



## Chief Administrative Patent Judge

ES-1222

Alexandria, VA

### I. Introduction

The Chief Administrative Patent Judge (Chief Judge) is a full voting member of the Patent Trial and Appeal Board (Board) as provided by Title 35 U.S. Code, Section 6, and is the immediate supervisor of the Deputy Chief Administrative Patent Judge and second-line supervisor for the Board Executive and all of the Vice Chief Administrative Patent Judges (Judges) assigned to the Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the several Administrative Patent Judges (including the Chief Judge, Deputy Chief Judge, Vice Chief Judges, and Lead Judges) constitute the membership of the Board. Any three or more of these individuals may constitute a 3-judge panel of the Board to render a decision in a patent appeal, an interference proceeding, a post grant review proceeding, an inter partes review proceeding, a derivation proceeding, or a proceeding under the Transitional Program for Covered Business Methods Patents (CBM). The Board also hears and adjudicate ex parte patent appeals from decisions of the Patent Examiners in the Patent Examination Corps. The Board also holds oral hearings when requested, and has the authority to grant rehearings.

With respect to patent appeals, final decisions of the Board, if unfavorable to an applicant, may be appealed to the United States Court of Appeals for the Federal Circuit in accordance with 35 U.S.C. § 141. Alternatively, dissatisfied applicants may elect to bring a civil action in accordance with 35 U.S.C. § 145. With respect to interferences, final decisions of the Board, if unfavorable to a party, may be appealed to the United States Court of Appeals for the Federal Circuit in accordance with 35 U.S.C. § 141. Alternatively, dissatisfied parties may elect to bring a civil action in accordance with 35 U.S.C. § 146. With respect to inter partes reviews, post grant reviews, and CBM proceedings, final decisions of the Board, if unfavorable to a party, may be appealed only to the United States Court of Appeals for the Federal Circuit in accordance with 35 U.S.C. § 141. With respect to derivation proceedings, final decisions of the Board, if unfavorable to a party, may be appealed to the United States Court of Appeals for the Federal Circuit in accordance with 35 U.S.C. § 141. Alternatively, dissatisfied parties may elect to bring a civil action in accordance with 35 U.S.C. § 146.

### II. Duties

Subject to the direction of the Director, the Chief Judge is responsible for implementing USPTO rules and policies associated with patent appeals, interferences, post grant reviews, inter partes reviews, derivations, and CBM proceedings. These rules include Title 37 of the Code of Federal Regulations, Part 41: Subparts A through E, and Title 37 of the Code of Federal Regulations, Part 42: Subparts through D. Subject to the direction of the Director, and in coordination with other Agency leadership (such as the Commissioner for Patents,



General Counsel, and Solicitor), the Chief Judge is also responsible for developing rules and regulations governing Board procedure, and periodically updated the same as circumstances warrant. Subject to the direction of the Director, the Chief Judge is also responsible for developing and implementing the Standard Operating Procedures necessary for the internal operation of the Board. In addition, the Chief Judge is charged with adhering to Agency policy (including but not limited to patent policy) and ensuring adherence to Agency policy by all Board Judges. Furthermore, the Chief Judge is charged with ensuring predictability, reliability, and consistency across the thousands of decisions issued every year by the several hundred Board judges that he or she oversees. Furthermore, the Chief Judge is responsible for adjudicating petitions for the Under Secretary of Commerce for Intellectual Property and Director of the USPTO.

The Chief Judge performs the comprehensive executive management, strategic planning, and financial functions essential to effective Board operation. Under authority that may be delegated by the Director, the Chief Judge may be responsible for the assignment of panels of administrative patent judges to adjudicate all patent appeals, interference and derivation proceedings, and AIA trial proceedings, on which panels the Chief Judge periodically serves. The Chief Judge further develops and implements quality, timeliness, and productivity performance standards for the Judges.

The Chief Judge interacts with the legal community, including the Court of Appeals for the Federal Circuit, bar associations, etc., actively participates in public conferences and meetings, and makes presentations to foreign dignitaries regarding the Board.

### III. Educational Requirement

Due to the complexity of this position, the Chief Judge must possess both a technical degree and a law degree. Additionally, the Chief Judge must be a member in good standing of the Bar of any state, the District of Columbia, Puerto Rico, or any territorial court under the Constitution. Furthermore, the Chief Judge must possess significant work experience in both the fields of patent law and organizational management.

### IV. Professional Technical Qualifications

The Chief Judge must possess the following Professional and Technical Qualifications:

1. Expert knowledge of the legal principles and technical subject matter associated with patent appeals, interferences, post grant reviews, inter partes reviews, derivations, and CBM proceedings. Demonstrated ability to understand technical subject matter, apply relevant patent law legal principles involved in patent appeals, interferences, post grant reviews, inter partes reviews, derivations, and CBM, and effectively work in groups to resolve complex technical and legal issues.
2. Demonstrated executive level experience in directing, supervising, and evaluating the activities of a professional, technical, and legal organizational unit.



Demonstrated ability to develop and achieve organizational goals, prepare and execute organizational budgets, delegate assignments, motivate subordinate groups and individuals, establish and execute programs to implement policies, and establish and maintain a positive working environment.

3. Executive level experience in effectively communicating orally and in writing regarding complex technical and legal issues, as well as the ability to fully comprehend the complex technical and legal issues discussed in a work group, the ability to lead said working group(s), and the demonstrated experience to effectively interact with the legal community and other internal and external stakeholders.

## V. Executive Core Qualifications

The incumbent must possess the following Executive Core Qualifications:

- Leading People
- Leading Change
- Results Driven
- Business Acumen
- Building Coalitions

## VI. Supervision and Guidance

The Chief Judge provides oversight and direction within the Patent Trial and Appeal Board, including the coordination of the day-to-day activities of assigned staff. The Chief Judge develops procedures for program operations and oversees assignment and completion of functions. He/She also assures that an active effort is made to promote diversity within the organization and outside the organization through personnel outreach efforts.

The Chief Judge reports to the Deputy Director. Performance is judged in terms of accomplishment of objectives and overall effectiveness. The Chief Judge is expected to exercise independent judgment in deciding appropriate courses of action to implement Agency policy, and is also expected to seek input and approval from the Deputy Director and Director as required, and keeping the same informed of significant and newsworthy events.

## VII. SES Designation

In light of the Department's mission in protecting the integrity of this position, and the incumbent's accountability for the management and administration of the functions of the position, we believe that the principal duties of this position entail direct responsibility to the public for managing and operating the Board's functions. Therefore, this position has been designated as *Career Reserved*.



