does not provide strong leadership or take the appropriate initiative to improve organizational effectiveness. For example, he/she too often fails to make decisions or fulfill supervisory responsibilities in a timely manner, to provide sufficient direction to subordinates on how to carry out programs, to give clear assignments and/or performance requirements, and/or to show an understanding of the goals of the organization or subordinates' roles in meeting those goals.

UNSATISFACTORY

SES

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Little or no contribution to organizational goals;
- Failure to meet work objectives;
- Inattention to organizational priorities and administrative requirements;
- Poor work habits resulting in missed deadlines, incomplete work products;
- Strained work relationships;
- Failure to respond to client needs; and/or
- Lack of response to supervisor's corrective efforts.

GENERAL WORK FORCE

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products, or it produces technically inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work; the employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or by loss of credibility due to irresponsible speech or work activity.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete the projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks the necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

SUPERVISORY*

Most of the following deficiencies are typically, but not always, common, characteristics of the employee's work:

- Inadequate guidance to subordinates;
- Inattention to work progress; and
- Failure to stimulate subordinates to meet goals.

* Supervisory standards must be applied to SES and General Work Force supervisors.

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

INSTRUCTIONS: This form must be used to assign final summary ratings when interim ratings must be considered in determining the final rating. The form will serve as the certification of the final rating. It must be signed by the rating and approving officials of record and attached to the original CD-516 forms that were completed by the rating and approving officials of record and those completed by interim rating and approving officials. Forward all original forms to the servicing personnel office. A copy must be given to the employee.

A. In the space provided below, compute the final summary rating using the appropriate formula. Use block (1) when computing one interim rating and block (2) when computing two interim ratings. Round off final summary rating to nearest whole number.

NOTE: If the position of record rating contains a non-critical element(s) please refer to Section 6.03a4 of Appendix A, or Section 6.03a7 of Appendix C of DAO 202-430.

(1)
a. Enter interim rating total score and multiply by 1: _____ × 1= _____
b. Enter position of record rating total score and multiply by 2: _____ × 2= _____
c. Add the results of a and b: TOTAL= _____
d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3= _____

(2)
a. Enter interim rating total score and multiply by 1: _____ × 1= _____
b. Enter interim rating total score and multiply by 1: _____ × 1= _____
c. Enter position of record rating total score and multiply by 2: _____ × 2= _____
d. Add the results of a, b and c: TOTAL= _____
e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4= _____

B. FINAL SUMMARY RATING (Check appropriate rating based on either 1d. or 2e. above)

- Outstanding (460-500) Commendable (380-459) Fully Successful (290-379)
- Marginal/Minimally Satisfactory (SES)—must be assigned if employee is given a marginal rating on one or more critical element(s). (200-289)
- Unacceptable/Unsatisfactory (SES)—must be assigned if employee is given an unsatisfactory rating on one or more critical element(s).

C. SIGNATURES

Rating Official (Immediate Supervisor)

Date

Approving Official

Date

Employee (Signature indicates appraisal meeting held)

Date

EMPLOYEE COMMENTS ATTACHED YES

D. GENERAL WORK FORCE EMPLOYEES ONLY:

If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-326, attach a copy of the rating justification and appraisal (CD-516) and forward through the appropriate channels.



UNITED STATES PATENT AND TRADEMARK OFFICE

Office of Human Resources

OCT 04 2016

MEMORANDUM TO: All Managers and Supervisors
FROM: Anne T. Mendez
Acting Director, Human Capital Management
SUBJECT: FY 2016 Performance Appraisal and End-of-Year Award Information
October 28, 2016 - Submit Ratings and Awards Forms to OHR*

The purpose of this memorandum is to provide guidance concerning this year's performance ratings for the general workforce. Annual employee performance ratings are required by law, and the rating period for USPTO employees is October 1, 2015 through September 30, 2016.

The ratings and award process is as follows:

- 1) Supervisor submits rating and award form or QSI to Business Unit (BU) point of contact (POC) by date established by BU. (Refer to POC chart on page 2.) Supervisor provides signed and complete copy of FY'16 performance appraisal plan (PAP) and rating to employee. Supervisor issues the FY'17 PAP to employee by October 28, 2016.*
- 2) BU POC enters rating and award information into database and compiles all data for BU.*
- 3) BU gatekeeper certifies all ratings and awards and presents all documents to Awards Processing Team. A form is not needed if an employee is not receiving an award; the Performance Appraisal Plan (PTO-516) will be sufficient for the BU POC to submit all necessary information.
- 4) BU POC provides data in an electronic file to OHR by Friday, October 28, 2016. If the BU data is not received in OHR by October 28, payment of award will be delayed. Performance appraisals and award forms will not be accepted or processed by OHR outside of this procedure.
- 5) OHR transmits rating and award information to NFC.

***EXCEPTION:** The Technology Centers (TC) and the Patent Academy will use the SPE Management Database for the electronic file submission. The TCs will provide their paperwork to the TC POCs on page 2. A description of the TC process for submitting awards and performance appraisal plans can be found on page 8 of this document.

The Business Unit POC's are identified as follows:

Under Secretary's Office	Lisa Houston
PTAB	Holly Watson
TTAB	Karen Young (TTAB)
Patents	Janell Hospital/Kelly Boudreau Jessica Patterson (DCIPC)
Trademarks	Melissa McGrath
CAO	Chris Gambill
CFO	Jackie Davis-Maxfield
CIO	Kari Ginsburg/Jeanne Lee
OPIA	Nina Birch
OGC	Paulo Mendes
OEEOD	Clint Janes
OCCO	Paul Rosenthal

The Technology Center POC's are identified as follows:

TC	TC Award POC	SPE Mgmt Database POC
1600	Karlheinz Skowronek	Jeffrey Stucker/Karlheinz Skowronek
1700	Keith Hendricks	Mark Huff/Keith Hendricks/Luan Van
2100	Naveen Abel-Jalil/James Trujillo	Naveen Abel-Jalil/James Trujillo
2400	Michael Their/Sathyanarayanan Perungavoor/Oscar Louie/Kristine Kincaid	Michael Their/Sathyanarayanan Perungavoor/Oscar Louie/Kristine Kincaid
2600	Matthew Bella	Matthew Bella/Mark Zimmerman
2800	John Barlow/Richard Elms/Matthew Smith	John Barlow/Richard Elms /Elvin Enad
2900	Ian Simmons	Ian Simmons
3600	David Dunn	David Dunn/Christine Behncke/Tien Dinh
3700	Christopher Koharski/Bhisma Mehta	Christopher Koharski/Bhisma Mehta/Nathan Newhouse
4100	Gary Welch/Leslie Morris	Gary Welch/Leslie Morris
OPIM	Susan Artero	Greg Vidovich/Jonathan Moffat
CRU	Eileen Lillis/Alex Kosowski	Eileen Lillis/Alex Kosowski
TSS	Errica Miller/Lisa Epps/Robert Childs, Jr.	Errica Miller/Lisa Epps/Robert Childs, Jr.
CSD	Sharon Caldarola	Matthew Brooks

Questions regarding the award process should be directed to the above POC.

RATINGS

Every employee who occupies a covered position on the last day of the appraisal cycle and who has been in a covered position for at least 120 days during the appraisal cycle must receive an annual performance appraisal rating.

If an employee enters on duty with the USPTO during the last 120 days of the appraisal cycle, then a rating must be prepared for the employee within 30 days after completion of the minimum appraisal period (120 days) and submitted to Debbie Ginther, Office of Human Resources, Elizabeth Townhouse, 2nd floor, room 2A31, for manual entry of the rating information into HR Connect.

Appraisal Meetings

The rating official initiates the appraisal by providing advance notice to the employee of the date and time for the **formal appraisal meeting**.

The employee may request a **pre-appraisal meeting** with the rating official to:

- Present his or her assessment of results achieved against the Generic Performance Standards as well as any supplemental standards set in the performance plan;
- Inform the rating official of aspects of his or her work of which the rating official may not be aware; and
- Identify objectives he or she would like to include in the performance plan for the next period.

During the pre-appraisal meeting, the rating official may ask questions to clarify his or her understanding of the employee's performance.

Once the advance notice of the formal appraisal meeting has been given, and after any pre-appraisal meeting, the rating official (after conferring with the approving official) prepares and discusses with the employee a written performance rating. **This rating must be based on an assessment of the employee's performance against the Generic Performance Standards as well as any supplemental standards set at the beginning of the period (or as modified and documented during a progress review).**

Supervisors and Managers that have employees in the NTEU 243 bargaining unit should review the performance appraisal requirement covered by the NTEU 243 Collective Bargaining Agreement (CBA), Article 39 (Performance Management) by cutting and pasting the following link into their browser:

http://ptoweb.uspto.gov/ptointranet/ohr/policies_and_procedures/contracts/243Contract.pdf

Rating Justifications

In accordance with the Generic Performance Standards, Fully Successful performance is the level of good sound performance. Fully Successful means the employee has contributed positively to

organizational goals and completed all critical element activities. The employee effectively applies technical skills and organizational knowledge to get the job done. The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

Managers and supervisors must justify ratings that rise above or fall below the Fully Successful level. The following process will be followed for all employees except as noted:

- Each element must be rated using the five-level scale shown below. Ratings of elements above and below Fully Successful must be supported by a narrative justification. If an element is rated as Fully Successful, the rating official need only document in writing that:
 1. the Fully Successful standards were met, and
 2. the rating was discussed with the employee, unless the employee requests full written justification of the Fully Successful rating. In such a case, the rating official shall provide written justification of the rating.
- The performance appraisal system allows the use of narrative summary rating justifications instead of individual element rating justifications, except for elements rated below Fully Successful and for any required diversity elements. What this means is that instead of writing single rating justifications, a summary justification can be written if all critical elements are rated Fully Successful and above. However, you must still indicate the rating level achieved for each critical element on the PTO-516 form. Justifications must be completed for each element that is rated below Fully Successful.

To obtain the overall summary rating, each element must be rated using the five-level rating scale (Outstanding = 5, Commendable = 4, Fully Successful = 3, Marginal = 2, and Unacceptable = 1). Then each individual element rating will be multiplied by the weight assigned to that element (e.g., critical element #1 is weighted at 30% and receives a rating of Commendable or 4; $4 \times 30\% = 120$ points). The points assigned the individual elements are then totaled to determine an overall summary rating based on the following scale:

Outstanding	460 - 500
Commendable	380 - 459
Fully Successful	290 - 379
Marginal*	200 - 289
Unacceptable*	000 - 199

***If an employee receives a Marginal or Unacceptable critical element rating, then the employee's performance rating can be no higher than the lowest critical element rating.**

IMPORTANT REQUIREMENT: THE RATING OFFICIAL MUST CONFER WITH THE APPROVING OFFICIAL AND GAIN APPROVAL OF THE RECOMMENDED RATING, INCLUDING HIS/HER SIGNATURE BEFORE DISCUSSING THE RATING WITH THE EMPLOYEE.

The employee must sign the rating to indicate that it has been discussed. If the employee refuses to sign, the rating official should so note. A copy must be given to the employee no later than October 28, 2016.

Interim Ratings

If an employee has received an interim summary performance rating for service in another covered position within the department during the appraisal period, then that summary rating (or ratings) must be considered as follows in determining the employee's final rating of record and by using Form PTO-516. The Form PTO-516 can be found by cutting and pasting the following link into your browser: <http://ptoweb.uspto.gov/ptointranet/ohr/forms/pto516.pdf>.

The rating official completes his or her appraisal of the employee on his/her current position (if in that position for 120 days or more of the appraisal period) and assigns a total score. The score for the current position is doubled and added to the interim rating score(s) given by any other supervisors. This new total is then divided by the number of positions occupied for 120 days or more, plus 1, and a final total score is assigned.

For example:

Interim rating score:	$360 \times 1 = 360$
Current rating official's score:	$480 \times 2 = 960$
	1,320
	$1,320 \div 3 = 440$

The employee's recommended rating would be 440 points -- Commendable.

(If the employee has not been in his/her current position for 120 days, but has received an interim rating, the appraisal period is not extended. Instead, the employee's interim rating will become the employee's rating of record for the appraisal period. The remaining time is then added to the FY 2017 performance appraisal period. This means that the appraisal period for FY 2017 will encompass more than 12 months.)

In computing a final performance rating using this formula, the rating assigned by the current supervisor (the one that is to be doubled) must be checked carefully to make sure that a non-critical element is not given more weight (because of the doubling) than any critical element in the other interim ratings. (OPM regulations prohibit giving more weight to non-critical elements than to critical elements in deriving final ratings.) If, because of the doubling, the non-critical element score exceeds that of any of the critical element scores, the point score of the non-critical element must be reduced to its original total (before the doubling) and the summary point total adjusted appropriately.

Promotions based on accretion of duties, career ladder promotions, promotions from less than the full performance level of a position, and reclassification actions due to changes in the classification standard or its application, do not necessarily require an interim rating and new performance plan.

Performance Rating Evaluation Disagreement

Employees should deal directly with their supervisors/approving officials to settle any performance rating evaluation disagreements. If the employee disagrees with the rating, he or she may comment in writing to the approving official within five (5) workdays of receipt of the appraisal and rating. The approving official must respond in writing to the employee within ten (10) working days. If the approving official changes a rating to a higher score, he/she must change the justification on the

PTO-516 to support the new higher rating. If such steps do not result in mutual agreement, employees may then utilize their grievance rights, without restraint, interference, coercion, discrimination or reprisal.

Unacceptable Performance Ratings

Unacceptable performance in one or more critical elements requires that an Unacceptable rating be given to the employee. The rating official should be alert to Unacceptable performance so that the problem can be pinpointed and discussed with the employee at an early date and corrective measures taken.

Prior written notice of an Unacceptable rating is not required. Therefore, an employee may be given an Unacceptable rating without a prior written warning. Proposals to remove or demote are not based on the rating itself, but are based on the underlying performance. Before an action based on Unacceptable performance can be taken, an employee must receive a specific warning of Unacceptable performance to give the employee a reasonable time to improve. For example, in a bargaining unit, the warning is usually for a period of at least 90 days. For non-bargaining unit employees, the period must be "reasonable." If you plan to give an employee a warning of Unacceptable performance, you must first consult a specialist of the Employee Relations Division to ensure that your action is procedurally correct. When an employee has started and not yet completed a performance improvement period on the last day of the appraisal cycle, the rating is delayed until the completion of the opportunity period.

**For NTEU 243 bargaining unit employees, any documentation (e.g., supervisory records, notes and diaries, and errors) used by the Office concerning an employee's performance appraisal, which could have an adverse effect on the employee's performance appraisal or other employment considerations, must be provided to the employee during the appraisal meeting.*

Performance Awards

When determining performance award amounts, management officials must consider the value of any awards granted during the appraisal period that are related to the employee's job responsibilities. The total monetary recognition given must be proportionate to the employee's contributions. There is not a restriction against mentioning in the performance appraisal write-up (even if the rating is not based on it) an act or exceptional performance that was recognized with a special act award. Supervisors can state the employee accomplishment and even note that the employee received an award for that accomplishment. The employee should not be given additional award money for the same accomplishment.

Bargaining Unit Employees

Performance based awards for **POPA employees** are described in the "Agreement on Awards" dated June 7, 1983, and in the "Agreement on Trial Gainsharing Program" dated October 6, 1988.

Performance awards for **NTEU Chapter 245 employees** are described in Article 31 of the basic agreement dated December 22, 2000.

For **NTEU Chapter 243 employees**, the following rules apply for cash awards as described in Article 42 of the basic agreement dated December 6, 2013. To qualify:

The employee must have occupied the same grade and type of position for at least six (6) months in the appraisal year. If the employee did not spend, at any time of the year, at least 6 months in the same grade and type of position, then no award can be granted:

- the employee must hold a position covered by the Employee Performance Appraisal System on September 30;
- the employee must have a Fully Successful rating with a summary score of at least 350 points;
- the employee must have worked in his/her job functions for a minimum of 1,250 hours to be eligible for a full performance award. If the employee has worked less than 1,250 hours in his/her job functions, then the award must be prorated. If the employee has worked less than 600 hours, then no Award can be granted. Remember, time in a non-pay status (e.g. LWOP and AWOL), as well as "other" time, must be subtracted from the number of hours worked to determine award eligibility;
- awards for part-time employees must be reduced in proportion to the employees' scheduled bi-weekly workweek compared to 80 hours;
- adverse actions initiated (e.g. suspensions of more than 14 days, downgrades, or removals) may serve to disqualify an employee for the appraisal period in which the offense occurred.

Quality Step Increases

A Quality Step Increase (QSI) is an increase in an employee's rate of basic pay from one step of his or her position to the next higher step of the grade. An employee must have an outstanding rating with at least 475 points to be eligible for a QSI and must have held the same grade and position for at least six months before the end of the appraisal cycle. The QSI is in lieu of any other end-of-year performance award. If an employee received a QSI in the previous rating year, the employee must demonstrate current performance that is at a significantly higher level to warrant another QSI and the rating must be approved by the business unit head. **You must submit a FY 2016 Performance Rating and Award Nomination Form requesting the QSI to your BU POC by Friday, October 28, 2016, along with the rating. QSIs cannot be processed via the electronic file/database.**

Normally a QSI does not affect the timing of an employee's next regular WGI unless the QSI places the employee in step 4 or step 7 of his/her grade. In these cases, the employee becomes subject to the full waiting period for the new step -- i.e., 104 weeks or 156 weeks, respectively.

An employee may not receive both a QSI and a performance award, both of which recognize the same performance during an appraisal period.

For **POPA bargaining unit employees**, the eligibility requirements for QSIs can be found in the "Agreement on Awards" dated June 7, 1983.

For **NTEU 245 bargaining unit employees**, the eligibility requirements for QSIs can be found in Article 31, Performance Based Awards, of the CBA dated December 22, 2000.

For **NTEU 243 bargaining unit employees**, the eligibility requirements for QSIs can be found in Article 42, Award, of the CBA dated December 6, 2013.

Non-Bargaining Unit Employees

Guidance for Non-Bargaining Unit, Category 3 employees, will be forthcoming.

Patent Business Unit -- Technology Centers and Patent Academy End-of Year submission process

Supervisors must complete and issue FY 2016 performance appraisal ratings, FY 2016 Awards and FY 2017 Performance Appraisal Plans (PAPs) by **Friday, October 28, 2016**.

Separate award forms have been eliminated. All documentation must be submitted to your Technology Center Awards POCs (see list of Award POCs on page 2). The TC Awards POCs will validate that all PAPs have been submitted, and that they include accurate award information when appropriate.

The Award POCs will have until Friday, October 28, 2016, to verify PAPs/Awards are properly completed, have the Patent's gatekeeper certify all awards, and deliver the documentation to the Office of Human Resources (OHR). Also on this date, the SPE Management Database (examiners)

and the TC database (non-examiners) will generate and transmit an electronic file/database which will be used by OHR to transmit rating and award information to the National Finance Center (NFC). **If this information is not submitted to OHR by Friday, October 28, 2016, it will delay the payment of awards.** Performance appraisals and award forms will not be accepted or processed by Human Resources outside of this procedure.

Specific instructions for processing examiner awards and PAPs

All examiner PAPs (except PAPs for hybrid examiners) and awards will be completed and submitted for electronic Director's approval using the SPE Management Database. SPEs may begin writing PAPs immediately following the end of the fiscal year. However, managers should keep in mind that since the award information is now incorporated into the Section III of the PAP, the completed PAPs may not be submitted for electronic verification until the latest salary tables have been uploaded.

To expedite processing for most employees, the salary table upload will be handled in two phases depending on the date of the employee's last promotion or Within-Grade Increase (WGI):

- **Promotion or WGI received prior to September 3, 2016** -- Awards and PAPs may be submitted to the Director for approval any time after Monday, October 3, 2016.
- **Promotion or WGI received between September 4 and September 30, 2016** - Awards and PAPs may be submitted to the Director for approval any time after Tuesday, October 11, 2016.

The Director will approve the PAP and Award together as a single document. Once the PAP/Award is approved by the Director, the SPE will print the PAP/Award document and conduct the performance review meeting with the examiner. After the performance review meeting, the SPE will forward the signed PAP/Award to the Awards POC. Managers should note that both Sections II and III of the PAP must be signed.

If an examiner should receive an award, but does not meet the business rules set forth in the SPE Management Database, the SPE must complete a paper award form and discuss with the Director to obtain approval. Once the Director's signature is obtained, the paper award form must be given to the Award POC for manual entry into the SPE Management Database. If the corresponding PAP has not been submitted to the Director, the award amount will then be incorporated into the rating summary of the PAP, such that the PAP and award will be in a single document. If the corresponding PAP had been previously approved and the performance review meeting held, then the paper award form will be separately attached to the PAP.

Specific instructions for processing non-examiner awards and PAPs

All non-examiner PAPs will be completed using the steps above, except non-examiner PAP and award information will be entered into a TC database for non-examiners (versus the SPE Management Database). The Award POC will batch print the documents and will obtain necessary signatures.

Attachments

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name _____	Date _____	Sheet No. <u>1</u> of _____
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Quality

Objective: Ensuring quality decision-making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text limit in field is approximately 1100 characters. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent review, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Written decisions demonstrate clear understanding of the facts of each appeal or case, the technology, and the applicable legal statutes and case law. Written decisions are logically presented, soundly reasoned, and concise. Proper judicial tone is maintained throughout written decisions.

Panel discussions are attended as an active participant. The Judge promptly provides sound and helpful input to improve decisions where appropriate and bring the deliberations/proceeding forward efficiently.

Oral arguments are attended/conducted skillfully.

Surveys are completed periodically assessing the work of other Judges or staff, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the surveys.

Decisions authored by other judges are evaluated and comments are promptly provided, offering frank and timely assessments of the quality of other Judges' decisions.

Senior management is promptly alerted to substantive, process-related, and professional issues of concern.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text limit in field is approximately 950 characters. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Production / Pendency

Objective: Effective and efficient Decision-Making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Decisions, orders, and other documents in patent application appeals, reexamination proceeding appeals, post grant review, inter partes review, covered business methods patent reviews, derivation proceedings, interference proceedings, and other Board proceedings are authored and mailed.

Matters are disposed of efficiently, prioritizing older appeals, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business methods patent reviews, derivation proceedings, and interference proceedings before newer ones.

Monthly production is generally consistent throughout the year. Variations in output are minimized to the extent possible.

Decisions are sent for processing immediately when prepared, routed to panel members immediately when processed, reviewed, and mailed immediately after being approved by the panel, not withheld until a later date (e.g., to normalize production between months and/or between fiscal years).

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Standard for the General Workforce, the following Supplemental Standards apply:

Outstanding performance in this element is demonstrated by the employee making significant efforts toward reducing the Board's backlog. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. Exceptions are completely justified. End loading is virtually non-existent and fully justified.

