

**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. 9/2/18 - 9/30/19
Executive's Signature: (b)(6)	Date: Sept 27, 2018
Title: Senior Advisor	Organization: Patents
Rating Official's Name (Last, First, MI): Bahr, Robert	CA <input type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
Rating Official's Signature: (b)(6)	Date: 9/27/2018

Part 2. Progress Review

Executive's Signature: (b)(6)	Date: 4/30/2019
Rating Official's Signature: (b)(6)	Date: 4/30/2019
Reviewing Official's Signature (Optional):	Date:

Part 3. Summary Rating

Initial Summary Rating (b)(6)

Rating Official's Name (Last, First, MI): Bahr, Robert	Date: 10/28/2019
Rating Official's Signature: (b)(6)	Date:
Executive's Signature:	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)	(b)(6)	(b)(6)	(b)(6)	(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)	(b)(6)				
3. Business Acumen	(b)(6)	(b)(6)				
4. Building Coalitions	(b)(6)	(b)(6)				
5. Results Driven	(b)(6)	(b)(6)				
Total			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.

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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%)**

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

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:

- 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;
- Uses creativity and innovation, and encourages new ideas and unconventional approaches in response to evolving conditions;
- Ensures success of the America Invents Act (AIA) by actively supporting internal and external training, devoting sufficient resources, increasing awareness of new initiatives, and collaborating with all necessary parties to ensure an innovative, effective, and efficient reformed patent system;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Continues to strengthen time and attendance controls for both teleworking and non-teleworking employees within the Executive's area of oversight;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools within the Patents Business Unit; and
- Ensures that workloads are monitored within the Executive's area of oversight and takes steps to make sure that workloads are appropriate.

Individual Projects (List below):

- Oversees and provides executive leadership for the development and drafting of guidance and training;
- Oversees and provides executive leadership for projects related to the Patent Trial and Appeal Board (PTAB)
- Supports development of legal and policy guidance for the Office of the Commissioner for Patents, including developing examination policy guidance and training;
- Supports implementation of the First Inventor to File (FITF) provisions of the AIA and Hague Agreement;
- Supports the development and implementation of all quality initiatives within Patents in support of achieving excellence in: work products, customer service, and measuring patent quality;
- Supports training within Patents so it can be delivered in a timely manner; and
- Supports the patent examining corps, including the regional offices and hoteling examiners, on legal issues relating to patent examination

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%)

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

Builds and manages an appropriately skilled workforce by:

- Embracing equal opportunity principles;
- Fostering a diverse and inclusive environment characterized by cultural sensitivity and respect for divergent employee backgrounds;
- Promptly and appropriately addressing allegations of harassment or discrimination;
- Overseeing the recruitment, selection, appraisal and recognition of employees based on individual performance;
- Supporting Agency efforts to train employees on equal opportunity principles;
- Aligning performance plans and awards with Agency goals;
- Identifying talent gaps and providing training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns;
- Encouraging employees to develop new and better ways of performing tasks;
- Supporting a culture of transparency, communication and collaboration in the Patents Business area;
- 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; and
- 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.

Individual Projects (listed below):

- Works with managers and employees within Patents Business Unit to identify performance gaps and provide necessary training;
- Develops and implements an integrated training approach for the patent examining corps to leverage resources and maximize the impact and retention of information;
- Assesses resource needs and redefines requirements to maximize effectiveness;
- Encourages Deputy Commissioner for Patent Examination Policy staff to develop creative ideas and solutions for providing improved applicant-oriented services; and
- Supports supervisor training programs designed to improve mentoring and coaching skills in order to assist Deputy Commissioner for Patent Examination Policy organization in reaching full potential.