Office of the Under Secretary

POSITION DESCRIPTION

Job Code P04872

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### **VIII. Security Designation, Drug Testing Requirement, Cyber Security Code**

The security designation for this position is listed as 6N, there is a drug testing requirement for this position.

The cyber security code for this position is as follows: Primary: 000 1<sup>st</sup>: 00 2<sup>nd</sup>: 00



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Office of the Under Secretary

POSITION DESCRIPTION

Job Code P04872

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The cyber security code for this position is as follows: Primary: 000 1<sup>st</sup>: 00 2<sup>nd</sup>: 00



**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): <b>Boalick, Scott R.</b>	Appraisal Pd. 10/1/20 - 9/30/21
Executive's Signature: <small>Digitally signed by Users, Users, Boalick, Scott Date: 2020.10.01 14:49:48 -04'00'</small>	Date: 10/1/2020
Title: <b>Chief Administrative Patent Judge</b>	Organization: PTAB
Rating Official's Name (Last, First, MI): <b>Peter, Laura A.</b>	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 9/30/2020

**Part 2. Progress Review**

Executive's Signature:	Date:
Rating Official's Signature:	Date:
Reviewing Official's Signature (Optional):	Date:

**Part 3. Summary Rating**

<b>Initial Summary Rating</b>	<input type="checkbox"/> Level 5 Outstanding	<input type="checkbox"/> Level 4 Commendable	<input type="checkbox"/> Level 3 Fully Successful	<input type="checkbox"/> Level 2 Minimally Satisfactory	<input type="checkbox"/> Level 1 Unsatisfactory
Rating Official's Name (Last, First, MI): <b>Peter, Laura A.</b>					
Rating Official's Signature:	Date:				
Executive's Signature:	Date:				
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:				
<b>Annual Summary Rating</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
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			10%			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%			
<b>Total</b>			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%

**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.

## Agency-Specific Performance Requirements

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 staffing, policies, and procedures, as needed. Lead PTAB through enhancements of rules of practice, precedential opinions, and guidance to stakeholders, as needed, to ensure balance, reliability, transparency, and predictability.

Rating Official Narrative: *(Optional)*

Critical Element Rating -- Leading Change

 Level 5 Level 4 Level 3 Level 2 Level 1**Critical Element 2. Leading People****(Minimum weight 5 points)** Weight 10%

**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.

## Agency-Specific Performance Requirements

*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.*

*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.*

**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.**

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: 10/1/20 - 9/30/21

**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 staffing 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)*

Executive Name and ID: Boalick, Scott R.

Appraisal Period: 10/1/20 - 9/30/21

**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 decisions in cases on remand from the U.S. Court of Appeals for the Federal Circuit, and 2% of ex parte appeals decisions.

**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 4: 25% Weight**

**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.

**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

Rating Official Narrative: *(Optional)*

*Critical Element Rating – Results Driven*

Level 5

Level 4

Level 3

Level 2

Level 1

**Part 6: Summary Rating Narrative (Mandatory)**

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**Part 7: Executive's Accomplishment Narrative (Optional)**

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**Part 8: Agency Use**

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### 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.



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Executive Performance Agreement**



**Part 1. Consultation. I have reviewed this plan and have been consulted on its development.**

Executive's Name (Last, First, MI): <b>Boalick, Scott R.</b>	Appraisal Pd. 10/1/19 - 9/30/20
Executive's Signature: (b)(6)	Date: 9/30/2019
Title: <b>Chief Administrative Patent Judge</b>	Organization: PTAB
Rating Official's Name (Last, First, MI): <b>Peter, Laura A.</b>	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 9/30/2019

**Part 2. Progress Review**

Executive's Signature:	Date:
Rating Official's Signature:	Date:
Reviewing Official's Signature (Optional):	Date:

**Part 3. Summary Rating**

<b>Initial Summary Rating</b>	<input type="checkbox"/> Level 5 Outstanding	<input type="checkbox"/> Level 4 Commendable	<input type="checkbox"/> Level 3 Fully Successful	<input type="checkbox"/> Level 2 Minimally Satisfactory	<input type="checkbox"/> Level 1 Unsatisfactory
Rating Official's Name (Last, First, MI):					
Rating Official's Signature:			Date:		
Executive's Signature:			Date:		
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**

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2. Leading People			10%			
3. Business Acumen			10%			
4. Building Coalitions			10%			
5. Results Driven			60%			
<b>Total</b>			<b>100 points</b>			

**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%**

**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.

## Agency-Specific Performance Requirements

**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 staffing, 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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading Change

 Level 5 Level 4 Level 3 Level 2 Level 1**Critical Element 2. Leading People****(Minimum weight 5 points) Weight 10%**

**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.

## Agency-Specific Performance Requirements

*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.*

*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.*

**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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading People

 Level 5 Level 4 Level 3 Level 2 Level 1

**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 staffing 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)*

Critical Element Rating – Building Coalitions

Level 5

Level 4

Level 3

Level 2

Level 1

<b>Critical Element 5. Results Driven</b>	<b>(Minimum Weight 20 points) Weight 60%</b>
<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: 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>
<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>
<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 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>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>
<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</p>	<p>Strategic Alignment:</p> <p>FY 2018-2022 USPTO Strategic Plan, Goal 1 - Optimize Patent Quality and Timeliness,</p>

stakeholders to decrease uncertainty and increase predictability, transparency, and reliability.

Objective 4 - Enhance Operations of the Patent Trial And Appeal Board

Rating Official Narrative: *(Optional)*

Critical Element Rating – Results Driven

Level 5

Level 4

Level 3

Level 2

Level 1

**Part 6: Summary Rating Narrative** *(Mandatory)*

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**Part 7: Executive's Accomplishment Narrative** *(Optional)*

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**Part 8: Agency Use**

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## 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.



**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): <b>Boalick, Scott R.</b>	Appraisal Pd. 3/13/19 -9/30/19
Executive's Signature: (b)(6)	Date: 3/25/19
Title: <b>Chief Administrative Patent Judge</b>	Organization: PTAB
Rating Official's Name (Last, First, MI): <b>Peter, Laura A.</b>	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 4/24/2019

**Part 2. Progress Review**

Executive's Signature: (b)(6)	Date: 4/24/19
Rating Official's Signature: (b)(6)	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): <b>PETER, LAURA A.</b>	Date: 11/1/2019
Rating Official's Signature: (b)(6)	Date: 11/1/2019
Executive's Signature: (b)(6)	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: \_\_\_\_\_ Date: \_\_\_\_\_

**Annual Summary Rating**     Level 5     Level 4     Level 3     Level 2     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	(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)		
<b>Total</b>			<b>100 points</b>			

**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%

**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.

Agency-Specific Performance Requirements

**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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading Change

 Level 5 Level 4 Level 3 Level 2 Level 1**Critical Element 2. Leading People****(Minimum weight 5 points)**

Weight 10%

**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.

Agency-Specific Performance Requirements

*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.*

*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.*

**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.**

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)*

Critical Element Rating – Building Coalitions

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 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:  
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.