Commendable performance in this element is demonstrated by the employee making considerable efforts toward reducing the Board's backlog. Production will be of a very high volume, while producing well above the Board's overall rate of production. The oldest cases, almost without exception, are completed before newer cases. End loading is virtually non-existent.

(CONTINUED)

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production / Pendency

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (Continued)

(Commendable, continued)

End-loading is avoided, helping ensure regular workloads for peers and the support staff. End-loading (i.e., excessive production at mid-year and/or end-of-year) is generally identified when decisional units earned are at least 2x the median monthly decisional units earned throughout the period of review.

Item 3. Criteria for Evaluation (Continued)

The Fully Successful Lead Judge will earn no less than 59 decisional units annually, and will generally earn no less than 4 decisional units monthly. Reasonable efforts are made to manage the Board's existing and incoming case-load. The docket is effectively managed to ensure older cases are worked generally before newer cases. End loading is kept to a minimum.

The Marginal Lead Judge will earn at least 53 decisional units annually (but less than 59), and will generally earn no less than 4 decisional units monthly. Efforts to manage the Board's existing and incoming case-load are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence of end-loading exists. Evidence may exist that decisions have been delayed at any stage without justification or authorization.

The Unacceptable Lead Judge will earn less than 53 decisional units annually or will generally earn fewer than 4 decisional units monthly. Efforts to manage the Board's existing and incoming case-load are well below what is expected. Newer cases are frequently worked before older cases. End-loading is obvious and egregious (generally 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the reviewing period). Decisions were delayed at any stage without authorization.

NOTE:

One mailed regular ex parte appeal decision is generally worth 1 decisional unit. One mailed regular ex parte reexamination proceeding appeal decision is generally worth 2.5 decisional units. One mailed inter partes reexamination proceeding appeal decision is generally worth 4 decisional units.

Decisions based on Trial Proceedings will be assessed on a case-by-case basis, based on the complexity of the proceeding. Determination will be made by the Vice Chief Judge or a designee of the Vice Chief Judge. This assessment may change once benchmarks are established.

Decisions prepared with the assistance of Patent Attorneys on behalf of the Lead Judge are generally worth 0.5 decisional units to a Lead Judge.

Lead Judges may request additional decisional units for extraordinarily complex cases from the Vice Chief Judge.

Lead Judges will be provided the opportunity to explain and justify low decisional units earned and unusual patterns of case mailing, as they have additional responsibilities.

Production goals will be measured annually as well as monthly. Lead Judges will be updated on a monthly basis of the Board's production rates.

Name

Element
Production / Pendency

Sheet
No. 1 of

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Leadership / Supervision / Supporting the Mission of the Board

Objective: Assisting in the effective operation of the U.S. Patent and Trademark Office (USPTO) and the Patent Trial and Appeal Board (PTAB) by providing leadership for supporting the missions of the USPTO and PTAB.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Calm, dignified, judicial demeanor is demonstrated at all times, in all settings. Respect and courtesy is given to all participants in any Board proceeding.

Assistance is provide to the Board in various aspects other than producing decisions. This may include (but is not limited to) development of rules or policies, representing the Board to outside organizations (either visiting the Board or at other locations), and/or participating on resume review panels.

Resources are managed to accomplish the USPTO's Strategic Goals and PTAB objectives. PTAB priorities are communicated to Judges, staff, administrators, and others as needed.

Cooperation, teamwork, and flexibility are emphasized to employees to improve staff efficiencies, ability to react to changing requirements, and overall quality of PTAB deliverables.

Employees are coached to realize their potential, using individual development plans or training programs to increase staff productivity and to produce high quality products and materials.

(CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Leadership / Supervision / Supporting the Mission of the

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (CONTINUED)

Employee performance is managed through continuous feedback on performance, performance appraisals, and resolution of performance deficiencies. Recognition programs (i.e., monetary (if available), non-monetary or honor awards) are utilized to acknowledge employee performance.

Employment actions such as selections and promotions are managed, and are consistent with Merit Systems Principals, equal opportunity and diversity principles, and do not violate Prohibited Personnel Practices. Employee grievances and allegations of discrimination receive a prompt response with the goal of resolution at the lowest organizational level.

Office complies with legal and reporting obligations, the Privacy Act, and other applicable statutes, including the requirement of governmental and suppliers of data to the Board to ensure the confidentiality of Personally Identifiable Information (PII).

Staff and resources are used effectively to complete assignments and meet the responsibilities of the Office.

Office performance is consistent with Board standards and performance plans/evaluations.

Performance management system benchmarks are complied with (i.e., Performance plans are in place by October 31 for the new Fiscal Year (FY); mid-year progress reviews are conducted by April 30; and performance appraisal ratings are completed by October 31 for the previous FY) for current employees. New performance plans are in place within 30 days of starting (for new employees) or changing positions (for current employees).

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (Support rating in space below.)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (Required only if approving official/appointing authority changes rating official's element rating in Item 5.)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Customer Service

Objective: To ensure responsive assistance to internal and external customers, and the public, to the extent permitted by law and regulation.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 10

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Appropriate questions and requests from internal and external stakeholders and the public are addressed courteously and to the extent reasonable, while ensuring, both in appearance and fact, the independence, and the objective and neutral nature, of the Board.

Where questions from external customers and the public are not appropriately answered by the Judge, the questioner is redirected to appropriate Board staff. The Lead Judge is expected to recognize the need for confidentiality, discretion and judgment and apply as appropriate.

Inquiries from internal staff are addressed promptly and courteously, providing needed information or assistance where appropriate.

Prompt execution of the Board's 35 U.S.C. 6 and other duties is rendered to the public.

Interactions with all customers, internal or external, are highly professional and appropriate to the nature of the Judge's position, and to preserve the dignity of the Board.

Appropriate discretion and judgment is exercised prior to communicating outside of the Board in matters related to the USPTO and Board or any proceeding of the Board.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

Generic Standards will apply.

Optional Initial Block

Employee	Date	Supervisor	Date
----------	------	------------	------

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (Support rating in space below.)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (Required only if approving official/appointing authority changes rating official's element rating in Item 5.)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date



SES Performance Management System Executive Performance Agreement



Part 1. Consultation. *I have reviewed this plan and have been consulted on its development.*

Executive's Name (Last, First, MI): RUSCHKE, DAVID P.	Appraisal Pd. 5/22/16 - 9/30/16
Executive's Signature:	Date:
Title: Chief Administrative Patent Judge, U.S. Patent and Trademark Office	Organization: PTAB
Rating Official's Name (Last, First, MI): SLIFER, RUSSELL D, Deputy Director	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature:	Date:

Part 2. Progress Review

Executive's Signature:	Date:
Rating Official's Signature:	Date: 10/25/16
Reviewing Official's Signature (Optional):	Date:

Part 3. Summary Rating

Initial Summary Rating	(b)(6)				
	Outstanding	Commendable	Fully Successful	Minimally Satisfactory	Unsatisfactory
Rating Official's Name (Last, First, MI): SLIFER, RUSSELL D, Deputy Director					
Rating Official's Signature:				Date: 10/25/16	
Executive's Signature:				Date: 10/15/16	
Reviewing Official's Signature (Optional):				Date:	

Higher Level Review (if applicable)

<input type="checkbox"/> I request a higher level review. Executive's Initials:	Date:
Higher Level Review Completed <input type="checkbox"/>	Date:
Higher Level Reviewer Signature:	

Performance Review Board Recommendation	<input type="checkbox"/> Level 5	<input type="checkbox"/> Level 4	<input type="checkbox"/> Level 3	<input type="checkbox"/> Level 2	<input type="checkbox"/> Level 1
PRB Chair Signature:	Date:				
Annual Summary Rating	<input type="checkbox"/> Level 5	<input type="checkbox"/> Level 4	<input type="checkbox"/> Level 3	<input type="checkbox"/> Level 2	<input type="checkbox"/> Level 1
Appointing Authority Signature:	Date:				

Part 4. Derivation Formula and Calculation of Annual Summary Rating

Critical Element	Element Rating		Weight	Score		Summary Level Ranges
	Initial	Final (if changed)		Initial	Final (if changed)	
1. Leading Change	(b)(6)		10%	(b)(6)		475-500 = Level 5 400-474 = Level 4 300-399 = Level 3 200-299 = Level 2 Any CE rated Level 1 = Level 1
2. Leading People			10%			
3. Business Acumen			10%			
4. Building Coalitions			10%			
5. Results Driven			60%			
Total			100%			

Part 5. Critical Elements

Performance Standards for Critical Elements (The performance standard for each critical element is specified below; examples for the top three performance levels can be found in the system description)

- **Level 5:** The executive demonstrates exceptional performance, fostering a climate that sustains excellence and optimizes results in the executive's organization, agency, department or government-wide. This represents the highest level of executive performance, as evidenced by the extraordinary impact on the achievement of the organization's mission. The executive is an inspirational leader and is considered a role model by agency leadership, peers, and employees. The executive continually contributes materially to or spearheads agency efforts that address or accomplish important agency goals, consistently achieves expectations at the highest level of quality possible, and consistently handles challenges, exceeds targets, and completes assignments ahead of schedule at every step along the way.
- **Level 4:** The executive demonstrates a very high level of performance beyond that required for successful performance in the executive's position and scope of responsibilities. The executive is a proven, highly effective leader who builds trust and instills confidence in agency leadership, peers, and employees. The executive consistently exceeds established performance expectations, timelines, or targets, as applicable.
- **Level 3:** The executive demonstrates the high level of performance expected and the executive's actions and leadership contribute positively toward the achievement of strategic goals and meaningful results. The executive is an effective, solid, and dependable leader who delivers high-quality results based on measures of quality, quantity, efficiency, and/or effectiveness within agreed upon timelines. The executive meets and often exceeds challenging performance expectations established for the position.
- **Level 2:** The executive's contributions to the organization are acceptable in the short term but do not appreciably advance the organization towards achievement of its goals and objectives. While the executive generally meets established performance expectations, timelines and targets, there are occasional lapses that impair operations and/or cause concern from management. While showing basic ability to accomplish work through others, the executive may demonstrate limited ability to inspire subordinates to give their best efforts or to marshal those efforts effectively to address problems characteristic of the organization and its work.
- **Level 1:** In repeated instances, the executive demonstrates performance deficiencies that detract from mission goals and objectives. The executive generally is viewed as ineffectual by agency leadership, peers, or employees. The executive does not meet established performance expectations/timelines/targets and fails to produce – or produces unacceptable – work products, services, or outcomes.

Element Rating Level Points

Level 5 = 5 points
Level 4 = 4 points
Level 3 = 3 points
Level 2 = 2 points
Level 1 = 0 points

Critical Element 1. Leading Change	Weight 10%
<p>Develops and implements an organizational vision that integrates key organizational and program goals, priorities, values, and other factors. Assesses and adjusts to changing situations, implementing innovative solutions to make organizational improvements, ranging from incremental improvements to major shifts in direction or approach, as appropriate. Balances change and continuity; continually strives to improve service and program performance; creates a work environment that encourages creative thinking, collaboration, and transparency; and maintains program focus, even under adversity.</p>	
<p>Agency-Specific Performance Requirements</p>	
<p>Lead PTAB through continuing expansion with a further appropriate growth in number of judges and addition of other personnel. Lead PTAB through appropriate expansion of judge corps and hearings in regional offices. Lead PTAB through further phases of issuing America Invents Act Trial final decisions. Lead upgrade in quality of support staff.</p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading Change</p>	(b)(6)
Critical Element 2. Leading People	Weight 10%
<p>Designs and implements strategies that maximize employee potential, connects the organization horizontally and vertically, and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provides an inclusive workplace that fosters the development of others to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ensures employee performance plans are aligned with the organization's mission and goals, that employees receive constructive feedback, and that employees are realistically appraised against clearly defined and communicated performance standards. Holds employees accountable for appropriate levels of performance and conduct. Seeks and considers employee input. Recruits, retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation, with the skills needed to accomplish organizational performance objectives while supporting workforce diversity, workplace inclusion, and equal employment policies and programs.</p>	
<p>Agency-Specific Performance Requirements</p>	
<p>Serve as Chief Judge. Provide policy direction and guidance to the PTAB. Perform Business Unit Head functions on the Policy Council, Management Council and Executive Committee of the Agency, and otherwise, as appropriate. Lead continuing activities directed at PTAB execution of new duties given to the PTAB under the America Invents. Act. Motivate PTAB to keep tackling substantial ex parte appeal case backlog.</p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading People</p>	(b)(6)

Critical Element 3. Business Acumen	Weight 10%
<p>Assesses, analyzes, acquires, and administers human, financial, material, and information resources in a manner that instills public trust and accomplishes the organization's mission. Uses technology to enhance processes and decision making. Executes the operating budget; prepares budget requests with justifications; and manages resources.</p>	
<p>Agency-Specific Performance Requirements</p> <p>Advance development of improved IT systems and system integration. Manage reallocation of budget resources to accommodate geographic and human resource expansion. Drive confidence in management of Board by further developing capabilities of larger management team.</p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p><i>Critical Element Rating – Business Acumen</i></p>	(b)(6)

Critical Element 4. Building Coalitions	(Minimum weight 5%)	Weight 10%
<p>Solicits and considers feedback from internal and external stakeholders or customers. Coordinates with appropriate parties to maximize input from the widest range of appropriate stakeholders to facilitate an open exchange of opinion from diverse groups and strengthen internal and external support. Explains, advocates, and expresses facts and ideas in a convincing manner and negotiates with individuals and groups internally and externally, as appropriate. Develops a professional network with other organizations and identifies the internal and external politics that affect the work of the organization.</p>		
<p>Agency-Specific Performance Requirements</p> <p>Collaborate with other business units, where possible, to implement strategies for reducing ex parte appeals inventory within limits imposed by AIA trial inventory and deadlines. Interact with public to instruct on new PTAB jurisdiction and procedures.</p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
<p><i>Critical Element Rating – Building Coalitions</i></p>	(b)(6)	

Critical Element 5. Results Driven		Weight 60%
Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)		
<p>This critical element includes specific performance requirements expected of the executive during the appraisal period, focusing on measurable outcomes from the strategic plan or other measurable outputs and outcomes clearly aligned to organizational goals and objectives. At a minimum, the performance plan will include performance requirements (including measures, targets, timelines, or quality descriptors, as appropriate) describing the range of performance at Level 3 for each result specified. It is recommended to also establish the threshold measures/targets for Levels 5 and 2.</p> <p>Alignment--cite relevant goals/objectives, page numbers, from the Strategic Plan, Congressional Budget Justification/Annual Performance Plan, or other organizational planning document in the designated section for each performance requirement specified.</p>		
<p>Performance Requirement 1: 35% Weight</p> <p>America Invents Act Trial Timeliness: Reach AIA trial completion in 12 months, or in 18 months in cases with extensions for good cause.</p>	<p>Strategic Alignment:</p> <p>USPTO Strategic Plan, Goal 1, Objective 7-A</p>	
<p>Performance Requirement 2: 30% Weight</p> <p>PTAB Expansion / Ex Parte Inventory Reduction: Facilitate Judge appointments with the submission to the Under Secretary of a sufficient number of proposed new APJs between May 22, 2016 and September 30, 2016, to achieve a reduction of ex parte appeal inventory by 10%.</p>	<p>Strategic Alignment:</p> <p>USPTO Strategic Plan, Goal 1, Objective 7-B</p>	
<p>Performance Requirement 3: 35% Weight</p> <p>PTAB Decision Consistency: Facilitate regular extra-panel review of at least 25% of final AIA decisions, excluding rehearing decisions, and management review of at least 5% of ex parte appeals decisions.</p>	<p>Strategic Alignment:</p> <p>USPTO Strategic Plan, Goal 1, Objective 7-D</p>	
<p>Rating Official Narrative: <i>(Optional)</i></p> <p>(b)(6)</p>		
<p>Critical Element Rating – Results Driven</p>		(b)(6)

Part 6: Summary Rating Narrative *(Mandatory)*

Part 7: Executive's Accomplishment Narrative *(Optional)*

Part 8: Agency Use

Deriving the Results Driven Rating Worksheet

Executive Name **DAVID P RUSCHKE** Rating Period **FY 2016**

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1				Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2					
Performance Requirement 3					
Performance Requirement 4					
		= 100%			
Performance Requirement Total Score				___ = Level ___	

Example of Results Driven Element Being Rated Level 4

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1	4	x 25	100	Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2	5	x 30	150		
Performance Requirement 3	5	x 15	75		
Performance Requirement 4	3	x 30	90		
		= 100%			
Performance Requirement Total Score			415	415= Level 4	4*

*Results Driven Rating is 4 – to be transferred to Initial Element Score beside Results Driven Critical Element on the bottom of page 1.

DAVID P. RUSCHKE
Chief Administrative Patent Judge
Patent Trial and Appeal Board

Assessment FY2016 (May 22 – September 30, 2016)

1. Leading Change

(b)(6)



2. Leading People

(b)(6)



3. Business Acumen

(b)(6)



(b)(6)



4. **Building Coalitions**

(b)(6)



5. **Results Driven**

(b)(6)



SES Performance Management System
Executive Performance Agreement

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Part 1. Consultation. *I have reviewed this plan and have been consulted on its development.*

Executive's Name (Last, First, MI): Boalick, Scott R.	Appraisal Pd. 3/13/19 -9/30/19
Executive's Signature:	Date: 3/25/19
Title: Chief Administrative Patent Judge	Organization: PTAB
Rating Official's Name (Last, First, MI): Peter, Laura A.	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature:	Date: 4/24/2019

Part 2. Progress Review

Executive's Signature:	Date: 4/24/19
Rating Official's Signature:	Date: 4/24/2019
Reviewing Official's Signature (Optional):	Date:

Part 3. Summary Rating

Initial Summary Rating	(b)(6)	
Rating Official's Name (Last, First, MI): Peter, Laura A.		
Rating Official's Signature:	Date: 11/1/2019	
Executive's Signature:	Date: 11/1/2019	
Reviewing Official's Signature (Optional):	Date:	

Higher Level Review (if applicable)

<input type="checkbox"/> I request a higher level review. Executive's Initials:	Date:
Higher Level Review Completed <input type="checkbox"/>	Date:
Higher Level Reviewer Signature:	

Performance Review Board Recommendation

PRB Chair Signature:	Date:
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Annual Summary Rating

Appointing Authority Signature:	Date:
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Part 4. Derivation Formula and Calculation of Annual Summary Rating

Critical Element	Element Rating		Weight	Score		Summary Level Ranges
	Initial	Final (if changed)		Initial	Final (if changed)	
1. Leading Change	(b)(6)		10%	(b)(6)		475-500 = Level 5 400-474 = Level 4 300-399 = Level 3 200-299 = Level 2 Any CE rated Level 1 = Level 1
2. Leading People			10%			
3. Business Acumen			10%			
4. Building Coalitions			10%			
5. Results Driven			60%			
Total			100 points			

Part 5. Performance Standards and Critical Elements

Performance Standards for Critical Elements (The performance standard for each critical element is specified below; examples for the top three performance levels can be found in the system description)

- **Level 5:** The executive demonstrates exceptional performance, fostering a climate that sustains excellence and optimizes results in the executive’s organization, agency, department or Governmentwide. This represents the highest level of executive performance, as evidenced by the extraordinary impact on the achievement of the organization’s mission. The executive is an inspirational leader and is considered a role model by agency leadership, peers, and employees. The executive continually contributes materially to or spearheads agency efforts that address or accomplish important agency goals, consistently achieves expectations at the highest level of quality possible, and consistently handles challenges, exceeds targets, and completes assignments ahead of schedule at every step along the way.

- **Level 4:** The executive demonstrates a very high level of performance beyond that required for successful performance in the executive’s position and scope of responsibilities. The executive is a proven, highly effective leader who builds trust and instills confidence in agency leadership, peers, and employees. The executive consistently exceeds established performance expectations, timelines, or targets, as applicable.

- **Level 3:** The executive demonstrates the high level of performance expected and the executive’s actions and leadership contribute positively toward the achievement of strategic goals and meaningful results. The executive is an effective, solid, and dependable leader who delivers high-quality results based on measures of quality, quantity, efficiency, and/or effectiveness within agreed upon timelines. The executive meets and sometimes exceeds challenging performance expectations established for the position.

- **Level 2:** The executive’s contributions to the organization are acceptable in the short term but do not appreciably advance the organization towards achievement of its goals and objectives. While the executive generally meets established performance expectations, timelines and targets, there are occasional lapses that impair operations and/or cause concern from management. While showing basic ability to accomplish work through others, the executive may demonstrate limited ability to inspire subordinates to give their best efforts or to marshal those efforts effectively to address problems characteristic of the organization and its work.

- **Level 1:** In repeated instances, the executive demonstrates performance deficiencies that detract from mission goals and objectives. The executive generally is viewed as ineffectual by agency leadership, peers, or employees. The executive routinely does not meet established performance expectations/timelines/targets and fails to produce – or produces unacceptable – work products, services, or outcomes.

Element Rating Level Points

Level 5 = 5 points
 Level 4 = 4 points
 Level 3 = 3 points
 Level 2 = 2 points
 Level 1 = 0 points

Critical Element 1. Leading Change	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Develops and implements an organizational vision that integrates key organizational and program goals, priorities, values, and other factors. Assesses and adjusts to changing situations, implementing innovative solutions to make organizational improvements, ranging from incremental improvements to major shifts in direction or approach, as appropriate. Balances change and continuity; continually strives to improve service and program performance; creates a work environment that encourages creative thinking, collaboration, and transparency; and maintains program focus, even under adversity.</p>		
<p>Agency-Specific Performance Requirements</p> <p>Implement Presidential directives for enhancing operation of federal government agencies (e.g., Executive Orders). Implement Director's objectives for enhancing operations of USPTO and PTAB. Optimize PTAB operations by modifying the organizational structure, policies, and procedures, as needed. Lead PTAB through enhancements of rules of practice, precedential opinions, and guidance to stakeholders to ensure balance, reliability, transparency, and predictability.</p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
<i>Critical Element Rating – Leading Change</i>	<input type="checkbox"/> Level 5	<input type="checkbox"/> Level 4
	<input type="checkbox"/> Level 3	<input type="checkbox"/> Level 2
		<input type="checkbox"/> Level 1
Critical Element 2. Leading People	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Designs and implements strategies that maximize employee potential, connects the organization horizontally and vertically, and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provides an inclusive workplace that fosters the development of others to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ensures employee performance plans are aligned with the organization's mission and goals, that employees receive constructive feedback, and that employees are realistically appraised against clearly defined and communicated performance standards. Holds employees accountable for appropriate levels of performance and conduct. Seeks and considers employee input. Recruits, retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation, with the skills needed to accomplish organizational performance objectives while supporting workforce diversity, workplace inclusion, and equal employment policies and programs.</p>		
<p>Agency-Specific Performance Requirements</p> <p><i>Lead, develop, and implement actions to improve employee engagement in your area based on employee feedback gathered from sources including the USPTO People Survey, Federal Employee Viewpoint Survey, focus groups and other initiatives.</i></p> <p><i>Promotes the protection of whistleblowers by: responding constructively when an employee makes disclosures described in subparagraph (A) or (B) of section 2302(b)(8); taking responsible actions to resolve disclosures; and fostering an environment in which employees of the agency feel comfortable making disclosures to supervisory employees or other appropriate authorities.</i></p> <p>Serve as Chief Judge and perform Business Unit Head functions, as appropriate. Provide policy direction and guidance to the PTAB. Ensure PTAB employees are efficiently working on mission-critical tasks. Retain and leverage nationwide talent.</p>		

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading People

Level 5

Level 4

Level 3

Level 2

Level 1

Executive Name and ID: Boalick, Scott R.

