(2) Commissioner—

(A) Appointment and duties—

The Secretary of Commerce shall appoint a Commissioner for Patents and a Commissioner for Trademarks, without regard to chapter 33, 51, or 53 of title 5. The Commissioner for Patents shall be a citizen of the United States with demonstrated management ability and professional background and experience in patent law and serve for a term of 5 years. The Commissioner for Trademarks shall be a citizen of the United States with demonstrated management ability and professional background and experience in trademark law and serve for a term of 5 years. The Commissioner for Patents and the Commissioner for Trademarks shall be commissioner for Patents and the Commissioner for Trademarks shall serve as the chief operating officers for the operations of the Office relating to patents and trademarks, respectively, and shall be responsible for the management and direction of all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively. The Secretary may reappoint a Commissioner to subsequent terms of 5 years as long as the performance of the Commissioner as set forth in the performance agreement in subparagraph (B) is satisfactory.

(B) Salary and performance agreement—

The Commissioners shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. The compensation of the Commissioners shall be considered, for purposes of section 207(c)(2)(A) of title 18, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of title 18. In addition, the Commissioners may receive a bonus in an amount of up to, but not in excess of, 50 percent of the Commissioners' annual rate of basic pay, based upon an evaluation by the Secretary of Commerce, acting through the Director, of the Commissioners' performance as defined in an annual performance agreement between the Commissioners and the Secretary. The annual performance agreements shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Commissioners and the Secretary. Payment of a bonus under this subparagraph may be made to the Commissioners only to the extent that such payment does not cause the Commissioners' total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the Vice President under section 104 of title 3.

(C) Removal-

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(C) Removal-



Commissioner Performance Agreement

Part 1. Consultation. 1 h	ove reviev	ved this plan	and hove bee	en consulted o	on its develop	ment.			
Commissioner's Name (Lost, First, MI): Hirshfeld, Andrew H.						Appraisal Pd. F	Y 2016		
Commissioner's Signature: (b)(6)						Date: 12/1	Date: 12/10/15-		
Title: Commissioner for F	Patents		8			Organization: l	Organization: USPTO		
Secretary of Commerce N			Pritzker, Pen	ny					
(b)(6) Secretary of Commerce's Signature					Date: (2-19-	15			
Part 2. Progress Review									
Commissioner's Signature:						Date:			
743					Date:	Date:			
Secretary of Commerce's		:				.0			
Part 3. Annual Summary		- 10				<u> </u>			
Annual Summary Rating	ULE vel Outstand		Level 4 Commendable	e Fully St	el 3 uccessful	Level 2 Minimally Satisfacto ry	Le vel 1 Un sa tisfacto ry		
Commissioner's Signature	e:					Date:			
Secretary of Commerce:				Date:	Date:				
Part 4. Derivation Form	ula and Ca	lculation of	Annual Sumn	nary Rating					
	Elem	ent Rating			Score				
Critical Element	Initial	Final (if changed	d) Weight	Initial	Final (if changed) Summary	Level Ranges		
1. Leading Change			10			· · · · · · · · · · · · · · · · · ·			
2. Leading People	•		10		1	1			
3. Business Acumen			10				0 = Level 5		
4. Building Coalitions			10				'4 = Level 4 19 = Level 3		
5. Results Driven			60				9 = Level 2 Level 1 = Level 1		
Total			100%	enten		Any ceraeu			

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	
	2	Level $1 = 0$ points	

Critical Element 1. Leading Change

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;
- Monitors effectiveness of the revised count system for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents telework and any expansion of the program; ensures coordination and agreement with the appropriate union for bargaining unit employees aspect;
- Continues to strengthen time and attendance controls for both teleworking and non-teleworking employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to examiners Corps-wide;
- Supports the continued establishment of the office of the Deputy Commissioner for Patent Quality and related quality initiatives; and
- Leads the implementation of all quality initiatives developed under the Enhanced Patent Quality Initiative (EPQI) in support of achieving excellence in: work products, customer service, and measuring patent quality.
- Ensure that Training within Patents is delivered in a timely manner.
- Ensure that Supervisory Patent Examiner workloads are monitored with respect to the EPQI and take appropriate steps to make sure that workloads are appropriate.

Secretary of Commerce Narrative: (Optional)				
				-

Critical Element Rating – Leading Change	Level S	Level 4	Level 3	Level 2 Level 1

Critical Element 2. Leading People	Weight 10%
Designs and implements strategies that maximize employee potential; connects the organization horizonta vertically; and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provid workplace that fosters the development of others to their full potential; allows for full participation by all en facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ens performance plans are aligned with the organization's mission and goals, that employees receive construction and that employees are realistically appraised against clearly defined and communicated performance stan employees accountable for appropriate levels of performance and conduct. Seeks and considers employee retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation needed to accomplish organizational performance objectives while supporting workforce diversity, workpla and equal employment policies and programs.	les an inclusive mployees; ures employee ve feedback, dards. Holds input. Recruits, n, with the skills
Agency-Specific Performance Requirements	
Builds and manages an appropriately skilled workforce by:	
 Supporting the enhancement of the Employee Relations (ER) liaison program; 	
 Ensuring surveys (including Federal Employee Viewpoint Survey) and other instruments are in place develop plans to provide a work environment that optimizes performance and increases job satisfaction 	
Embracing equal opportunity principles;	
 Fostering a diverse and inclusive environment characterized by cultural sensitivity and respect for d employee backgrounds; 	livergent
 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; 	
Identifying talent gaps and providing training and developmental opportunities, coaching and coun	seling to
employees to strengthen performance or address concerns; and	
 Encouraging employees to develop new and better ways of performing tasks. 	
Supporting a culture of transparency, communication and collaboration in the Patents Business are	a.
Secretary of Commerce Narrative: (Optional)	
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	1401
Critical Element Rating – Leading People 🗌 Level 5 🗌 Level 4 🗌 Level 3 🔲 Level 2	Level 1

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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

- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reduces hiring time, and supports new hires' successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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 the USPTO's employees and focuses on the implementation of any new actions and guidance as may be necessary.

Secretary of Commerce Narrative: (Optional)					
Critical Element Rating – Business Acumen	Level 5	Level 4	Level 3	Level 2	Level 1

Critical Element 4. Building Coalitions

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

- 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 in order to appropriately address client needs;
- 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 Enhanced Patent Quality Initiative;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO; and
- Promotes 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.
- Supports a transparent and collaborative work environment.
- Encourages enhanced communication within and across Business Units.

Secretary of Commerce: (Optional)	1. ~~				
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16					
Critical Element Rating – Building Coalitions	Level 5	Level 4	Leve I 3	Level 2	Level 1

Weight 60%

Critical Element 5. Results Driven

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

Sub Element/Performance Requirement 1: Patent Pendency, Backlog and	Strategic Alignment:
Timeliness (Weight: 25%)	Strategic Alignment: Strategic Goal <u>1</u>
Timemiess (aveignt. 2570)	/Objective Alignment <u>1-2</u>
Develop an offective and officient husiness planning strategy and performance	700 jective Alghment <u>1-2</u>
Develop an effective and efficient business planning strategy and performance	
measurement system to contribute to the achievement of goals, objectives	Goal I, Objectives 1 and 2 of the USPTO
and targets based on requirements in the President's FY 2016 Budget.	2014-2018 Strategic Plan will be accomplished when patent pendency is
As a fee-funded agency, the USPTO relies on user fee collections to fund	optimized, allowing a final action on the
operations. The USPTO considers a number of economic factors and relevant	merits within one year of filing for any
indicators when forecasting its workloads. While many of these defining	applicant who requests it, with overall
indicators point toward renewed economic expansion, considerable	patent pendency time reduced to 10
uncertainty still remains regarding the current and near future prospects for	months for a first office action and 20
growth. This uncertainty could affect anticipated USPTO workloads and fee	months total pendency. This is a long-
collections which in turn could significantly impact the USPTO's long-term	term, multi-year goal to be achieved over
goals, objectives and targets, and therefore simultaneously affect any interim	the next several years.
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	
attached document. Meeting or exceeding the targets set forthin the	
attached document represents a level of outstanding performance.	
accored document represents a lever of outstanding performance.	518

Sub Element/Performance Requirement 2: Quality and Training [Weight: 45%]	Strategic Alignment: Strategic Alignment: Strategic Goal <u>1</u>
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 FY 2016 Budget.	/Objective Alignment 4 Goal I, Objective 4 of the USPTO 2014- 2018 Strategic Plan will be accomplished
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.	when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent.
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.	
Performance Requirement 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach [Weight: 15%]	Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment <u>3,6</u>
Improve on the existing classification system with a set of information services and information processes to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget.	Goal I, Objective 3 of the USPTO 2014- 2018 Strategic Plan will be accomplished by increasing international cooperation and work sharing, fully implementing
Develop and strengthen outreach and partnerships with international IP communities especially as it relates to CPC.	CPC, maximizing the use of PPH, and implementing the Global Dossier to improve examiner and external
Develop and strengthen outreach and partnerships with domestic partners and stakeholders such as, independent inventors, small business, colleges and universities, women and minorities.	stakeholder access to work products of other IP offices.
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.	Goal I, Objective 6 of the USPTO 2014- 2018 Strategic Plan will be accomplished by focusing on improving and enhancing stakeholder and public outreach and increasing a wareness and transparency of patent information, and patent application and ownership information.
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.	

Performance Requirement 4: Patent Legal Administration, Office of Petitions and Patent Administration [Weight: 15%]

Develop an effective and efficient planning strategy and performance measurement system for the office of the Deputy Commissioner for Patent Examination Policy including the areas of patent legal administration the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget.

Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget.

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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.

Strategic Alignment: Strategic Goal 1 /Objective Alignments <u>1, 2, 4, 5</u>

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Goal I, Objective 4 of the USPTO 2014-2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent

Goal I, Objective 5 of the USPTO 2014-2018 Strategic Plan will be accomplished by improving the processing of electronic-based information, and providing information in a variety of services to employees to improve efficiencies, job performance, and achievement of strategic goals.

