

**SES Performance Management System  
Executive Performance Plan**



<b>Part 1. Consultation.</b> <i>I have reviewed this plan and have been consulted on its development.</i>							
Executive's Name (Last, First, MI): BOAUCK, SCOTT R.					Appraisal Pd. 10/01/17 - 9/30/18		
Executive's Signature: (b)(6)			Date: 9/26/18				
Title: Deputy Chief Administrative Patent Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office					Organization: PTAB		
Rating Official's Name (Last, First, MI): RUSCHKE, DAVID P., Chief Administrative Patent Judge					CA <input type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>		
Rating Official's Signature:					Date:		
<b>Part 2. Progress Review</b>							
Executive's Signature:					Date:		
Rating Official's Signature:					Date:		
Reviewing Official's Signature (Optional):					Date:		
<b>Part 3. Summary Rating</b>							
Initial Summary Rating (b)(6)							
Rating Official's Name (Last, First, MI): <del>RUSCHKE, DAVID P., Chief Administrative Patent Judge</del> Scardino, Anthony, P							
Rating Official's Signature: (b)(6)			Date: 11/6/18				
Executive's Signature: (b)(6)			Date: 11/6/18				
Reviewing Official's Signature (Optional):					Date:		
<b>Higher Level Review (if applicable)</b>							
<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:							
<b>Performance Review Board Recommendation</b>			<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 (b)(6)							
Appointing Authority Signature:					Date:		
<b>Part 4. Derivation Formula and Calculation of Annual Summary Rating</b>							
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	(b)(6)		10%	(b)(6)			
3. Business Acumen	(b)(6)		10%	(b)(6)			
4. Building Coalitions	(b)(6)		10%	(b)(6)			
5. Results Driven	(b)(6)		60%	(b)(6)			
Total	(b)(6)		100%	(b)(6)			

**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**

<b>Critical Element 1. Leading Change</b>	<b>(Minimum weight 5 points)</b>	<b>Weight 10%</b>
<p><b>Mandatory Performance Requirement:</b> 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><b>Agency-Specific Performance Requirements</b></p> <p><b>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.</b></p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
<p><i>Critical Element Rating -- Leading Change</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
<b>Critical Element 2. Leading People</b>	<b>(Minimum weight 5 points)</b>	<b>Weight 10%</b>
<p><b>Mandatory Performance Requirement:</b> 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><b>Agency-Specific Performance Requirements</b></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><b>Serve as Deputy Chief Judge. Provide policy direction and guidance to the PTAB. Assist the 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.</b></p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		
<p><i>Critical Element Rating -- Leading People</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

<b>Critical Element 3. Business Acumen</b>	<b>(Minimum weight 5 points)</b>	<b>Weight 10%</b>
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**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

**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.**

Rating Official Narrative: *(Optional)*

<i>Critical Element Rating -- Business Acumen</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
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<b>Critical Element 4. Building Coalitions</b>	<b>(Minimum weight 5 points)</b>	<b>Weight 10%</b>
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**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 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. 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.**

Rating Official Narrative: *(Optional)*

<i>Critical Element Rating -- Building Coalitions</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
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Critical Element 5. Results Driven	(Minimum Weight 20 points)	Weight 60%
<p>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).</p> <p>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.</p> <p>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.</p> <p><b>Note:</b> 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>		
<p>Performance Requirement 1: <b>25% Weight</b></p> <p><b>America Invents Act Trial Timeliness:</b></p> <p><b>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.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7</b></p>	
<p>Performance Requirement 2: <b>25% Weight</b></p> <p><b>Ex Parte Inventory / Pendency Reduction:</b></p> <p><b>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.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7</b></p>	
<p>Performance Requirement 3: <b>25% Weight</b></p> <p><b>PTAB Decision Consistency:</b></p> <p><b>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.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7</b></p>	

<p>Performance Requirement 4: <b>25% Weight</b></p> <p><b>Federal Circuit Remand Decision Timeliness:</b></p> <p><b>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.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7</b></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)*

**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.



Scott R. Boalick, Acting Chief Administrative Patent Judge  
FY2018 End-of-Year Performance Narrative

**Critical Element 1: Leading Change**

**AIA Trials & Ex Parte Appeals**

- **Planning and Implementing Improvements to AIA proceedings.**

(b)(6)

- **Claim Construction Rule.**

(b)(6)

- **Motion to Amend Request for Comments (RFC).**

(b)(6)

- **Trial Practice Guide (TPG) Update.**

(b)(6)