Appraisal Period: 3/13/19 – 9/30/19

Critical Element 3. Business Acumen

(Minimum weight 5 points)

Weight 10%

Mandatory Performance Requirement: Assesses, analyzes, acquires, and administers human, financial, material, and information resources in a manner that instills public trust and accomplishes the organization's mission. Uses technology to enhance processes and decision making. Executes the operating budget; prepares budget requests with justifications; and manages resources.

Agency-Specific Performance Requirements

Support development of improved PTAB IT system and system integration. Manage allocation of budget resources to accommodate business unit needs. Develop and enhance tools to promote transparency and enable increased use of operational data. Identify and direct administrative initiatives to ensure PTAB's organizational infrastructure is sufficient and appropriate to support the Board's size and workload.

Rating Official Narrative: *(Optional)*

Critical Element Rating – Business Acumen

Level 5

Level 4

Level 3

Level 2

Level 1

Critical Element 4. Building Coalitions

(Minimum weight 5 points)

Weight 10%

Mandatory Performance Requirement: Solicits and considers feedback from internal and external stakeholders or customers. Coordinates with appropriate parties to maximize input from the widest range of appropriate stakeholders to facilitate an open exchange of opinion from diverse groups and strengthen internal and external support. Explains, advocates, and expresses facts and ideas in a convincing manner and negotiates with individuals and groups internally and externally, as appropriate. Develops a professional network with other organizations and identifies the internal and external politics that affect the work of the organization.

Agency-Specific Performance Requirements

Collaborate and share information within PTAB and with other business units to implement strategies for achieving USPTO and/or PTAB objectives. Pursue formal or informal collaborations and education opportunities with examiners. Interact with public to educate about PTAB practice and procedure to promote understanding. Collect public feedback about PTAB proceedings to guide enhancements of policies and procedures to promote balance, reliability, transparency, and predictability.

Rating Official Narrative: *(Optional)*

	<input type="checkbox"/>	Level 5	<input type="checkbox"/>	Level 4	<input type="checkbox"/>	Level 3	<input type="checkbox"/>	Level 2	<input type="checkbox"/>	Level 1
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Critical Element Rating – Building Coalitions

Executive Name and ID: Boalick, Scott R.

Appraisal Period: 3/13/19 – 9/30/19

Critical Element 5. Results Driven (Minimum Weight 20 points) | Weight 60%

This critical element must have at least 1 performance requirement (there is no maximum number of requirements, agency should specify if it sets a maximum number).

This critical element includes specific performance requirements expected of the executive during the appraisal period, focusing on measurable results from the strategic plan or other measurable outputs and outcomes clearly aligned to organizational goals and objectives. At a minimum, the performance requirements must contain measurable results and their quality indicators describing the range of performance at Level 3 for each result specified. In addition to the quality indicators, applicable measures of quantity, timelines, and/or cost-effectiveness may be included as appropriate. It is recommended to also establish the threshold quality indicators and measures for Levels 5 and 2. Indicators must reflect the same level of performance as the respective performance standard contained in Part 5.

Strategic Alignment—identify clear, transparent alignment to agency strategic planning initiatives (e.g., relevant agency or organizational goals/objectives with cited page numbers from the Strategic Plan, Congressional Budget Justification/Annual Performance Plan, or other organizational planning document) in the designated section for each performance requirement.

Note: Performance requirements must contain results and quality indicators that are clearly and differentially identified (e.g., highlighted, bold, underlined) so that it is readily evident on what the senior executive will be rated and what is expected for success.

Performance Requirement 1: 25% Weight

America Invents Act Trial Timeliness:

Achieve AIA trial completion in compliance with applicable legal requirements in 12 months from institution, or in 18 months from institution in cases with extensions for good cause, for 95% of all AIA trials not subject to joinder. Achieve issuance of AIA petition decisions on institution in compliance with applicable legal requirements within statutory period of 3 months for 95% of all AIA petitions.

Strategic Alignment:

FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,

Objective 4 - Enhance Operations of the Patent Trial And Appeal Board

Performance Requirement 2: 25% Weight

Ex Parte Appeal Timeliness:

Manage the average overall pendency for ex parte appeals, excluding appeals for reexam and reissue proceedings, to resolve ex parte appeals in a timely manner consistent with available resources, and implement programs to balance pendency across technologies.

Strategic Alignment:

FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,

Objective 4 - Enhance Operations of the Patent Trial And Appeal Board

Performance Requirement 3: 25% Weight

PTAB Decision Consistency:

Ensure that PTAB judges render high quality, well-reasoned, and consistent written orders and opinions in accordance with the authority granted under Title 35 of the United States Code and Title 37 of the Code of Federal Regulations, binding case law precedent, and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate. Ensure review of 25% of final AIA decisions, excluding rehearing decisions and

Strategic Alignment:

FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,

Objective 4 - Enhance Operations of the Patent Trial And Appeal Board

<p>decisions in cases on remand from the U.S. Court of Appeals for the Federal Circuit, and 2% of ex parte appeals decisions.</p>						
<p>Performance Requirement 4: 25% Weight</p> <p>Effective Communications: Ensure clear, timely, and accurate communications concerning PTAB matters to PTAB judges and staff, other USPTO business units, and external stakeholders to decrease uncertainty and increase predictability, transparency, and reliability.</p>		<p>Strategic Alignment: FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness, Objective 4 - Enhance Operations of the Patent Trial And Appeal Board</p>				
<p>Rating Official Narrative: <i>(Optional)</i></p>						
<p><i>Critical Element Rating – Results Driven</i></p>		<input type="checkbox"/> Level 5	<input type="checkbox"/> Level 4	<input type="checkbox"/> Level 3	<input type="checkbox"/> Level 2	<input type="checkbox"/> Level 1

Part 6: Summary Rating Narrative *(Mandatory)*

Blank area for Part 6: Summary Rating Narrative.

Part 7: Executive's Accomplishment Narrative *(Optional)*

Blank area for Part 7: Executive's Accomplishment Narrative.

Part 8: Agency Use

Blank area for Part 8: Agency Use.

Deriving the Results Driven Rating Worksheet

Executive Name _____

Rating Period _____

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1				Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2					
Performance Requirement 3					
Performance Requirement 4					
		= 100%			
Performance Requirement Total Score				___ = Level ___	

Example of Results Driven Element Being Rated Level 4

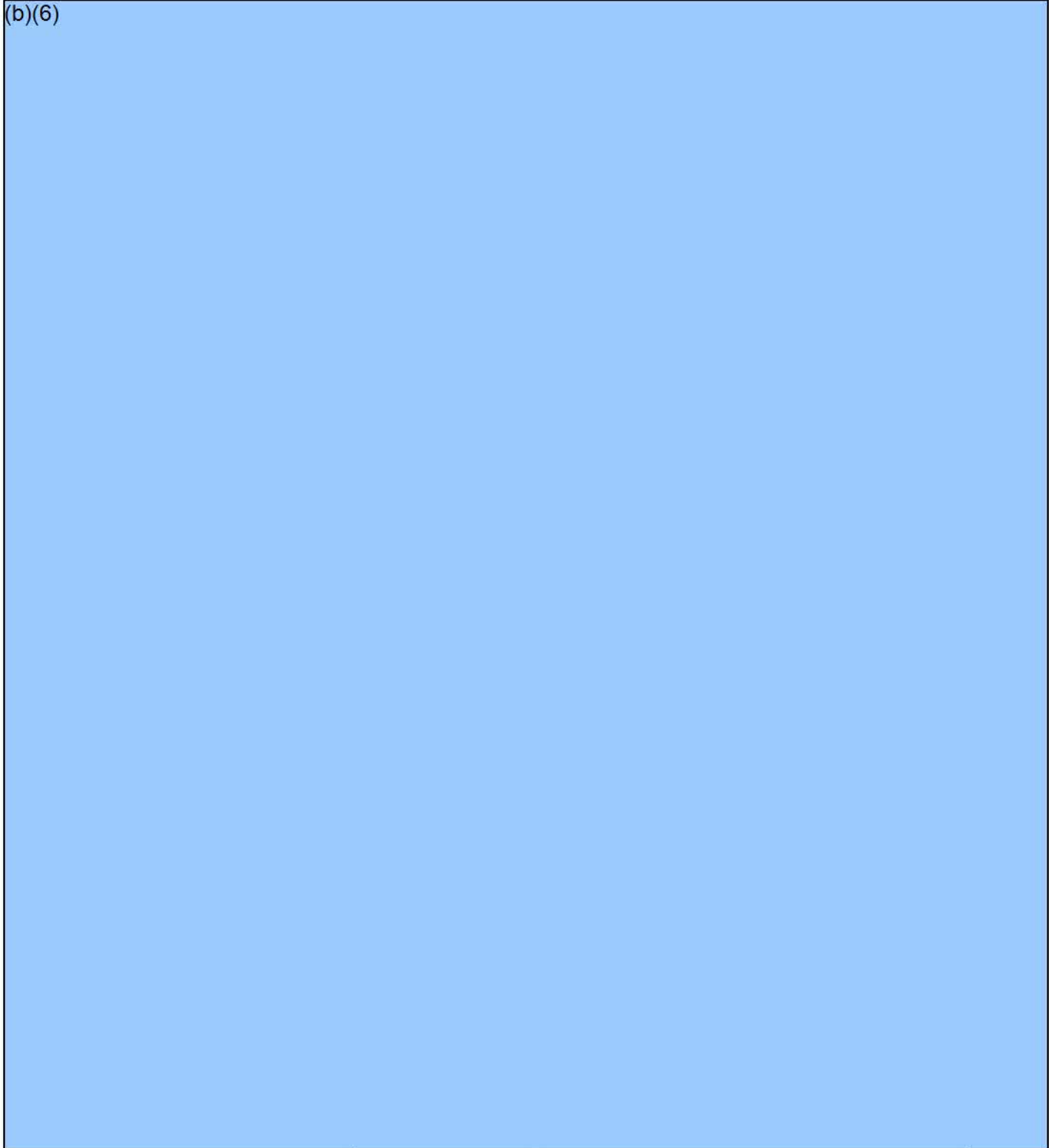
Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1	4	x 25	100	Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2	5	x 30	150		
Performance Requirement 3	5	x 15	75		
Performance Requirement 4	3	x 30	90		
		= 100%			
Performance Requirement Total Score			415	415= Level 4	4*

*Results Driven Rating is 4 – to be transferred to Initial Element Score beside Results Driven Critical Element on the bottom of page 1.

**Scott R. Boalick, Chief Administrative Patent Judge
FY19 End-of-Year Performance Narrative**

Summary

(b)(6)



Critical Element 1: Leading Change

AIA Trials & Ex Parte Appeals

- Implementation of USPTO §101 Guidance by PTAB.

(b)(6)



- Claim Construction Final Rule.

(b)(6)



- Motions to Amend in AIA Trials.

- Pilot Program.

(b)(6)



(b)(6)

○ Reissue/Reexam Information to Public.

(b)(6)

○ Burden of Proof NPRM.

(b)(6)

• Trial Practice Guide (TPG) Update.

(b)(6)

- Precedential Opinion Process (POP) and Board Precedent.

(b)(6)



- Paneling Process.

(b)(6)



- SAS Implementation.

(b)(6)



- Data Studies.

(b)(6)



(b)(6)

Hearings

(b)(6)

Reorganization, Hiring, Onboarding, and Modeling

- Reorganization.

- Judge Divisions.

(b)(6)

- Hiring and Onboarding.

- Judges.

(b)(6)

- Patent Attorney.

(b)(6)

- Law Clerk.

(b)(6)

- Board Operations Division.

(b)(6)

- Detailees.

(b)(6)

- Modeling.

(b)(6)

Critical Element 2: Leading People

Serve as Chief Judge

- Judge Advisory Committee (JAC).

(b)(6)

- AIA Review Committee (ARC).

(b)(6)

- PAP Committee.

(b)(6)

- Survey Committee.

(b)(6)

- Bargaining Units.

(b)(6)

(b)(6)

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Policy and Guidance Direction

(b)(6)

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Business Unit Head Functions

(b)(6)



(b)(6)

Motivate Employees

(b)(6)

Critical Element 3: Business Acumen

Advance Improved IT systems

- Internal Reports.

(b)(6)

- Public Reports.

(b)(6)

- PTAB E2E IT System.

(b)(6)



- PTAB Website.

(b)(6)



Manage Budget

(b)(6)



Develop Management Team Capabilities

(b)(6)



Critical Element 4: Building Coalitions

Collaborate with Other Business Units (e.g., to reduce ex parte appeal inventory within AIA trial limits imposed by statutory deadlines)

- Office of the Under Secretary:

(b)(6)



- TTAB:

(b)(6)



- Patents:

(b)(6)



(b)(6)



(b)(6)



- CFO:

(b)(6)



- CAO:

(b)(6)



- CIO:

(b)(6)

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- OPIA / OGA:

(b)(6)

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- OGI/Solicitor's Office:

(b)(6)

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- OCCO:

(b)(6)

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(b)(6)

- Regional Offices (ROs):

(b)(6)

Engage with Public

- PPAC.

(b)(6)

- Stakeholder Meetings.

(b)(6)

- Webinars.

(b)(6)

- Speaking Engagements.

(b)(6)

(b)(6)

Critical Element 5: Results Driven

Performance Requirement 1, AIA Trial Timeliness

(b)(6)

Performance Requirement 2, Ex Parte Inventory

(b)(6)

(b)(6)

Quarterly Appeals Close-out Program.

(b)(6)

Technology Re-Balancing Program.

(b)(6)

Performance Requirement 3, PTAB Decision Consistency

(b)(6)

**SES Performance Management System
Executive Performance Agreement**



Part 1. Consultation. *I have reviewed this plan and have been consulted on its development.*

Executive's Name (Last, First, MI): Bonilla, Jacqueline	Appraisal Pd. 3/13/19 -9/30/19
Executive's Signature: <i>Jaceline Bonilla</i>	Date: 4/10/19
Title: Deputy Chief Administrative Patent Judge	Organization: PTAB
Rating Official's Name (Last, First, MI): Boalick, Scott R.	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: <i>Scott R. Boalick</i>	Date: 3/25/19

Part 2. Progress Review

Executive's Signature: <i>Jaceline Bonilla</i>	Date: 5/1/19
Rating Official's Signature: <i>Scott R. Boalick</i>	Date: 5/1/19
Reviewing Official's Signature (Optional):	Date:

Part 3. Summary Rating

Initial Summary Rating: (b)(6)

Rating Official's Name (Last, First, MI): Boalick, Scott, R	Date: 11/4/2019
Rating Official's Signature: <i>Scott R. Boalick</i>	Date: 11/4/2019
Executive's Signature: <i>Jaceline Bonilla</i>	Date:
Reviewing Official's Signature (Optional):	Date:

Higher Level Review (if applicable)

I request a higher level review. Executive's Initials: _____ Date: _____

Higher Level Review Completed Date: _____

Higher Level Reviewer Signature: _____

Performance Review Board Recommendation Level 5 Level 4 Level 3 Level 2 Level 1

PRB Chair Signature: *Laura A. Peter* Date: _____

Annual Summary Rating Level 5 Level 4 Level 3 Level 2 Level 1

Appointing Authority Signature: *Andrei Iancu* Date: _____

Part 4. Derivation Formula and Calculation of Annual Summary Rating

Critical Element	Element Rating		Weight	Score		Summary Level Ranges
	Initial	Final (if changed)		Initial	Final (if changed)	
1. Leading Change	(b)(6)		10%	(b)(6)		475-500 = Level 5 400-474 = Level 4 300-399 = Level 3 200-299 = Level 2 Any CE rated Level 1 = Level 1
2. Leading People			10%			
3. Business Acumen			10%			
4. Building Coalitions			10%			
5. Results Driven			60%			
Total			100 points			

Part 5. Performance Standards and Critical Elements

Performance Standards for Critical Elements (The performance standard for each critical element is specified below; examples for the top three performance levels can be found in the system description)

- **Level 5:** The executive demonstrates exceptional performance, fostering a climate that sustains excellence and optimizes results in the executive's organization, agency, department or Governmentwide. This represents the highest level of executive performance, as evidenced by the extraordinary impact on the achievement of the organization's mission. The executive is an inspirational leader and is considered a role model by agency leadership, peers, and employees. The executive continually contributes materially to or spearheads agency efforts that address or accomplish important agency goals, consistently achieves expectations at the highest level of quality possible, and consistently handles challenges, exceeds targets, and completes assignments ahead of schedule at every step along the way.
- **Level 4:** The executive demonstrates a very high level of performance beyond that required for successful performance in the executive's position and scope of responsibilities. The executive is a proven, highly effective leader who builds trust and instills confidence in agency leadership, peers, and employees. The executive consistently exceeds established performance expectations, timelines, or targets, as applicable.
- **Level 3:** The executive demonstrates the high level of performance expected and the executive's actions and leadership contribute positively toward the achievement of strategic goals and meaningful results. The executive is an effective, solid, and dependable leader who delivers high-quality results based on measures of quality, quantity, efficiency, and/or effectiveness within agreed upon timelines. The executive meets and sometimes exceeds challenging performance expectations established for the position.
- **Level 2:** The executive's contributions to the organization are acceptable in the short term but do not appreciably advance the organization towards achievement of its goals and objectives. While the executive generally meets established performance expectations, timelines and targets, there are occasional lapses that impair operations and/or cause concern from management. While showing basic ability to accomplish work through others, the executive may demonstrate limited ability to inspire subordinates to give their best efforts or to marshal those efforts effectively to address problems characteristic of the organization and its work.
- **Level 1:** In repeated instances, the executive demonstrates performance deficiencies that detract from mission goals and objectives. The executive generally is viewed as ineffectual by agency leadership, peers, or employees. The executive routinely does not meet established performance expectations/timelines/targets and fails to produce – or produces unacceptable – work products, services, or outcomes.

Element Rating Level Points

Level 5 = 5 points
 Level 4 = 4 points
 Level 3 = 3 points
 Level 2 = 2 points
 Level 1 = 0 points

Critical Element 1. Leading Change	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Develops and implements an organizational vision that integrates key organizational and program goals, priorities, values, and other factors. Assesses and adjusts to changing situations, implementing innovative solutions to make organizational improvements, ranging from incremental improvements to major shifts in direction or approach, as appropriate. Balances change and continuity; continually strives to improve service and program performance; creates a work environment that encourages creative thinking, collaboration, and transparency; and maintains program focus, even under adversity.</p>		
<p>Agency-Specific Performance Requirements</p> <p>Implement Presidential directives for enhancing operation of federal government agencies (e.g., Executive Orders). Implement Director's objectives for enhancing operations of USPTO and PTAB. Optimize PTAB operations by modifying the organizational structure, policies, and procedures, as needed. Lead PTAB through enhancements of rules of practice, precedential opinions, and guidance to stakeholders to ensure balance, reliability, transparency, and predictability.</p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
<p>Critical Element Rating – Leading Change</p>		(b)(6)
Critical Element 2. Leading People	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Designs and implements strategies that maximize employee potential, connects the organization horizontally and vertically, and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provides an inclusive workplace that fosters the development of others to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ensures employee performance plans are aligned with the organization's mission and goals, that employees receive constructive feedback, and that employees are realistically appraised against clearly defined and communicated performance standards. Holds employees accountable for appropriate levels of performance and conduct. Seeks and considers employee input. Recruits, retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation, with the skills needed to accomplish organizational performance objectives while supporting workforce diversity, workplace inclusion, and equal employment policies and programs.</p>		
<p>Agency-Specific Performance Requirements</p> <p><i>Lead, develop, and implement actions to improve employee engagement in your area based on employee feedback gathered from sources including the USPTO People Survey, Federal Employee Viewpoint Survey, focus groups and other initiatives.</i></p> <p><i>Promotes the protection of whistleblowers by: responding constructively when an employee makes disclosures described in subparagraph (A) or (B) of section 2302(b)(8); taking responsible actions to resolve disclosures; and fostering an environment in which employees of the agency feel comfortable making disclosures to supervisory employees or other appropriate authorities.</i></p> <p>Serve as Deputy Chief Judge and assist the Chief Judge with Business Unit Head functions, as appropriate. Provide policy direction and guidance to the PTAB. Ensure PTAB employees are efficiently working on mission-critical tasks. Retain and leverage nationwide talent.</p>		

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading People

(b)(6)

Executive Name and ID: Bonilla, Jacqueline

Appraisal Period: 3/13/19 – 9/30/19

Critical Element 3. Business Acumen

(Minimum weight 5 points) | Weight 10%

Mandatory Performance Requirement: Assesses, analyzes, acquires, and administers human, financial, material, and Information resources in a manner that instills public trust and accomplishes the organization's mission. Uses technology to enhance processes and decision making. Executes the operating budget; prepares budget requests with justifications; and manages resources.

Agency-Specific Performance Requirements

Support development of improved PTAB IT system and system integration. Manage allocation of budget resources to accommodate business unit needs. Develop and enhance tools to promote transparency and enable increased use of operational data. Identify and direct administrative initiatives to ensure PTAB's organizational infrastructure is sufficient and appropriate to support the Board's size and workload.

Rating Official Narrative: *(Optional)*

Critical Element Rating – Business Acumen

(b)(6)

Critical Element 4. Building Coalitions

(Minimum weight 5 points) | Weight 10%

Mandatory Performance Requirement: Solicits and considers feedback from internal and external stakeholders or customers. Coordinates with appropriate parties to maximize input from the widest range of appropriate stakeholders to facilitate an open exchange of opinion from diverse groups and strengthen internal and external support. Explains, advocates, and expresses facts and ideas in a convincing manner and negotiates with individuals and groups internally and externally, as appropriate. Develops a professional network with other organizations and identifies the internal and external politics that affect the work of the organization.