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**

**Strategic Alignment:**

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.

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**

**Strategic Alignment:**

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

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>Rating Official Narrative: <i>(Optional)</i></p>	<p>Strategic Alignment:          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>
<p>Critical Element Rating – Results Driven</p>	<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</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.



**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)



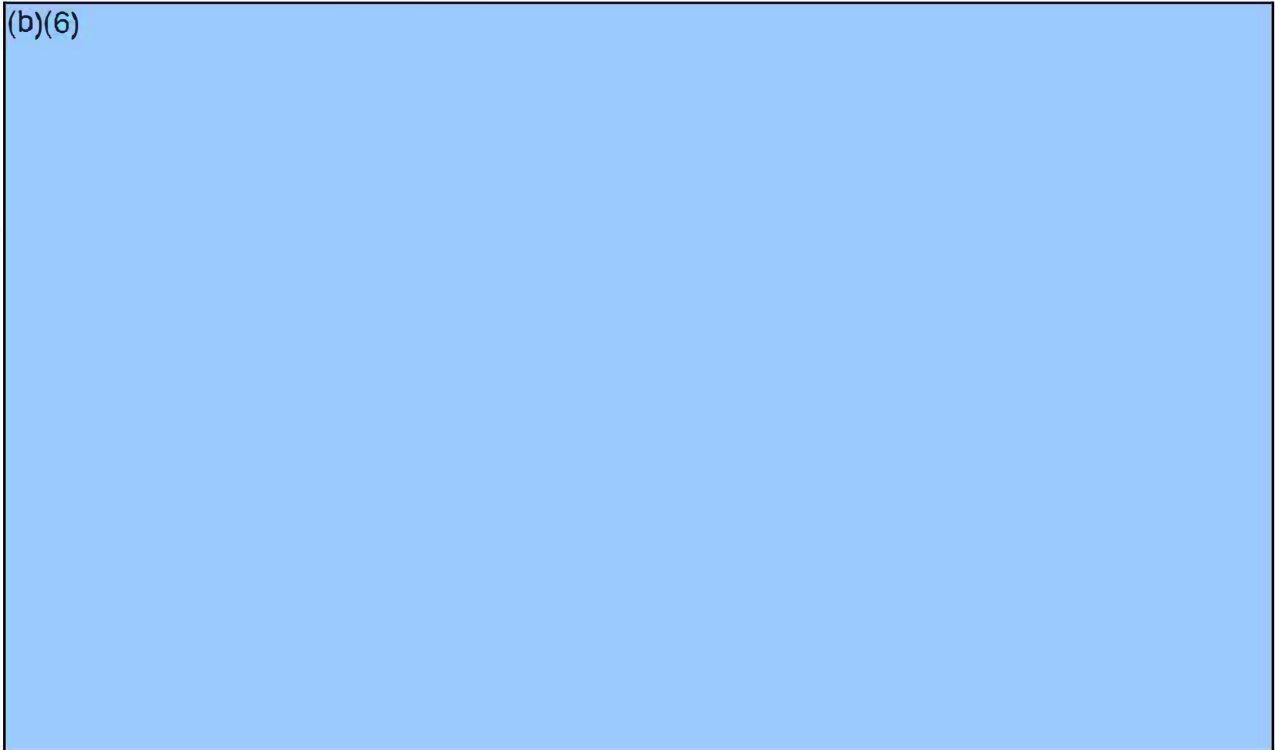
- **Burden of Proof NPRM.**

(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)



*Policy and Guidance Direction*

(b)(6)





(b)(6)



*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)



- **CFO:**

(b)(6)



- **CAO:**

(b)(6)



- **CIO:**

(b)(6)

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- **OPIA / OGA:**

(b)(6)

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- **OGL/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): <b>Boalick, Scott R.</b>	Appraisal Pd. 3/13/19-9/30/19
Executive's Signature: (b)(6)	Date: 3/25/19
Title: <b>Chief Administrative Patent Judge</b>	Organization: PTAB
Rating Official's Name (Last, First, MI): <b>Peter, Laura A.</b>	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 4/24/2019

**Part 2. Progress Review**

Executive's Signature: <i>[Signature]</i>	Date: 4/24/19
Rating Official's Signature: (b)(6)	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): <i>Peter, Laura A.</i>	
Rating Official's Signature: (b)(6)	Date: 11/1/2019
Executive's Signature: (b)(6)	Date: 11/1/2019
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: \_\_\_\_\_ Date: \_\_\_\_\_

**Annual Summary Rating**     Level 5     Level 4     Level 3     Level 2     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	(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)		
<b>Total</b>			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%

**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.

Agency-Specific Performance Requirements

**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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading Change

 Level 5 Level 4 Level 3 Level 2 Level 1**Critical Element 2. Leading People****(Minimum weight 5 points)**

Weight 10%

**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.

Agency-Specific Performance Requirements

*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.*

*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.*

**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.**

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)*

Critical Element Rating – Building Coalitions

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 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:  
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.

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**

**Strategic Alignment:**

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.

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**

**Strategic Alignment:**

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

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>Rating Official Narrative: <i>(Optional)</i></p>	<p>Strategic Alignment:          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>
<p>Critical Element Rating – Results Driven</p>	<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</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.

**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)



(b)(6)



*Policy and Guidance Direction*

(b)(6)



(b)(6)



*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)



- **CFO:**

(b)(6)



- **CAO:**

(b)(6)





- **CIO:**

(b)(6)

- **OPIA / OGA:**

(b)(6)

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

(b)(6)

- **OCCO:**

(b)(6)

(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 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): <b>BOALICK, SCOTT R.</b>					Appraisal Pd. <b>10/01/17 - 9/30/18</b>		
Executive's Signature: (b)(6)			Date: <b>9/26/18</b>				
Title: <b>Deputy Chief Administrative Patent Judge, Patent Trial and Appeal Board, U.S. Patent and Trademark Office</b>					Organization: <b>PTAB</b>		
Rating Official's Name (Last, First, MI): <b>RUSCHKE, DAVID P., Chief Administrative Patent Judge</b>					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> <b>Scardino, Anthony, P</b>							
Rating Official's Signature: (b)(6)			Date: <b>11/6/18</b>				
Executive's Signature: (b)(6)			Date: <b>11/6/18</b>				
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>Agency-Specific Performance Requirements</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>		
Rating Official Narrative: <i>(Optional)</i>		
<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
<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>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><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>		
Rating Official Narrative: <i>(Optional)</i>		
<i>Critical Element Rating -- Leading People</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 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