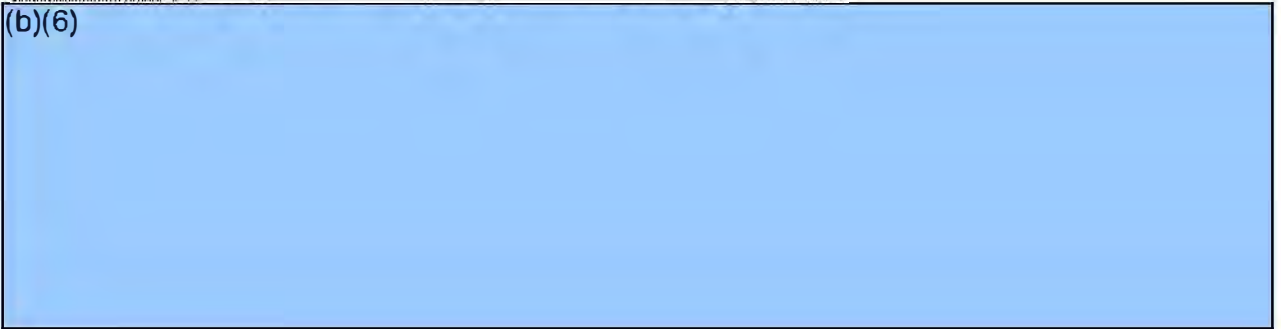
- Standard Operating Procedure (SOP) for Precedential Opinion Panel (POP).

(b)(6)



- Standard Operating Procedure (SOP) for PTAB Paneling Process.

(b)(6)



- SAS Guidance.

(b)(6)



- Aqua Products Guidance.

(b)(6)



(b)(6)

- **Studies.**

(b)(6)

- **Revamp of AIA trial statistics.**

(b)(6)

- **Board Precedent / Guidance.**

(b)(6)

Hearings

(b)(6)

(b)(6)

Reorganization and Hiring

- **Reorganization.**

(b)(6)

- **Hiring.**

- **Judges.**

(b)(6)

- **Patent Attorneys.**

(b)(6)

- **Law Clerk.**

(b)(6)

- **Board Executive Division.**

(b)(6)

- **Detailees.**

(b)(6)

**Critical Element 2: Leading People**

**Serve as Acting Chief Judge**

(b)(6)



**Policy and Guidance Direction**

(b)(6)



Business Unit Head Functions

(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)



- **Workspaces and Widgets User Interfaces.**

(b)(6)



(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)*

- **Under Secretary's Office:**

(b)(6)

- **Patents:**

(b)(6)

- **OGI/Solicitor's Office:**

(b)(6)

(b)(6)

- **TTAB:**

(b)(6)

- **CFO:**

(b)(6)

- **OCCO:**

(b)(6)

- **CIO:**

(b)(6)

- **OPIA / OGA:**

(b)(6)



- **Regional Offices (ROs):**

(b)(6)



*Engage with Public*

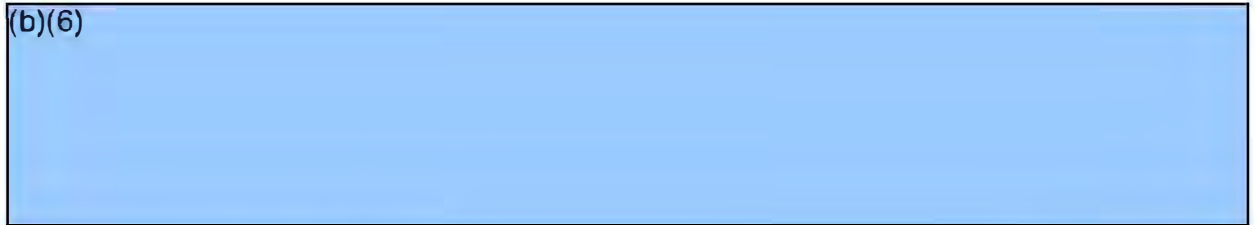
- **GAO Report.**

(b)(6)



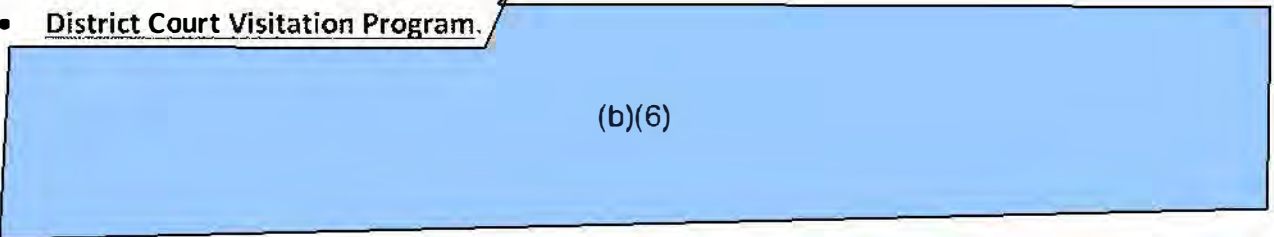
- **PPAC.**

(b)(6)



- **District Court Visitation Program.**

(b)(6)



- Stakeholder Meetings.

(b)(6)

- Judicial Conference.

(b)(6)

- Webinars.

(b)(6)

- Speaking Engagements.

(b)(6)

**Critical Element 5: Results Driven**

**Performance Requirement 1, AIA Trial Timeliness**

(b)(6)

**Performance Requirement 2, Ex Parte Inventory**

(b)(6)

- **Quarterly Appeals Close-out Program.**

(b)(6)

- **Technology Re-Balancing Program.**

(b)(6)

**Performance Requirement 3, PTAB Decision Consistency**

(b)(6)

**Performance Requirement 4, Federal Circuit Remand Decision Timeliness**

(b)(6)