Agency-Specific Performance Requirements

Collaborate and share information within PTAB and with other business units to implement strategies for achieving USPTO and/or PTAB objectives. Pursue formal or informal collaborations and education opportunities with examiners. Interact with public to educate about PTAB practice and procedure to promote understanding. Collect public feedback about PTAB proceedings to guide enhancements of policies and procedures to promote balance, reliability, transparency, and predictability.

Rating Official Narrative: *(Optional)*

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Critical Element Rating – Building Coalitions (b)(6)

Executive Name and ID: Bonilla, Jacqueline Appraisal Period: 3/13/19 – 9/30/19

Critical Element 5. Results Driven (Minimum Weight 20 points) Weight 60%

This critical element must have at least 1 performance requirement (there is no maximum number of requirements, agency should specify if it sets a maximum number).

This critical element includes specific performance requirements expected of the executive during the appraisal period, focusing on measurable results from the strategic plan or other measurable outputs and outcomes clearly aligned to organizational goals and objectives. At a minimum, the performance requirements must contain measurable results and their quality indicators describing the range of performance at Level 3 for each result specified. In addition to the quality indicators, applicable measures of quantity, timelines, and/or cost-effectiveness may be included as appropriate. It is recommended to also establish the threshold quality indicators and measures for Levels 5 and 2. Indicators must reflect the same level of performance as the respective performance standard contained in Part 5.

Strategic Alignment—identify clear, transparent alignment to agency strategic planning initiatives (e.g., relevant agency or organizational goals/objectives with cited page numbers from the Strategic Plan, Congressional Budget Justification/Annual Performance Plan, or other organizational planning document) in the designated section for each performance requirement.

Note: Performance requirements must contain results and quality indicators that are clearly and differentially identified (e.g., highlighted, bold, underlined) so that it is readily evident on what the senior executive will be rated and what is expected for success.

<p>Performance Requirement 1: 25% Weight</p> <p>America Invents Act Trial Timeliness: Achieve AIA trial completion in compliance with applicable legal requirements in 12 months from institution, or in 18 months from institution in cases with extensions for good cause, for 95% of all AIA trials not subject to joinder. Achieve issuance of AIA petition decisions on institution in compliance with applicable legal requirements within statutory period of 3 months for 95% of all AIA petitions.</p>	<p>Strategic Alignment:</p> <p>FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,</p> <p>Objective 4 - Enhance Operations of the Patent Trial And Appeal Board</p>
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<p>Performance Requirement 2: 25% Weight</p> <p>Ex Parte Appeal Timeliness: Manage the average overall pendency for ex parte appeals, excluding appeals for reexam and reissue proceedings, to resolve ex parte appeals in a timely manner consistent with available resources, and implement programs to balance pendency across technologies.</p>	<p>Strategic Alignment:</p> <p>FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,</p> <p>Objective 4 - Enhance Operations of the Patent Trial And Appeal Board</p>
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<p>Performance Requirement 3: 25% Weight</p> <p>PTAB Decision Consistency: Ensure that PTAB judges render high quality, well-reasoned, and consistent written orders and opinions in accordance with the authority granted under Title 35 of the United States Code and Title 37 of the Code of Federal Regulations, binding case law precedent, and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate. Ensure review of 25% of final AIA decisions, excluding rehearing decisions and</p>	<p>Strategic Alignment:</p> <p>FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,</p> <p>Objective 4 - Enhance Operations of the Patent Trial And Appeal Board</p>
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<p>decisions in cases on remand from the U.S. Court of Appeals for the Federal Circuit, and 2% of ex parte appeals decisions.</p>	
<p>Performance Requirement 4: 25% Weight</p> <p>Effective Communications: Ensure clear, timely, and accurate communications concerning PTAB matters to PTAB judges and staff, other USPTO business units, and external stakeholders to decrease uncertainty and increase predictability, transparency, and reliability.</p>	<p>Strategic Alignment: FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness, Objective 4 - Enhance Operations of the Patent Trial And Appeal Board</p>
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Results Driven</p>	<p>(b)(6)</p>

Executive Name and ID: Bonilla, Jacqueline

Appraisal Period: 3/13/19 – 9/30/19

Part 6: Summary Rating Narrative (Mandatory)

Part 7: Executive's Accomplishment Narrative (Optional)

Part 8: Agency Use

Deriving the Results Driven Rating Worksheet

Executive Name _____ Rating Period _____

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1				Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2					
Performance Requirement 3					
Performance Requirement 4					
		= 100%			
Performance Requirement Total Score				___ = Level ___	

Example of Results Driven Element Being Rated Level 4

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1	4	x 25	100	Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2	5	x 30	150		
Performance Requirement 3	5	x 15	75		
Performance Requirement 4	3	x 30	90		
		= 100%			
Performance Requirement Total Score			415	415= Level 4	4*

*Results Driven Rating is 4 – to be transferred to Initial Element Score beside Results Driven Critical Element on the bottom of page 1.

NEW
 I/A: _____
MR#: _____
IP#: _____

CLASSIFICATION AND PERFORMANCE MANAGEMENT RECORD

- Performance Plan • Performance Appraisal • Performance Recognition • Progress Review • Position Description

Employee's Name: _____ Social Security No.: _____

Position Title: Administrative Patent Judge

Pay Plan, Series, Grade/Step: AD-1222-00

- Organization:
- | | |
|--|---|
| 1. <u>US Department of Commerce</u> | 4. <u>Patent Trial and Appeal Board</u> |
| 2. <u>US Patent & Trademark Office</u> | 5. _____ |
| 3. <u>Office of the Under Secretary & Director</u> | 6. _____ |

Rating Period: 10/1/2018 - 9/30/2019

Covered By: Senior Executive Service Other AD
 General Workforce

PART A—POSITION DESCRIPTION

POSITION CERTIFICATION—I certify that this is an accurate statement of the major duties and responsibilities of the position and its organization relationships and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds and that false or misleading statements may constitute violation of such statute or their implementing regulations.

SUPERVISOR'S SIGNATURE	DATE	SECOND LEVEL SUPERVISOR	DATE
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CLASSIFICATION CERTIFICATION	OFFICIAL TITLE:				
	PP:	SERIES:	FUNC:	GRADE:	I/A: <input type="checkbox"/> YES <input type="checkbox"/> NO

I certify that this position has been classified as required by Title 5, US Code, in conformance with standards published by the OPM or, if no published standard applies directly, consistently with the most applicable published standards.

NAME AND TITLE OF CLASSIFIER	SIGNATURE	DATE
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PART B—PERFORMANCE PLAN

This plan is an accurate statement of the work that will be the basis of the employee's performance appraisal.

NAME AND TITLE OF FIRST LINE SUPERVISOR/RATING OFFICIAL <u>###</u> Lead Administrative Patent Judge	SIGNATURE	DATE
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APPROVAL—I agree with the certification of the position description and approve the performance plan.

NAME AND TITLE OF APPROVING OFFICIAL OR SES APPOINTING AUTHORITY <u>***</u> Vice Chief Administrative Patent Judge	SIGNATURE	DATE
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EMPLOYEE ACKNOWLEDGEMENT —My signature acknowledges discussion of the position description and receipt of the plan, and does not necessarily signify agreement.	SIGNATURE	DATE
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PRIVACY ACT STATEMENT—Disclosure of your social security number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Quality

Objective: Ensuring quality decision-making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

35

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text limit in field is approximately 1100 characters. If more space is needed use continuation sheet.

Decision Drafting. Decisions, orders, and other documents (collectively “decisions”) in ex parte appeals of patent applications, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business method patent proceedings, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Content of Decisions. Written decisions make the necessary findings, have an adequate evidentiary basis for such findings, examine the relevant evidence, and articulate a satisfactory, logical explanation for the outcome, including a logical and rational connection between the facts found and the choice made. The level of analysis and explanation in a decision is appropriate for, and commensurate with, the record in that case.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text limit in field is approximately 950 characters. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards, which are based on the Administrative Procedure Act and Federal Circuit guidance, apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Written decisions demonstrate clear understanding of the facts of each case, the applicable technology at issue, as well as applicable law including legal statutes, regulations, and case law. Decisions are consistent with binding legal authority and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate. Written decisions are logically presented, soundly reasoned, have accurate analysis, and are concise. Proper judicial tone is maintained throughout written decisions.

Oral Argument Attendance. Oral arguments are attended and conducted skillfully with proper judicial tone toward all participants.

Feedback. Surveys, if assigned, are completed. Feedback, including assigned surveys, is provided to the lead judge assessing the work of other judges or staff, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the elements of the judge performance plan.

Performance Concerns. Senior management is promptly alerted to substantive, process-related, and professional issues of concern.

Item 3. Criteria for Evaluation (continued)

OUTSTANDING performance in this element is the level of high-quality performance that substantially exceeds fully successful standards and rarely leaves room for improvement. Outstanding performance in this element is demonstrated where, in nearly all of the judge's decisions, the thoroughness and accuracy is exceptionally reliable. Outstanding performance in this element also is demonstrated where, in nearly all of the judge's decisions, the decision provides exceptionally clear analysis that is thoroughly and accurately supported by evidence and detailed, rational explanation of why arguments are, or are not, accepted, that is appropriate for, and commensurate with, the record in that case. The judge adapts quickly to new priorities and changes in procedures, without losing sight of the longer-term purposes of the work.

**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

COMMENDABLE performance in this element is the level of unusually good performance. Commendable performance in this element is demonstrated where, in the vast majority of decisions, the decision rarely requires even minor substantive revision. In the vast majority of decisions, the thoroughness and accuracy of the decision is reliable. Commendable performance in this element also is demonstrated where, in the vast majority of decisions, the decision provides clear analysis that is thoroughly and accurately supported by evidence and rational explanation of why arguments are, or are not, accepted. In other words, the vast majority of the judge's decisions provide a level of analysis that is appropriate for, and commensurate with, the record in that case.

FULLY SUCCESSFUL performance in this element is the level of good, sound performance of this element and reflects a fully competent employee. Fully successful performance in this element is demonstrated where, in the majority of the judge's decisions, the decision articulates a sound and rational reason for the decision, including a rational connection between the facts found and the decision made, even if the reasoning is less than perfectly clear. Fully successful performance in this element also is demonstrated where, in the majority of the judge's decisions, some reasonable basis for meaningful review is provided, even if the decision does not provide a great detail of analysis. Fully successful performance in this element also is demonstrated where, in the majority of the decisions, the level of analysis is appropriate for, and commensurate with, the record in that case.

MARGINAL performance in this element is demonstrated where, in the majority of the judge's decisions, the majority of the decision is spent summarizing the parties' arguments and offering only conclusory analysis of its own. Marginal performance in this element also is demonstrated where, in the majority of the judge's decisions, the decision adopts a party's analysis without explaining why it accepts the adopted arguments as its own analysis. In other words, the majority of the judge's decisions do not provide a level of analysis that is appropriate for, and commensurate with, the record in that case. Marginal performance in this element also is demonstrated where, in the majority of the judge's decisions, the decision evinces a lack of proofreading of the decision, for example, by the number and kind of typographical and non-substantive errors.

**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

UNSATISFACTORY performance in this element is demonstrated where nearly all of a judge's decisions merely summarize arguments without explaining why the prevailing argument was accepted. Nearly all of the judge's decisions do not provide a level of analysis that is appropriate for, and commensurate with, the record in that case. Unsatisfactory performance in this element also is demonstrated where, in nearly all of the judge's decisions, the decision evinces a lack of proofreading of the decision, for example, by the number and kind of typographical and non-substantive errors.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Production

Objective: Effective and efficient Decision-Making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

35

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Decisions, orders, and other documents in ex parte appeals, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business method patent proceedings, derivation proceedings, interference proceedings, and other Board proceedings are authored and mailed.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards apply:

OUTSTANDING performance in this element is demonstrated by the judge making significant efforts toward production needs of the Board. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. Exceptionally high volume corresponds to earning no fewer than 100 decisional units annually.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

COMMENDABLE performance in this element is demonstrated by the judge making considerable efforts toward production needs of the Board. Production will be of a very high volume, while producing well above the Board's overall rate of production. Very high volume corresponds to earning no fewer than 92 decisional units annually.

FULLY SUCCESSFUL performance in this element is demonstrated by the judge earning no fewer than 84 decisional units annually. Reasonable efforts are made to manage the Board's production needs.

MARGINAL performance in this element is demonstrated by the judge earning at least 75 decisional units annually (but fewer than 84). Efforts to manage the Board's production needs are minimally acceptable.

UNACCEPTABLE performance in this element is demonstrated by the judge earning fewer than 75 decisional units annually. Efforts to manage the Board's production needs are below what is expected.

NOTES:

Crediting. Judges are awarded decisional unit (DU) credit for mailing ex parte appeal, ex parte reexamination proceeding appeal, inter partes reexamination proceeding appeal, interference, AIA proceeding, and derivation decisions. Please see the PAP Support Document for detailed information on DU crediting.

Probationary Judges. Judges who are in the first year of their probationary period are not subject to the above productivity standards. In the first year of the probationary period, absent justification, judges must demonstrate ramped up productivity overall on a quarterly basis to indicate that they have the potential to achieve and maintain at least fully satisfactory productivity standards. The ramp up for a judge who is new to the Board is described in more detail in the PAP Support Document.

Part-time Judges. Judges who are working a part-time schedule have a production goal that is prorated to correspond to the amount of hours worked relative to that of a judge who is working a full-time schedule.

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Production management tools. In managing their production during the fiscal year, judges may seek (1) additional decisional units (ADUs); (2) a production goal adjustment; or (3) a deferment of production. These production management tools are available in particular circumstances and not likely to be regularly employed to manage production in the ordinary course.

Additional Decisional Units. ADUs are extra credits that may be awarded for the work associated with drafting and mailing a particular decision (i.e., uncredited or under-credited time given the circumstances of the decision). For example, ADUs may be awarded where a decision is drafted but not mailed because, for example, the parties to an inter partes case settle their dispute, or a patent applicant files a Request for Continued Examination. ADUs also may be awarded where the case is extraordinarily complex, causing the judge to spend significantly more time than normally required to draft and mail a routine decision.

Production Goal Adjustment. Production goal adjustments involve a reduction in the total number of DUs required to reach a certain production goal. Production goal adjustments are not made for the extra work associated with a particular decision, but instead are awarded to account for (1) extenuating circumstances (e.g., FMLA leave); or (2) special projects.

Extenuating Circumstances. Production goals may be adjusted for extenuating circumstances including, but not limited to: (1) extended medical leave (sick leave used in excess of the total amount of sick leave that can be earned in a fiscal year); (2) FMLA approved leave (whether annual and/or sick leave is substituted for leave without pay or not); (3) approved leave without pay; (4) military leave; (5) jury duty; and (6) religious compensatory time (where production was counted during the earning of the compensatory hours).

Special Projects. Production goals also may be adjusted for assisting the Board with special projects, such as rulemaking, committee participation, details, and acting in managerial capacity (e.g., as an Acting Lead Judge), that exceed a total of 40 hours (i.e., 40 hour deductible).

Production goal adjustments will be made on an hour-for-hour basis based upon the amount of time expected for each decisional unit as APJ1. For all calculations, decisional units will be rounded up, and production goals will be rounded down, to the nearest whole number. Any adjustments in production goals will be reasonable in view of the circumstances.

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e., Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Deferment. A deferment is a postponement of production for a particular rating period (e.g., a quarter) to account for a judge's atypical usage of annual and/or sick leave during the rating period (i.e., delayed production). The judge must make up the deferred production later in the fiscal year. A deferment is available for atypical usage of annual and/or sick leave and not generally leave that falls under production goal adjustments (e.g., FMLA leave). The judge must make up the deferred production later in the fiscal year.

Examples situations for ADUs, production goal adjustments, and deferments are provided in the PAP Support Document.

Process to Request ADUs, Production Goal Adjustments, and Deferments.

Additional decisional units (ADUs). Judges should timely request ADUs from their Lead Judge, but need not do so in advance. When requesting ADUs, judges should be mindful that requests should be commensurate with the number of DUs normally accorded to work as APJ1. As needed, a Lead Judge may consult with a Vice Chief Judge about an ADU request before making a decision. If a judge disagrees with the Lead Judge's decision on the ADU request, then the judge may seek review by a Vice Chief Judge.

Production goal adjustments. Judges must submit a provisional request in advance (unless not possible given the situation) to their Lead Judge for production goal adjustment. The provisional request should anticipate the amount of time to be used for the triggering activity. The Lead Judge should decide the request based upon the anticipated time. After the judge completes the triggering activity, the judge must submit an official production goal adjustment requests to their Vice Chief Judge (copying their Lead Judge) for approval. If advance consultation with a Lead Judge is not possible given the situation, then the judge should consult with the Lead Judge as soon as practicable. If a judge ultimately requires more time than originally anticipated in the provisional request, the judge may revisit the production goal adjustment with the Lead Judge for possible modification when the judge submits the official request to the Vice Chief Judge.

Deferment. A judge should make the deferment request to their Lead Judge before the end of a rating period. As needed, a Lead Judge may consult with a Vice Chief Judge about a deferment request before making a decision on the deferment request. If a judge disagrees with the Lead Judge's decision on the deferment, then the judge may seek review by a Vice Chief Judge.

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Production Assessments. Production goals may be measured at any time during the appraisal year, including monthly or quarterly, at which point the judge will be expected to have earned that portion of the expected annual decisional units at least equal to the percentage of the rating period that has been completed. Production goal adjustments and deferrals will be taken into account to determine the expected annual decisional units required. The judge must exhibit at least at marginal performance during that time.

A production assessment is not intended to be a wooden review of production without regard to the nuances of how decision drafting and crediting may occur due to the practicalities and nature of PTAB work. If a judge (1) has completed the work to earn decisional units in a particular rating period, (2) has not yet received credit for the decisional units during the rating period, and (3) will receive the decisional unit credit in the following rating period, then the Lead Judge may take this circumstance into consideration in assessing the judge's production for the rating period. That is, a judge may be below the production goal for a rating period because the judge has not yet received decisional unit credit for completed work. The Lead Judge should take the judge's completed, but yet uncredited work, into account in determining whether the judge's performance meets at least the marginal level. This situation may occur, for example, in the context of AIA trials as the end of a rating period approaches where judges diligently may in drafting decisions, but not receive decisional unit credit until several weeks later after the start of a new rating period.

Example production assessments situations are provided in the PAP Support Document.

Production or Crediting Questions. If a judge has questions or concerns regarding production goals or crediting, the judge should contact their Lead Judge, Vice Chief Judge, Deputy Chief Judge, or Chief Judge, as appropriate.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Supporting the Mission of the Board / Leadership

Objective: Assisting in the effective operation of the U.S. Patent and Trademark Office (USPTO) and the Patent Trial and Appeal Board (PTAB) by providing leadership for supporting the missions of the USPTO and PTAB.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

10

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Professionalism. Sets a professional example for others to emulate. Inspires and empowers other internal stakeholders by example and by encouragement to think positively about work related challenges and seek constructive solutions to achieve organizational goals and objectives, and to achieve higher levels of performance. Puts organizational objectives ahead of personal interests.

Demeanor. Calm, dignified, judicial demeanor is demonstrated at all times in all professional settings. Respect and courtesy is shown to everyone, including all participants in any Board proceeding and to all Board personnel.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards apply:

OUTSTANDING. This is a level of significant, high-quality performance in this element. The impact of the judge's leadership/support of the mission of the USPTO and the Board is significant. The judge significantly improves the work processes for which he or she is responsible and/or for the entire Board. Thoughtful adherence to procedures, as well as suggestions for improvement in these areas, increase the judge's usefulness to the objectives of the Board as a whole.

Optional Initial Block

Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Knowledgeable. Accurate and thorough understanding of applicable laws and regulations, including binding legal authority and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate, is demonstrated at all times, in all settings.

Assistance. Assistance is provided to the USPTO and the Board in various aspects other than producing decisions. This assistance may also include participating in and helping the USPTO and the Board to meet goals set throughout the year and address challenges arising during the year.

Leadership. Additional attributes that contribute to Leadership include whether the judge does the following:

Shares efficient processes and methods with other internal stakeholders.

Considers organizational objectives before personal interests.

Inspires and empowers other internal stakeholders by example and by encouragement to think positively about work related challenges and to seek constructive solutions, to achieve organizational goals and objectives, and to achieve higher levels of performance.

Contributes significantly to the design and implementation of organizational methods and strategies that maximize internal stakeholder potential and contribute to organizational objectives.

Where change is required to better meet organizational objectives, adapts well to change (role model) and helps other internal stakeholders adapt and professionally thrive in a new and changing organizational environment.

Item 3. Criteria for Evaluation (continued)

In meeting element objectives, the judge handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with internal and external stakeholders.

The judge seeks additional work or special assignments related to this element or provides assistance to other stakeholders. The quality of such leadership work is high and is done on time without disrupting regular work or unduly burdening others. Appropriate problems are brought to management's attention; most problems are dealt with routinely and with exceptional skill.

Performance Management Record
Continuation Page – Element 3

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

The judge's oral and written expression related to this element are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

COMMENDABLE. This is a level of unusually good performance in this element. The quantity and quality of the judge's leadership/support of the mission of the USPTO and the Board under this element are consistently above average. The knowledge and skill the judge applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The judge follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The judge works effectively on this element when working with all internal and external stakeholders, creating a highly successful cooperative effort. He or she seeks out additional work or special leadership assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work or unduly burdening others. Appropriate problems are brought to management's attention; most problems are dealt with routinely and with above-average skill.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other internal stakeholders of the organization.

FULLY SUCCESSFUL. This is the level of good, sound performance in this element. The quality and quantity of the judge's leadership/ support of the mission of the USPTO and the Board under this element are those of a fully competent employee. Leadership performance represents a level of accomplishment expected of the great majority of judges. Leadership tasks are completed in an accurate, thorough, and timely way. The judge's technical skills and knowledge are applied effectively to specific job tasks. In completing leadership assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

The judge's work planning is realistic and results in completion of work by established deadlines without unduly burdening others. Priorities are duly considered in planning and performing assigned responsibilities.

In accomplishing leadership objectives, the judge's interpersonal behavior toward all internal and external shareholders promotes attainment of work objectives and poses no significant problems.

The judge completes special assignments such that their form and content are acceptable and regular duties are not disrupted. The judge performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

MARGINAL. This level of performance shows notable deficiencies in relation to leadership and support of the mission of the USPTO and the Board. For example, a judge's own work product is such that it negatively impacts the mission and goals of the Board. Leadership performance represents a level of accomplishment below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the judge's leadership/ support of the mission of the USPTO and the Board is less than Fully Successful, often jeopardizing attainment of the element's objective.