Secretary of Commerce Narrative: (Optional)

Critical Element Rating – Results Driven	Level 5	Level 4	Level 3	Level 2	Level 1

Part 6: Summary Rating Narrative :

Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

Rating Period FY 2016

Results Driven Performance Requirements (PF	8)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
	100000000000000000000000000000000000000	Score				Score
			8544		Points 475 – 500 = Level 5	
Performance			25%		Rating Score	
Requirement 1					Points 400 – 474 = Level 4	
(Backlog, Penden	cy and		E.		Rating Score	
Timeliness)					Points 300 - 399 = Level 3	
Performance			45%		Rating Score	
Requirement 2			٠.		Points 200 – 299 = Level 2	
(Quality and Train	ning)				Rating Score	
Performance			15%		Any PR rated Level 1 overall	
Requirement 3					score must be = Level 1	
(Patent Classificat					Rating Score	
Processes, Interna						
Cooperation/Enga	-	,				
and Domestic Out	treach)				- 14	
Performance			15%		91.	
Requirement 4						
(Patent Legal						
Administration, O						
Petitions and Pate	ent					
Administration)						
			= 100%			1957.01
Performance						
Requirement Tota	al Score				= Level	
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and the second sec		the second se			anges to Rating Level Score	Results Driven
xample of Results Results Driven Performance	Performa	ance Weight	Perform	ance Point Ra	inges to Rating Level Score	Results Driven
Results Driven Performance	Performa Requirer	ance Weight ment (multipl	Perform Require	ance Point Ra ment	inges to Rating Level Score	Initial Element
Results Driven Performance Requirements	Performa Requirer Rating Le	ance Weight ment (multipl	Perform	ance Point Ra ment	inges to Rating Level Score	
Results Driven Performance Requirements	Performa Requirer	ance Weight ment (multipl	Perform Require	ance Point Ra ment core		Initial Element
and the second sec	Performa Requirer Rating Le	ance Weight ment (multipl	Perform Require	ance Point Ra ment core	inges to Rating Level Score 75 – 500 = Level 5 Rating	Initial Element

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
				Points 475 – 500 = Level 5 Rating	
Performance	4	x 25	100	Score	
Requirement 1				Points 400 – 474 = Level 4 Rating	
Performance	5	x 30	150	Score	
Requirement 2		*		Points 300 – 399 = Level 3 Rating	
Performance	5	x 15	75	Score ,	
Requirement 3				Points 200 – 299 = Level 2 Rating	
Performance	3	x 30	90	Score	
Requirement 4		c		Any PR rated Level 1 overall score	
		= 100%		must be = Level 1 Rating Score	10 - 10 A A A A
Performance				0	1

Commissioner Performance Agreement -10/2015

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quirement tal Score	415	415= Level 4	42
sults Driven Rating is 4 – to	be transferred to Initial	Element Score beside Results D	riven Critical Element on the
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Commissioner Performance Agreement -10/2015

Results Sub Element 1: Backlog, Pendency and Timeliness (Weight 25%)

Backlog, Pendency and Timeliness Measures	FY 2016 Targets	FY 2016 Results				
Backlog Metrics						
Unexamined Backlog	450,000 - 500,000					
RCE backlog	25,000 - 29,000					
Pendency and Timeliness						
First Action Pendency	14.0 - 15.5					
Total Pendency	24.1 - 26.7					
UPR PUs	608,000 - 672,000					
T1 Pendency (snapshots < 12 months)	97.1%-97.7%					
RCE Pendency (inventory > 4 months)	30% - 36%					

Results Sub Element 2: Quality and Training (Weight 45%)

FY 2016 Quality Results, Measures and Targets	FY 2016 Results
Develop and implement the Correctness and Clarity Data Collection Form (CCDC) for	
reviews in the Office of Patent Quality Assurance (OPQA).	
Obtain Public input on the CCDC and new Quality Metrics.	Transferra II
Develop baseline Correctness and Clarity metrics utilizing the results of the FY 2016	
CCDC reviews.	
Develop Quality Metrics and Targets for FY 2017 in the 4 th Quarter of the FY utilizing	
the baselined Correctness and Clarity Metrics.	
Implement Clarity of the Record Pilot Program - develop best practices for	
enhancing the clarity of all aspects of the prosecution record and then study the	
impact of implementing these best practices during examination.	
Develop a program/process for providing post-grant outcomes from sources, such	
as the Patent Trial and Appeal Board (PTAB), to the examiner of record and the	
examiners of related applications. (EPQI – Post Grant Outcome Initiative).	
Develop a program for reviewing the consistency of examination and developing	
programs to address any inconsistencies.	
Administer two External Quality Surveys and two Internal Quality Surveys	

Training Measures and Targets	FY 2016 Results
Ensure that Training is delivered in a timely manner in accordance with established timelines.	
Develop and provide Clarity of the Record Training modules for examiners on effective ways to improve all aspects of the clarity of the prosecution record.	
Patent Examiner Technical Training Program (PETTP) - Increase participation and the number of training hours over FY15 totals.	

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 15%)

Patent Classification Process Measures	FY 2016 Targets	FY 2016 Results
CPC Quality Metrics		
Ensure quality of PG Pubs symbol placement	90-95%	

International Cooperation/Engagement Measures F	V 2016 Targets	FY 2016 Results
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Initiate Projects within the newly formed Industrial Design Five (ID5) Framework	Launch one or more projects to be led by OIPC/Patent Ops team
Release the first service for Global Dossier – Dossier Access	Publically release – First Quarter FY 2016
Define new services/features/functions for the Global Dossier	Deliver requirements for 1 or more new services to the implementation team
Continue CPC engagement and training with other IP offices	3 to 5 Offices

Domestic Outreach Measures	FY 2016 targets	FY 2016 Results
Independent inventor conferences	1-2	
Outreach programs to small business & entrepreneurs	8-12	
Outreach programs to colleges/universities	25-35	
Outreach programs to women & minority inventors	4-8	
Outreach programs for/with Satellite Offices	10-12	

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 15%)

Patent Legal Administration Measures	FY 2016 Targets	FY 2016 Results	
% of Clear and Timely Guidance and Memos Completed	75-85%		
% of Clear and Timely Rulemaking and Notices Published	75-85%	meneral second	
% of Timely Implementation of Legislative Changes and Case Law			
Developments	75-85%		
Office of Petitions Measures	FY 2016 Targets	FY 2016 Results	
% of Timely Petition Decisions ¹⁾	75-85%		
% of Timely Track 1 Petition Decisions ²⁾	75-85%		
% of Timely PPH Petitions ³⁾	75-85%		

1) Petitions processed in less than six months from the filing date:

a. Does not include PTA petitions.

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2) Track 1 petitions processed in less than 60 days.

3) PPH petitions processed in less than 120 days.

Potent Administration Measures	FY 2016 targets	FY 2016 Results
Potents-End-to-End (PE2E)Transition	- X Minana A	
Implement IT components of PE2E in Operations (DAV)	1-2	
Test/Pilot IT components of PE2E in Operations (OC)	1-2	
IT System Improvements		V and the second s
Deploy enhancements to PE2E Docket and Application Viewer tool	Enhancement Deployed	
Deploy enhancements to PE2E Cooperative Patent Classification tool	Enhancement Deployed	0

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

THEC 11 2015

MEMORANUDM FOR THE SECRETARY

FROM:

Michelle K. Lee (b)(6) Under Secretary and Deputy Director

SUBJECT: Prop sed 2016 Performance Agreement between Andrew H. Hirshfeld, Commissioner for Patents, and the Secretary of Commerce

Attached for your approval and signature is a proposed Performance Agreement for Fiscal Year 2016 between Andrew H. Hirshteld, Commissioner for rateins, our contract of the Pe formance, Commerce, as specified by the Employment Agreement with Mr. Hirshfeld. The Pe formance 2016 between Andrew H. Hirshfeld, Commissioner for Patents, USPTO, and the Secretary of relate to the management and direction of all aspects of patent operations. ECUTIVE SECRETARIAI

Recommendation:

(b)(6)

Attachment

Executive Secretariat Clearance:

(b)(6)

Executive Secretariat

Executive Secretariat Clearance Sheet Phone: 202-482-9080 Fax: 202-482-4090

	FIIONE, 202-402-9000	Jax. 202-402-4070
Name: Agency Generated	- 10 M/G V	Tracking No: _15-047395
Subject: Proposed 2016 Per	formance Agreement between Andrew	H. Hirshfeld, Commissioner for Patents and
the Secretary of Commerce		
Agency: PTO	Signature Level: Secretary	Due Date: 12/15 @5pm

Signature Level: <u>Secretary</u> Due Date: <u>12/15@5pm</u> Re-Clear Due Date: _____

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TIME CRITICAL DUE DATE & TIME:

Clearance Office	Date Sent	Date Returned to ES	Cleared by: name/comments	Re-Clear Date	Date Returned toES	Re-Cleared by: name/comments
GC	12/11	12/14	Brian Di Giacomo			
OPSP	12/11	12/14	Brian Di Giacomo Joshan Mundell			
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Clearances:

(b)(6)

12/10/15 Date

Andrew H. Hirshford Commissioner for Patents (571) 272-8800

(b)(6)

Sarah T. Harris General Counsel (571) 272-7000

<u>µ/10/15</u> Date

(b)(6)

12/10

Vikrum D Ayier Chief of Staff (571) 272-8818

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Date



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Commissioner for Patents Performance Agreement

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Part 1. Consultation.	I have revi	ewed this plan	and have bee	n consulted	d on its d	evelop	ment.
Commissioner's Name (Last, First, MI): Hirshfeld, Andrew H.							Appraisal Pd. FY 2017
Commissioner's Signat	Date: 12/19/16						
Title: Commissioner	for Patent	ts	ľ		-		Organization: USPTO
Secretary of Commerce	e's Name <i>(l</i>	last, First, Ml):	Pritzker, Pe	nny			
Secretary of Commerce	e's Signatur	(b)(6) e:					Date:
Part 2. Progress Revie	w						
Commissioner's Signatu	ıre: (b)(6))			7		Date: $4/20/17$
Secretary of Commerce	's Signatur	e: ^{(b)(6)}					Date: 4.28.17
Part 3. Annual Summa	ry Rating		2				
Annual Summary Rating	(b)(6)						
Commissioner's Signatu	re:(b)(6)						Date: 11/13/17
Secretary of Commerce	51 51	(b)(6)					Date: 11/13/17 Date: 11/28/17
Part 4. Derivation Form	nula and Ca	lculation of An	nual Summa	ry Rating			
	Elem	ent Rating			Score		
Critical Element (CE)	Initial	Final (if changed)	Weight	Initial	Fir (ifcha		Summary Level Ranges
1. Leading Change	(b)(6)	(in changed)	10%	(b)(6)		iigeuj	
2. Leading People			10%			ar ustabile	
3. Business Acumen	1		10%			3	475-500 = Level 5
4. Building Coalitions	-		10%				400-474 = Level 4
5. Results Driven			60%				300-399 ≕ Level 3 200-299 ≕ Level 2
Total			100%				Any CE rated Level 1 = Level 1

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.

Level 5 = 5 points
Level 4 = 4 points
Level 3 = 3 points
Level 2 = 2 points
Level 1 = 0 points

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Appraisal Period: FY 2017

Critical Element 1. Leading Change

Weight 10%

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 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;
- Monitors effectiveness of the revised count system for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents telework and any expansion of the program; ensures any necessary coordination and agreement with the appropriate union from a bargaining unit employee aspect;
- Continues to strengthen time and attendance controls for both teleworking and non-teleworking employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to all appropriate employees within the Patents Business Unit;
- Supports the continued development and establishment of the office of the Deputy Commissioner for Patent Quality and related quality initiatives;
- Leads the implementation of all quality initiatives developed within the Patents Business Unit in support of achieving excellence in: work products, customer service, and measuring patent quality;
- Ensures that training within the Patents Business Unit is delivered in a timely manner;
- Ensure that employee workloads are monitored and takes steps to ensure that workloads are appropriate;
- Supports the ongoing examination time analysis (ETA) and the USPTO's effort to conduct a comprehensive study of
 examination time; and
- Supports the Presidential transition efforts.