**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)*

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 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)*

Critical Element Rating-- Building Coalitions

 Level 5 Level 4 Level 3 Level 2 Level 1



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.**

- **Notice of Proposed Rulemaking (NPRM).**

(b)(6)

- **Final Rule (FR).**

(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.**

- **Judge Division.**

(b)(6)

- **Board Executive Division.**

(b)(6)

- **Modeling.**

(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)

- 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)

**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): RUSCHKE, DAVID P.	Appraisal Pd. 10/01/17 - 9/30/18
Executive's Signature:	Date: 9/29/2017
Title: Chief Administrative Patent Judge	Organization: PTAB
Rating Official's Name (Last, First, MI): Scardino, Anthony P.	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 9/29/2017

**Part 2. Progress Review**

Executive's Signature:	Date: 4/30/2018
Rating Official's Signature:	Date: 4/30/2018
Reviewing Official's Signature (Optional):	Date:

**Part 3. Summary Rating** (b)(6)

Initial Summary Rating	(b)(6)
Rating Official's Name (Last, First, MI): Scardino, Anthony, P.	
Rating Official's Signature: (b)(6)	Date: 11/7/18
Executive's Signature:	Date:
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** (b)(6)

PRB Chair Signature: (b)(6)	Date:
Annual Summary Rating (b)(6)	
Appointing Authority Signature: (b)(6)	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	(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)		
<b>Total</b>			<b>100%</b>			

**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

<p><b>Critical Element 1. Leading Change</b></p>	<p>(Minimum weight 5 points)   Weight 10%</p>
<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>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>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<p><b>Critical Element 2. Leading People</b></p>	<p>(Minimum weight 5 points)   Weight 10%</p>
<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>Serve as Chief Judge. Provide policy direction and guidance to the PTAB. Perform 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>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>

<b>Critical Element 3. Business Acumen</b>		(Minimum weight 5 points)   Weight 10%
<b>Mandatory Performance Requirement:</b> 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: <i>(Optional)</i>		
<b>Critical Element Rating – Business Acumen</b>	(b)(6)	
<b>Critical Element 4. Building Coalitions</b>		(Minimum weight 5 points)   Weight 10%
<b>Mandatory Performance Requirement:</b> 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: <i>(Optional)</i>		
<b>Critical Element Rating – Building Coalitions</b>	(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**

**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:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

**Performance Requirement 2: 25% Weight**  
**Ex Parte Inventory / Pendency Reduction:**

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.

**Strategic Alignment:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

**Performance Requirement 3: 25% Weight**

**PTAB Decision Consistency:**

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.

**Strategic Alignment:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

Title 35 of the United States Code, 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.

Performance Requirement 4: 25% Weight

Strategic Alignment:

**Federal Circuit Remand Decision Timeliness:**

**USPTO Strategic Plan, Goal 1:  
OPTIMIZE PATENT QUALITY AND  
TIMELINESS, Objective 7: Maintain the  
Patent Trial and Appeal Board's (PTAB)  
Ability to Provide Timely and High  
Quality Decisions**

**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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Results Driven

(b)(6)



**Part 6: Summary Rating Narrative (Mandatory)**

**Part 7: Executive's Accomplishment Narrative (Optional)**

**Part 8: Agency Use**

**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): RUSCHKE, DAVID P.	Appraisal Pd. 10/01/17 - 9/30/18
Executive's Signature:	Date: 9/29/2017
Title: Chief Administrative Patent Judge	Organization: PTAB
Rating Official's Name (Last, First, MI): Scardino, Anthony P.	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 9/29/2017

**Part 2. Progress Review**

Executive's Signature:	Date: 4/30/2018
Rating Official's Signature:	Date: 4/30/2018
Reviewing Official's Signature (Optional):	Date:

**Part 3. Summary Rating** (b)(6)

Initial Summary Rating (b)(6)

Rating Official's Name (Last, First, MI): Scardino, Anthony, P.	
Rating Official's Signature: (b)(6)	Date: 11/7/18
Executive's Signature:	Date:
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** (b)(6)

PRB Chair Signature: (b)(6)	Date:
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**Annual Summary Rating** (b)(6)

Appointing Authority Signature: (b)(6)	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	(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)		
<b>Total</b>			<b>100%</b>			

**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**

<p><b>Critical Element 1. Leading Change</b></p>	<p>(Minimum weight 5 points)   Weight 10%</p>
<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>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>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<p><b>Critical Element 2. Leading People</b></p>	<p>(Minimum weight 5 points)   Weight 10%</p>
<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>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>Serve as Chief Judge. Provide policy direction and guidance to the PTAB. Perform 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>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>

<b>Critical Element 3. Business Acumen</b>		<b>(Minimum weight 5 points)   Weight 10%</b>
<b>Mandatory Performance Requirement:</b> 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.		
<b>Agency-Specific Performance Requirements</b>		
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: <i>(Optional)</i>		
<b>Critical Element Rating – Business Acumen</b>	(b)(6)	
<b>Critical Element 4. Building Coalitions</b>		<b>(Minimum weight 5 points)   Weight 10%</b>
<b>Mandatory Performance Requirement:</b> 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.		
<b>Agency-Specific Performance Requirements</b>		
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: <i>(Optional)</i>		
<b>Critical Element Rating – Building Coalitions</b>	(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****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:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

**Performance Requirement 2: 25% Weight  
Ex Parte Inventory / Pendency Reduction:**

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.

**Strategic Alignment:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

**Performance Requirement 3: 25% Weight****PTAB Decision Consistency:**

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.

**Strategic Alignment:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

Title 35 of the United States Code, 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.

Performance Requirement 4: 25% Weight

Strategic Alignment:

**Federal Circuit Remand Decision Timeliness:**

USPTO Strategic Plan, Goal 1:  
OPTIMIZE PATENT QUALITY AND  
TIMELINESS, Objective 7: Maintain the  
Patent Trial and Appeal Board's (PTAB)  
Ability to Provide Timely and High  
Quality Decisions

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.