In accomplishing leadership objectives, the judge's interpersonal behavior toward all internal and external shareholders detracts from attainment of work objectives and poses problems.

It may be the case that much in the judge's performance is useful. However, performance, including work product, is inconsistent in quality and timeliness. Problems caused by deficiencies counterbalance acceptable work and require significant effort by others to bring the work to an acceptable level. These deficiencies cannot be overlooked because they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned. The experience of the judge, including time as a judge at the Board, will be taken into account when considering these aspects.

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

UNSATISFACTORY. This level of performance shows notable and routine deficiencies in relation to leadership and support of the mission of the USPTO and the Board. For example, a judge's own work product is such that it regularly negatively impacts the mission and goals of the Board. Leadership performance represents a level of accomplishment well below the level expected for the position, and routinely requires corrective action. The quality, quantity, or timeliness of the judge's leadership/ support of the mission of the USPTO and the Board is less than Marginal, regularly jeopardizing attainment of the element's objective.

The judge's behavior obstructs the successful completion of their own work or work of others, including through lack of cooperation with internal or external stakeholders, or by loss of credibility due to irresponsible speech or work activity.

If the judge participates in any special projects, the judge either sacrifices essential regular work or fails to complete projects on time. The judge fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

It is rarely the case that much in the judge's performance is useful. Performance, including work product, is routinely poor in quality and timeliness. Problems caused by deficiencies counterbalance the work and require significant effort by other judges to bring the work to an acceptable level. These deficiencies cannot be overlooked because they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work is often not finished with such quality, quantity and timeliness that other work can proceed as planned.

Name

Element

Sheet

Supporting the Mission of the Board /

No. 1 of _____

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.)

Text field is limited. if more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (Support rating in space below.)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (Required only if approving official/appointing authority changes rating official's element rating in Item 5.)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Internal/External Stakeholder Interactions

Objective: To ensure responsive assistance to internal and external customers, and the public, to the extent permitted by law and regulation.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 20

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)
 Text field is limited. If more space is needed use continuation sheet.

Internal Stakeholder Definition. Appropriate questions, comments, and requests from internal and external stakeholders and the public are addressed courteously, while ensuring, both in appearance and fact, the independence, and the objective and neutral nature, of the Board. Internal stakeholders include Board co-workers (e.g., subordinates, peers, and superiors), other USPTO employees, and USPTO contractors.

Routing of Stakeholder Questions. Where questions from external customers and the public are not appropriately answered by the judge, the questioner is redirected to appropriate Board staff. The judge is expected to recognize the need for confidentiality, discretion, and judgment and apply as appropriate.
 (CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)
 Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards apply:

OUTSTANDING performance in this element includes, as the need arises, rarely without exception, appropriately, promptly, and courteously addressing any questions, comments, or requests from internal and external stakeholders. Outstanding performance may include meeting a frequent need on behalf of the Board in this regard in relation to both internal and external stakeholders.

Optional Initial Block			
Employee	Date	Supervisor	Date

Performance Management Record
Continuation Page – Element 4

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Decorum in Stakeholder Interactions. Inquiries from internal staff are addressed promptly and courteously, providing needed information or assistance where appropriate.

Interactions with all stakeholders, internal or external, are highly professional and appropriate to the nature of the Judge's position, and to preserve the dignity of the Board.

Speaking Requests. Stakeholder interactions may include representing the Board to outside organizations (either visiting the Board or at other locations) or providing presentations to external shareholders generally, for example at public speaking engagements or conferences. Senior management is consulted before communicating outside of the Board. Any requests for public speaking or teaching engagements are cleared through Board management in advance.

Completion of Work. Prompt execution of the Board's duties under Title 35 of the United States Code, and prompt execution of any other required duties, is rendered to the public.

Consistency in Production. Matters are disposed of efficiently, in a timely manner and meeting all deadlines. Older cases are prioritized before newer ones, for all cases that do not have deadlines.

Monthly production generally is consistent throughout the year. Variations in output are minimized to the extent possible. End-loading is avoided, helping ensure regular workloads for peers and the support staff. End-loading (e.g., excessive production at end-of-month, end-of quarter, mid-year, and/or end-of-year to reach the decisional unit goals) may be identified when decisional units earned in a month are at least 2x the median monthly decisional units earned throughout the remainder of the period of review. In relation to ex parte matters, end-loading may also be identified where greater than 75% of monthly decision circulation or mailing routinely occurs during the last week of the month.

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Decision Circulation. Decisions are sent for processing promptly when prepared, routed to panel members promptly when processed, reviewed promptly, and mailed promptly after being approved by the panel, and not withheld unless fully justified. Decisions are not to be held to normalize production between months and/or between fiscal years.

Panel Discussions. Panel discussions are attended as an active participant. The judge promptly provides sound and helpful input to improve decisions where appropriate and bring the deliberations and proceedings forward efficiently.

Panel Feedback on Decisions. Decisions authored by other judges are reviewed and comments are promptly provided as appropriate, offering frank, accurate, and timely feedback on the quality of the decisions. Quality is ensured by avoiding undue delay when performing reviews and providing comments. Decisions in circulation are handled in a prompt and timely manner, and an undue delay in processing may be identified as a failure to provide the required feedback.

Item 3. Criteria for Evaluation (continued)

Outstanding performance also includes completing oldest cases, almost always without exception, before newer cases, and exceptions are completely justified. Decisions are, almost always without exception, placed in circulation well in advance of deadlines. Exceptional circumstances requiring shortened circulation time occur infrequently and are clearly communicated to reviewing judges well in advance of circulating the decision or order. Interlocutory issues are addressed in a timely manner. End-loading is non-existent or fully justified.

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

COMMENDABLE performance in this element includes, as the need arises, almost always without exception, appropriately, promptly, and courteously addressing any questions, comments, or requests from internal and external stakeholders. Commendable performance may include meeting a regular need on behalf of the Board in this regard in relation to both internal and external stakeholders. Commendable performance also includes the judge making considerable efforts toward pendency needs of the Board. The oldest cases, almost without exception, are completed before newer cases. Decisions are, almost without exception, placed in circulation well in advance of deadlines. Circumstances requiring shortened circulation time are reasonably justified and are clearly communicated to reviewing judges well in advance. Interlocutory issues are addressed in a timely manner. End-loading is virtually non-existent or fully justified.

FULLY SUCCESSFUL performance is where a judge makes reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises. In addition, reasonable efforts are made to manage the Board's pendency needs. The docket is effectively managed to ensure older cases are worked generally before newer cases. Reasonable efforts are made to place decisions in circulation well in advance of deadlines. Circumstances requiring shortened circulation time are clearly communicated to reviewing judges prior to circulating the decision or order. Interlocutory issues are addressed in a reasonably timely manner. Reasonable efforts are made to circulate and mail decisions throughout the rating period so that end-loading, including end-of-month, end-of-quarter, mid-year, and end-of-year end-loading, is avoided.

MARGINAL performance is where a judge's efforts to manage the Board's pendency needs are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence may exist that decisions have been delayed at any stage without justification or authorization. Evidence may exist that decisions have been placed in circulation close to statutory deadlines and/or interlocutory issues are not addressed in a reasonably timely manner. Evidence of end-loading may exist. Evidence may exist that the judge does not make reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises.

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

UNACCEPTABLE performance is where a judge's efforts to manage the Board's pendency needs are well below what is expected. Newer cases are frequently worked before older cases. Decisions may be delayed at any stage without authorization. Decisions frequently are placed in circulation close to deadlines and/or interlocutory issues often are not addressed in a reasonably timely manner. End-loading may be obvious and egregious (for example, 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the remainder of the reviewing period). Evidence exists that the judge regularly does not make reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises.

Name

Element
Internal/External Stakeholder

Sheet
No. 1 of

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION II—PERFORMANCE SUMMARY AND RATING

Name _____

ITEM 1. INSTRUCTIONS:

- List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it.
- Assign a rating level for each element: **(5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal/Minimally Satisfactory (SES) (1) Unacceptable/Unsatisfactory (SES)**
- Score each element by multiplying the weight by the rating level.
- After each element has been scored, compute total score by summing all individual scores. Total score can range from 100 to 500.

Performance Element	Critical or Non-critical (C or NC)	Individual Weights (Sum must total 100)	Element Rating (1-5)	Score
Quality	C	35		0
Production	C	35		0
Supporting the Mission of the Board / Leadership	C	10		0
Internal/External Stakeholder Interactions	C	20		0
				0
				0
TOTAL SCORE:				0

For SES turn to reverse side and continue with Item 3.

ITEM 2. PERFORMANCE RATING: *(Based on total score except that if any critical element is less than fully successful the rating can be no higher than the lowest critical element rating.)*

Outstanding (460–500)
 Commendable (380–459)
 Fully Successful (290–379)
 Marginal (200–289)
 Unacceptable (100–199)

Rating Official's Signature	Title Lead Administrative Patent Judge	Date
Approving Official's Signature	Title Vice Chief Administrative Patent Judge	Date
Employee's Signature <i>(Indicates appraisal meeting held)</i>	Employee comments attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	Date

SECTION III—PERFORMANCE RECOGNITION *(General Workforce Only)*

Performance Award \$ _____ (___ %)
 For performance awards: Has employee been promoted during the appraisal cycle?
 YES NO

QSI (Outstanding Rating Required)
 Appropriation No. _____

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Final Approving Authority's Signature		Date
Payment Authorized By Personnel Office		Date

APPENDIX A GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

The generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

When evaluating an element, the rater should:

1. Read carefully each performance standard level beginning with the fully successful one. (It is considered the base level standard.)
2. Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in absolute terms for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
3. Provide in writing, on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating, the rating official need only document in writing that: (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally, when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may have performed at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgement as to the appropriate rating level he/she will assign. The rationale for the decision must be documented on the rating form, citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement the GPS, not supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

OUTSTANDING

SES

This is a level of rare, high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work, often ahead of established schedules and with little supervision.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

GENERAL WORK FORCE

This is a level of rare, high-quality performance. The quality and quantity of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. The impact of the employee's work is of such significance that organizational objectives were accomplished that otherwise would not have been. The accuracy and thoroughness of the employee's work on this element are exceptionally reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and products for which he or she is responsible. Thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, increase the employee's usefulness.

This person plans so that work follows the most logical and practical sequence; inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems and adapts quickly to new priorities and changes in procedures and programs without losing sight of the longer-term purposes of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's planning skills result in cost-savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments related to this element at increasing levels of difficulty. The quality of such work is high and is done on time without disrupting regular work. Appropriate problems are brought to the supervisor's attention; most problems are dealt with routinely and with exceptional skill.

The employee's oral and written expression are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

SUPERVISORY*

The employee is a strong leader who works well with others and handles difficult situations with dignity and effectiveness. The employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to the views of others, the employee promotes cooperation among peers and subordinates, while guiding, motivating, and stimulating positive responses. The employee's work performance demonstrates a strong commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

COMMENDABLE

SES

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and the procedures for meeting them.

The effective planning of the employee has improved the quality of management practices, op-

erating procedures, task assignments, or program activities. The employee has developed or implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

GENERAL WORK FORCE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Thoroughness and accuracy of work are reliable. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she uses contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are considered in the employees' work planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort. He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with; supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well-presented.

SUPERVISORY*

The employee is a good leader, establishes sound working relationships and shows good judgment in dealing with subordinates, considering their views. He/she provides opportunities for staff to have a meaningful role in accomplishing organizational objectives and makes special efforts to improve each subordinate's performance.

FULLY SUCCESSFUL

SES

This is the level of good, sound performance. The employee has contributed positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organization knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee also works well as a team member, supporting the group's efforts and showing an ability to handle a variety of interpersonal situations.

The employee communicates clearly and effectively.

All employees at this level and above have followed a management system by which work is planned, tasks are assigned, and deadlines are met.

GENERAL WORK FORCE

This is the level of good, sound performance. The quality and quantity of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary; most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of costs to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments so their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

SUPERVISORY*

The employee is a capable leader who works successfully with others and listens to suggestions.

The employee rewards good performance and corrects poor performance through sound use of performance appraisal systems, performance-based incentives and, when needed, adverse actions; and selects and assigns employees in ways that use their skills effectively.

The employee's work performance shows a commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

MARGINAL

SES

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective. The employee's work under this element is at a level which may result in removal from the position.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other

personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinders achievement of the purpose of the communications. The listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

GENERAL WORK FORCE

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written communication usually considers the nature and complexity of the subject and the intended audience. It conveys the central points of information important to accomplishing the work. However, too often the communication is not focused, contains too much or too little information, and/or is conveyed in a tone that hinders achievement of the purpose of the communication. In communication to coworkers, the listener must question the employee at times to secure complete information or avoid misunderstandings.

SUPERVISORY*

Inadequacies surface in performing supervisory duties. Deficiencies in areas of supervision over an extended period of time affect adversely employee

productivity or morale, or organizational effectiveness. The marginal employee does not provide strong leadership or take the appropriate initiative to improve organizational effectiveness. For example, he/she too often fails to make decisions or fulfill supervisory responsibilities in a timely manner, to provide sufficient direction to subordinates on how to carry out programs, to give clear assignments and/or performance requirements, and/or to show an understanding of the goals of the organization or subordinates' roles in meeting those goals.

UNSATISFACTORY

SES

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Little or no contribution to organizational goals;
- Failure to meet work objectives;
- Inattention to organizational priorities and administrative requirements;
- Poor work habits resulting in missed deadlines, incomplete work products;
- Strained work relationships;
- Failure to respond to client needs; and/or
- Lack of response to supervisor's corrective efforts.

GENERAL WORK FORCE

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products, or it produces technically inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work; the employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or by loss of credibility due to irresponsible speech or work activity.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete the projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks the necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

SUPERVISORY*

Most of the following deficiencies are typically, but not always, common, characteristics of the employee's work:

- Inadequate guidance to subordinates;
- Inattention to work progress; and
- Failure to stimulate subordinates to meet goals.

* Supervisory standards must be applied to SES and General Work Force supervisors.

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

INSTRUCTIONS: This form must be used to assign final summary ratings when interim ratings must be considered in determining the final rating. The form will serve as the certification of the final rating. It must be signed by the rating and approving officials of record and attached to the original CD-516 forms that were completed by the rating and approving officials of record and those completed by interim rating and approving officials. Forward all original forms to the servicing personnel office. A copy must be given to the employee.

A. In the space provided below, compute the final summary rating using the appropriate formula. Use block (1) when computing one interim rating and block (2) when computing two interim ratings. Round off final summary rating to nearest whole number.

NOTE: If the position of record rating contains a non-critical element(s) please refer to Section 6.03a4 of Appendix A, or Section 6.03a7 of Appendix C of DAO 202-430.

(1)

a. Enter interim rating total score and multiply by 1: _____ × 1= _____

b. Enter position of record rating total score and multiply by 2: _____ × 2= _____

c. Add the results of a and b: TOTAL= _____

d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3= _____

(2)

a. Enter interim rating total score and multiply by 1: _____ × 1= _____

b. Enter interim rating total score and multiply by 1: _____ × 1= _____

c. Enter position of record rating total score and multiply by 2: _____ × 2= _____

d. Add the results of a, b and c: TOTAL= _____

e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4= _____

B. FINAL SUMMARY RATING (Check appropriate rating based on either 1d. or 2e. above)

- Outstanding (460-500) Commendable (380-459) Fully Successful (290-379)
- Marginal/Minimally Satisfactory (SES)—must be assigned if employee is given a marginal rating on one or more critical element(s). (200-289)
- Unacceptable/Unsatisfactory (SES)—must be assigned if employee is given an unsatisfactory rating on one or more critical element(s).

C. SIGNATURES

Rating Official (Immediate Supervisor)

Date

Approving Official

Date

Employee (Signature indicates appraisal meeting held)

Date

EMPLOYEE COMMENTS ATTACHED YES

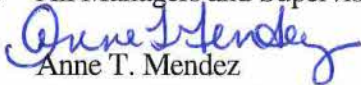
D. GENERAL WORK FORCE EMPLOYEES ONLY:

If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-326, attach a copy of the rating justification and appraisal (CD-516) and forward through the appropriate channels.



United States Patent and Trademark Office

Office of the Chief Administrative Officer

MEMORANDUM TO: All Managers and Supervisors
FROM: 
Anne T. Mendez
Director, Human Capital Management
SUBJECT: FY 2019 Performance Appraisal and End-of-Year Award Information
November 4, 2019 – Submit Ratings and Award Forms to OHR*

The purpose of this memorandum is to provide guidance concerning this year's performance ratings for the general workforce. Annual employee performance ratings are required by law, and the rating period for USPTO employees is October 1, 2018 through September 30, 2019.

The ratings and award process are as follows:

- 1) Supervisor submits rating and award form or QSI to Business Unit ("BU") point of contact ("POC") by date established by BU (refer to POC chart on page 2). Supervisor provides signed and completed copy of FY 2019 performance appraisal plan ("PAP") and rating to employee. Supervisor issues the FY 2020 PAP to employee by **Friday, October 25, 2019**.*
- 2) BU POC enters rating and award information into database and compiles all data for BU.*
- 3) BU POC certifies all ratings and awards and presents all documents to Awards Processing Team. A form is not needed if an employee is not receiving an award or if the award amount is indicated on the PTO-516; the Performance Appraisal Plan (PTO-516) will be sufficient for the BU POC to submit all necessary information.
- 4) BU POC provides data in an electronic file to OHR by **Monday, November 4, 2019**. BU data and documentation must be received in OHR by **November 4th for timely processing**. Incomplete BU data and documentation may cause a delay.

OHR transmits rating and award information to National Finance Center ("NFC").

Questions regarding the award process should be directed to the POCs listed on page 9.

* **EXCEPTION:** The Technology Centers ("TC") and the Patent Training Academy will use the SPE Management Database ("SMD") for the electronic file submission. The TCs will provide their paperwork to the TC POCs listed on page 10. A description of the TC process for submitting awards and performance appraisal plans can be found on page 7 of this memo.

PERFORMANCE RATINGS

Every employee who occupies a covered position on the last day of the appraisal cycle and who has been in a covered position for at least 120 days during the appraisal cycle must receive an annual performance appraisal rating.

If an employee enters on duty with the USPTO during the last 120 days of the appraisal cycle, then a rating must be prepared for the employee within thirty (30) days after completion of the minimum appraisal period (120 days) and submitted to Debbie Ginther, Office of Human Resources – Workforce Relations Division, Elizabeth Townhouse, Room 2A13, for manual entry of the rating information into HR Connect.

APPRAISAL MEETINGS

The rating official initiates the appraisal by providing advance notice to the employee of the date and time for the **formal appraisal meeting**.

The employee may request a **pre-appraisal meeting** with the rating official to:

- Present his or her assessment of results achieved against the Generic Performance Standards, as well as any supplement standards set forth in the performance appraisal plan;
- Inform the rating official of aspects of his or her work of which the rating official may not be aware; and
- Identify objectives he or she would like to include in the performance plan for the next period.

During the pre-appraisal meeting, the rating official may ask questions to clarify his or her understanding of the employee's performance.

Once the advance notice of the formal appraisal meeting has been given, and after any pre-appraisal meeting, the rating official (after conferring with the approving official) prepares and discusses with the employee a written performance appraisal. **This rating must be based on an assessment of the employee's performance against the Generic Performance Standards, as well as any supplemental standards set forth at the beginning of the appraisal period (or as modified and documented during a progress review).**

Supervisors and managers that have employees in the NTEU 243 bargaining unit should review the performance appraisal requirement covered by the NTEU 243 Collective Bargaining Agreement ("CBA") at Article 39 by cutting and pasting the following link into their Internet browser:
http://ptoweb.uspto.gov/ptointranet/ohr/policies_and_procedures/contracts/243Contract.pdf

RATING JUSTIFICATION

In accordance with the Generic Performance Standards, Fully Successful performance is the level of good, sound performance. Fully Successful means the employee has contributed positively to organizational goals and completed all critical element activities. The employee effectively applies

technical skills and organizational knowledge to get the job done. The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

Supervisors and managers must justify ratings that rise above or fall below the Fully Successful level. The following process will be followed for all employees, except as noted:

- Each element must be rated using the five-level scale shown below. Ratings of elements above and below Fully Successful must be supported by a narrative justification. If an element is rated as Fully Successful, the rating official need only document in writing that:
 - 1) The Fully Successful standards were met, and
 - 2) The rating was discussed with the employee, unless the employee requests full written justification of the Fully Successful rating. In such a case, the rating official shall provide written justification of the rating.
- The performance appraisal system allows the use of narrative summary rating justifications instead of individual element rating justifications, except for elements rated below Fully Successful and for any required diversity elements. What this means is that instead of writing single rating justifications, a summary justification can be written if all critical elements are rated Fully Successful and above. However, you must still indicate the rating level achieved for each critical element on the PTO-516 form. Individual justifications must be completed for each element that is rated below Fully Successful.

To obtain the overall summary rating, each element must be rated using the five-level rating scale; partial points, or decimal points (e.g., 3.5) are not permitted:

Outstanding	=	5
Commendable	=	4
Fully Successful	=	3
Marginal*	=	2
Unacceptable*	=	1

Then each individual element rating will be multiplied by the weight assigned to that element (e.g., critical element #1 is weighted at 30% and the employee receives a rating of Commendable or 4; $30\% \times 4 = 120$ points). The points assigned the individual elements are then totaled to determine an overall summary rating based on the following scale:

Outstanding	460 – 500
Commendable	380 – 459
Fully Successful	290 – 379
Marginal*	200 – 289
Unacceptable*	100 – 199

***If an employee receives a Marginal or Unacceptable critical element rating, then the employee's overall performance rating can be no higher than the lowest critical element rating.**

IMPORTANT REQUIREMENT: The rating official MUST confer with the approving official and gain approval of the recommended rating, including his or her signature BEFORE discussing the rating with the employee.

The employee must sign the rating to indicate it has been discussed. If the employee refuses to sign the rating, the rating official should note the employee's refusal in the signature block. A copy of the performance rating must be given to the employee **no later than October 25, 2019.**

INTERIM RATINGS

If an employee holds another covered position or detail for 120 days or more during the appraisal period, a rating is required for that position held and must be submitted with the position of record's end-of-year rating as a combined rating. The combined rating becomes the rating of record.

Use Form PTO-516C to calculate the combined rating. Form PTO-516C (last page of the PAP) can be found by cutting and pasting the following link into your Internet browser:

<http://ptoweb.uspto.gov/ptointranet/ohr/forms/pto516.pdf>

An example of a combined rating is below.