Secretary of Commerce Narrative: (Optional)

Level 5 Level 4

Level 2

Level 3

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Appraisal Period: FY 2017

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Critical Element 2. Leading People					Weight 10%
Designs and implements strategies that maximi vertically; and fosters high ethical standards in workplace that fosters the development of oth facilitates collaboration, cooperation, and team performance plans are aligned with the organiz and that employees are realistically appraised a employees accountable for appropriate levels of retains, and develops the talent needed to achin needed to accomplish organizational performan	meeting the organ ers to their full po work, and suppor ation's mission ar against clearly def of performance an eve a high quality	nization's visio itential; allows its constructive nd goals, that e ined and comr d conduct. Se , diverse workd	n, mission, an for full partici e resolution of employees rec nunicated per eks and consid force that refle	d goals. Provide pation by all en f conflicts. Ensu eive constructiv formance stand ders employee i ects the nation,	es an inclusive mployees; ures employee ve feedback, dards. Holds input. Recruits, with the skills
and equal employment policies and programs. Agency-Specific Performance Requirements					
Builds and manages an appropriately skilled wo	rkforce by:				:
 Supporting the enhancement of the Wo Advisors; 	orkforce Managem	nent Alliance a	nd Patents Wo	orkforce Manag	ement
 Ensuring surveys (including Federal Emp develop plans to provide a work enviror Embracing equal opportunity principles; Fostering a diverse and inclusive enviror employee backgrounds; Promptly and appropriately addressing a Overseeing the recruitment, selection, a Supporting Agency efforts to train employee 	nment that optimi nment characteriz allegations of hara ppraisal and reco	zes performan ed by cultural assment or disa gnition of emp	ice and increa sensitivity and crimination; ployees based	ses job satisfact I respect for div	tion; vergent
 Identifying talent gaps and providing tra 		••	tunities, coach	ing and counse	ling to
 employees to strengthen performance of Encouraging employees to develop new 			acker and		
 Supporting a culture of transparency, co 	•	• •		Business Unit.	
Secretary of Commerce Narrative: (Optional)					
				-	
Critical Element Rating – Leading People	Level S	Level 4	Level 3	Level 2	Level 1

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Appraisal Period: FY 2017

Critical Element 3.	Business Acumen
	pusiliess 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
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- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reduces hiring time, and supports new hires' successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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 assesses and improves controls as needed to best manage the USPTO's employees and focuses on the implementation of any new actions and guidance as may be necessary.

Secretary of Commerce Narrative: (Optional)					
Critical Element Rating – Business Acumen	Level 5	Level 4	Level 3	Level 2	🗌 Level 1

Critical Element 4. Building Coalitions

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

- 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 in order to appropriately address client needs;
- 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 Enhanced Patent Quality Initiative;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO;
- Promotes 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;
- Supports a transparent and collaborative work environment; and
- Encourages enhanced communication within and across Business Units.

Secretary of Commerce: (Optional)			••••		
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					r
Critical Element Rating – Building Coalitions	Level 5	Level 4	Level 3	Level 2	Level 1

Critical Element 5. Results Driven

Weight 60%

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

<u>Sub Element/Performance Requirement 1:</u> Patent Pendency, Backlog and Timeliness [Weight: 25%]

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 FY 2017 Budget.

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 overail performance taking into account the totality of all the measures in the attached document. Meeting or exceeding the targets setforth in the attached document represents a level of outstanding performance. Strategic Alignment: Strategic Alignment: **Strategic Goal <u>1</u> /Objective Alignment <u>1-2</u>**

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Commissioner's Name: Andrew H. Hirshfeld	Appraisal Period: FY 2017
Sub Element/Performance Requirement 2: Quality and Training [Weight: 45%] High-quality patents, i.e. patents that are correctly issued in compliance with all the requirements of Title 35 as well as the relevant case law at the time of issuance, fuel innovation and reduce needless litigation by providing an unambiguous notice of rights through clear claim boundaries, clear	Strategic Alignment: Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment <u>4</u> Goal I, Objective 4 of the USPTO 2014-
specifications, and clear prosecution histories. To ensure we continue to issue high-quality patents, the USPTO is continuing its efforts to enhance patent quality through the Enhanced Patent Quality Initiative (EPQI), which is a collection of programs and initiatives designed to enhance the quality of issued patents.	2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent.
The Patent business unit is committed to educational leadership, excellence, and quality in our products and services by (1) providing comprehensive training programs in innovative and progressive environments to employees of the Patent business unit and, (2) providing education and training in coordination with our partners in the Patent community.	
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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.	
<u>Performance Requirement 3:</u> Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach [Weight: 15%] Improve on the existing classification system with a set of information services	Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment <u>3,6</u>
and information processes to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2017 Budget.	Goal I, Objective 3 of the USPTO 2014- 2018 Strategic Plan will be accomplished by increasing international cooperation
Develop and strengthen outreach and partnerships with international IP communities especially as it relates to Cooperative Patent Classification (CPC).	and work sharing, fully implementing CPC, maximizing the use of PPH, and implementing the Global Dossier to
Develop and strengthen outreach and partnerships with domestic partners and stakeholders such as, independent inventors, small business, colleges and universities, women and minorities.	improve examiner and external stakeholder access to work products of other IP o fices.
operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining	Goal I, Objective 6 of the USPTO 2014- 2018 Strategic Plan will be accomplished by focusing on improving and enhancing stakeholder and public outreach and
uncertainty still remains regarding the current and near future prospects for growth. This uncertainty could affect anticipated USPTO workloads and fee	increasing awareness and transparency of patent information, and patent application and ownership information.

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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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding 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	
	ment: Strategic Goal 1 gnments <u>1, 2, 4, 5</u>
Develop an effective and efficient planning strategy and performance Goal I, Objectiv	ves 1 and 2 of the USPTO ategic Plan will be
Examination Policy including the areas of patent legal administration in the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2017 Budget.accomplished v optimized, allow merits within o	when patent pendency is wing a final action on the one year of filing for any requests it, with overall
Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and months total performance	cy time reduced to 10 rst office action and 20 endency. This is a long- ar goal to be achieved over
ndicators when forecasting its workloads. While many of these defining ndicators point toward renewed economic expansion, considerable uncertainty still remains regarding the current and near future prospects for rowth. 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	e 4 of the USPTO 2014- Plan will be accomplished Itents are of higher larity is improved, and the mmunity has a clear of the meaning of a t
Success of these objectives will be determined by the specific performance neasures 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 ttached document. Meeting or exceeding the targets set forth in the ttached document represents a level of outstanding performance. 2018 Strategic P by improving the electronic-based providing inform services to employed	d information, and nation in a variety of loyees to improve performance, and
ecretary of Commerce Narrative: (Optional)	
ritical Element Rating – Results Driven	Level 2

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Part 6: Summary Rating Narrative :

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Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Commissioner Performance Arreement -10/2016

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Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

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ield Rating Period <u>FY 2017</u>

Results Driven Performance Requirements (PR	Re Re	erformance equirement iting Level ore	Weight (multiply by)	Performance Requirement Points Score	Point Ranges to Rating Leve Score	I Results Driven Initia Element Score
Performance Requirement 1 (Patent Pendency, Backlog and Timel Performance Requirement 2 (Quality and Traini Performance Requirement 3 (Patent Classificati Processes, Internati Cooperation/Engate and Domestic Outr Performance Requirement 4 (Patent Legal Administration, Off Petitions and Pater Administration)	iness) ing) on tional gement reach)		25% 45% 15% 15%		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 Total	Score				= Leve!	
Example of Results D Results Driven F	Driven Eleme Performance	nt Being Rat Weight	te d Level 4 Performan	ice Point Ran	ges to Rating Level Score	Results Driven
	Requirement Rating Level	(multiply by)	Requireme Points Scor			Initial Element Score

Requirements (PR)	Rating Level Score	by)	Points Score		Score
Performance Requirement 1	4	x 25	100	Points 475 – 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating	
Performance Requirement 2	5	x 30	150	Score Points 300–399 = Level 3 Rating	
Performance Requirement 3	5	x 15	75 .	Score Points 200-299 = Leve12 Rating	
Performance Requirement 4	3	x 30	90	Score Any PR rated Level 1 overall score	
Performance		= 100%		must be = Level 1 Rating Score	
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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Critical Element 5. Results Driven (Total Weight 60%)

		FY 201	7 Targets		
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0%-2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	FY 2017 Results
Patent Corps Backlag Metrics				4	
Unexamined Backlog*	469,000- 477,000	477,000 - 485,000	485,000 - 493,000	493,000 - 502,000	
RCE backlog	-	28,	,000	2	
Patent Corps Pendency and Timeliness Metrics				.]	
First Action Pendency		1	5.5		
Total Pendency		2!	5.5	ļ	
UPR PUs		620	,000		
T1 Pendency (snapshots \leq 12 months)		97.	.5%		
RCE Pendency (inventory ≤ 4 months)		67			

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 25%)

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be 477,000 - 485,000).

Results Sub Element 2: Quality and Training (Weight 45%)

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F ^Y 2017 Quality Results, Measures and Targets				
Management and Support- Clarity Data Collection Form (CCDC)	FY 2017 Targets	FY 2017 Results		
Implement MRF 3.0	Implement by end of FY '17 Q2			
Management and Support – Quality Metrics for Correctness and Clarity	FY 2017 Targets	FY 2017 Results		
FY 2017 Statutory Compliance Rate Targets				
FY '17 Corps Quality Metrics: 102 Correctness	90 - 95%			
FY '17 Corps Quality Metrics: 103 Correctness	88 - 93%			
FY '17 Corps Quality Metrics: 112 Correctness	87 - 92%			
FY '17 Corps Quality Metrics: 101 Correctness	93 - 98%			
· · · · · · · · · · · · · · · · · · ·	- ·	<u> </u>		
FY '17 Corps Quality Metrics: Clarity	Establish baseline clarity metric(s) for FY '18 by end of Q4			
FY '18 Corps Quality Metrics: Correctness	Re-evaluate current targets	· · · · · · · · · · · · · · · · · · ·		
Implement Phase 2 of Clarity of Record Pilot	Implement in FY '17			
Enhanced Search Program	Establish pilot in FY'17			
Topic Submissions for Case Studies	Publish reports (6) for studies			
	implemented in FY'16			

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Administer two External Quality Surveys and two Internal		
Quality Surveys		
Implement a uniform standard of review to be utilized in the Office of Patent Quality Assurance (OPQA) and the Technology Centers		
Examination Time Analysis (ETA)		FY 2017 Results
Address areas of low examination time expectancy by the end of the fiscal year		
Training Measures and Targets	FY 2017 Targets	FY 2017 Results
Ensure that Training is delivered in a timely manner in accordance with established timelines.		
Training Measures and Targets – Clarity of the Record	Continue development and delivery of training related to Clarity of the Record	