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading People

Level 5

Level 4

Level 3

Level 2

Level 1

Executive Name and ID: **Ruschke, David P**

Appraisal Period: **9/2/18 – 9/30/19**

Critical Element 3. Business Acumen

(Minimum weight 5%)

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

- Assesses current and future staffing needs on a regular basis;
- Implements Business Unit's Human Capital Strategic Plans that include recruitment strategies that support organizational objectives;
- Demonstrates sound management of human, financial and technological resources in order to achieve established priorities, goals, and objectives. In doing so, manages program performance throughout the year to maximize operational efficiency and effectiveness within established budgetary resources; ensures overtime is effectively distributed and usage monitored; builds and manages an appropriately skilled and diverse workforce based on organizational goals, budget considerations, and staffing needs; and engages in succession planning as needed for long-term organizational effectiveness;
- Makes effective use of available information technology (IT) to achieve organizational goals; works collaboratively with IT professionals at the operating unit and Department levels, as appropriate, to safeguard IT equipment, software and data; ensures required property accountability processes are in place 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;
- 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; and
- Strengthens the USPTO's telework program and improves controls to best manage employees and focuses on the implementation of any new actions and guidance as may be necessary.

Individual Projects (List Below):

- Improves and enhances recruitment strategies to attract highly skilled and diverse professionals through the expansion of telework programs and the implementation of a nation-wide workforce;
- Supports the IT development of search and information resources and capabilities for internal and external stakeholders;
- Assists in the identification of and addresses anomalies in examination trends pertinent to particular areas within patent operations; and
- Ensures that Patents budget is managed effectively within areas of direct oversight.

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%)

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

- Assures 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;
- 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;
- 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;
- 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;
- Collaborates with stakeholders on outreach and on specific Patent-related initiatives;
- Works closely with internal and external stakeholders in the development and implementation of quality initiatives that support the Enhances Patent Quality Initiative;
- Ensures appropriate investigation and resolution of labor issues raised with Patent management;
- 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;
- Supports a transparent and collaborative work environment; and
- Encourages enhanced communication within and across Business Units.

Individual Projects (List Below):

- Develops and implements strategies to improve internal and external communications;
- Enhances internal coordination between the Patents Business Unit and Patent Trial and Appeal Board (PTAB);
- Establishes alliances to promote inter- and intra-agency collaboration and cooperation;
- Establishes transparent operations and processes to disseminate data in a timely manner to the public through the USPTO website and other electronic media;
- Executes outreach efforts with the Patent Public Advisory Committee (PPAC), Software Partnership, Biotechnology Customer Partnership, business groups, advocacy organizations, and the general public;
- Provides education and outreach to internal stakeholders;
- Represents the USPTO at inter-agency and non-Governmental meetings and events;

Rating Official Narrative: *(Optional)*

Critical Element Rating – Building Coalitions

Level 5

Level 4

Level 3

Level 2

Level 1

Executive Name and ID: **Ruschke, David P**

Appraisal Period: **9/2/18 – 9/30/19**

Critical Element 5. Results Driven

(Minimum Weight 20%)

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: **Backlog, Pendency and Timeliness [Weight 25%]**

Strategic Alignment: **Strategic Goal 1 /Objective Alignment 1 and 2**

Develop an effective and efficient business planning strategy and performance measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President’s Budget and *USPTO 2018-2022 Strategic Plan*.

Goal 1, Objectives 1 and 2 of the *USPTO 2018-2022 Strategic Plan*.

As a fee-funded agency, the USPTO relies on user fee collections to fund operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining indicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO’s long-term goals, objectives and targets, and therefore simultaneously affect any interim results.

Success of these objectives will be determined by the specific performance measures laid out in the attached document and will be measured based on overall performance taking into account the totality of all the measures in the