- The Interim rating is the score of the other position/close out PAP or detail held for 120 days or more. In this case, the score is 360 times 1.
- The Current rating official's score is the position of record score. In this case, the score is 480 times 2.
- The two scores are added for a total of 1,320 which is divided by the number of positions occupied for 120 days or more plus 1 to get the rating score. This becomes the rating of record.

Interim rating score:	$360 \times 1 = 360$
Current rating official's score:	$480 \times 2 = 960$
	$1,320 \div 3 = 440$
Employee's overall rating	440 = Commendable

In computing a final performance rating using this formula, the rating assigned by the current supervisor (the one that is to be doubled) must be checked carefully to make sure that a non-critical element is not given more weight (because of the doubling) than any critical element in the interim rating. (OPM regulations prohibit giving more weight to non-critical elements than to critical elements in deriving final ratings.) If there is a non-critical element score that exceeds any of the critical element scores due to doubling, the total score for that rating must be reduced to what the original total of that element was prior to doubling.

If the employee *has not been* in any position for 120 days or more during the appraisal period, no rating will be given.

If the employee *has not been* in the position of record for 120 days, but has received an interim rating, the appraisal period is not extended. Instead, the interim rating that was given becomes the rating of

record for the appraisal period. The remaining period of time is added to the FY 2020 performance appraisal period. This means the appraisal period for FY 2020 will encompass more than 12 months.

Promotions based on accretion of duties, career ladder promotions, and reclassification actions due to changes in the classification standard or its application, do not usually require an interim rating and new performance plan.

PERFORMANCE RATING EVALUATION DISAGREEMENT

Employees should deal directly with their supervisors/approving officials to settle any performance rating evaluation disagreements. If the employee disagrees with the rating, he or she may comment in writing to the approving official within five (5) workdays of receipt of the appraisal and rating. The approving official must respond in writing to the employee within ten (10) working days. If the approving official changes a rating to a higher score, he or she must change the justification on the PTO-516 to support the new higher rating. If such steps do not result in mutual agreement, employees may then utilize their grievance rights, without restraint, interference, coercion, discrimination or reprisal. Employees covered by a bargaining unit may skip this process and file a union grievance.

UNACCEPTABLE PERFORMANCE RATINGS

Unacceptable performance in one or more critical elements requires that an overall Unacceptable rating be given to the employee. The rating official should be alert to Unacceptable performance so that the problem can be pinpointed and discussed with the employee at an early date and corrective measures taken.

Prior written notice of an Unacceptable rating is not required. Therefore, an employee may be given an Unacceptable rating without a prior written warning. Proposals to remove or demote are not based on the rating itself, but are based on the underlying performance. Before an action based on Unacceptable performance can be taken, an employee must receive a specific warning of Unacceptable performance to give the employee a reasonable time to improve. If you plan to give an employee a warning of Unacceptable performance, you must first consult a specialist of the Workforce Relations Division. When an employee has started and not yet completed a performance improvement period on the last day of the appraisal cycle, the rating is delayed until the completion of the opportunity period. **Upon completion of the performance improvement period, the delayed rating must be submitted to OHR.**

*For NTEU 243 bargaining unit employees, any documentation (e.g., supervisory records, notes and diaries, and errors) used by the Office concerning an employee's performance appraisal, which could have an adverse effect on the employee's performance appraisal or other employment considerations, **must** be provided to the employee during the appraisal meeting.*

PERFORMANCE AWARDS

When determining performance award amounts, management officials must consider the value of any awards granted during the appraisal period that are related to the employee's job responsibilities. The total monetary recognition given must be proportionate to the employee's contributions. There is no

restriction against mentioning in the performance appraisal write-up (even if the rating is not based on it) an act or exceptional performance that was recognized with a special act award. Supervisors can state the employee accomplishment and even note that the employee received an award for that accomplishment. The employee should not be given additional award money for the same accomplishment.

BARGAINING UNIT EMPLOYEES

Performance based awards for **POPA employees** are described in the "Agreement on Awards" dated June 7, 1983, and in the "Agreement on Trial Gainsharing Program" dated October 6, 1988.

Performance awards for **NTEU Chapter 245 employees** are described in Article 31 of the basic agreement dated December 22, 2000.

For **NTEU Chapter 243 employees**, the following rules apply for cash awards as described in Article 42 of the basic agreement dated November 9, 2017. Criteria for eligibility is as follows:

- The employee must have occupied the same grade and type of position for at least six (6) months in the appraisal year. If the employee did not spend, at any time of the year, at least 6 months in the same grade and type of position, then no award can be granted;
- The employee must have a Fully Successful rating with a summary score of at least **350** points;
- The employee must be employed by the Office on the last day of the performance appraisal cycle (September 30);
- The employee must have worked in his/her job functions for a minimum of 1,250 hours to be eligible for a full performance award. If the employee has worked less than 1,250 hours in his or her job functions, then the award must be prorated. If the employee has worked less than 600 hours, then no award can be granted. Remember, time in a non-pay status (e.g. LWOP and AWOL), as well as "other" time, must be subtracted from the number of hours worked to determine award eligibility. The 600 hour minimum will not apply to Union stewards.
- Awards for part-time employees must be reduced in proportion to the employees' scheduled bi-weekly workweek compared to 80 hours;
- Adverse actions (e.g. suspensions of more than 14 days, downgrades, or removals) initiated may serve to disqualify an employee for the appraisal period in which the offense occurred.

NON-BARGAINING UNIT EMPLOYEES

- An employee must hold a position covered by the Employee Performance Appraisal System on September 30;
- The employee must have a Fully Successful rating with a summary score of at least **350** points;

- If an employee changed positions in the last 120 days of the appraisal cycle, the employee may receive an award based on his or her rating of record for the position held immediately before the change in positions;

OPM has rescinded prior awards restrictions for Category 3 employees. Category 3 Gatekeeper forms will no longer be submitted. Business units must manage their award allocations within their budgets and award regulations.

- A cash award may not be more than 10 percent of the employee's annual rate of basic pay without the agency head's authorization. In no case may an award exceed 20 percent of an employee's annual rate of basic pay. (5 U.S.C. 4505a);
- No single award may exceed \$10,000 without OPM approval (5 C.F.R. 451.106);
- If a performance award is based on a period of less than a full appraisal cycle, then the award amount must be reduced in proportion to the length of the appraisal period;
- For part-time employees, award amounts must be reduced in proportion to the number of hours actually worked during the period covered by the award, compared to a full-time work schedule.

PATENTS (TECHNOLOGY CENTERS/PATENT TRAINING ACADEMY)

Supervisors must complete and issue FY 2019 performance appraisal ratings, FY 2019 Awards, and a FY 2020 Performance Appraisal Plan (PAP) by **Friday, October 25, 2019**.

Separate award forms are not necessary, unless award amount is not indicated on the PTO-516. All documentation must be submitted to your Technology Center Awards POCs (see list of Award POCs on page 2). The TC Awards POCs will validate that all PAPs have been submitted, and that they include accurate award information when appropriate.

The Award POCs will have until Monday, November 4, 2019 to verify PAPs/Awards are properly completed, have the Patent's POC certify all awards, and deliver the documentation to the Office of Human Resources ("OHR"). Also on this date, the SPE Management Database (examiners) and the TC NERDS (non-examiners) will generate and transmit an electronic file/database which will be used by OHR to transmit rating and award information to the NFC. **If this information is not submitted to OHR by Monday, November 4, 2019, it will delay the payment of awards.** If Performance appraisals and award forms are not complete, there may be a delay in processing by Human Resources.

Specific instructions for processing examiner awards and PAPs

All examiner PAPs (except PAPs for hybrid examiners) and awards will be completed and submitted for Director's electronic approval using the SPE Management Database. SPEs may begin writing PAPs immediately following the end of the fiscal year. However, managers should keep in mind that since the award information is now incorporated into the Section III of the PAP, the completed PAPs may not be submitted for electronic verification until the latest salary tables have been uploaded.

To expedite processing for most employees, the salary table upload will be handled in two phases depending on the date of the employee's last promotion or WGI:

- **Promotion or WGI received prior to September 14, 2019** – Awards and PAPs may be submitted to the Director for approval any time after Tuesday, October 8, 2019.
- **Promotion or WGI received between September 15 and October 12, 2019** - Awards and PAPs may be submitted to the Director for approval any time after Friday, October 25, 2019.

The Director will approve the PAP and Award together as a single document. Once the PAP/Award is approved by the Director, the SPE will print the PAP/Award document and conduct the performance review meeting with the examiner. After the performance review meeting, the SPE will forward the signed PAP/Award to the Awards POC. Managers should note that both Sections II and III of the PAP must be signed.

If an examiner should receive an award, but does not meet the business rules set forth in the SPE Management Database, the SPE must complete a paper award form and discuss with the Director to obtain approval. Once the Director's signature is obtained, the paper award form must be given to the Award POC for manual entry into the SPE Management Database. If the corresponding PAP has not been submitted to the Director, the award amount will then be incorporated into the rating summary of the PAP, such that the PAP and award will be in a single document. If the corresponding PAP had been previously approved and the performance review meeting held, then the paper award form will be separately attached to the PAP.

Specific instructions for processing non-examiner awards and PAPs

All non-examiner PAPs will be completed using the steps above, except non-examiner PAP and award information will be entered into a TC database for non-examiners (versus the SPE Management Database). The Award POC will batch print the documents and will obtain necessary signatures.

QUALITY STEP INCREASE

A Quality Step Increase (QSI) is an increase in an employee's rate of basic pay from one step of his or her position to the next higher step of the grade. An employee must have an outstanding rating with at least 475 points to be eligible for a QSI and must have held the same grade and position for at least six months before the end of the appraisal cycle. The QSI is in lieu of any other end-of-year performance award. If an employee received a QSI in the previous rating year, the employee must demonstrate current performance that is at a significantly higher level to warrant another QSI and the rating must be approved by the business unit head. **You must submit a FY 2019 Performance Rating and Award Nomination Form requesting the QSI to your BU POC by Friday, October 25, 2019, along with the rating. QSIs cannot be processed via the electronic file/database.**

Normally a QSI does not affect the timing of an employee's next regular Within Grade Increase (WGI) unless the QSI places the employee in step 4 or step 7 of his or her grade. In these cases, the employee becomes subject to the full waiting period for the new step -- i.e., 104 weeks or 156 weeks, respectively.

An employee may not receive both a QSI and a performance award, both of which recognize the same performance during an appraisal period.

For **POPA bargaining unit employees**, the eligibility requirements for QSIs can be found in the "Agreement on Awards" dated June 7, 1983.

For **NTEU 245 bargaining unit employees**, the eligibility requirements for QSIs can be found in Article 31, Performance Based Awards, of the CBA dated December 22, 2000.

For **NTEU 243 bargaining unit employees**, the eligibility requirements for QSIs can be found in Article 42, Award, of the CBA dated November 9, 2017.

AWARD FORMS

Attached are the FY19 award forms. Please note some PPA coding has changed. It is important that the proper codes are used for rating based awards vs. non rating based awards (incentives). If the proper code is not used, the award payment may be delayed due to proper coding and resigning of award documents.

The BU POCs are listed as follows:

Under Secretary's Office	Lisa Houston
PTAB	Holly Watson
TTAB	Mickey Grammatica-Fletcher Karen Young (TTAB)
Patents	Janell Hospital Kelly Boudreau
Trademarks	Melissa McGrath
CAO	Chris Gambill
CFO	Jackie Davis-Maxfield
CIO	Isaac Peterson Cheryl Greene Yelirmma Elliott
OCCO	Paul Rosenthal
OEEOD	Clint Janes
OGC	Paulo Mendes
OPIA	Katherine Phillips Sharon Kaps
OPQA	Kathleen Bragdon

The Technology Center POCs are listed as follows:

TC	TC Award POC	SMD POC
1600	Karlheinz Skowronek	Jeffrey Stucker Karlheinz Skowronek
1700	Mark Huff Keith Hendricks Luan Van	Mark Huff Keith Hendricks Luan Van
2100	James Trujillo Naveen Abel-Jalil Michael Thier	James Trujillo Naveen Abel-Jalil Michael Thier
2400	Sathyanarayanan Perungavoor Oscar Louie Kristine Kincaid	Sathyanarayanan Perungavoor Oscar Louie Kristine Kincaid
2600	Matthew Bella	Matthew Bella Mark Zimmerman
2800	Jonathan Moffat Richard Elms Matthew Smith	Jonathan Moffat Richard Elms Elvin Enad
2900	Aarti Berdichevsky Ian Simmons	Aarti Berdichevsky Ian Simmons
3600	David Dunn	David Dunn Tien Dinh
3700	Christopher Koharski Bhisma Mehta Nathan Newhouse	Christopher Koharski Bhisma Mehta Nathan Newhouse
4100	Gary Welch Lesley Morris	Gary Welch Lesley Morris
OPIM	Susan Artero	Andrew Wang Sherief Badawi
CRU	Eileen Lillis Alex Kosowski	Eileen Lillis Alex Kosowski
TSS/OPESS	Kimberly Williams Robert Childs Jr.	Kimberly Williams Robert Childs Jr.
OIPC	Jessica Patterson	Jessica Patterson

Attachments

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Quality

Objective: Ensuring quality decision-making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text limit in field is approximately 1100 characters. If more space is needed use continuation sheet.

Decision Drafting. Decisions, orders, and other documents (collectively “decisions”) in ex parte appeals of patent applications, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business method patent proceedings, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Content of Decisions. Written decisions make the necessary findings, have an adequate evidentiary basis for such findings, examine the relevant evidence, and articulate a satisfactory, logical explanation for the outcome, including a logical and rational connection between the facts found and the choice made. The level of analysis and explanation in a decision is appropriate for, and commensurate with, the record in that case.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text limit in field is approximately 950 characters. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards, which are based on the Administrative Procedure Act and Federal Circuit guidance, apply.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Written decisions demonstrate clear understanding of the facts of each case, the applicable technology at issue, as well as applicable law including legal statutes, regulations, and case law. Decisions are consistent with binding legal authority and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate. Written decisions are logically presented, soundly reasoned, have accurate analysis, and are concise. Proper judicial tone is maintained throughout written decisions.

Oral Argument Attendance. Oral arguments are attended and conducted skillfully with proper judicial tone toward all participants.

Feedback. Surveys, if assigned, are completed. Feedback, including assigned surveys, is provided to the Vice Chief Judge assessing the work of Lead Judges, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the elements of the Lead Judge performance plan.

Performance Concerns. Senior management is promptly alerted to substantive, process-related, and professional issues of concern.

Item 3. Criteria for Evaluation (continued)

OUTSTANDING performance in this element is the level of high-quality performance that substantially exceeds fully successful standards and rarely leaves room for improvement. Outstanding performance in this element is demonstrated where, in nearly all of the Lead Judge's decisions, the thoroughness and accuracy is exceptionally reliable. Outstanding performance in this element also is demonstrated where, in nearly all of the Lead Judge's decisions, the decision provides exceptionally clear analysis that is thoroughly and accurately supported by evidence and detailed, rational explanation of why arguments are, or are not, accepted, that is appropriate for, and commensurate with, the record in that case. The Lead Judge adapts quickly to new priorities and changes in procedures, without losing sight of the longer-term purposes of the work.

**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

COMMENDABLE performance in this element is the level of unusually good performance. Commendable performance in this element is demonstrated where, in the vast majority of decisions, the decision rarely requires even minor substantive revision. In the vast majority of decisions, the thoroughness and accuracy of the decision is reliable. Commendable performance in this element also is demonstrated where, in the vast majority of decisions, the decision provides clear analysis that is thoroughly and accurately supported by evidence and rational explanation of why arguments are, or are not, accepted. In other words, the vast majority of the Lead Judge's decisions provide a level of analysis that is appropriate for, and commensurate with, the record in that case.

FULLY SUCCESSFUL performance in this element is the level of good, sound performance of this element and reflects a fully competent employee. Fully successful performance in this element is demonstrated where, in the majority of the Lead Judge's decisions, the decision articulates a sound and rational reason for the decision, including a rational connection between the facts found and the decision made, even if the reasoning is less than perfectly clear. Fully successful performance in this element also is demonstrated where, in the majority of the Lead Judge's decisions, some reasonable basis for meaningful review is provided, even if the decision does not provide a great detail of analysis. Fully successful performance in this element also is demonstrated where, in the majority of the decisions, the level of analysis is appropriate for, and commensurate with, the record in that case.

MARGINAL performance in this element is demonstrated where, in the majority of the Lead Judge's decisions, the majority of the decision is spent summarizing the parties' arguments and offering only conclusory analysis of its own. Marginal performance in this element also is demonstrated where, in the majority of the Lead Judge's decisions, the decision adopts a party's analysis without explaining why it accepts the adopted arguments as its own analysis. In other words, the majority of the Lead Judge's decisions do not provide a level of analysis that is appropriate for, and commensurate with, the record in that case. Marginal performance in this element also is demonstrated where, in the majority of the Lead Judge's decisions, the decision evinces a lack of proofreading of the decision, for example, by the number and kind of typographical and non-substantive errors.

**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

UNSATISFACTORY performance in this element is demonstrated where nearly all of a Lead Judge's decisions merely summarize arguments without explaining why the prevailing argument was accepted. Nearly all of the Lead Judge's decisions do not provide a level of analysis that is appropriate for, and commensurate with, the record in that case. Unsatisfactory performance in this element also is demonstrated where, in nearly all of the Lead Judge's decisions, the decision evinces a lack of proofreading of the decision, for example, by the number and kind of typographical and non-substantive errors.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Production

Objective: Effective and efficient Decision-Making by the Patent Trial and Appeal Board

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

20

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Decisions, orders, and other documents in ex parte appeals, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business method patent proceedings, derivation proceedings, interference proceedings, and other Board proceedings are authored and mailed.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards apply:

OUTSTANDING performance in this element is demonstrated by the Lead Judge making significant efforts toward production needs of the Board. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. Exceptionally high volume corresponds to earning no fewer than 50 decisional units annually.

Optional Initial Block

Employee	Date	Supervisor	Date
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**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

COMMENDABLE performance in this element is demonstrated by the Lead Judge making considerable efforts toward production needs of the Board. Production will be of a very high volume, while producing well above the Board's overall rate of production. Very high volume corresponds to earning no fewer than 46 decisional units annually.

FULLY SUCCESSFUL performance in this element is demonstrated by the Lead Judge earning no fewer than 42 decisional units annually. Reasonable efforts are made to manage the Board's production needs.

MARGINAL performance in this element is demonstrated by the Lead Judge earning at least 37 decisional units annually (but fewer than 42). Efforts to manage the Board's production needs are minimally acceptable.

UNACCEPTABLE performance in this element is demonstrated by the Lead Judge earning fewer than 37 decisional units annually. Efforts to manage the Board's production needs are below what is expected.

NOTES:

Crediting. Lead Judges are awarded decisional unit (DU) credit for mailing ex parte appeal, ex parte reexamination proceeding appeal, inter partes reexamination proceeding appeal, interference, AIA proceeding, and derivation decisions. Please see the PAP Support Document for detailed information on DU crediting.

Part-time Lead Judges. Lead Judges who are working a part-time schedule have a production goal that is prorated to correspond to the amount of hours worked relative to that of a Lead Judge who is working a full time schedule.

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Production management tools. In managing their production during the fiscal year, Lead Judges may seek (1) additional decisional units (ADUs); (2) a production goal adjustment; or (3) a deferment of production. These production management tools are available in particular circumstances and not likely to be regularly employed to manage production in the ordinary course.

Additional Decisional Units. ADUs are extra credits that may be awarded for the work associated with drafting and mailing a particular decision (i.e., uncredited or under-credited time given the circumstances of the decision). For example, ADUs may be awarded where a decision is drafted but not mailed because, for example, the parties to an inter partes case settle their dispute, or a patent applicant files a Request for Continued Examination. ADUs also may be awarded where the case is extraordinarily complex, causing the Lead Judge to spend significantly more time than normally required to draft and mail a routine decision.

Production Goal Adjustment. Production goal adjustments involve a reduction in the total number of DUs required to reach a certain production goal. Production goal adjustments are not made for the extra work associated with a particular decision, but instead are awarded to account for (1) extenuating circumstances (e.g., FMLA leave); or (2) special projects.

Extenuating Circumstances. Production goals may be adjusted for extenuating circumstances including, but not limited to: (1) extended medical leave (sick leave used in excess of the total amount of sick leave that can be earned in a fiscal year); (2) FMLA approved leave (whether annual and/or sick leave is substituted for leave without pay or not); (3) approved leave without pay; (4) military leave; (5) jury duty; and (6) religious compensatory time (where production was counted during the earning of the compensatory hours).

Special Projects. Production goals also may be adjusted for assisting the Board with special projects, such as rulemaking, committee participation, details, and acting in managerial capacity (e.g., as an Acting Vice Chief Judge). Lead Judges should discuss when a production goal adjustment is appropriate for special projects.

Production goal adjustments will be made on an hour-for-hour basis based upon the amount of time expected for each decisional unit as APJ1. For all calculations, decisional units will be rounded up, and production goals will be rounded down, to the nearest whole number. Any adjustments in production goals will be reasonable in view of the circumstances.

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e. Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Deferment. A deferment is a postponement of production for a particular rating period (e.g., a quarter) to account for a Lead Judge's atypical usage of annual and/or sick leave during the rating period (i.e., delayed production). The Lead Judge must make up the deferred production later in the fiscal year. A deferment is available for atypical usage of annual and/or sick leave and not generally leave that falls under production goal adjustments (e.g., FMLA leave).

Examples situations for ADUs, production goal adjustments, and deferments are provided in the PAP Support Document.

Process to Request ADUs, Production Goal Adjustments, and Deferments.

Additional decisional units (ADUs). Lead Judges should timely request ADUs from their Vice Chief Judge, but need not do so in advance. When requesting ADUs, Lead Judges should be mindful that requests should be commensurate with the number of DUs normally accorded to work as APJ1. If a Lead Judge disagrees with the Vice Chief Judge's decision on the ADU request, then the Lead Judge may seek review by a Deputy Chief Judge.

Production goal adjustments. Lead Judges must submit a provisional request in advance (unless not possible given the situation) to their Vice Chief Judge for a production goal adjustment. The provisional request should anticipate the amount of time to be used for the triggering activity. The Vice Chief Judge should decide the request based upon the anticipated time. After the Lead Judge completes the triggering activity, the Lead Judge must submit an official production goal adjustment requests to the Deputy Chief Judge (copying their Vice Chief Judge) for approval. If advance consultation with a Vice Chief Judge is not possible given the situation, then the Lead Judge should consult with the Vice Chief Judge as soon as practicable. If a Lead Judge ultimately requires more time than originally anticipated in the provisional request, the Lead Judge may revisit the production goal adjustment with the Vice Chief Judge for possible modification when the Lead Judge submits the official request to the Deputy Chief Judge.