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 15%)

Patent Classification Process Measures	FY 2017 Targets	FY 2017 Results
CPC Quality Metrics		
Ensure quality of PG Pubs symbol placement	90-95%	

International Cooperation/Engagement Measures	FY 2017 Targets	FY 2017 Results
Initiate Projects within the newly formed Industrial Design Five (IDS) Framework	Launch one or more projects to be led by OIPC/Patent Ops team	
Provide Accessing Office Functionality for WIPO Case under the Global Dossier Program	First Quarter FY '17	
Define new services/features/functions for the Global Dossier	Deliver requirements for 1 or more new services to the implementation team	
Continue CPC engagement and training with other IP offices	3 to 5 Offices	

Domestic Outreach Measures	FY 2017 targets	FY 2017 Results
Independent Inventor Conferences	1-2	
Outreach Programs to Small Businesses & Entrepreneurs	8-12	
Outreach Programs to Colleges/Universities	10~15	
Outreach Programs to Women & Minority Inventors	4-8	
Outreach Programs for/with Satellite Offices	5 - 10	

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 15%)

	FY 2017 Targets	FY 2017 Results
% of Clear and Timely Guidance and Memos Completed	75-85%	
% of Clear and Timely Rulemaking and Notices Published	75-85%	
% of Timely Implementation of Legislative Changes and Case Law		
Developments	75-85%	1

Appraisal Period: FY 2017

Office of P	Petitions Measures	
	FY 2017 Targets	FY 2017 Results
% of Timely Petition Decisions ¹⁾	75-85%	
% of Timely Track 1 Petition Decisions ²⁾	75-85%	
% of Timely PPH Petitions ³⁾	75-85%	

1) Petitions processed in less than six months from the filing date:

a. Does not include PTA petitions.

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2) Track 1 petitions processed in less than 60 days.

3) PPH petitions processed in less than 120 days.

Patent Administration Measures				
Patents-End-to-End (PE2E)Transition	FY 2017 targets	FY 2017 Results		
Implement IT components of PE2E in Operations (Official Correspondence)	1-2			
Implement T components of PE2E in Operations (Search)	1-2			
Retire Legacy IT Systems (eDan)	1-2			
IT System Improvements	FY 2017 targets	FY 2017 Results		
Deploy Enhancements to PE2E Docket and Application Viewer (DAV)	1-2			
Deploy Enhancements to PE2E Cooperative Patent Classification (CPC)	1-2			
Deploy Enhancements to PE2E eModernization (eMod)	1-2			

<u>Note:</u> Meeting or exceeding the targets in the above sub-elements represents a level of outstanding performance.

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Andrew H. Hirshfeld Commissionerfor Patents FY 2017 Mid-year Performance Bullets

Critical Element 1: Leading Change (10%):

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(b)(6)

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Office of Quality Management:

(b)(6)

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(b)(6)

(b)(6)

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Cooperative Patent Classification (CPC) Project:

Office of International Patent Cooperation:

58

(b)(6)

5 Patents-End-To-End (PE2E):

Financial Advisory Board (FAB): (b)(6)

Administration Transition:

(b)(6)

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Time and Attendance:

(b)(6)

Office of Patent Examination Support Services (OPESS):

(b)(6)

Sets Strategic Direction to address Goals:

(b)(6)

Other:

(b)(6)

Critical Element 2: Leading People (10%):

(b)(6)

984

(b)(6)

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Human Capital, employee engagement:

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

PE2E (Office of Patent Information Management):

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(b)(6)

Patents Quality:

(b)(6)

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Patents Town Hall Initiative:

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(b)(6)

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Personnel: (b)(6)

Training:

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(b)(6)

Reports and Audits:

(b)(6)

(b)(6)

Critical Element 3: Business Acumen (10%):

(b)(6)

Budget & Performance Metrics (Office of Patent Financial Management)

6

Patents Telework Program:

(b)(6)

20

Time and Attendance:

(b)(6)

Patents Hiring:

(b)(6)

Administration Transition:

(b)(6)

Cooperative Patent Classification (CPC) Project: (b)(6)

Other:

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(b)(6)

30

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Critical Element 4. Building Coalitions (10%): (b)(6)

Collaborating within USPTO:

Outreach to under-represented user groups (Office of Innovation Development):

8

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

Public presentations, representation activities:

Quality Forum; Collegiate Inventors Award Ceremony; USPTO Patent Quality Conference.

Critical Element 5. Results Driven (60%):

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 25%)

		FY 201	7 Targets	9.400 IZ 12		
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	Mid-Year FY 2017 Results	
Patent Corps Backlog Metrics		s.	I			
Unexamined Backlog*	469,000 477,000	477,000- 485,000	48 5, 000 - 493 , 000	493,000 - 502,000	(b)(6)	
RCE backløg	28,000					
Patent Corps Pendency and Time liness Metrics				388.		
First Action Pendency		1	5.5			
Total Pendency	_	25.5				
UPR PUs		620,000				
T1 Pendency (snapshots ≤ 12 months)		97,5%				
RCE Pendency (inventory ≤ 4 months)		67	7%			

(b)(6)

(b)(6)

Results Sub Element 2: Quality and Training (Weight 45%)

 Under the Quality and Training results sub element at mid-fiscal year the following results have been achieved:

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Management and Support-Clarity Data Collection	FY 2017 Targets	Mid-Year FY 2017 Results
Form (CCDC) Implement MRF 3.0	implement by end of FY '17 Q2	(b)(6)
	-	
Management and Support Quality Metrics for Correctness and Clarity	FY 2017 Targets	Mid-Year FY 2017 Results
FY 2017 Statutory Compliance Rate Targets	2 52 52 57 52	
FY '17 Corps Quality Metrics: 102 Correctness	90 - 95%	(b)(6)
FY '17 Corps Quality Metrics: 103 Correctness	88 - 93%	
FY '17 Corps Quality Metrics: 112 Correctness	87 - 92.%	
FY '17 Corps Quality Metrics: 101 Correctness	93 - 98%	-
FY '17 Corps Quality Metrics: Clarity	Establish baseline clarity metric(s) for FY '18 by end of Q4	
FY '18 Corps Quality Metrics: Correctness	Re-evaluate current targets	
Implement Phase 2 of Clarity of Record Pilot	Implement in FY '17	
Enhanced Search Program	Establish pilot in FY '17	-
Topic Submissions for Case Studies	Publish reports (6) for studies implemented in FY '16	
Administer two External Quality Surveys and two Internal Quality Surveys	201 - 10 - 10 	
mplement a uniform standard of review to be utilized in the Office of Patent Quality Assurance (OPQA) and the Technology Centers		
Examination Time Analysis (ETA)	FY 2017 Targets	Mid-Year FY 2017 Results
Address areas of low examination time expectancy by the end of the fiscal year		(b)(6)
Training Measures and Targets	FY 2017 Targets	Mid-Year FY 2017 Results
nsure that Training is delivered in a timely nanner in accordance with established melines.		(b)(6)
	Continue development and delivery oftraining	

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related to Clarity of the	
Record	
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Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 15%)

Patent Classification Process Measures	FY 2017 Targets	Mid-Year FY 2017 Results	
CPC Quality Metrics	C.		
Ensure quality of PG Pubs symbol placement	90-95%	(b)(6)	

International Cooperation/Engagement Measures	FY 2017 Targets	Mid-Year FY 2017 Results
Initiate Projects within the newly formed Industrial Design Five (ID5) Framework	Launch one or more projects to be led by OIPC/Patent Ops team	(b)(6)
Provide Accessing Office Functionality for WIPO Case under the Global Dossier Program	First Quarter FY '17	
Define new services/features/functions for the Global Dossier	Deliver requirements for 1 or more new services to the implementation team	
Continue CPC engagement and training with other IP offices	3 to 5 Offices	

Domestic Outreach Measures	FY 2017 targets	Mid-Year FY 2017 Results	
Independent inventor Conferences	1-2	(b)(6)	
Outreach Programs to Small Businesses & Entrepreneurs	8-12		
Outreach Programs to Colleges/Universities	10-15		
Outreach Programs to Women & Minority Inventors	4-8		
Outreach Programs for/with Satellite Offices	5 - 10		

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 15%)

	FY 2017 Targets	Mid-Year FY 2017 Results
% of Clear and Timely Guidance and Memos		(b)(6)
Completed	75-85%	
% of Clear and Timely Rulemaking and Notices		
Published	75-\$5%	
% of Timely Implementation of Legislative Changes		
and Case Law Developments	75-85%	

Andrew H. Hirshfeld Commissioner for Patents

FY 2017 Mid-year Performance Bullets

	FV 2017 Targets	Mid-YearFY 2017 Results
% of Timely Petition Decisions1}	75-85%	(b)(6)
% of Timely Track 1 Petition Decisions ²⁾	75-85%	
% of Timely PPH Petitions ³⁾	75-85%	

Petitions processed in less than six months from the filing date: 1)

Does not include PTA petitions. а.

2) Track 1 petitions processed in less than 60 days.
 3) PPH petitions processed in less than 120 days.

Patent Ad ministration Measures						
Patents-End-to-End (PE2E)Transition	FY 2017 targets	Mid-Year FY 2017 Results				
Implement IT components of PE2E in Operations (Official Correspondence)	1-2	(b)(6)				
Implement IT components of PE2E in Operations (Search)	1-2					
Retire Legacy IT Systems (eDan)	1-2					
. IT System Improvements	FV 2017 targets					
Deploy Enhancements to PE2E Docket and Application Viewer (DAV)	1-2					
Deploy Enhancements to PE2E Cooperative Patent Classification (CPC)	1-2					
Deploy Enhancements to PE2E eModernization (eMod)	1-2					

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



Commissioner for Patents Performance Agreement

Part 1. Consultation. //	have revie	wed this plan an	nd have been	consulted	on its developm	ent.
Commissioner's Name (Last, First, MI): Hirshfeld, Andrew H.						Appraisal Pd. FY 2018
Commissioner's Signature: (b)(6)						Date: 11/13/17
Title: Commissioner fo	or Patent	S	1			Organization: USPTO
Rating Official's Name (L	ast, First,	Mi): Matal, Jos	seph			
Rating Official's Signatur	e: (b)(6)				Date: 11/13/17
Part 2. Progress Review		V		. /	2 .	
Commissioner's Signatur	e: (b)(6)					Date: 6/15/18
Rating Official's Signatur	e: (b)(6)					Date: 6/18/18 Date: 6/18/18
Part 3. Annual Summar	(b)(6)					
Annual Summary Rating						
Commissioner's Signatur						Date: 11/16/18
Rating Official's Signatur	e: (b)(6)				Date: 11/16/2018
Part 4. Derivation Form	ula and C	alculation of Ani	nu <mark>al Sum</mark> mar	y Rating		
	Eler	nent Rating			Score	
Critical Element (CE)	Initial	Final (if changed)	Weight	Initial	Final (if changed)	Summary Level Ranges
1. Leading Change		(b)(6)	10%	50.590-500	(b)(6)	
2. Leading People			10%			
3. Business Acumen			10%			475-500 = Level 5
4. Building Coalitions			10%			400-474 = Level 4
5. Results Driven			60%			300-399 = Level 3 200-299 = Level 2
Total		40.8	100%			Any CE rated Level 1 = Level 1