Rating Official Narrative: *(Optional)*

Critical Element Rating – Results Driven

(b)(6)

**Part 6: Summary Rating Narrative (Mandatory)**

**Part 7: Executive's Accomplishment Narrative (Optional)**

**Part 8: Agency Use**



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)



## 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): <b>RUSCHKE, DAVID P.</b>	Appraisal Pd. <b>10/01/16 - 9/30/17</b>
Executive's Signature: (b)(6)	Date: <b>10/25/16</b>
Title: <b>Chief Administrative Patent Judge, U.S. Patent and Trademark Office</b>	Organization: <b>PTAB</b>
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>	CA <input type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: <b>10/25/16</b>

### Part 2. Progress Review

Executive's Signature: (b)(6)	Date: <b>4/26/2017</b>
Rating Official's Signature: (b)(6)	Date: <b>4/26/17</b>
Reviewing Official's Signature (Optional):	Date:

### Part 3. Summary Rating

<b>Initial Summary Rating</b>	(b)(6)		
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>	<b>McDonald, Anthony P</b>		
Rating Official's Signature: (b)(6)	Date: <b>11/1/17</b>		
Executive's Signature: (b)(6)	Date: <b>11/1/2017</b>		
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 (b)(6)

PRB Chair Signature: (b)(6)	Date:
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### Annual Summary Rating (b)(6)

Appointing Authority Signature: (b)(6)	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%			
<b>Total</b>			<b>100%</b>			





**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



<b>Critical Element 1. Leading Change</b>	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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
Critical Element Rating – Leading Change	(b)(6)
<b>Critical Element 2. Leading People</b>	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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
Critical Element Rating – Leading People	(b)(6)



<b>Critical Element 3. Business Acumen</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Business Acumen</p>	<p>(b)(6)</p>
<b>Critical Element 4. Building Coalitions</b>	<b>Weight 10%</b>
<p><b>(Minimum weight 5%)</b></p> <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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Building Coalitions</p>	<p>(b)(6)</p>

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<b>Critical Element 5. Results Driven</b>	<b>Weight 60%</b>
<b>Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)</b>	
<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>	
<b>Performance Requirement 1: 35% Weight</b>  <b>America Invents Act Trial Timeliness:</b> <b>Reach AIA trial completion in 12 months, or in 18 months in cases with extensions for good cause.</b>	<b>Strategic Alignment:</b>  <b>USPTO Strategic Plan, Goal 1, Objective 7-A</b>
<b>Performance Requirement 2: 30% Weight</b>  <b>PTAB Expansion / Ex Parte Inventory Reduction:</b> <b>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%.</b>	<b>Strategic Alignment:</b>  <b>USPTO Strategic Plan, Goal 1, Objective 7-B</b>
<b>Performance Requirement 3: 35% Weight</b>  <b>PTAB Decision Consistency:</b> <b>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.</b>	<b>Strategic Alignment:</b>  <b>USPTO Strategic Plan, Goal 1, Objective 7-D</b>
<b>Rating Official Narrative: (Optional)</b>          	
<b>Critical Element Rating – Results Driven</b>	<b>(b)(6)</b>





**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.**

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David Ruschke, Chief Administrative Patent Judge  
FY2017 End of Year Performance Narrative

Critical Element 1: Leading Change (10%)

Hiring and Reorganization

(b)(6)



Hearings

(b)(6)



Patent Reform Initiative

(b)(6)



**Critical Element 2: Leading People (10%)**

*Serve as Chief Judge*

(b)(6)



*Policy and Guidance Direction*

(b)(6)



*Business Unit Head Functions*

(b)(6)



(b)(6)

Motivate Employees (e.g., to tackle ex parte appeal backlog)

(b)(6)

**Critical Element 3: Business Acumen (10%)**

**Advance Improved IT systems**

(b)(6)

**Manage Budget**

(b)(6)

**Develop Management Team Capabilities**

(b)(6)



**Critical Element 4: Building Coalitions (10%)**

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)

- TTAB:

(b)(6)

- Patents:

(b)(6)

- CFO:

(b)(6)

- CIO: (b)(6)

(b)(6)

- OPIA / OGA:

(b)(6)

- OGL:

(b)(6)

- OCCO: (b)(6)

(b)(6)

- Regional Offices

(b)(6)

Engage with Public

(b)(6)

**Critical Element 5: Results Driven (60%)**

**Performance Requirement 1, AIA Trial Timeliness (35%)**

**USPTO Strategic Plan, Goal 1, Objective 7-A**

(b)(6)

**Performance Requirement 2, PTAB Expansion/Ex Parte Inventory Reduction (30%)**

**USPTO Strategic Plan, Goal 1, Objective 7-B**

(b)(6)

**Performance Requirement 3, PTAB Decision Consistency (35%)**

**USPTO Strategic Plan, Goal 1, Objective 7-D**

(b)(6)



**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): RUSCHKE, DAVID P.	Appraisal Pd. 10/01/17 - 9/30/18
Executive's Signature:	Date: 9/29/2017
Title: Chief Administrative Patent Judge	Organization: PTAB
Rating Official's Name (Last, First, MI): Scardino, Anthony P.	CA <input checked="" type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 9/29/2017

**Part 2. Progress Review**

Executive's Signature:	Date: 4/30/2018
Rating Official's Signature:	Date: 4/30/2018
Reviewing Official's Signature (Optional):	Date:

**Part 3. Summary Rating**

Initial Summary Rating	(b)(6)	
Rating Official's Name (Last, First, MI):	Scardino, Anthony P.	
Rating Official's Signature:	(b)(6)	Date: 11/7/18
Executive's Signature:		Date:
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** (b)(6)

PRB Chair Signature:	(b)(6)	Date:
Annual Summary Rating	(b)(6)	
Appointing Authority Signature:	(b)(6)	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%			
<b>Total</b>			<b>100%</b>			

**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**

<p><b>Critical Element 1. Leading Change</b></p>	<p>(Minimum weight 5 points) Weight 10%</p>
<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>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>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<p><b>Critical Element 2. Leading People</b></p>	<p>(Minimum weight 5 points) Weight 10%</p>
<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>Serve as Chief Judge. Provide policy direction and guidance to the PTAB. Perform 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>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>

<b>Critical Element 3. Business Acumen</b>	<b>(Minimum weight 5 points)   Weight 10%</b>
<b>Mandatory Performance Requirement:</b> 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: <i>(Optional)</i>	
Critical Element Rating – Business Acumen	(b)(6)
<b>Critical Element 4. Building Coalitions</b>	<b>(Minimum weight 5 points)   Weight 10%</b>
<b>Mandatory Performance Requirement:</b> 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: <i>(Optional)</i>	
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****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:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

**Performance Requirement 2: 25% Weight  
Ex Parte Inventory / Pendency Reduction:**

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.

**Strategic Alignment:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

**Performance Requirement 3: 25% Weight****PTAB Decision Consistency:**

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.

**Strategic Alignment:**

USPTO Strategic Plan, Goal 1: OPTIMIZE PATENT QUALITY AND TIMELINESS, Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions

Title 35 of the United States Code, 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.