<p>attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.</p>	
<p>Performance Requirement 2: Quality and Training [Weight 50%]</p> <p>Develop an effective and efficient business planning strategy and performance measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President’s Budget and <i>USPTO 2018-2022 Strategic Plan</i>.</p> <p>As a fee-funded agency, the USPTO relies on user fee collections to fund operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining indicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO’s long-term goals, objectives and targets, and therefore simultaneously affect any interim results.</p> <p>Success of these objectives will be determined by the specific performance measures laid out in the attached document and will be measured based on overall performance taking into account the totality of all the measures in the attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.</p>	<p>Strategic Alignment: Strategic Goal 1 /Objective Alignment 2 and 3</p> <p>Goal 1, Objectives 2 and 3 of the <i>USPTO 2018-2022 Strategic Plan</i>.</p>
<p>Performance Requirement 3: Assistance to Internal and External Stakeholders [Weight 25%]</p> <p>Develop an effective and efficient business planning strategy and performance measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President’s Budget and <i>USPTO 2018-2022 Strategic Plan</i>.</p> <p>As a fee-funded agency, the USPTO relies on user fee collections to fund operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining indicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO’s long-term goals, objectives and targets, and therefore simultaneously affect any interim results.</p> <p>Success of these objectives will be determined by the specific performance measures laid out in the attached document and will be measured based on overall performance taking into account the totality of all the measures in the attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.</p>	<p>Strategic Alignment: Strategic Goal 1 /Objective Alignment 3; Mission Support Goal/Objective Alignment 4.</p> <p>Goal 1, Objective 3 of the <i>USPTO 2018-2022 Strategic Plan</i>. Mission Support Goal, Objective 4 of the <i>USPTO 2018-2022 Strategic Plan</i>.</p>

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)*

Mr. Ruschke served as the Patent Business Unit's liaison with the Patent Trial and Appeal Board (PTAB). Mr. Ruschke specifically worked with the PTAB on the roll out of two Standard Operating Procedures (PTAB SOP), the development of a revision to the PTAB Trial Practice Guide, and on training Administrative Patent Judges on the USPTO's 2019 Patent Eligibility Guidance. Mr. Ruschke also served as one of the Patent Business Unit's members on the screening committee under PTAB SOP 2 concerning precedential and informative PTAB opinions. Mr. Ruschke also served as a liaison between the Office of Petitions (OPET) and the PTAB on petitions matters related to PTAB proceedings, between the Office of Patent Legal Administration (OPLA) and the PTAB on the development of PTAB-related Federal Register notices, and between the Patent Business Unit and the PTAB on PTAB-related quality initiatives. Mr. Ruschke also represented the USPTO before the patent trial committees of various intellectual property bar groups.

Part 7: Executive's Accomplishment Narrative *(Optional)***Part 8: Agency Use**

Deriving the Results Driven Rating Worksheet

Executive Name David P Ruschke Rating Period 9/2/18 – 9/30/19

Results Driven Sub Elements (SE)	Sub Element Rating Level Score	Weight (multiply by)	Sub Element Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Sub Element 1 <i>(Backlog, Pendency and Timeliness)</i>	(b)(6)	25%	(b)(6)	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 SE rated Level 1 overall score must be = Level 1 Rating Score	
Sub Element 2 <i>(Quality and Training)</i>		50%			
Sub Element 3 <i>(Assistance to Internal and External Stakeholders)</i>		25%			
Sub element 4		%			
	= 100%				
Sub Element Total Score				(b)(6)	

Example of Results Driven Element Being Rated Level 4

Results Driven Sub Elements (SE)	Sub Element Rating Level Score	Weight (multiply by)	Sub Element Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Sub Element 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 SE rated Level 1 overall score must be = Level 1 Rating Score	
Sub Element 2	5	x 30	150		
Sub Element 3	5	x 15	75		
Sub element 4	3	x 30	90		
		= 100%			
Sub Element 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.

Critical Element 5: Results Driven

Patent Pendency, Backlog and Timeliness

<i>Patent Pendency and Timeliness Measures</i>	<i>FY 2019 Targets</i>	<i>FY 2019 Results</i>
Patent Corps Pendency and Timeliness Metrics		
First Action Pendency	<15 months	(b)(6)
Total Pendency	<24 months	
UPR Production Units (PUs)	617,000	
T1 Pendency (% inventory of Track 1 ≤ 12 months)	98.0%	
RCE Pendency (% inventory of RCEs < 4 months)	73.0%	
Patent Term Adjustment (PTA) Timeframes (14/4/4/4/36)		
Provide at least one notification under 35 U.S.C. 132 within 14 –months from filing under section 111(a) or the commencement of the national stage under section 371	45% of actions	(b)(6)
Respond to a Reply under 35 U.S.C. 132 within 4 months	93% of amendment actions; 95% of remaining amended inventory; 79% of RCE actions and 73% of remaining inventory of applications < 4 months	
Act on an application within 4 months after the date of a decision by PTAB	96% of actions and 96% of remaining inventory	
Issue a patent within 4 months from payment of the issue fee	98% of issues and 98% of remaining inventory	
No more than 36 month application pendency	80% of allowances and 90% of remaining inventory <36 months from filing	