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

Appraisal Period: FY 2018

Critical Element 1. Leading Change

Weight 10%

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 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;
- Supports the Administration's goals of increasing jobs and growing the economy by ensuring the issuance of high quality patents with clear boundaries of protection;
- 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;
- Monitors effectiveness of Patent's production systems for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents' telework and any expansion of the its telework programs; ensures any necessary coordination and agreement with the appropriate union from a bargaining unit employee aspect;
- Continues to strengthen time and attendance controls for employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to all appropriate employees within the Patents Business Unit;
- Completes the transition, including training, within the Patents Business Unit, to the Official Correspondence (OC) tool;
- Oversees the development and implementation of all quality related initiatives developed within the Patents Business Unit;
- Ensures continued improvement in employee training within the Patents Business Unit;
- Ensures that employee workloads are monitored and takes steps to ensure that workloads are appropriate;
- Supports the USPTO's effort to comprehensively study and plan to adjust examination time goals, as appropriate, to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees;
- Supports the Presidential transition efforts and the transition of a new Under Secretary of Commerce for Intellectual Property and Director of the USPTO;
- Supports the Administration's Regulatory Reform efforts by supporting the elimination of unnecessary, ineffective, and burdensome rules and regulations within the Patents Business Unit; and,
- Supports and provides guidance regarding the implementation of a revised process for routing utility patent applications in light of the transition from U.S. classification (USPC) to the Cooperative Patent Classification System (CPC).

Rating Official Narrative: (Optional)					
Critical Element Rating – Leading Change	Level 5	Level 4	Level 3	Level 2	Level 1

Critical Element 1: Leading Change (10%):

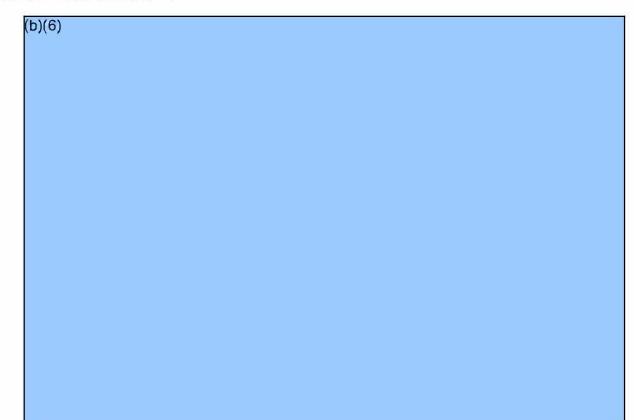
(b)(6)

Subject Matter Eligibility:

192

(b)(6)

Search Initiatives:



Examination Time Analysis (ETA)

Andrew H. Hirshfeld **Commissioner for Patents** FY 2018 Year-End Performance Summary

Executive Orders:



Time and Attendance

(b)(6)

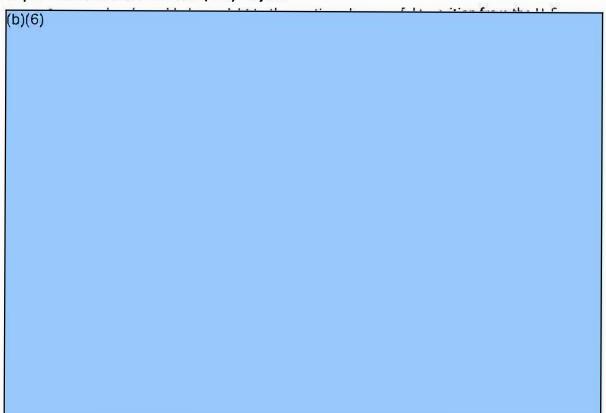
SPE Interest Program (b)(6)

Workforce Effects of Information Technology (IT) Improvements

IT Development Task Force:

(b)(6)

Cooperative Patent Classification (CPC) Project:



Office of International Patent Cooperation:

(b)(6)

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Patents-End-To-End (PE2E) and Patent IT initiatives:

(b)(6)

Financial Advisory Board (FAB):

(b)(6)

Office of Patent Examination Support Services (OPESS):

(b)(6)

Training:

(b)(6)

Sets Strategic Direction to address Goals:

(b)(6)

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Patent Trial and Appeal Board (PTAB):

(b)(6)

Other: (b)(6)

Appraisal Period: FY 2018

Critical Element 2. Leading People

Weight 10%

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:

- Supporting the enhancement of the Workforce Management Alliance and Patents Workforce Management Advisors;
- Ensuring surveys (including Federal Employee Viewpoint Survey and the USPTO People Survey) and other
 instruments are in place to monitor and develop plans to provide a work environment that optimizes performance
 and increases job satisfaction;
- 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;
- Identifying talent gaps and providing training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns;
- Ensuring that managers are appropriately trained;
- Continuing to strengthen time and attendance controls for employees;
- Encouraging employees to develop new and better ways of performing tasks;
- Ensuring that clear and consistent legal and procedural positions are taken on behalf of the Agency by the Patents Business Unit;
- Supporting a culture of transparency, communication and collaboration in the Patents Business Unit; and
- Ensuring that employees are efficiently working on mission-critical tasks;
- Retaining a highly skilled workforce;
- Rewarding the most productive employees; and,
- Ensuring that employees are appropriately recognized.

 Rating Official Narrative: (Optional)

 Critical Element Rating – Leading People

 Level 5

 Level 4

 Level 3

 Level 1

Critical Element 2: Leading People (10%):

(b)(6)

Human Capital, employee engagement:

Cooperative Patent Classification (CPC) Project:

(b)(6)

PE2E (Office of Patent Information Management) other IT efforts:

Workforce Effects of Information Technology (IT) Improvements



(b)(6)

Training:

(b)(6)

Federal Employee Viewpoint Survey (EVS):

(b)(6)

Time and Attendance

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Year-End Performance Summary

3338

Other:



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

- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reducing hiring time, and supporting new hires successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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;
- Ensure that reliable, state of the art IT systems are in place in order to meet the needs of employees and stakeholders and to support the Agency's mission;
- Support the rollout and training of a new search tool to employees;
- 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;
- Strengthens the USPTO's telework program and assesses and improves controls as needed to best manage employees and focuses on the implementation of any new actions and guidance as may be necessary;
- Ensures that user fees are appropriately set and utilized;
- Develop an implementation plan to best utilize available electronic resources to provide examiners with information to facilitate patent examination quality and efficiency.

Rating Official Narrative: (Optional)				
Critical Element Rating – Business Acumen	Level 5	Level 4	Level 3	2 Level 1

Critical Element 3: Business Acumen (10%):

(b)(6)

Budget & Performance Metrics (Office of Patent Financial Management)

(b)(6)

Patents Telework Program:

(b)(6)

Time and Attendance

(b)(6)

Patents Hiring:

(b)(6)

Cooperative Patent Classification (CPC) Project:

Subject Matter Eligibility:

(b)(6)

Examination Time Analysis (ETA)

(b)(6)

Executive Orders:



Pro se Assistance



Critical Element 4. Building Coalitions

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

- Assures that each Business Unit participates in the formulation of clear, concise, and effective communication strategies;
- Demonstrates a high degree of responsiveness to the full range of stakeholders, 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;
- 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 stakeholder needs and expectations, responds to identified concerns promptly, professionally and fairly, and improves business and management processes based on customer and employee feedback;
- Improves access to the patent process for small businesses and independent inventors and ensures that assistance is provided to small businesses and independent inventors on understanding how to obtain and enforce Patent rights;
- Provides dedicated examination resources to pro se applicants;
- 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 specific Patent-related initiatives;
- Ensures that messages to stakeholders are clear and consistent and coordinated within and across business units;
- Works with internal and external stakeholders in the development and implementation of quality improvement programs;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO;
- Promotes intra-agency cooperation by ensuring that all Senior Executives (SES) within the Patents organization
 incorporate specific measurable teaming/collaboration tasks in the development of their individual results subelements;
- Supports a transparent and collaborative work environment;
- Puts systems in place to ensure coordination within and among business units so as to ensure that information is being shared; and,
- Encourages enhanced communication within and across Business Units.

Rating Official Narrative: (Optional)					
Critical Element Rating – Building Coalitions	Level S	Level 4	Level 3	Level 2	Level 1

Critical Element 4. Building Coalitions (10%): (b)(6)

Collaborating within USPTO:

Outreach to under-represented user groups (Office of Innovation Development):

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

Public presentations, representation activities:

Weight 60%

Critical Element 5. Results Driven

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

<u>Sub Element/Performance Requirement 1:</u> Patent Pendency, Backlog and Timeliness [Weight: 30%]

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 FY 2018 Budget.

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, 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 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance. Strategic Alignment: Strategic Alignment: **Strategic Goal <u>1</u> /Objective Alignment <u>1-2</u>**

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Commissioner's Name: Andrew H. Hirshfeld	Appraisal Period: FY 2018
Sub Element/Performance Requirement 2: Patent Quality [Weight: 30%]	Strategic Alignment:
High-quality patents, i.e. patents that are correctly issued in compliance with	Strategic Alignment: Strategic Goal <u>1</u>
all the requirements of Title 35 as well as the relevant case law at the time of	/Objective Alignment <u>4</u>
issuance, fuel innovation and reduce needless litigation by providing an	,, <u>-</u>
unambiguous notice of rights through clear claim boundaries, clear	Goal I, Objective 4 of the USPTO 2014-
specifications, and clear prosecution histories. To ensure we continue to issue	2018 Strategic Plan will be accomplished
	-
high-quality patents, the USPTO is continuing its efforts to address patent	when issued patents are of higher
quality.	quality, claim clarity is improved, and the
	stakeholder community has a clear
The Patent business unit is committed to educational leadership, excellence,	understanding of the meaning of a
and quality in our products and services by (1) providing comprehensive	"quality" patent.
training programs in innovative and progressive environments to employees of	
the Patent business unit and, (2) providing education and training in	
coordination with our partners in the Patent community.	
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	
attached document. Meeting or exceeding the targets set forth in the	
attached document represents a level of outstanding performance.	
····	<u> </u>
	Strategic Alignment:
Cooperation/Engagement and Domestic Outreach [Weight: 20%]	Strategic Goal <u>1</u> /Objective Alignment
Improve on the existing classification system with a set of information services	<u>3,6</u>
and information processes to contribute to the achievement of goals,	
objectives and targets based on requirements in the President's FY 2018	Goal I, Objective 3 of the USPTO 2014-
Budget.	2018 Strategic Plan will be accomplished
	by increasing international cooperation
Develop and strengthen outreach and partnerships with international IP	and work sharing, fully implementing
communities especially as it relates to Cooperative Patent Classification (CPC).	CPC, maximizing the use of PPH, and
	implementing the Global Dossier to
Develop and strengthen outreach and partnerships with domestic partners and	improve examiner and external
stakeholders such as, independent inventors, entrepreneurs, small business,	stakeholder access to work products of
and colleges and universities.	other IP offices.
מות כסויבקבי מות תווערומתבס.	Gener II: Offices,
As a fee-funded agency, the USPTO relies on user fee collections to fund	Goal I, Objective 6 of the USPTO 2014-
operations. The USPTO considers a number of economic factors and relevant	2018 Strategic Plan will be accomplished
indicators when forecasting its workloads. While many of these defining	by focusing on improving and enhancing
indicators point toward renewed economic expansion, considerable	stakeholder and public outreach and
uncertainty still remains regarding the current and near future prospects for	increasing awareness and transparency
growth. This uncertainty could affect anticipated USPTO workloads and fee	of patent information, and patent
collections which is then exactly to the set of the set of the set of the set of the set	
collections which in turn could significantly impact the USPTO's long-term	application and ownership information.
collections which in turn could significantly impact the USPTO's long-term goals, objectives and targets, and therefore simultaneously affect any interim results.	application and ownership information.