Deferment. A Lead Judge should make the deferment request to their Vice Chief Judge before the end of a rating period. If a Lead Judge disagrees with the Vice Chief Judge's decision on the deferment, then the Lead Judge may seek review by a Deputy Chief Judge.

**Performance Management Record
Continuation Page – Element 2**

Employee Name:

Performance Element: Production

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Production Assessments. Production goals may be measured at any time during the appraisal year, including monthly or quarterly, at which point the Lead Judge will be expected to have earned that portion of the expected annual decisional units at least equal to the percentage of the rating period that has been completed. Production goal adjustments and deferrals will be taken into account to determine the expected annual decisional units required. The Lead Judge must exhibit at least at marginal performance during that time.

A production assessment is not intended to be a wooden review of production without regard to the nuances of how decision drafting and crediting may occur due to the practicalities and nature of PTAB work. If a Lead Judge (1) has completed the work to earn decisional units in a particular rating period, (2) has not yet received credit for the decisional units during the rating period, and (3) will receive the decisional unit credit in the following rating period, then the Vice Chief Judge may take this circumstance into consideration in assessing the Lead Judge's production for the rating period. That is, a Lead Judge may be below the production goal for a rating period because the Lead Judge has not yet received decisional unit credit for completed work. The Vice Chief Judge should take the Lead Judge's completed, but yet uncredited work, into account in determining whether the Lead Judge's performance meets at least the marginal level. This situation may occur, for example, in the context of AIA trials as the end of a rating period approaches where a Lead Judge diligently may be drafting decisions, but not receive decisional unit credit until several weeks later after the start of a new rating period.

Example production assessments situations are provided in the PAP Support Document.

Production or Crediting Questions. If a Lead Judge has questions or concerns regarding production goals or crediting, the Lead Judge should contact their Vice Chief Judge, Deputy Chief Judge, or Chief Judge, as appropriate.

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
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Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Supporting the Mission of the Board / Leadership

Objective: Assisting in the effective operation of the U.S. Patent and Trademark Office (USPTO) and the Patent Trial and Appeal Board (PTAB) by providing leadership for supporting the missions of the USPTO and PTAB.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*)

30

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)

Text field is limited. If more space is needed use continuation sheet.

Professionalism. Sets a professional example for others to emulate. Inspires and empowers other internal stakeholders by example and by encouragement to think positively about work related challenges and seek constructive solutions to achieve organizational goals and objectives, and to achieve higher levels of performance. Puts organizational objectives ahead of personal interests.

Demeanor. Calm, dignified, judicial demeanor is demonstrated at all times in all professional settings. Respect and courtesy is shown to everyone, including all participants in any Board proceeding and to all Board personnel.

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)

Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards apply:

OUTSTANDING. This is a level of significant, high-quality performance in this element. The impact of the Lead Judge's leadership/support of the mission of the USPTO and the Board is significant. The Lead Judge significantly improves the work processes for which he or she is responsible and/or for the entire Board. Thoughtful adherence to procedures, as well as suggestions for improvement in these areas, increase the Lead Judge's usefulness to the objectives of the Board as a whole.

Optional Initial Block

Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Knowledgeable. Accurate and thorough understanding of applicable laws and regulations, including binding legal authority and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate, is demonstrated at all times, in all settings.

Assistance. Assistance is provided to the USPTO and the Board in various aspects other than producing decisions. This assistance may also include participating in and helping the USPTO and the Board to meet goals set throughout the year and address challenges arising during the year.

Leadership. Additional attributes that contribute to Leadership include whether the Lead Judge does the following:

Shares efficient processes and methods with other internal stakeholders.

Considers organizational objectives before personal interests.

Inspires and empowers other internal stakeholders by example and by encouragement to think positively about work related challenges and to seek constructive solutions, to achieve organizational goals and objectives, and to achieve higher levels of performance.

Contributes significantly to the design and implementation of organizational methods and strategies that maximize internal stakeholder potential and contribute to organizational objectives.

Where change is required to better meet organizational objectives, adapts well to change (role model) and helps other internal stakeholders adapt and professionally thrive in a new and changing organizational environment.

Co-paneled with Judges Under Supervision. Participates as APJ2 and APJ3 on a sufficient number of panels with the judges supervised by the Lead Judge in order to obtain an adequate basis to evaluate those judges' quality according to the criteria set forth in the quality element of the judge performance plan. Reviews a sufficient number of pre-circulation draft opinions of the judges supervised by the Lead Judge in order to obtain an adequate basis to evaluate those judges' quality according to the criteria set forth in the quality element of the judge performance plan. Requests input from other Lead Judges, mentoring judges, senior judges, and other judges serving on panels with the judge being evaluated by the Lead Judge.

Performance Management Record
Continuation Page – Element 3

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Other Managerial Responsibilities. Resources are managed to accomplish the USPTO's Strategic Goals and PTAB objectives. PTAB priorities are communicated to judges, staff, administrators, and others as needed.

Cooperation, teamwork, and flexibility are emphasized to employees to improve staff efficiencies, ability to react to changing requirements, and overall quality of PTAB deliverables.

Employees are coached to realize their potential, using individual development plans or training programs to increase staff productivity and to produce high quality products and materials.

Employee performance is managed through continuous feedback on performance, performance appraisals, and resolution of performance deficiencies. Recognition programs (i.e., monetary (if available), non-monetary or honor awards) are utilized to acknowledge employee performance.

Employment actions such as selections and promotions are managed, and are consistent with Merit Systems Principals, equal opportunity and diversity principles, and do not violate Prohibited Personnel Practices. Employee grievances and allegations of discrimination receive a prompt response with the goal of resolution at the lowest organizational level.

Office complies with legal and reporting obligations, the Privacy Act, and other applicable statutes, including the requirement of governmental and suppliers of data to the Board to ensure the confidentiality of Personally Identifiable Information (PII).

Staff and resources are used effectively to complete assignments and meet the responsibilities of the Office.

Office performance is consistent with Board standards and performance plans/evaluations.

Performance management system benchmarks are complied with (i.e., Performance plans are in place by October 31 for the new Fiscal Year (FY); mid-year progress reviews are conducted by April 30; and performance appraisal ratings are completed by October 31 for the previous FY) for current employees. New performance plans are in place within 30 days of starting (for new employees) or changing positions (for current employees).

Lead Judges will provide real time feedback (positive and negative) to judges they supervise, as well as a midyear update on progress and end of year performance review consistent with the major activities of each element of the judge PAP. Lead judges will identify trends for training opportunities.

Whistleblower Protection. Promotes the protection of whistleblowers by: responding constructively when an employee makes disclosures described in subparagraph (A) or (B) of 5 USC 2302(b)(8); taking responsible actions to resolve disclosures; and fostering an environment in which employees of the agency feel comfortable making disclosures to supervisory employees or other appropriate authorities.

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

Item 3. Criteria for Evaluation (continued)

In meeting element objectives, the Lead Judge handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with internal and external stakeholders.

The Lead Judge seeks additional work or special assignments related to this element or provides assistance to other stakeholders. The quality of such leadership work is high and is done on time without disrupting regular work or unduly burdening others. Appropriate problems are brought to management's attention; most problems are dealt with routinely and with exceptional skill.

The Lead Judge's oral and written expression related to this element are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

COMMENDABLE. This is a level of unusually good performance in this element. The quantity and quality of the Lead Judge's leadership/support of the mission of the USPTO and the Board under this element are consistently above average. The knowledge and skill the Lead Judge applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The Lead Judge follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The Lead Judge works effectively on this element when working with all internal and external stakeholders, creating a highly successful cooperative effort. He or she seeks out additional work or special leadership assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work or unduly burdening others. Appropriate problems are brought to management's attention; most problems are dealt with routinely and with above-average skill.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other internal stakeholders of the organization.

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

FULLY SUCCESSFUL. This is the level of good, sound performance in this element. The quality and quantity of the Lead Judge's leadership/ support of the mission of the USPTO and the Board under this element are those of a fully competent employee. Leadership performance represents a level of accomplishment expected of the great majority of judges. Leadership tasks are completed in an accurate, thorough, and timely way. The Lead Judge's technical skills and knowledge are applied effectively to specific job tasks. In completing leadership assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The Lead Judge's work planning is realistic and results in completion of work by established deadlines without unduly burdening others. Priorities are duly considered in planning and performing assigned responsibilities.

In accomplishing leadership objectives, the Lead Judge's interpersonal behavior toward all internal and external shareholders promotes attainment of work objectives and poses no significant problems.

The Lead Judge completes special assignments such that their form and content are acceptable and regular duties are not disrupted. The Lead Judge performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

MARGINAL. This level of performance shows notable deficiencies in relation to leadership and support of the mission of the USPTO and the Board. For example, a Lead Judge's own work product is such that it negatively impacts the mission and goals of the Board. Leadership performance represents a level of accomplishment below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the Lead Judge's leadership/ support of the mission of the USPTO and the Board is less than Fully Successful, often jeopardizing attainment of the element's objective.

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

In accomplishing leadership objectives, the Lead Judge's interpersonal behavior toward all internal and external shareholders detracts from attainment of work objectives and poses problems.

It may be the case that much in the Lead Judge's performance is useful. However, performance, including work product, is inconsistent in quality and timeliness. Problems caused by deficiencies counterbalance acceptable work and require significant effort by others to bring the work to an acceptable level. These deficiencies cannot be overlooked because they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned. The experience of the Lead Judge, including time as a Lead Judge at the Board, will be taken into account when considering these aspects.

UNSATISFACTORY. This level of performance shows notable and routine deficiencies in relation to leadership and support of the mission of the USPTO and the Board. For example, a Lead Judge's own work product is such that it regularly negatively impacts the mission and goals of the Board. Leadership performance represents a level of accomplishment well below the level expected for the position, and routinely requires corrective action. The quality, quantity, or timeliness of the Lead Judge's leadership/ support of the mission of the USPTO and the Board is less than Marginal, regularly jeopardizing attainment of the element's objective.

The Lead Judge's behavior obstructs the successful completion of their own work or work of others, including through lack of cooperation with internal or external stakeholders, or by loss of credibility due to irresponsible speech or work activity.

If the Lead Judge participates in any special projects, the Lead Judge either sacrifices essential regular work or fails to complete projects on time. The Lead Judge fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

It is rare that much in the Lead Judge's performance is useful. Performance, including work product, is routinely poor in quality and timeliness. Problems caused by deficiencies counterbalance the work and require significant effort by other judges to bring the work to an acceptable level. These deficiencies cannot be overlooked because they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work is often not finished with such quality, quantity, and timeliness that other work can proceed as planned.

Name

Element

Sheet

Supporting the Mission of the Board /

No. 1 of _____

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.)

Text field is limited. if more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (Support rating in space below.)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/ Minimally Satisfactory (SES) 1-Unacceptable/ Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (Required only if approving official/appointing authority changes rating official's element rating in Item 5.)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name	Date	Sheet No. <u>1</u> of <u> </u>
------	------	-----------------------------------

Item 1. Performance Element and Objective (*Identify as Critical or Non-critical, and if it is being tracked at the Department level.*)

Critical Non-critical

Element: Internal/External Stakeholder Interactions

Objective: To ensure responsive assistance to internal and external customers, and the public, to the extent permitted by law and regulation.

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 20

Item 2. Major Activities (*Identify activities or results that need to be accomplished in support of the performance element.*)
 Text field is limited. If more space is needed use continuation sheet.

Internal Stakeholder Definition. Appropriate questions, comments, and requests from internal and external stakeholders and the public are addressed courteously, while ensuring, both in appearance and fact, the independence, and the objective and neutral nature, of the Board. Internal stakeholders include Board co-workers (e.g., subordinates, peers, and superiors), other USPTO employees, and USPTO contractors.

Routing of Stakeholder Questions. Where questions from external customers and the public are not appropriately answered by the Lead Judge, the questioner is redirected to appropriate Board staff. The Lead Judge is expected to recognize the need for confidentiality, discretion and judgment and apply as appropriate.
 (CONTINUED)

Item 3. Criteria for Evaluation (*Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.*)
 Text field is limited. If more space is needed use continuation sheet.

In addition to the Generic Performance Standards for the General Workforce, the following Supplemental Standards apply:

OUTSTANDING performance in this element includes, as the need arises, rarely without exception, appropriately, promptly, and courteously addressing any questions, comments, or requests from internal and external stakeholders. Outstanding performance may include meeting a frequent need on behalf of the Board in this regard in relation to both internal and external stakeholders. Outstanding performance also includes completing oldest cases, almost always without exception, before newer cases and exceptions are completely justified.

Optional Initial Block			
Employee	Date	Supervisor	Date

Performance Management Record
Continuation Page – Element 4

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Decorum in Stakeholder Interactions. Inquiries from internal staff are addressed promptly and courteously, providing needed information or assistance where appropriate.

Interactions with all stakeholders, internal or external, are highly professional and appropriate to the nature of the Lead Judge's position, and to preserve the dignity of the Board.

Speaking Requests. Stakeholder interactions may include representing the Board to outside organizations (either visiting the Board or at other locations) or providing presentations to external shareholders generally, for example at public speaking engagements or conferences. Senior management is consulted before communicating outside of the Board. Any requests for public speaking or teaching engagements are cleared through Board management in advance.

Completion of Work. Prompt execution of the Board's duties under Title 35 of the United States Code, and prompt execution of any other required duties, is rendered to the public.

Consistency in Production. Matters are disposed of efficiently, in a timely manner and meeting all deadlines. Older cases are prioritized before newer ones, for all cases that do not have deadlines.

Monthly production generally is consistent throughout the year. Variations in output are minimized to the extent possible. End-loading is avoided, helping ensure regular workloads for peers and the support staff. End-loading (e.g., excessive production at end-of-month, end-of quarter, mid-year, and/or end-of-year to reach the decisional unit goals) may be identified when decisional units earned in a month are at least 2x the median monthly decisional units earned throughout the remainder of the period of review. In relation to ex parte matters, end-loading may also be identified where greater than 75% of monthly decision circulation or mailing routinely occurs during the last week of the month.

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 2. Major Activities (continued)

Decision Circulation. Decisions are sent for processing promptly when prepared, routed to panel members promptly when processed, reviewed promptly, and mailed promptly after being approved by the panel, and not withheld unless fully justified. Decisions are not to be held to normalize production between months and/or between fiscal years.

Panel Discussions. Panel discussions are attended as an active participant. The Lead Judge promptly provides sound and helpful input to improve decisions where appropriate and bring the deliberations and proceedings forward efficiently.

Panel Feedback on Decisions. Decisions authored by other judges are reviewed and comments are promptly provided as appropriate, offering frank, accurate, and timely feedback on the quality of the decisions. Quality is ensured by avoiding undue delay when performing reviews and providing comments. Decisions in circulation are handled in a prompt and timely manner, and an undue delay in processing may be identified as a failure to provide the required feedback.

Item 3. Criteria for Evaluation (continued)

Decisions are, almost always without exception, placed in circulation well in advance of deadlines. Exceptional circumstances requiring shortened circulation time occur infrequently and are clearly communicated to reviewing judges well in advance of circulating the decision or order. Interlocutory issues are addressed in a timely manner. End-loading is non-existent or fully justified.

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

COMMENDABLE performance in this element includes, as the need arises, almost always without exception, appropriately, promptly, and courteously addressing any questions, comments, or requests from internal and external stakeholders. Commendable performance may include meeting a regular need on behalf of the Board in this regard in relation to both internal and external stakeholders. Commendable performance also includes the Lead Judge making considerable efforts toward pendency needs of the Board. The oldest cases, almost without exception, are completed before newer cases. Decisions are, almost without exception, placed in circulation well in advance of deadlines. Circumstances requiring shortened circulation time are reasonably justified and are clearly communicated to reviewing judges well in advance. Interlocutory issues are addressed in a timely manner. End-loading is virtually non-existent or fully justified.

FULLY SUCCESSFUL performance is where a Lead Judge makes reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises. In addition, reasonable efforts are made to manage the Board's pendency needs. The docket is effectively managed to ensure older cases are worked generally before newer cases. Reasonable efforts are made to place decisions in circulation well in advance of deadlines. Circumstances requiring shortened circulation time are clearly communicated to reviewing judges prior to circulating the decision or order. Interlocutory issues are addressed in a reasonably timely manner. Reasonable efforts are made to circulate and mail decisions throughout the rating period so that end-loading, including end-of-month, end-of-quarter, mid-year, and end-of-year end-loading, is avoided.

MARGINAL performance is where a Lead Judge's efforts to manage the Board's pendency needs are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence may exist that decisions have been delayed at any stage without justification or authorization. Evidence may exist that decisions have been placed in circulation close to statutory deadlines and/or interlocutory issues are not addressed in a reasonably timely manner. Evidence of end-loading may exist. Evidence may exist that the Lead Judge does not make reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises.

**Performance Management Record
Continuation Page – Element 4**

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

(i.e, Item 2. Major Activities, Item 3. Criteria for Evaluation Item, 4. Progress Reviews,
Item 5. Element Rating & Justification)

Item 3. Criteria for Evaluation (continued)

UNACCEPTABLE performance is where a Lead Judge's efforts to manage the Board's pendency needs are well below what is expected. Newer cases are frequently worked before older cases. Decisions may be delayed at any stage without authorization. Decisions frequently are placed in circulation close to deadlines and/or interlocutory issues often are not addressed in a reasonably timely manner. End-loading may be obvious and egregious (for example, 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the remainder of the reviewing period). Evidence exists that the Lead Judge regularly does not make reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises.

Name

Element
Internal/External Stakeholder

Sheet
No. 1 of

Item 4. Progress Reviews (*Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved.*)

Text field is limited. If more space is needed use continuation sheet.

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (*Support rating in space below.*)

5-Outstanding 4-Commendable 3-Fully Successful 2-Marginal/Minimally Satisfactory (SES) 1-Unacceptable/Unsatisfactory (SES) Enter Rating 1-5 in adjacent block

Text field is limited. If more space is needed use continuation sheet.

Item 5.a. Approving Official/Appointing Authority Comments and Signature (*Required only if approving official/appointing authority changes rating official's element rating in Item 5.*)

Text field is limited. If more space is needed use continuation sheet.

Approving Official/Appointing Authority Signature

Date

SECTION II—PERFORMANCE SUMMARY AND RATING

Name _____

ITEM 1. INSTRUCTIONS:

- List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it.
- Assign a rating level for each element: **(5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal/Minimally Satisfactory (SES) (1) Unacceptable/Unsatisfactory (SES)**
- Score each element by multiplying the weight by the rating level.
- After each element has been scored, compute total score by summing all individual scores. Total score can range from 100 to 500.

Performance Element	Critical or Non-critical (C or NC)	Individual Weights (Sum must total 100)	Element Rating (1-5)	Score
Quality	C	30		0
Production	C	20		0
Supporting the Mission of the Board / Leadership	C	30		0
Internal/External Stakeholder Interactions	C	20		0
				0
				0
TOTAL SCORE:				0

For SES turn to reverse side and continue with Item 3.

ITEM 2. PERFORMANCE RATING: *(Based on total score except that if any critical element is less than fully successful the rating can be no higher than the lowest critical element rating.)*

Outstanding (460–500)
 Commendable (380–459)
 Fully Successful (290–379)
 Marginal (200–289)
 Unacceptable (100–199)

Rating Official's Signature	Title Vice Chief Administrative Patent Judge	Date
Approving Official's Signature	Title Deputy Chief Administrative Patent Judge	Date
Employee's Signature <i>(Indicates appraisal meeting held)</i>	Employee comments attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	Date

SECTION III—PERFORMANCE RECOGNITION *(General Workforce Only)*

Performance Award \$ _____ (___ %)
 For performance awards: Has employee been promoted during the appraisal cycle?
 YES NO

QSI (Outstanding Rating Required)
 Appropriation No. _____

Rating Official's Signature	Title	Date
Approving Official's Signature	Title	Date
Final Approving Authority's Signature		Date
Payment Authorized By Personnel Office		Date

APPENDIX A GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

The generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

When evaluating an element, the rater should:

1. Read carefully each performance standard level beginning with the fully successful one. (It is considered the base level standard.)
2. Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in absolute terms for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
3. Provide in writing, on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating, the rating official need only document in writing that: (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally, when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may have performed at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgement as to the appropriate rating level he/she will assign. The rationale for the decision must be documented on the rating form, citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement the GPS, not supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

OUTSTANDING

SES

This is a level of rare, high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work, often ahead of established schedules and with little supervision.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

GENERAL WORK FORCE

This is a level of rare, high-quality performance. The quality and quantity of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. The impact of the employee's work is of such significance that organizational objectives were accomplished that otherwise would not have been. The accuracy and thoroughness of the employee's work on this element are exceptionally reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and products for which he or she is responsible. Thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, increase the employee's usefulness.

This person plans so that work follows the most logical and practical sequence; inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems and adapts quickly to new priorities and changes in procedures and programs without losing sight of the longer-term purposes of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's planning skills result in cost-savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments related to this element at increasing levels of difficulty. The quality of such work is high and is done on time without disrupting regular work. Appropriate problems are brought to the supervisor's attention; most problems are dealt with routinely and with exceptional skill.

The employee's oral and written expression are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

SUPERVISORY*

The employee is a strong leader who works well with others and handles difficult situations with dignity and effectiveness. The employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to the views of others, the employee promotes cooperation among peers and subordinates, while guiding, motivating, and stimulating positive responses. The employee's work performance demonstrates a strong commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

COMMENDABLE

SES

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and the procedures for meeting them.

The effective planning of the employee has improved the quality of management practices, op-

erating procedures, task assignments, or program activities. The employee has developed or implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

GENERAL WORK FORCE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Thoroughness and accuracy of work are reliable. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she uses contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are considered in the employees's work planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort. He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with; supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well-presented.

SUPERVISORY*

The employee is a good leader, establishes sound working relationships and shows good judgment in dealing with subordinates, considering their views. He/she provides opportunities for staff to have a meaningful role in accomplishing organizational objectives and makes special efforts to improve each subordinate's performance.

FULLY SUCCESSFUL

SES

This is the level of good, sound performance. The employee has contributed positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organization knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee also works well as a team member, supporting the group's efforts and showing an ability to handle a variety of interpersonal situations.

The employee communicates clearly and effectively.

All employees at this level and above have followed a management system by which work is planned, tasks are assigned, and deadlines are met.

GENERAL WORK FORCE

This is the level of good, sound performance. The quality and quantity of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary; most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of costs to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments so their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

SUPERVISORY*

The employee is a capable leader who works successfully with others and listens to suggestions.