Performance Requirement 4: 25% Weight

Strategic Alignment:

**Federal Circuit Remand Decision Timeliness:**

USPTO Strategic Plan, Goal 1:  
OPTIMIZE PATENT QUALITY AND  
TIMELINESS, Objective 7: Maintain the  
Patent Trial and Appeal Board's (PTAB)  
Ability to Provide Timely and High  
Quality Decisions

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.

Rating Official Narrative: *(Optional)*

Critical Element Rating – Results Driven

(b)(6)

**Part 6: Summary Rating Narrative (Mandatory)**

**Part 7: Executive's Accomplishment Narrative (Optional)**

**Part 8: Agency Use**



## 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. 10/01/16 - 9/30/17
Executive's Signature: (b)(6)	Date: 10/25/16
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 type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 10/25/16

### Part 2. Progress Review

Executive's Signature: (b)(6)	Date: 4/26/2017
Rating Official's Signature: (b)(6)	Date: 4/26/17
Reviewing Official's Signature (Optional):	Date:

### Part 3. Summary Rating

<b>Initial Summary Rating</b>	(b)(6)	
Rating Official's Name (Last, First, MI): SLIFER, RUSSELL D, Deputy Director	Scordano, Anthony P	
Rating Official's Signature: (b)(6)	Date: 11/1/17	
Executive's Signature: (b)(6)	Date: 11/1/2017	
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: (b)(6)	Date:
<b>Annual Summary Rating</b>	(b)(6)
Appointing Authority Signature: (b)(6)	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%			
<b>Total</b>			<b>100%</b>			



**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

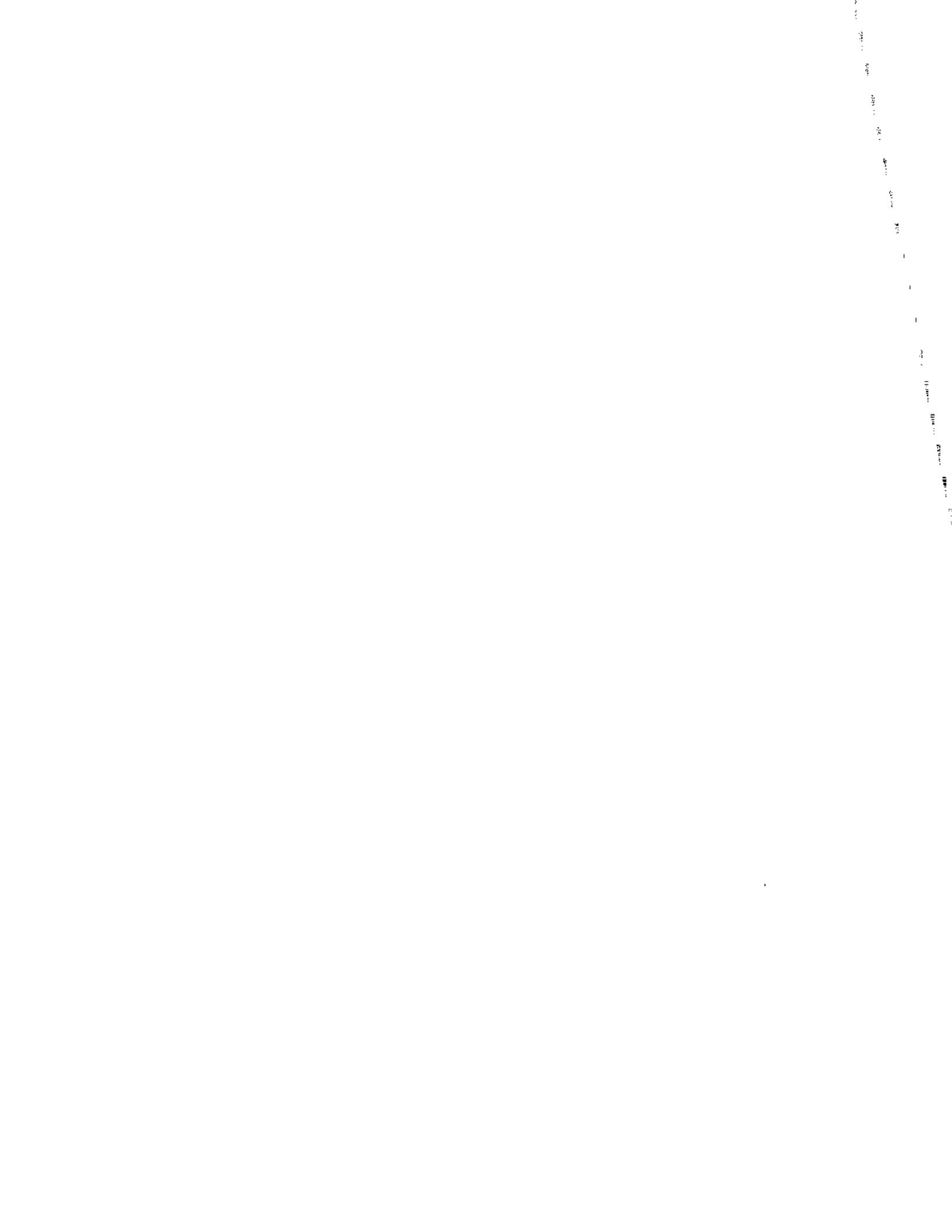


<b>Critical Element 1. Leading Change</b>	Weight 10%
<p>Develops and implements an organizational vision that integrates key organizational and program goals, priorities, values, and other factors. Assesses and adjusts to changing situations, implementing innovative solutions to make organizational improvements, 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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<b>Critical Element 2. Leading People</b>	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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>





<b>Critical Element 3. Business Acumen</b>	Weight 10%
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>Agency-Specific Performance Requirements</p> <p><b>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.</b></p>	
Rating Official Narrative: <i>(Optional)</i>	
Critical Element Rating – Business Acumen	(b)(6)
<b>Critical Element 4. Building Coalitions</b>	Weight 10%
<p>(Minimum weight 5%)</p> <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><b>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.</b></p>	
Rating Official Narrative: <i>(Optional)</i>	
Critical Element Rating – Building Coalitions	(b)(6)



Critical Element 5. Results Driven	Weight 60%
<b>Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)</b>	
<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: <b>35% Weight</b></p> <p><b>America Invents Act Trial Timeliness:</b> Reach AIA trial completion in 12 months, or in 18 months in cases with extensions for good cause.</p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7-A</b></p>
<p>Performance Requirement 2: <b>30% Weight</b></p> <p><b>PTAB Expansion / Ex Parte Inventory Reduction:</b> 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><b>USPTO Strategic Plan, Goal 1, Objective 7-B</b></p>
<p>Performance Requirement 3: <b>35% Weight</b></p> <p><b>PTAB Decision Consistency:</b> 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><b>USPTO Strategic Plan, Goal 1, Objective 7-D</b></p>
Rating Official Narrative: <i>(Optional)</i>	
Critical Element Rating – Results Driven	(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.