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.

<u>Performance Requirement 4:</u> Patent Legal Administration, Office of Petitions and Patent Administration [Weight: 20%]

Develop an effective and efficient planning strategy and performance measurement system for the office of the Deputy Commissioner for Patent Examination Policy including the areas of the Office of Patent Legal Administration (OPLA) and the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget.

Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget.

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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.

Strategic Alignment: **Strategic Goal 1** /Objective Alignments <u>1, 2, 4, 5</u>

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Goal I, Objective 4 of the USPTO 2014-2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent

Goal I, Objective 5 of the USPTO 2014-2018 Strategic Plan will be accomplished by improving the processing of electronic-based information, and providing information in a variety of services to employees to improve efficiencies, job performance, and achievement of strategic goals.

Part 6: Summary Rating Narrative :

Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Critical Element 5. Results Driven (60%):

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 30%)

		FY 201	8 Targets		
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	FY 2018 Results
	Paten	Corps Backlog	Metrics		
Unexamined Inventory***	493,500	505,000	516,000	528,000	(b)(6)
RCE Inventory**	23,000				
	Patent Corps P	endency and Ti	meliness Metrics	5	
First Action Pendency**		1	5.4		
Total Pendency**		2	5.0		
UPR Production Units (PUs)**		620	0,000		
T1 Pendency (snapshots ≤ 12 months)	98.0%				
RCE Pendency (inventory ≤ 4 months)	72.0%				
Pata	ent Term Adjustn	nent (PTA) Time	frames (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	47% of actions		inventory of 125 onths	6,000 apps > 14	(b)(6)
Respond to a Reply under 35 U.S.C. 132 within 4 months	93% of amendment actions; 96% of remaining amended inventory; 78% of RCE actions and remaining inventory of 7,000 apps > 4 months				
Act on an application within 4 months after the date of a decision by PTAB	96 % o f	96% of actions and 96% of remaining inventory			
lssue a patent within 4 months from payment of the issue fee	98% of	issues and 98%	of remaining inv	ventory	
No more than 36 month application pendency		80% of iss	ued patents		

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0%- 2% for the FY the backlog goal will be TBD).

** Model targets are accurate to +/- 5%; results within 5% of target will be considered to have met target given this uncertainty.

Management and Support- Quality Metrics for Correctness and Clarity	FY 2018 Targets	FY 2018 Results
FY '18 Corps Quality Metrics: 35 U.S.C 102 Correctness	>95%	(b)(6)
FY '18 Corps Quality Metrics: 35 U.S.C 103 Correctness	>93%	
FY '18 Corps Quality Metrics: 35 U.S.C 112 Correctness	>93%	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Correctness	>97%	

FY '18 Corps Quality Metrics: 35 U.S.C 102 Clarity	>90%	(b)(6)
FY '18 Corps Quality Metrics: 35 U.S.C 103 Clarity	>90%	
FY '18 Corps Quality Metrics: 35 U.S.C 112(b) Clarity	>90%	-
FY '18 Corps Quality Metrics: 35 U.S.C 101 Clarity	>90%	-
FY '19 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '19 in Q4 of FY' 18	
Examination Time Analysis (ETA) - Comprehensively study and plan to adjust examination time goals to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees.	FY 2018 Targets	FY 2018 Results
Develop initial implementation plan	Develop plan by the end of FY '18, Q1	(b)(6)
Negotiate implementation of the developed plan with the Examiners bargaining unit (POPA)	Complete implementation negotiations by the end of FY '18, Q3	
Implement negotiated plan	Implement negotiated plan by the end of FY '18	
<u>Access to Relevant Prior Art</u> - Explore how to best utilize ovailable 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 potent examination quality and efficiency.	FY 2018 Targets	FY 2018 Results
Begin development of Phase 1 of the project	FY '18, Q1	(b)(6)
Develop implementation plan for phases to be implemented in FY '19	FY'18 Q2/Q3/Q4	
Complete implementation of Phase 1 of the project	Complete Phase 1 implementation by the end of FY'18	
Pilot Programs	FY 2018 Targets	FY 2018 Results
Clarity of the Record Pilot Phase 2, Part a	Implement in FY '18, Q1	(b)(6)
Clarity of the Record Pilot Phase 2, Part b	Implement in FY '18, Q2	
Diagnostic Interview Pilot	<u>FY18, Q1</u> – Begin pilot <u>FY18, Q3</u> – Begin data analysis from pilot	
35 U.S.C. 112(f) - Improve the frequency of examiner clarification of the	FY 2018 Targets	FY 2018 Results
record for § 112(f) issues		

Notes:

*Quality Metrics results far Correctness have the following sample error: 0.4% (102); 0.4% (103); 0.4% (112); and, 0.3% (101). Quality Metrics results for Clarify have the following sample error: 1.3% (102); 0.8% (103); 1.1% (112(b)); and, 1.4% (101).

**Management and the examiners union began pre-decisional ETA discussions in January 2018. Following these discussions, the Administration issued a set of executive orders that partly covered the scope of union negotiations but

were subsequently changed due to a decision by the district court. Consequently, a new path including pre-decisional engagement with set timeframes was chosen to secure time, routing and PAP changes was determined; the latter half of FY18 was used to develop material needed for this new path.

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 20%)

Patent Classification Process Measures	FY 2018 Targets	FY 2018 Results
Cooperative Patent Classification Quality Metrics		
Establish a cooperative convergence metric with at least one partner office	Establish metric by the end of Q4, FY '18	(b)(6)

International Cooperation/Engagement Measures	FY 2018 Targets	FY 2018 Results
Define new functionality for the Global Dossier	Complete by the end of Q4 FY'18	(b)(6)
PCT Collaborative Search and Examination Pilot	Q3 FY'18 – Finalize details of pilot Q4 FY'18 - Launch pilot among IP5 offices	
Expand outreach with stakeholder groups through cooperative agreements (e.g. FICPI and AIPPI)	Develop at least one cooperative agreement by the end of FY '18	
Define roadmaps on four USPTO - led IDS projects	Complete the process of defining roadmaps by the end of Q3, FY '18	

Domestic Outreach Measures	FY 2018 targets	FY 2018 Results	
Independent Inventor Conferences	1	(b)(6)	
Outreach Programs to Small Businesses & Entrepreneurs	8-12		
Outreach to Colleges/Universities	10-15		
Independent Inventor and Small Business Initiative - Enhance assistance to independent inventors and small businesses during the prosecution of their applications.	<u>FY '18 Q2-</u> Increase staff to support the examination of pro-se applications and increase assistance to pro se applicants throughout the entire application process.		

Internal Engagement Initiatives	FY 2018 targets	FY 2018 Results
Patent Employee Town Hall Initiative 2.0	Hold 40 town hall sessions	(b)(6)

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 20%)

Patent Legal Administration	Measures	
	FY 2018 Targets	FY 2018 Results
% of Clear and Timely Guidance and Memos Completed	75-85%	(b)(6)
% of Clear and Timely Rulemaking and Notices Published	75-85%	
% of Timely Implementation of Legislative Changes and Case Law Developments	75-85%	

Office of Pet	titions Measures	
	FY 2018 Targets	FY 2018 Results
% of Timely Petition Decisions ¹⁾	75-85%	(b)(6)
% of Timely Track 1 Petition Decisions ^{2}}	75-85%	
% of Timely PPH Petitions ^{3}}	75-85%	

1) Petitions processed in less than five months from the filing date.

2) Track 1 petitions processed in less than 45 days:

a. The timeliness of a Track 1 request decision is based upon its status 17/20 date (prior to this date, the Track 1 request cannot be decided).

3) PPH petitions processed in less than 90 days.

Patent Administration Measures

Patents-End-to-End (PE2E)Transition	FY 2018 torgets	FY 2018 Results
Implement IT components of PE2E in Operations (Official Correspondence (OC))	<u>FY'18</u> Complete OC deployment and training to TCs and other business units	(b)(6)
Implement IT components of PE2E in Operations (Search)	<u>FY '18</u> Begin Search deployment and training to Technology Centers and Patents staff	

Commissioner's Name: Andrew H. Hirshfeld

Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

Rating Period FY 2018

Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (mułtiply by)	Performance Requirement Points Score	Point Ranges to Rating Level Score	Results Driven Initial Element Score
Performance Requirement 1 (Patent Pendency, Backlog and Timeliness) Performance Requirement 2 (Patent Quality) Performance Requirement 3 (Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach) Performance Requirement 4 (Patent Legal Administration, Office of Petitions and Patent Administration)	(b)(6)	30% 30% 20% 20%	(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 PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement Total Score		= 100%		(b)(6)	

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
and the second second				Points 475 – 500 = Level 5 Rating	
Performance Requirement 1	4	x 30	120	Score Points 400 – 474 = Level 4 Rating	
Performance Requirement 2	5	x 30	150	Score Points 300– 399 = Level 3 Rating	
Performance Requirement 3	5	x 20	100	Score Points 200 – 299 = Level 2 Rating	
Performance Requirement 4	3	x 20	60	Score Any PR rated Level 1 overall score	in .
1.5. 5		= 100%		must be = Level 1 Rating Score	
Performance Requirement Total Score			430	430 = 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.