The employee rewards good performance and corrects poor performance through sound use of performance appraisal systems, performance-based incentives and, when needed, adverse actions; and selects and assigns employees in ways that use their skills effectively.

The employee's work performance shows a commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

MARGINAL

SES

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective. The employee's work under this element is at a level which may result in removal from the position.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other

personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinders achievement of the purpose of the communications. The listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

GENERAL WORK FORCE

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective.

There is much in the employee's performance that is useful. However, problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in a decrease in quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written communication usually considers the nature and complexity of the subject and the intended audience. It conveys the central points of information important to accomplishing the work. However, too often the communication is not focused, contains too much or too little information, and/or is conveyed in a tone that hinders achievement of the purpose of the communication. In communication to coworkers, the listener must question the employee at times to secure complete information or avoid misunderstandings.

SUPERVISORY*

Inadequacies surface in performing supervisory duties. Deficiencies in areas of supervision over an extended period of time affect adversely employee

productivity or morale, or organizational effectiveness. The marginal employee does not provide strong leadership or take the appropriate initiative to improve organizational effectiveness. For example, he/she too often fails to make decisions or fulfill supervisory responsibilities in a timely manner, to provide sufficient direction to subordinates on how to carry out programs, to give clear assignments and/or performance requirements, and/or to show an understanding of the goals of the organization or subordinates' roles in meeting those goals.

UNSATISFACTORY

SES

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Little or no contribution to organizational goals;
- Failure to meet work objectives;
- Inattention to organizational priorities and administrative requirements;
- Poor work habits resulting in missed deadlines, incomplete work products;
- Strained work relationships;
- Failure to respond to client needs; and/or
- Lack of response to supervisor's corrective efforts.

GENERAL WORK FORCE

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products, or it produces technically inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work; the employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or by loss of credibility due to irresponsible speech or work activity.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete the projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks the necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

SUPERVISORY*

Most of the following deficiencies are typically, but not always, common, characteristics of the employee's work:

- Inadequate guidance to subordinates;
- Inattention to work progress; and
- Failure to stimulate subordinates to meet goals.

* Supervisory standards must be applied to SES and General Work Force supervisors.

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

INSTRUCTIONS: This form must be used to assign final summary ratings when interim ratings must be considered in determining the final rating. The form will serve as the certification of the final rating. It must be signed by the rating and approving officials of record and attached to the original CD-516 forms that were completed by the rating and approving officials of record and those completed by interim rating and approving officials. Forward all original forms to the servicing personnel office. A copy must be given to the employee.

A. In the space provided below, compute the final summary rating using the appropriate formula. Use block (1) when computing one interim rating and block (2) when computing two interim ratings. Round off final summary rating to nearest whole number.

NOTE: If the position of record rating contains a non-critical element(s) please refer to Section 6.03a4 of Appendix A, or Section 6.03a7 of Appendix C of DAO 202-430.

(1)
a. Enter interim rating total score and multiply by 1: _____ × 1= _____
b. Enter position of record rating total score and multiply by 2: _____ × 2= _____
c. Add the results of a and b: TOTAL= _____
d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3= _____

(2)
a. Enter interim rating total score and multiply by 1: _____ × 1= _____
b. Enter interim rating total score and multiply by 1: _____ × 1= _____
c. Enter position of record rating total score and multiply by 2: _____ × 2= _____
d. Add the results of a, b and c: TOTAL= _____
e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4= _____

B. FINAL SUMMARY RATING (Check appropriate rating based on either 1d. or 2e. above)

- Outstanding (460-500) Commendable (380-459) Fully Successful (290-379)
- Marginal/Minimally Satisfactory (SES)—must be assigned if employee is given a marginal rating on one or more critical element(s). (200-289)
- Unacceptable/Unsatisfactory (SES)—must be assigned if employee is given an unsatisfactory rating on one or more critical element(s).

C. SIGNATURES

Rating Official (Immediate Supervisor)

Date

Approving Official

Date

Employee (Signature indicates appraisal meeting held)

Date

EMPLOYEE COMMENTS ATTACHED YES

D. GENERAL WORK FORCE EMPLOYEES ONLY:

If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-326, attach a copy of the rating justification and appraisal (CD-516) and forward through the appropriate channels.



UNITED STATES PATENT AND TRADEMARK OFFICE

CHIEF ADMINISTRATIVE OFFICER
OFFICE OF HUMAN RESOURCES

MEMORANDUM FOR Senior Executives and Rating Officials

FROM: Anne T. Mender *Anne Mender*
Director, Human Capital Management

SUBJECT: USPTO Guidance for FY 2019 SES Executive Performance
Agreement (EPA) Appraisals

Final SES Performance Appraisals Due to OHR: **November 6, 2019**

As the year comes to a close, it is time to prepare FY 2019 performance appraisals for Senior Executive Service (SES) members. Final performance documents are due to the OHR/Executive Resources Division, Elizabeth Townhouse, Room 4A60 by **Wednesday, November 6, 2019**. The performance documents include:

- Original signed FY 2019 SES Executive Performance Agreement (EPA) (with the initial summary rating),
- Employee's accomplishment narrative (not to exceed six pages),
- Rating official's assessment (mandatory) (not to exceed three pages), and
- Employee's written response and/or the higher level review findings, if applicable.

Accomplishments for individual performance and organizational performance as outlined in the DOC/USPTO Balanced Scorecard (BSC) will serve as a basis for FY 2019 performance evaluations. The BSC provides a depiction of USPTO's performance and should be used when appraising senior executive's performance. The final FY 2019 BSC is prepared by the Office of the Chief Financial Officer.

The performance documents and recommendations will be presented to the USPTO's Performance Review Board (PRB). The PRB will make recommendations to the Under Secretary and Director for final performance ratings.

Appraisal Process

Every executive who occupies a covered position on the last day of the appraisal cycle and who has been in a covered position for at least 90 days during the appraisal cycle must receive an annual performance appraisal rating of record.

Each executive is expected to prepare documentation of their accomplishments related to the specific performance elements in his or her performance agreement. The document should clearly link specific comments to the individual performance goals rather than simply provide a general narrative of the year's accomplishments. The focus should be on results and the outcome achieved and not the process. The executive's accomplishment narrative should **not exceed six pages**.

Rating Official Guidance

The rating official should confer with the higher level official about the executive's individual performance and their organization's performance and gain concurrence of the recommended initial rating before discussing the rating with the executive.

The rating official (after conferring with the higher level official) should provide advance notice to the employee of the date and time to discuss performance.

Executives must be appraised on the performance of each of the five critical elements in the EPA using the established summary performance levels. The performance levels are:

- Outstanding (Level 5) Meets or exceeds requirements written at this level (5 points).
- Commendable (Level 4) Meets requirements written at this level (4 points).
- Fully Successful (Level 3) Meets requirements written at this level (3 points).
- Minimally Acceptable (Level 2) Meets requirements written at this level (2 points).
- Unsatisfactory (Level 1) Meets (or falls below) requirements written at this level (0 points).

Rating officials must choose one of the rating levels (5,4,3,2,1) when rating performance elements. No incremental assignment is permissible (e.g. 4.5).

To obtain the overall summary rating (**see Executive Performance Agreement attached**), the rating official will rate each individual critical element and then record the point value corresponding to each element's rating.

Each critical element's initial point value is then multiplied by its assigned weight. It is important that weighting percentages in the *Weight* column are recorded as whole numbers, not decimals (e.g., 10% is recorded as 10 and not .10). The product of the initial element's point value and the weight becomes the *Initial Element Score*. All the critical elements' *Initial Element Scores* are then summed to derive the *Total Score*. The *Total Score* for all of the critical elements is compared with the *Summary Level Ranges*.

Use the worksheet, Deriving the Results Driven Rating Worksheet on Page 7 of the EPA form to assist you in calculating the Results Driven Critical element, which is then transferred to the front of the EPA form under Part 4, Derivation Formula and Calculation of Annual Summary Rating to calculate the initial summary rating.

The summary rating points assigned to the individual elements are then totaled to determine an overall summary rating based on the following *Summary Level Ranges*:

- Outstanding 475 – 500 = Level 5
- Commendable 400 – 474 = Level 4
- Fully Successful 300 – 399 = Level 3
- Minimally Satisfactory 200 – 299 = Level 2
- Unsatisfactory = Level 1 - A summary rating of Unsatisfactory must be assigned to any senior executive who is given an Unsatisfactory rating on one or more elements.

All initial summary ratings must include a written summary rating narrative, which is a written assessment describing the senior executive's overall performance. Information that helps justify the initial summary rating should be included in this narrative. As an option, rating officials may also provide narrative under each element. However, the summary rating narrative is mandatory.

The rating official's summarized assessment should **not exceed three pages**. Summary assessments should define leadership responsibilities and provide specific examples that focus on results. If applicable, include leadership metrics that deal with performance, budget management, recruitment and development. Assessments should also address relationships with other business units.

The rating official then discusses with the employee the performance rating, which is based on individual achievements and organizational achievements (i.e. DOC/USPTO Balanced Scorecard).

Finalizing Performance Agreement for Submission

The executive employee must sign the EPA to document that the performance rating was discussed. If the executive refuses to sign, the rating official must so note.

If the executive disagrees with the rating, he/she may provide a written response or request a higher level review within five workdays of receipt of the appraisal and initial rating. If the higher level official changes a rating at this point, he/she must document the reasons for the change and provide a copy to the executive. **Note:** Higher-level reviews must be completed before appraisals are submitted to the Office of Human Resources.

If you have any questions, please contact Carolyn Schad by phone on 571-272-7003 or Carolyn.Schad@uspto.gov.

Attachment: Executive Performance Agreement

**SES Performance Management System
Executive Performance Plan**



Part 1. Consultation. *I have reviewed this plan and have been consulted on its development.*

Executive's Name (Last, First, MI): Weidenfeller, Scott	Appraisal Pd. 10/01/18 - 9/30/19
Executive's Signature: <i>[Signature]</i>	Date: 9/28/18
Title: Vice Chief Administrative Patent Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office	Organization: PTAB
Rating Official's Name (Last, First, MI): BOALICK, SCOTT R., Deputy Chief Administrative Patent Judge	CA <input type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: <i>[Signature]</i>	Date: 9/28/18

Part 2. Progress Review

Executive's Signature: <i>[Signature]</i>	Date: 5/1/19
Rating Official's Signature: <i>[Signature]</i>	Date: 5/1/19
Reviewing Official's Signature (Optional):	Date:

Part 3. Summary Rating

Initial Summary Rating	(b)(6)				
	Outstanding	Exceeds Fully Successful	Fully Successful	Minimally Satisfactory	Unsatisfactory
Rating Official's Name (Last, First, MI): BOALICK, SCOTT R., Deputy Chief Administrative Patent Judge	<i>Boalick, Jacqueline W.</i>				
Rating Official's Signature: <i>[Signature]</i>	Date: 11/6/19				
Executive's Signature: <i>[Signature]</i>	Date: 11/6/19				
Reviewing Official's Signature (Optional):	Date:				

Higher Level Review (if applicable)

<input type="checkbox"/> I request a higher level review. Executive's Initials:	Date:
Higher Level Review Completed <input type="checkbox"/>	Date:
Higher Level Reviewer Signature:	

Performance Review Board Recommendation	<input type="checkbox"/> Level 5	<input type="checkbox"/> Level 4	<input type="checkbox"/> Level 3	<input type="checkbox"/> Level 2	<input type="checkbox"/> Level 1
PRB Chair Signature:	Date:				
Annual Summary Rating	<input type="checkbox"/> Level 5	<input type="checkbox"/> Level 4	<input type="checkbox"/> Level 3	<input type="checkbox"/> Level 2	<input type="checkbox"/> Level 1
Appointing Authority Signature:	Date:				

Part 4. Derivation Formula and Calculation of Annual Summary Rating

Critical Element	Element Rating		Weight	Score		Summary Level Ranges
	Initial	Final (if changed)		Initial	Final (if changed)	
1. Leading Change	(b)(6)		10%	(b)(6)		475-500 = Level 5 400-474 = Level 4 300-399 = Level 3 200-299 = Level 2 Any CE rated Level 1 = Level 1
2. Leading People			10%			
3. Business Acumen			10%			
4. Building Coalitions			10%			
5. Results Driven			60%			
Total			100%			

Part 5. Performance Standards and Critical Elements

Performance Standards for Critical Elements (The performance standard for each critical element is specified below; examples for the top three performance levels can be found in the system description)

- **Level 5:** The executive demonstrates exceptional performance, fostering a climate that sustains excellence and optimizes results in the executive's organization, agency, department or Governmentwide. This represents the highest level of executive performance, as evidenced by the extraordinary impact on the achievement of the organization's mission. The executive is an inspirational leader and is considered a role model by agency leadership, peers, and employees. The executive continually contributes materially to or spearheads agency efforts that address or accomplish important agency goals, consistently achieves expectations at the highest level of quality possible, and consistently handles challenges, exceeds targets, and completes assignments ahead of schedule at every step along the way.
- **Level 4:** The executive demonstrates a very high level of performance beyond that required for successful performance in the executive's position and scope of responsibilities. The executive is a proven, highly effective leader who builds trust and instills confidence in agency leadership, peers, and employees. The executive consistently exceeds established performance expectations, timelines, or targets, as applicable.
- **Level 3:** The executive demonstrates the high level of performance expected and the executive's actions and leadership contribute positively toward the achievement of strategic goals and meaningful results. The executive is an effective, solid, and dependable leader who delivers high-quality results based on measures of quality, quantity, efficiency, and/or effectiveness within agreed upon timelines. The executive meets and sometimes exceeds challenging performance expectations established for the position.
- **Level 2:** The executive's contributions to the organization are acceptable in the short term but do not appreciably advance the organization towards achievement of its goals and objectives. While the executive generally meets established performance expectations, timelines and targets, there are occasional lapses that impair operations and/or cause concern from management. While showing basic ability to accomplish work through others, the executive may demonstrate limited ability to inspire subordinates to give their best efforts or to marshal those efforts effectively to address problems characteristic of the organization and its work.
- **Level 1:** In repeated instances, the executive demonstrates performance deficiencies that detract from mission goals and objectives. The executive generally is viewed as ineffectual by agency leadership, peers, or employees. The executive routinely does not meet established performance expectations/timelines/targets and fails to produce – or produces unacceptable – work products, services, or outcomes.

Element Rating Level Points

Level 5 = 5 points
Level 4 = 4 points
Level 3 = 3 points
Level 2 = 2 points
Level 1 = 0 points

Critical Element 1. Leading Change	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Develops and implements an organizational vision that integrates key organizational and program goals, priorities, values, and other factors. Assesses and adjusts to changing situations, implementing innovative solutions to make organizational improvements, ranging from incremental improvements to major shifts in direction or approach, as appropriate. Balances change and continuity; continually strives to improve service and program performance; creates a work environment that encourages creative thinking, collaboration, and transparency; and maintains program focus, even under adversity.</p>		
<p>Agency-Specific Performance Requirements</p> <p>Lead PTAB through continuing appropriate development, enhancement, and optimization of organizational structure, policies, and proceedings. Make further appropriate adjustments in number of judges and other personnel. Lead PTAB through further phases of issuing America Invents Act Trial final decisions and appropriate enhancement of rules of practice, precedential opinions, and guidance to stakeholders.</p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
Critical Element Rating – Leading Change	(b)(6)	
Critical Element 2. Leading People	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Designs and implements strategies that maximize employee potential, connects the organization horizontally and vertically, and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provides an inclusive workplace that fosters the development of others to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ensures employee performance plans are aligned with the organization's mission and goals, that employees receive constructive feedback, and that employees are realistically appraised against clearly defined and communicated performance standards. Holds employees accountable for appropriate levels of performance and conduct. Seeks and considers employee input. Recruits, retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation, with the skills needed to accomplish organizational performance objectives while supporting workforce diversity, workplace inclusion, and equal employment policies and programs.</p>		
<p>Agency-Specific Performance Requirements</p> <p><i>Lead, develop, and implement actions to improve employee engagement in your area based on employee feedback gathered from sources including the USPTO People Survey, Federal Employee Viewpoint Survey, focus groups and other initiatives.</i></p> <p><i>Promotes the protection of whistleblowers by: responding constructively when an employee makes disclosures described in subparagraph (A) or (B) of section 2302(b)(8); taking responsible actions to resolve disclosures; and fostering an environment in which employees of the agency feel comfortable making disclosures to supervisory employees or other appropriate authorities.</i></p> <p>Serve as Vice Chief Judge. Provide policy direction and guidance to the PTAB. Assist the Deputy Chief Judge and Chief Judge with Business Unit Head functions as appropriate. Lead continuing activities directed at PTAB execution of duties given to the PTAB under the America Invents Act. Ensure PTAB employees are efficiently working on mission-critical tasks.</p> <p>Rating Official Narrative: <i>(Optional)</i></p>		
Critical Element Rating – Leading People	(b)(6)	

Critical Element 3. Business Acumen	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Assesses, analyzes, acquires, and administers human, financial, material, and information resources in a manner that instills public trust and accomplishes the organization's mission. Uses technology to enhance processes and decision making. Executes the operating budget; prepares budget requests with justifications; and manages resources.</p>		
<p>Agency-Specific Performance Requirements</p> <p>Advance development of improved PTAB IT systems and system integration to support PTAB's mission. Manage allocation of budget resources to accommodate business unit needs.</p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
Critical Element Rating – Business Acumen	(b)(6)	
Critical Element 4. Building Coalitions	(Minimum weight 5 points)	Weight 10%
<p>Mandatory Performance Requirement: Solicits and considers feedback from internal and external stakeholders or customers. Coordinates with appropriate parties to maximize input from the widest range of appropriate stakeholders to facilitate an open exchange of opinion from diverse groups and strengthen internal and external support. Explains, advocates, and expresses facts and ideas in a convincing manner and negotiates with individuals and groups internally and externally, as appropriate. Develops a professional network with other organizations and identifies the internal and external politics that affect the work of the organization.</p>		
<p>Agency-Specific Performance Requirements</p> <p>Collaborate with other business units, where possible and appropriate, to implement strategies for achieving USPTO objectives or PTAB objectives such as reducing ex parte appeals inventory / pendency within limits imposed by AIA trial inventory and deadlines. Coordinate and share information within PTAB and with other business units. Interact with public to collect feedback and to inform on PTAB AIA trial and appeal practice and procedures. Ensure clear and consistent messaging is coordinated internally and communicated to the public.</p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
Critical Element Rating – Building Coalitions	(b)(6)	

Critical Element 5. Results Driven**(Minimum Weight 20 points) Weight 60%**

This critical element must have at least 1 performance requirement (there is no maximum number of requirements, agency should specify if it sets a maximum number).

This critical element includes specific performance requirements expected of the executive during the appraisal period, focusing on measurable results from the strategic plan or other measurable outputs and outcomes clearly aligned to organizational goals and objectives. At a minimum, the performance requirements must contain measurable results and their quality indicators describing the range of performance at Level 3 for each result specified. In addition to the quality indicators, applicable measures of quantity, timelines, and/or cost-effectiveness may be included as appropriate. It is recommended to also establish the threshold quality indicators and measures for Levels 5 and 2. Indicators must reflect the same level of performance as the respective performance standard contained in Part 5.

Strategic Alignment—identify clear, transparent alignment to agency strategic planning initiatives (e.g., relevant agency or organizational goals/objectives with cited page numbers from the Strategic Plan, Congressional Budget Justification/Annual Performance Plan, or other organizational planning document) in the designated section for each performance requirement.

Note: Performance requirements must contain results and quality indicators that are clearly and differentially identified (e.g., highlighted, bold, underlined) so that it is readily evident on what the senior executive will be rated and what is expected for success.

Performance Requirement 1: **25% Weight**

Strategic Alignment:

America Invents Act Trial Timeliness:USPTO Strategic Plan, Goal 1,
Objective 7

Achieve AIA trial completion in compliance with applicable legal requirements in 12 months from institution, or in 18 months from institution in cases with extensions for good cause, for 95% of all AIA trials not subject to joinder. Achieve issuance of AIA petition decisions on institution in compliance with applicable legal requirements within statutory period of 3 months for 95% of all AIA petitions.

Draft USPTO Strategic Plan, Goal 1,
Objective 4Performance Requirement 2: **25% Weight**

Strategic Alignment:

Ex Parte Inventory / Pendency Reduction:USPTO Strategic Plan, Goal 1,
Objective 7

Achieve progress toward a reduction in the average time from jurisdiction passing to the Board to decision on regular ex parte appeals, or achieve progress toward a reduction of ex parte appeal inventory by issuing decisions in accordance with applicable legal requirements.

Draft USPTO Strategic Plan, Goal 1,
Objective 4Performance Requirement 3: **25% Weight**

Strategic Alignment:

PTAB Decision Consistency:USPTO Strategic Plan, Goal 1,
Objective 7

In accordance with the authority granted under Title 35 of the United States Code and Title 37 of the Code of Federal Regulations, binding case law precedent, and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate, ensure that PTAB judges render clear and consistent decisions for proceedings before the PTAB. Ensure review of 25% of final AIA decisions, excluding rehearing decisions, and 2% of regular ex parte appeals decisions.

Draft USPTO Strategic Plan, Goal 1,
Objective 4

<p>Performance Requirement 4: 25% Weight</p> <p>Federal Circuit Remand Decision Timeliness:</p> <p>Ensure completion of decisions on remand in compliance with applicable legal requirements from the Federal Circuit in 12 months from issuance of the Federal Circuit's mandate for 50% of all such remands.</p>	<p>Strategic Alignment:</p> <p>USPTO Strategic Plan, Goal 1, Objective 7</p> <p>Draft USPTO Strategic Plan, Goal 1, Objective 4</p>
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p><i>Critical Element Rating – Results Driven</i></p>	<p>(b)(6)</p>

Part 6: Summary Rating Narrative *(Mandatory)*

Part 7: Executive's Accomplishment Narrative *(Optional)*

Part 8: Agency Use

Deriving the Results Driven Rating Worksheet

Executive Name _____ Rating Period _____

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1				Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2					
Performance Requirement 3					
Performance Requirement 4					
		= 100%			
Performance Requirement Total Score				___ = Level ___	

Example of Results Driven Element Being Rated Level 4

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1	4	x 25	100	Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3 Rating Score Points 200 – 299 = Level 2 Rating Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 2	5	x 30	150		
Performance Requirement 3	5	x 15	75		
Performance Requirement 4	3	x 30	90		
		= 100%			
Performance Requirement Total Score			415	415= Level 4	4*

*Results Driven Rating is 4 – to be transferred to Initial Element Score beside Results Driven Critical Element on the bottom of page 1.