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David Ruschke, Chief Administrative Patent Judge  
FY2017 End of Year Performance Narrative

Critical Element 1: Leading Change (10%)

Hiring and Reorganization

(b)(6)



Hearings

(b)(6)



Patent Reform Initiative

(b)(6)



**Critical Element 2: Leading People (10%)**

**Serve as Chief Judge**

(b)(6)



**Policy and Guidance Direction**

(b)(6)



**Business Unit Head Functions**

(b)(6)



(b)(6)

Motivate Employees (e.g., to tackle ex parte appeal backlog)

(b)(6)

**Critical Element 3: Business Acumen (10%)**

**Advance Improved IT systems**

(b)(6)



**Manage Budget**

(b)(6)



**Develop Management Team Capabilities**

(b)(6)



**Critical Element 4: Building Coalitions (10%)**

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)

- TTAB:

(b)(6)

- Patents:

(b)(6)

- CFO:

(b)(6)

- CIO:

(b)(6)

- OPIA / OGA:

(b)(6)

- OGL:

(b)(6)

- OCCO:

(b)(6)

- Regional Offices

(b)(6)

Engage with Public

(b)(6)

**Critical Element 5: Results Driven (60%)**

**Performance Requirement 1, AIA Trial Timeliness (35%)**

**USPTO Strategic Plan, Goal 1, Objective 7-A**

(b)(6)



**Performance Requirement 2, PTAB Expansion/Ex Parte Inventory Reduction (30%)**

**USPTO Strategic Plan, Goal 1, Objective 7-B**

(b)(6)





**Performance Requirement 3, PTAB Decision Consistency (35%)**

**USPTO Strategic Plan, Goal 1, Objective 7-D**

(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): <b>RUSCHKE, DAVID P.</b>	Appraisal Pd. <b>5/22/16 - 9/30/16</b>
Executive's Signature:	Date:
Title: <b>Chief Administrative Patent Judge, U.S. Patent and Trademark Office</b>	Organization: <b>PTAB</b>
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>	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: (b)(6)	Date: <b>10/25/16</b>
Reviewing Official's Signature (Optional):	Date:

### Part 3. Summary Rating

<b>Initial Summary Rating</b>	(b)(6)		
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>			
Rating Official's Signature: (b)(6)	Date: <b>10/25/16</b>		
Executive's Signature: (b)(6)	Date: <b>10/25/16</b>		
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:	

<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:				
<b>Annual Summary Rating</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
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	(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)		
<b>Total</b>	(b)(6)		<b>100%</b>	(b)(6)		

**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**

<b>Critical Element 1. Leading Change</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<b>Critical Element 2. Leading People</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>

<b>Critical Element 3. Business Acumen</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	

<i>Critical Element Rating – Business Acumen</i>	(b)(6)
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<b>Critical Element 4. Building Coalitions</b>	<b>(Minimum weight 5%)</b>	<b>Weight 10%</b>
<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><b>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.</b></p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		

<i>Critical Element Rating – Building Coalitions</i>	(b)(6)
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<b>Critical Element 5. Results Driven</b>		<b>Weight 60%</b>
<b>Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)</b>		
<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>		
<b>Performance Requirement 1: 35% Weight</b>  <b>America Invents Act Trial Timeliness:</b> <b>Reach AIA trial completion in 12 months, or in 18 months in cases with extensions for good cause.</b>	<b>Strategic Alignment:</b>  <b>USPTO Strategic Plan, Goal 1, Objective 7-A</b>	
<b>Performance Requirement 2: 30% Weight</b>  <b>PTAB Expansion / Ex Parte Inventory Reduction:</b> <b>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%.</b>	<b>Strategic Alignment:</b>  <b>USPTO Strategic Plan, Goal 1, Objective 7-B</b>	
<b>Performance Requirement 3: 35% Weight</b>  <b>PTAB Decision Consistency:</b> <b>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.</b>	<b>Strategic Alignment:</b>  <b>USPTO Strategic Plan, Goal 1, Objective 7-D</b>	
<b>Rating Official Narrative: (Optional)</b> <div style="background-color: #ADD8E6; height: 60px; width: 100%; margin-top: 5px;">(b)(6)</div>		
<b>Critical Element Rating – Results Driven</b>		<div style="background-color: #ADD8E6; height: 20px; width: 100%;">(b)(6)</div>

**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



### Part 1. Consultation. *I have reviewed this plan and have been consulted on its development.*

Executive's Name (Last, First, MI): <b>RUSCHKE, DAVID P.</b>	Appraisal Pd. <b>5/22/16 - 9/30/16</b>
Executive's Signature:	Date:
Title: <b>Chief Administrative Patent Judge, U.S. Patent and Trademark Office</b>	Organization: <b>PTAB</b>
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>	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: (b)(6)	Date: <b>10/25/16</b>
Reviewing Official's Signature (Optional):	Date:

### Part 3. Summary Rating

<b>Initial Summary Rating</b>	<input type="checkbox"/> Level 5 Outstanding	<input checked="" type="checkbox"/> Level 4 Commendable	<input type="checkbox"/> Level 3 Fully Successful	<input type="checkbox"/> Level 2 Minimally Satisfactory	<input type="checkbox"/> Level 1 Unsatisfactory
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>					
Rating Official's Signature: (b)(6)					Date: <b>10/25/16</b>
Executive's Signature: (b)(6)					Date: <b>10/25/16</b>
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:	

<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:
<b>Annual Summary Rating</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
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%			
<b>Total</b>			<b>100%</b>			

**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**

<b>Critical Element 1. Leading Change</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<b>Critical Element 2. Leading People</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>

**Critical Element 3. Business Acumen**

**Weight 10%**

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 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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Business Acumen

(b)(6)

**Critical Element 4. Building Coalitions**

**(Minimum weight 5%)**

**Weight 10%**

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, 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.**

Rating Official Narrative: *(Optional)*

Critical Element Rating – Building Coalitions

(b)(6)