Results: Quality and Training

Management and Support – Quality Metrics for Correctness and Clarity	FY 2019 Targets	FY 2019 Results
FY '19 Corps Quality Metrics: 35 U.S.C 102 Correctness	>95%	(b)(6)
FY '19 Corps Quality Metrics: 35 U.S.C 103 Correctness	>93%	
FY '19 Corps Quality Metrics: 35 U.S.C 112 Correctness	>93%	

FY '19 Corps Quality Metrics: 35 U.S.C 101 Correctness	>97%	(b)(6)
FY '19 Corps Quality Metrics: 35 U.S.C 102 Clarity	>90%	
FY '19 Corps Quality Metrics: 35 U.S.C 103 Clarity	>90%	
FY '19 Corps Quality Metrics: 35 U.S.C 112 Clarity	>90%	
FY '19 Corps Quality Metrics: 35 U.S.C 101 Clarity	>90%	
FY '20 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '20 in Q4 of FY' 19	(b)(6)
Access to Relevant Prior Art - Explore how to best utilize available electronic resources to provide examiners with information from applicant's other applications filed in the U.S. and internationally as early as possible to increase patent examination quality and efficiency.	FY 2019 Targets	FY 2019 Results
Begin development of Phase 1 of the project	Launched citation tool in test art units	(b)(6)
Develop implementation plan for phases to be implemented in FY '20	Develop citation matching algorithm	
Complete implementation of Phase 1 of the project	Complete implementation of Phase 1 of the project	
35 U.S.C. 112(f) - Improve the frequency of examiner clarification of the record for § 112(f) issues	FY 2019 Targets	FY 2019 Results
Provide Patent Examining Corps-Wide training	Training is delivered within established timelines	(b)(6)
Training Measures and Targets	FY 2019 Targets	FY 2019 Results
Ensure that Training is delivered in a timely manner in accordance with established timelines.	Training is delivered within established timelines	(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

Note: Meeting or exceeding the targets in the above sub elements represents a level of outstanding performance.

**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. 9/2/18 - 9/30/19
Executive's Signature: (b)(6)	Date: Sept 27, 2018
Title: Senior Advisor	Organization: Patents
Rating Official's Name (Last, First, MI): Bahr, Robert	CA <input type="checkbox"/> NC <input type="checkbox"/> LT/LE <input type="checkbox"/>
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Part 2. Progress Review

Executive's Signature: (b)(6)	Date: 4/30/2019
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Reviewing Official's Signature (Optional):	Date:

Part 3. Summary Rating

Initial Summary Rating (b)(6)

Rating Official's Name (Last, First, MI): Bahr, Robert	Date:
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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: _____

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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			100%			

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Critical Element 1. Leading Change**(Minimum weight 5%)**

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

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:

- 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;
- Uses creativity and innovation, and encourages new ideas and unconventional approaches in response to evolving conditions;
- Ensures success of the America Invents Act (AIA) by actively supporting internal and external training, devoting sufficient resources, increasing awareness of new initiatives, and collaborating with all necessary parties to ensure an innovative, effective, and efficient reformed patent system;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Continues to strengthen time and attendance controls for both teleworking and non-teleworking employees within the Executive's area of oversight;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools within the Patents Business Unit; and
- Ensures that workloads are monitored within the Executive's area of oversight and takes steps to make sure that workloads are appropriate.