Commissioner Performance Agreement - 9/2017

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

Critical Element 1: Leading Change (10%):

(b)(6)

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Examination Time Analysis (ETA)

(b)(6)

Time and Attendance

(b)(6)

SPE Interest Program

(b)(6)

Workforce Effects of Information Technology (IT) Improvements

(b)(6)

Subject Matter Eligibility:

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

11-11-1114

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(b)(6)

Office of International Patent Cooperation: (b)(6)

Patents-End-To-End (PE2E) and Patent IT initiatives:

(b)(6)

Financial Advisory Board (FAB):

(b)(6)

Office of Patent Examination Support Services (OPESS):

Training: (b)(6)

Sets Strategic Direction to address Goals:

(b)(6)

Other:

(b)(6)

Critical Element 2: Leading People (10%):

(b)(6)

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Human Capital, employee engagement: (b)(6)

SPE Interest Program (b)(6)

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

Cooperative Patent Classification (CPC) Project:

(b)(6)

PE2E (Office of Patent Information Management): (b)(6)

Workforce Effects of Information Technology (IT) Improvements

(b)(6)

Personnel: (b)(6)

Training:

Federal Employee Viewpoint Survey (EVS):

(b)(6)

Time and Attendance

(b)(6)

Other:

(b)(6)

Critical Element 3: Business Acumen (10%):

(b)(6)

Budget & Performance Metrics (Office of Patent Financial Management)

(b)(6)

<i>X</i> , <i>r</i>			
atents Televe	ork Program:		
(b)(6)	JIKTIOgram		
(0)(0)			
ime and Atte	ndance		
(b)(6)			

Patents Hiring:

(b)(6)

Cooperative Patent Classification (CPC) Project: (b)(6)

Subject Matter Eligibility: (b)(6)

Pr<u>o se Assistance</u> (b)(6) Other: (b)(6)

Critical Element 4. Building Coalitions (10%):

(b)(6)

Collaborating within USPTO:

(b)(6)

Outreach to under-represented user groups (Office of Innovation Development):

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

Public presentations, representation activities:

(b)(6)

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b)(6)		

Critical Element 5. Results Driven (60%):

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 30%)

		FY 201	8 Targets			
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	MY 2018 Results	
	Paten	t Corps Backlog	Metrics			
Unexamined Inventory*. **	493,500	505,000	516,000	528,000	(b)(6)	
RCE Inventory**		23,000				
	Patent Corps P	endency and Ti	meliness Metric.	5		
First Action Pendency**		1	5.4		(b)(6)	
Total Pendency**		2	5.0			
UPR Production Units (PUs)**		620	,000			
T1 Pendency (snapshots ≤ 12 months)		98	.0%			
RCE Pendency (inventory ≤ 4 months)		72	.0%			
Pat	ent Term Adjustn	nent (PTA) Time	frames (14/4/4,	(4/36)		
Provide at least one notification under 35 U.S.C. 132 within 14months from	47% of actions		inventory of 125 nths	5,000 apps > 14	(b)(6)	

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

filing under section 111(a) or the commencement of the national stage under section 371		
Respond to a Reply under 35 U.S.C. 132 within 4 months	93% of amendment actions; 96% of remaining amended inventory; 78% of RCE actions and remaining inventory of 7,000 apps > 4 months	(b)(6)
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 issued patents	

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be TBD).

** Model targets are accurate to +/- 5%; results within 5% of target will be considered to have met target given this uncertainty.

Results Sub Element 2: Patent Quality (Weight 30%)

Management and Support – Quality Metrics for Correctness and Clarity	FY 2018 Targets	MY 2018 Results
FY '18 Corps Quality Metrics: 35 U.S.C 102 Correctness	>95%	(b)(6)
FY '18 Corps Quality Metrics: 35 U.S.C 103 Correctness	>93%	
FY '18 Corps Quality Metrics: 35 U.S.C 112 Correctness	>93%	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Correctness	>97%	
FY '18 Corps Quality Metrics: 35 U.S.C 102 Clarity	>90%	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Clarity	>90%	
FY '18 Corps Quality Metrics: 35 U.S.C 112(b) Clarity	>90%	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Clarity	>90%	
FY '19 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '19 in Q4 of FY' 18	
Examination Time Analysis (ETA) - Comprehensively study and plan to adjust examination time goals to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees.	FY 2018 Targets	MY 2018 Results
Develop initial implementation plan	Develop plan by the end of FY '18, Q1	(b)(6)
Negotiate implementation of the developed plan with the Examiners bargaining unit (POPA)	Complete implementation negotiations by the end of FY'18, Q3	
Implement negotiated plan	Implement negotiated plan by the end of FY '18	
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 guality and efficiency.	FY 2018 Targets	MY 2018 Results
Begin development of Phase 1 of the project	FY'18, Q1	(b)(6)

Develop implementation plan for phases to be implemented in FY '19	FY'18 Q2/Q3/Q4	On Track
Complete implementation of Phase 1 of the project	Complete Phase 1 implementation by the end of FY'18	(b)(6)
Pilot Programs	FY 2018 Targets	
Clarity of the Record Pilot Phase 2, Part a	Implement in FY '18, Q1	
Clarity of the Record Pilot Phase 2, Part b	Implement in FY '18, Q2	
Diagnostic Interview Pilot	<u>FY18, Q1</u> — Begin pilot <u>FY18, Q3</u> — Begin data analysis from pilot	
<u>35 U.S.C. 112(f)</u> - Improve the frequency of examiner clarification of the record for § 112(f) issues	FY 2018 Targets	
Provide Patent Examining Corps-Wide training	FY '18, Q1	

*Quality Metrics results for Correctness and Clarify are accurate to a level of +/- 1.0%

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 20%)

Patent Classification Process Measures	FY 2018 Targets	MY 2018 Results
Cooperative Patent Classification Quality Metrics		
Establish a cooperative convergence metric with at least one partner office	Establish metric by the end of Q4, FY '18	(b)(6)

International Cooperation/Engagement Measures	FY 2018 Targets	MY 2018 Results
Define new functionality for the Global Dossier	Complete by the end of Q4 FY'18	(b)(6)
PCT Collaborative Search and Examination Pilot	Q3 FY '18 – Finalize details of pilot Q4 FY '18 – Launch pilot among IPS offices	
Expand outreach with stakeholder groups through cooperative agreements (e.g. FICPI and AIPPI)	Develop at least one cooperative agreement by the end of FY '18	
Define roadmaps on four USPTO - led IDS projects	Complete the process of defining roadmaps by the end of Q3, FY '18	

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

(b)(6)

Domestic Outreach Measures	FY 2018 targets	MY 2018 Results
Independent Inventor Conferences	1	(b)(6)
Outreach Programs to Small Businesses & Entrepreneurs	8-12	
Outreach to Colleges/Universities	10-15	
Independent Inventor and Small Business Initiative - Enhance assistance to independent inventors and small businesses during the prosecution of their applications.	<u>FY '18 Q2</u> - Increase staff to support the examination of pro-se applications and increase assistance to pro se applicants throughout the entire application process.	

Internal Engagement Initiatives	FY 2018 torgets	MY 2018 Results
Patent Employee Town Hall Initiative 2.0	Hold 40 town hall sessions	(b)(6)

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 20%)

Patent Legal Administration	Measures	
	FY 2018 Targets	MY 2018 Results
% of Clear and Timely Guidance and Memos Completed	75-85%	(b)(6)
% of Clear and Timely Rulemaking and Notices Published	75-85%	
% of Timely Implementation of Legislative Changes and Case Law		
Developments	75-85%	

Office of Pe	titions Measures	
	FY 2018 Targets	MY 2018 Results
% of Timely Petition Decisions ¹	75-85%	(b)(6)
% of Timely Track 1 Petition Decisions ²⁾	75-85%	
% of Timely PPH Petitions ³	75-85%	

1) Petitions processed in less than five months from the filing date.

2) Track 1 petitions processed in less than 45 days:

a. The timeliness of a Track 1 request decision is based upon its status 17/20 date (prior to this date, the Track 1 request cannot be decided).

3) PPH petitions processed in less than 90 days.

Patent Administration Measures							
Patents-End-to-End (PE2E)Transition	FY 2018 targets	MY 2018 Results					
Implement IT components of PE2E in Operations (Official Correspondence (OC))	<u>FY '18</u> Complete OC deployment and training to TCs and other business units	(b)(6)					

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Andrew H. Hirstifeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

		(b)(6)
Implement IT components of PE2E in Operations (Search)	<u>FY '18</u> Begin Search deployment and training to Technology Centers and Patents staff	



Commissioner for Patents Performance Agreement

Part 1. Consultation. I have reviewed this plan and have been consulted on its development.										
Commissioner's Name (Last, First, MI): Hirshfeld, Andrew H.						A	Appraisal Pd. FY 2019			
Commissioner's Signature (b)(6)							C	Date: 9/25/18		
Title: Commissioner fo	or Patents		V				C	Organization: U	ISPTO	
Rating Official's Name (Last, First, MI): lancu, Andrei								2		
Rating Official's Signatur	e: (b)(6)						C	Date: 10/1/	IP	
Part 2. Progress Review	l	and the second			3.35					
Commissioner's Signatur	e:						C	Date:		
Rating Official's Signatur	e:						C	Date:		
Part 3. Annual Summar	y Rating		1.1							
Annual Summary Rating	· · · · · · · · · · · · · · · · · · ·				Mir	Level 2 nimally isfactory	Level 1 Unsatisfactory			
Commissioner's Signatur	e:					,	D	Date:		
Rating Official's Signature	e:						D	Date:		
Part 4. Derivation Form	ula and Ca	lculation of	Annual Summa	ary Ratir	ng					
	Elem	ent Rating		-	Sco	re				
Critical Element (CE)	Initial	Final (if change	d) Weight	Initi		Final f changed	N	Summary	Level Ranges	
1. Leading Change	IIIItiai	Inchange	10%	inte		in changed		Summary	Lever Kanges	
2. Leading People			10%							
3. Business Acumen 10%				475-500) = Level 5					
4. Building Coalitions 10%					4 = Level 4					
5. Results Driven 60%				300-399 = Level 3 200-299 = Level 2						
Total 100%				Any CE rated Level 1 = Level 1						

Commissioner's Name: Andrew H. Hirshfeld

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

Appraisal Period: FY 2019

Critical Element 1. Leading Change

Weight 10%

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 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;
- Supports the Administration's goals of increasing jobs and growing the economy by ensuring the consistency and reliability of issued patents which have clear boundaries of protection;
- 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;
- Monitors effectiveness of Patents' production systems for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents' telework and any expansion of the it's telework programs; ensures any necessary coordination and agreement with the appropriate union from a bargaining unit employee aspect;
- Continues to strengthen time and attendance controls for employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to all appropriate employees within the Patents Business Unit;
- Completes the transition, including training, within the Patents Business Unit, to the Official Correspondence (OC) tool;
- Oversees the development and implementation of all quality related programs and initiatives developed within the Patents Business Unit;
- Ensures continued improvement in employee training within the Patents Business Unit;
- Ensures that employee workloads are monitored and takes steps to ensure that workloads are appropriate;
- Supports the USPTO's effort to comprehensively study and plan to adjust examination time goals, as appropriate, to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees;
- Supports the Administration's Regulatory Reform efforts by supporting the elimination of unnecessary, ineffective, and burdensome rules and regulations within the Patents Business Unit; and,
- Supports and provides guidance regarding the implementation of a revised process for routing utility patent
 applications in light of the transition from U.S. classification (USPC) to the Cooperative Patent Classification System
 (CPC).