<b>Critical Element 5. Results Driven</b>		<b>Weight 60%</b>
<b>Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)</b>		
<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: <b>35% Weight</b></p> <p><b>America Invents Act Trial Timeliness:</b>  <b>Reach AIA trial completion in 12 months, or in 18 months in cases with extensions for good cause.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7-A</b></p>	
<p>Performance Requirement 2: <b>30% Weight</b></p> <p><b>PTAB Expansion / Ex Parte Inventory Reduction:</b>  <b>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%.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7-B</b></p>	
<p>Performance Requirement 3: <b>35% Weight</b></p> <p><b>PTAB Decision Consistency:</b>  <b>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.</b></p>	<p>Strategic Alignment:</p> <p><b>USPTO Strategic Plan, Goal 1, Objective 7-D</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p> <div style="background-color: #ADD8E6; border: 1px solid black; padding: 5px; width: 100%;"> <p>(b)(6)</p> </div>		
<p><i>Critical Element Rating – Results Driven</i></p>		<div style="background-color: #ADD8E6; border: 1px solid black; padding: 5px;"> <p>(b)(6)</p> </div>

**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



### Part 1. Consultation. *I have reviewed this plan and have been consulted on its development.*

Executive's Name (Last, First, MI): <b>RUSCHKE, DAVID P.</b>	Appraisal Pd. <b>5/22/16 - 9/30/16</b>
Executive's Signature:	Date:
Title: <b>Chief Administrative Patent Judge, U.S. Patent and Trademark Office</b>	Organization: <b>PTAB</b>
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>	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: (b)(6)	Date: <b>10/25/16</b>
Reviewing Official's Signature (Optional):	Date:

### Part 3. Summary Rating

<b>Initial Summary Rating</b>	(b)(6)		
Rating Official's Name (Last, First, MI): <b>SLIFER, RUSSELL D, Deputy Director</b>			
Rating Official's Signature: (b)(6)			Date: <b>10/25/16</b>
Executive's Signature: (b)(6)			Date: <b>10/25/16</b>
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:	

<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:				
<b>Annual Summary Rating</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
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	(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)		
<b>Total</b>			<b>100%</b>			

**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**

<b>Critical Element 1. Leading Change</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading Change</p>	<p>(b)(6)</p>
<b>Critical Element 2. Leading People</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	
<p>Critical Element Rating – Leading People</p>	<p>(b)(6)</p>

<b>Critical Element 3. Business Acumen</b>	<b>Weight 10%</b>
<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><b>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.</b></p>	
<p>Rating Official Narrative: <i>(Optional)</i></p>	

<i>Critical Element Rating – Business Acumen</i>	(b)(6)
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<b>Critical Element 4. Building Coalitions</b>	<b>(Minimum weight 5%)</b>	<b>Weight 10%</b>
<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><b>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.</b></p>		
<p>Rating Official Narrative: <i>(Optional)</i></p>		

<i>Critical Element Rating – Building Coalitions</i>	(b)(6)
--	--------

<b>Critical Element 5. Results Driven</b>	Weight 60%
<b>Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)</b>	
<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: <b>35% Weight</b></p> <p><b>America Invents Act Trial Timeliness:</b> 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: <b>30% Weight</b></p> <p><b>PTAB Expansion / Ex Parte Inventory Reduction:</b> 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: <b>35% Weight</b></p> <p><b>PTAB Decision Consistency:</b> 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>
Rating Official Narrative: <i>(Optional)</i>	
<p>(b)(6)</p>	
Critical Element Rating – Results Driven	(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)

**U.S. PATENT & TRADEMARK OFFICE**  
**SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING**

**Name:** JAMES DONALD SMITH

**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:

- 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;
- acts as a leader in service – committed to the development of employees at all levels, responsive to employee needs, and ensuring proper coaching and training to help employees at all levels succeed
- 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.
- Focus on helping the agency achieve veteran hiring goals of at least 20% of hires for non-examiner positions and 10% of hires for examining positions.

**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.**

(b)(6)

**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.**

(b)(6)

**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.**

(b)(6)

**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.**

(b)(6)



**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.**

(b)(6)

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

(b)(6)

Supervisor

(b)(6)

Executive

1/17/13  
Date\*

2. Progress Report/OP Interview Rating

(b)(6)

Supervisor

(b)(6)

Executive

5/3/2013  
Date\*

3. Initial Summary Rating - Summary Rating and Score transferred from computation worksheet, last page.

(b)(6)

Supervisor

(b)(6)

Executive

10/30/2013  
Date\*

(b)(6)

Options: Written Response  
Higher Level Review

Yes	No	**
Yes	No	

4. PRB Recommended Summary Rating

O    C    FS    MS    U

5. Final Annual Summary Rating

●    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 2<sup>nd</sup> 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: **JAMES DONALD SMITH**

Appraisal Period: FY 2013

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

**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
<b>I. Leadership/Management (25%)</b>			
A.	25%	(b)(6)	
<b>II. Customer/Client Service Responsiveness (15%)</b>			
A.	15%		
<b>III. Results (60%)</b>			
A. Appeal Timeliness	25%		
B. AIA Trial Timeliness	25%		
C. PTAB Expansion	10%		
<b>TOTAL SCORE</b>	100%		

\*Initial Summary Rating

(b)(6)

\* 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.

**FY2013 End of Year Review**  
**James D. Smith, Chief Judge PTAB**

**ELEMENT I: Leadership/Management (25%)**

(b)(6)



**ELEMENT 2: Customer/Client Service Responsiveness (15%)**

(b)(6)



**ELEMENT 3: Results**

**A. Sub-element: Appeal Timeliness (25%)**

(b)(6)



**B. Sub-element: AIA Trial Timeliness (25%)**

(b)(6)



**C. Sub-element: PTAB Expansion (10%)**

(b)(6)





**U.S. PATENT & TRADEMARK OFFICE**  
**SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE PLAN/RATING**

**Name:** JAMES DONALD SMITH

**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:

- 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;
- acts as a leader in service – committed to the development of employees at all levels, responsive to employee needs, and ensuring proper coaching and training to help employees at all levels succeed
- 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.
- Focus on helping the agency achieve veteran hiring goals of at least 20% of hires for non-examiner positions and 10% of hires for examining positions.

**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.**

(b)(6)

**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.**

(b)(6)

**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.**

(b)(6)

**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.**

(b)(6)

**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.**

(b)(6)

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

(b)(6)

Supervisor

(b)(6)

Executive

1/17/13  
Date\*

2. Progress Report/OP Interview Rating

(b)(6)

Supervisor

(b)(6)

Executive

5/3/2013  
Date\*

3. Initial Summary Rating - Summary Rating and Score transferred from computation worksheet, last page.

(b)(6)

Supervisor

(b)(6)

Executive

10/30/2013  
Date\*

(b)(6)

Options: Written Response  
Higher Level Review

Yes	No	**
Yes	No	

4. PRB Recommended Summary Rating

O    C    FS    MS    U

5. Final Annual Summary Rating

●    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 2<sup>nd</sup> 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