Individual Projects (List below):

- Oversees and provides executive leadership for the development and drafting of guidance and training;
- Oversees and provides executive leadership for projects related to the Patent Trial and Appeal Board (PTAB)
- Supports development of legal and policy guidance for the Office of the Commissioner for Patents, including developing examination policy guidance and training;
- Supports implementation of the First Inventor to File (FITF) provisions of the AIA and Hague Agreement;
- Supports the development and implementation of all quality initiatives within Patents in support of achieving excellence in: work products, customer service, and measuring patent quality;
- Supports training within Patents so it can be delivered in a timely manner; and
- Supports the patent examining corps, including the regional offices and hoteling examiners, on legal issues relating to patent examination

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%)

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

Builds and manages an appropriately skilled workforce by:

- Embracing equal opportunity principles;
- Fostering a diverse and inclusive environment characterized by cultural sensitivity and respect for divergent employee backgrounds;
- Promptly and appropriately addressing allegations of harassment or discrimination;
- Overseeing the recruitment, selection, appraisal and recognition of employees based on individual performance;
- Supporting Agency efforts to train employees on equal opportunity principles;
- Aligning performance plans and awards with Agency goals;
- Identifying talent gaps and providing training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns;
- Encouraging employees to develop new and better ways of performing tasks;
- Supporting a culture of transparency, communication and collaboration in the Patents Business area;
- 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; and
- 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.

Individual Projects (listed below):

- Works with managers and employees within Patents Business Unit to identify performance gaps and provide necessary training;
- Develops and implements an integrated training approach for the patent examining corps to leverage resources and maximize the impact and retention of information;
- Assesses resource needs and redefines requirements to maximize effectiveness;
- Encourages Deputy Commissioner for Patent Examination Policy staff to develop creative ideas and solutions for providing improved applicant-oriented services; and
- Supports supervisor training programs designed to improve mentoring and coaching skills in order to assist Deputy Commissioner for Patent Examination Policy organization in reaching full potential.

Rating Official Narrative: *(Optional)*

Critical Element Rating – Leading People

Level 5

Level 4

Level 3

Level 2

Level 1

Executive Name and ID: **Ruschke, David P**

Appraisal Period: **9/2/18 – 9/30/19**

Critical Element 3. Business Acumen

(Minimum weight 5%)

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

- Assesses current and future staffing needs on a regular basis;
- Implements Business Unit's Human Capital Strategic Plans that include recruitment strategies that support organizational objectives;
- Demonstrates sound management of human, financial and technological resources in order to achieve established priorities, goals, and objectives. In doing so, manages program performance throughout the year to maximize operational efficiency and effectiveness within established budgetary resources; ensures overtime is effectively distributed and usage monitored; builds and manages an appropriately skilled and diverse workforce based on organizational goals, budget considerations, and staffing needs; and engages in succession planning as needed for long-term organizational effectiveness;
- Makes effective use of available information technology (IT) to achieve organizational goals; works collaboratively with IT professionals at the operating unit and Department levels, as appropriate, to safeguard IT equipment, software and data; ensures required property accountability processes are in place 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;
- 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; and
- Strengthens the USPTO's telework program and improves controls to best manage employees and focuses on the implementation of any new actions and guidance as may be necessary.

Individual Projects (List Below):

- Improves and enhances recruitment strategies to attract highly skilled and diverse professionals through the expansion of telework programs and the implementation of a nation-wide workforce;
- Supports the IT development of search and information resources and capabilities for internal and external stakeholders;
- Assists in the identification of and addresses anomalies in examination trends pertinent to particular areas within patent operations; and
- Ensures that Patents budget is managed effectively within areas of direct oversight.

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%)

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

- Assures 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;
- 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;
- 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;
- 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;
- Collaborates with stakeholders on outreach and on specific Patent-related initiatives;
- Works closely with internal and external stakeholders in the development and implementation of quality initiatives that support the Enhances Patent Quality Initiative;
- Ensures appropriate investigation and resolution of labor issues raised with Patent management;
- 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;
- Supports a transparent and collaborative work environment; and
- Encourages enhanced communication within and across Business Units.

Individual Projects (List Below):

- Develops and implements strategies to improve internal and external communications;
- Enhances internal coordination between the Patents Business Unit and Patent Trial and Appeal Board (PTAB);
- Establishes alliances to promote inter- and intra-agency collaboration and cooperation;
- Establishes transparent operations and processes to disseminate data in a timely manner to the public through the USPTO website and other electronic media;
- Executes outreach efforts with the Patent Public Advisory Committee (PPAC), Software Partnership, Biotechnology Customer Partnership, business groups, advocacy organizations, and the general public;
- Provides education and outreach to internal stakeholders;
- Represents the USPTO at inter-agency and non-Governmental meetings and events;

Rating Official Narrative: *(Optional)*

Critical Element Rating – Building Coalitions

Level 5

Level 4

Level 3

Level 2

Level 1

Executive Name and ID: **Ruschke, David P**

Appraisal Period: **9/2/18 – 9/30/19**

Critical Element 5. Results Driven

(Minimum Weight 20%)

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: **Backlog, Pendency and Timeliness [Weight 25%]**

Strategic Alignment: **Strategic Goal 1 /Objective Alignment 1 and 2**

Develop an effective and efficient business planning strategy and performance measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President’s Budget and *USPTO 2018-2022 Strategic Plan*.

Goal 1, Objectives 1 and 2 of the *USPTO 2018-2022 Strategic Plan*.

As a fee-funded agency, the USPTO relies on user fee collections to fund operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining indicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO’s long-term goals, objectives and targets, and therefore simultaneously affect any interim results.

Success of these objectives will be determined by the specific performance measures laid out in the attached document and will be measured based on overall performance taking into account the totality of all the measures in the

<p>attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.</p>	
<p>Performance Requirement 2: Quality and Training [Weight 50%]</p> <p>Develop an effective and efficient business planning strategy and performance measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President’s Budget and <i>USPTO 2018-2022 Strategic Plan</i>.</p> <p>As a fee-funded agency, the USPTO relies on user fee collections to fund operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining indicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO’s long-term goals, objectives and targets, and therefore simultaneously affect any interim results.</p> <p>Success of these objectives will be determined by the specific performance measures laid out in the attached document and will be measured based on overall performance taking into account the totality of all the measures in the attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.</p>	<p>Strategic Alignment: Strategic Goal 1 /Objective Alignment 2 and 3</p> <p>Goal 1, Objectives 2 and 3 of the <i>USPTO 2018-2022 Strategic Plan</i>.</p>
<p>Performance Requirement 3: Assistance to Internal and External Stakeholders [Weight 25%]</p> <p>Develop an effective and efficient business planning strategy and performance measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President’s Budget and <i>USPTO 2018-2022 Strategic Plan</i>.</p> <p>As a fee-funded agency, the USPTO relies on user fee collections to fund operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining indicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO’s long-term goals, objectives and targets, and therefore simultaneously affect any interim results.</p> <p>Success of these objectives will be determined by the specific performance measures laid out in the attached document and will be measured based on overall performance taking into account the totality of all the measures in the attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.</p>	<p>Strategic Alignment: Strategic Goal 1 /Objective Alignment 3; Mission Support Goal/Objective Alignment 4.</p> <p>Goal 1, Objective 3 of the <i>USPTO 2018-2022 Strategic Plan</i>. Mission Support Goal, Objective 4 of the <i>USPTO 2018-2022 Strategic Plan</i>.</p>

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)*

Mr. Ruschke served as the Patent Business Unit's liaison with the Patent Trial and Appeal Board (PTAB). Mr. Ruschke specifically worked with the PTAB on the roll out of two Standard Operating Procedures (PTAB SOP), the development of a revision to the PTAB Trial Practice Guide, and on training Administrative Patent Judges on the USPTO's 2019 Patent Eligibility Guidance. Mr. Ruschke also served as one of the Patent Business Unit's members on the screening committee under PTAB SOP 2 concerning precedential and informative PTAB opinions. Mr. Ruschke also served as a liaison between the Office of Petitions (OPET) and the PTAB on petitions matters related to PTAB proceedings, between the Office of Patent Legal Administration (OPLA) and the PTAB on the development of PTAB-related Federal Register notices, and between the Patent Business Unit and the PTAB on PTAB-related quality initiatives. Mr. Ruschke also represented the USPTO before the patent trial committees of various intellectual property bar groups.

Part 7: Executive's Accomplishment Narrative *(Optional)***Part 8: Agency Use**

Deriving the Results Driven Rating Worksheet

Executive Name David P Ruschke Rating Period 9/2/18 – 9/30/19

Results Driven Sub Elements (SE)	Sub Element Rating Level Score	Weight (multiply by)	Sub Element Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Sub Element 1 <i>(Backlog, Pendency and Timeliness)</i>	(b)(6)	25%	(b)(6)	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 SE rated Level 1 overall score must be = Level 1 Rating Score	
Sub Element 2 <i>(Quality and Training)</i>		50%			
Sub Element 3 <i>(Assistance to Internal and External Stakeholders)</i>		25%			
Sub element 4		%			
	= 100%				
Sub Element Total Score				(b)(6)	

Example of Results Driven Element Being Rated Level 4

Results Driven Sub Elements (SE)	Sub Element Rating Level Score	Weight (multiply by)	Sub Element Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Sub Element 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 SE rated Level 1 overall score must be = Level 1 Rating Score	
Sub Element 2	5	x 30	150		
Sub Element 3	5	x 15	75		
Sub element 4	3	x 30	90		
		= 100%			
Sub Element 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.

Critical Element 5: Results Driven

Patent Pendency, Backlog and Timeliness

Patent Pendency and Timeliness Measures	FY 2019 Targets	FY 2019 Results
Patent Corps Pendency and Timeliness Metrics		
First Action Pendency	<15 months	(b)(6)
Total Pendency	<24 months	
UPR Production Units (PUs)	617,000	
T1 Pendency (% inventory of Track 1 ≤ 12 months)	98.0%	
RCE Pendency (% inventory of RCEs < 4 months)	73.0%	
Patent Term Adjustment (PTA) Timeframes (14/4/4/4/36)		
Provide at least one notification under 35 U.S.C. 132 within 14 –months from filing under section 111(a) or the commencement of the national stage under section 371	45% of actions	(b)(6)
Respond to a Reply under 35 U.S.C. 132 within 4 months	93% of amendment actions; 95% of remaining amended inventory; 79% of RCE actions and 73% of remaining inventory of applications < 4 months	
Act on an application within 4 months after the date of a decision by PTAB	96% of actions and 96% of remaining inventory	
Issue a patent within 4 months from payment of the issue fee	98% of issues and 98% of remaining inventory	
No more than 36 month application pendency	80% of allowances and 90% of remaining inventory <36 months from filing	

Results: Quality and Training

Management and Support – Quality Metrics for Correctness and Clarity	FY 2019 Targets	FY 2019 Results
FY '19 Corps Quality Metrics: 35 U.S.C 102 Correctness	>95%	(b)(6)
FY '19 Corps Quality Metrics: 35 U.S.C 103 Correctness	>93%	
FY '19 Corps Quality Metrics: 35 U.S.C 112 Correctness	>93%	

FY '19 Corps Quality Metrics: 35 U.S.C 101 Correctness	>97%	(b)(6)
FY '19 Corps Quality Metrics: 35 U.S.C 102 Clarity	>90%	
FY '19 Corps Quality Metrics: 35 U.S.C 103 Clarity	>90%	
FY '19 Corps Quality Metrics: 35 U.S.C 112 Clarity	>90%	
FY '19 Corps Quality Metrics: 35 U.S.C 101 Clarity	>90%	
FY '20 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '20 in Q4 of FY' 19	
Access to Relevant Prior Art - Explore how to best utilize available electronic resources to provide examiners with information from applicant's other applications filed in the U.S. and internationally as early as possible to increase patent examination quality and efficiency.	FY 2019 Targets	FY 2019 Results
Begin development of Phase 1 of the project	Launched citation tool in test art units	(b)(6)
Develop implementation plan for phases to be implemented in FY '20	Develop citation matching algorithm	
Complete implementation of Phase 1 of the project	Complete implementation of Phase 1 of the project	
35 U.S.C. 112(f) - Improve the frequency of examiner clarification of the record for § 112(f) issues	FY 2019 Targets	FY 2019 Results
Provide Patent Examining Corps-Wide training	Training is delivered within established timelines	(b)(6)
Training Measures and Targets	FY 2019 Targets	FY 2019 Results
Ensure that Training is delivered in a timely manner in accordance with established timelines.	Training is delivered within established timelines	(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

Note: Meeting or exceeding the targets in the above sub elements represents a level of outstanding performance.