Rating Official Narrative: (Optional)					
Critical Element Rating – Leading Change	Level 5	Level 4	Level 3	Levei 2	Level 1

Appraisal Period: FY 2019

Critical Element 2. Leading People

Weight 10%

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:

- Supporting the enhancement of the Workforce Management Alliance and Patents Workforce Management Advisors;
- Ensuring surveys (including Federal Employee Viewpoint Survey and the USPTO People Survey) and other
 instruments are in place to monitor and develop plans to provide a work environment that optimizes performance
 and increases job satisfaction;
- 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;
- Identifying talent gaps and providing training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns;
- Ensuring that managers are appropriately trained;
- Continuing to strengthen time and attendance controls for employees;
- Encouraging employees to develop new and better ways of performing tasks;
- Ensuring that clear and consistent legal and procedural positions are taken on behalf of the Agency by the Patents Business Unit;
- Supporting a culture of transparency, communication and collaboration in the Patents Business Unit; and
- Ensuring that employees are efficiently working on mission-critical tasks;
- Retaining a highly skilled workforce;
- Rewarding the most productive employees;
- Ensuring that employees are appropriately recognized;
- Leading, developing, and implementing actions to improve employee engagement within the Patents Business Unit based on employee feedback gathered from sources including the USPTO People Survey, Federal Employee Viewpoint Survey, focus groups and other initiatives;
- Adhering to legal requirements established in 5 U.S.C. Section 2302(b)(8) Whistleblower Retaliation and 5 U.S. Code § 2302 Prohibited Personnel Practices; 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.

Rating Official Narrative: (Optional)					
Critical Element Rating – Leading People	Level 5	Level 4	Level 3	Level 2	Level 1

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

- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reducing hiring time, and supporting new hires successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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;
- Ensure that reliable, state of the art IT systems are in place in order to meet the needs of employees and stakeholders and to support the Agency's mission;
- Support the rollout and training of a new search tool to employees;
- 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;
- Strengthens the USPTO's telework program and assesses and improves controls as needed to best manage employees and focuses on the implementation of any new actions and guidance as may be necessary;
- Ensures that user fees are appropriately set and utilized;
- Develop an implementation plan to best utilize available electronic resources to provide examiners with information to facilitate patent examination quality and efficiency.

Rating Official Narrative: (Optional)			·		
Critical Element Rating – Business Acumen	Level S	Level 4	Level 3	Level 2	Level 1

Appraisal Period: FY 2019

Critical Element 4. Building Coalitions

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

- Assures that each Business Unit participates in the formulation of clear, concise, and effective communication strategies;
- Demonstrates a high degree of responsiveness to the full range of stakeholders, 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;
- 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 stakeholder needs and expectations, responds to identified concerns promptly, professionally and fairly, and improves business and management processes based on customer and employee feedback;
- Improves access to the patent process for small businesses and independent inventors and ensures that assistance is provided to small businesses and independent inventors on understanding how to obtain and enforce Patent rights;
- Provides dedicated examination resources to pro se applicants;
- 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 specific Patent-related initiatives;
- Ensures that messages to stakeholders are clear and consistent and coordinated within and across business units;
- Works with internal and external stakeholders in the development and implementation of quality improvement programs;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO;
- Promotes intra-agency cooperation by ensuring that all Senior Executives (SES) within the Patents organization
 incorporate specific measurable teaming/collaboration tasks in the development of their individual results subelements;
- Supports a transparent and collaborative work environment;
- Puts systems in place to ensure coordination within and among business units so as to ensure that information is being shared; and,
- Encourages enhanced communication within and across Business Units.

Rating Official Narrative: (Optional)					
Critical Element Rating – Building Coalitions	Level 5	Level 4	Level 3	Level 2	Level 1

Weight 60%

Critical Element 5. Results Driven

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

<u>Sub Element/Performance Requirement 1:</u> Patent Pendency, Backlog and Timeliness [Weight: 30%]

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 FY 2019 Budget.

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, 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 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance. Strategic Alignment: Strategic Alignment: **Strategic Goal <u>1</u>** /**Objective Alignment <u>1-2</u>**

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Commissioner's Name: Andrew H. Hirshfeld	Appraisal Period: FY 2019
Sub Element/Performance Requirement 2: Patent Quality [Weight: 30%] High-quality patents, i.e. patents that are correctly issued in compliance with	Strategic Alignment: Strategic Alignment: Strategic Goal <u>1</u>
all the requirements of Title 35 as well as the relevant case law at the time of	/Objective Alignment <u>4</u>
issuance, fuel innovation and reduce needless litigation by providing an unambiguous notice of rights through clear claim boundaries, clear	Goal I, Objective 4 of the USPTO 2014-
specifications, and clear prosecution histories. To ensure we continue to issue	2018 Strategic Plan will be accomplished
high-quality patents, the USPTO is continuing its efforts to address patent	when issued patents are of higher
quality.	quality, claim clarity is improved, and the stakeholder community has a clear
The Patent business unit is committed to educational leadership, excellence,	understanding of the meaning of a
and quality in our products and services by (1) providing comprehensive training programs in innovative and progressive environments to employees of	"quality" patent.
the Patent business unit and, (2) providing education and training in	
coordination with our partners in the Patent community.	:
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 attached document. Meeting or exceeding the targets set forth in the	
attached document represents a level of outstanding performance.	
Performance Requirement 3: Patent Classification Processes, International	Strategic Alignment:
Cooperation/Engagement and Domestic Outreach [Weight: 20%]	Strategic Goal <u>1</u> /Objective Alignment
Improve on the existing classification system with a set of information services and information processes to contribute to the achievement of goals,	<u>3.6</u>
objectives and targets based on requirements in the President's FY 2019	Goal I, Objective 3 of the USPTO 2014-
Budget.	2018 Strategic Plan will be accomplished by increasing international cooperation
Develop and strengthen outreach and partnerships with international IP	and work sharing, fully implementing
communities especially as it relates to Cooperative Patent Classification (CPC).	CPC, maximizing the use of PPH, and
Develop and strengthen outreach and partnerships with domestic partners and	implementing the Global Dossier to improve examiner and external
stakeholders such as, independent inventors, entrepreneurs, small business,	stakeholder access to work products of
and colleges and universities.	other IP offices.
As a fee-funded agency, the USPTO relies on user fee collections to fund	Goal I, Objective 6 of the USPTO 2014-
operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining	2018 Strategic Plan will be accomplished by focusing on improving and enhancing
indicators point toward renewed economic expansion, considerable	stakeholder and public outreach and
uncertainty still remains regarding the current and near future prospects for	increasing awareness and transparency
growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO's long-term	of patent information, and patent application and ownership information.
goals, objectives and targets, and therefore simultaneously affect any interim	·· ···································
results	

Commissioner Performance Agreement - 9/2018

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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.	
<u>Performance Requirement 4:</u> Patent Legal Administration, Office of Petitions and Patent Administration [Weight: 20%]	Strategic Alignment: Strategic Goal 1 /Objective Alignments <u>1, 2, 4, 5</u>
Develop an effective and efficient planning strategy and performance measurement system for the office of the Deputy Commissioner for Patent Examination Policy including the areas of the Office of Patent Legal Administration (OPLA) and the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2019 Budget. Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget. 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	Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a long- term, multi-year goal to be achieved over the next several years. Goal I, Objective 4 of the USPTO 2014- 2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent Goal I, Objective 5 of the USPTO 2014- 2018 Strategic Plan will be accomplished by improving the processing of electronic-based information, and
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.	providing information in a variety of services to employees to improve efficiencies, job performance, and achievement of strategic goals.
Rating Official Narrative: (Optional)	
Critical Element Rating – Results Driven	Level 3 Level 2 Level 1

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Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2019

Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

Rating Period FY 2019

Results Driven Performance Requirements (P R)	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 (Patent Pendency, Backlog and Timeliness)		30%		Points 475–500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300 – 399 = Level 3	
Performance Requirement 2 (Patent Quality)		30%		Rating Score Points 200 – 299 = Level 2 Rating Score	
Performance Requirement 3 (Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach)		20%		Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 4 (Patent Legal Administration, Office of Petitions and Patent Administration)		20%			
Performance Requirement Total Score		= 100%	4	= Level	1999

Example of Results Driven Element Being Rated Level 4

Results Driven	Performance	Weight	Performance	Point Ranges to Rating Level Score	Results Driven
Performance	Requirement	(multiply	Requirement		Initial Element
Requirements	Rating Level	by)	Points Score		Score
(PR)	Score				
Palla Angles				Points 475 – 500 = Level 5 Rating	
Performance	4	x 30	120	Score	1 States
Requirement 1				Points 400 – 474 = Level 4 Rating	Sheet as a
Performance	5	x 30	150	Score	
Requirement 2				Points 300 – 399 = Level 3 Rating	MUNTER DUCK
Performance	5	x 20	100	Score	
Requirement 3				Points 200 – 299 = Level 2 Rating	
Performance	3	x 20	60	Score	
Requirement 4				Any PR rated Level 1 overall score	Sile of the
ALL MARKED STATE		= 100%		must be = Level 1 Rating Score	
Performance					
Requirement	1245-02		430	430 = Level 4	4*
Total Score	1 1 1 1				
*Results Driven R	ating is 4 - to be	e transferre	d to Initial Elem	nent Score beside Results Driven Critica	al Element on the
bottom of page 1					

Critical Element 5. Results Driven (Total Weight 60%)

Results Sub Element 1: Patent Pendency,	Backlog and	Timeliness	(Weight 30%)
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	21122	FY 2019 Targets			
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2%-4% Filing Growth	4% - 6% Filing Growth	FY 2019 Results
	Pater	t Corps Backlog	Metrics		Colling Stating
Unexamined Inventory***	TBD	TBD	TBD	TBD	
RCE Inventory**		1	BD		
	Patent Corps I	Pendency and T	imeliness Metric	5	
First Action Pendency**		T	BD		
Total Pendency**		T	BD		
UPR Production Units (PUs)**	TBD				
T1 Pendency (snapshots \leq 12 months)		Г	BD		
RCE Pendency (inventory ≤ 4 months)	TBD				
Pate	nt Term Adjust	ment (PTA) Tim	eframes (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			BD		
Respond to a Reply under 35 U.S.C. 132 within 4 months	TBD				
Act on an application within 4 months after the date of a decision by PTAB	TBD				
Issue a patent within 4 months from payment of the issue fee	TBD				
No more than 36 month application pendency	TBD				

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be TBD).

** Model targets are accurate to +/- 5%; results within 5% of target will be considered to have met target given this uncertainty.

Results Sub Element 2: Patent Quality (Weight 30%)

Management and Support-Quality Metrics for Correctness and Clarity	FY 2019 Targets	FY 2019 Results
FY '18 Corps Quality Metrics: 35 U.S.C 102 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 112 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 102 Clarity	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Clarity	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 112(b) Clarity	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Clarity	TBD	

Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2019

	Applaisa	
FY '20 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '20 in Q4 of FY' 19	
Examination Time Analysis (ETA) - Comprehensively study and plan to ad just examination time goals to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees.	FY 2019 Targets	FY 2019 Results
TBD	TBD	
TBD	TBD	
TBD	TBD	
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
TBD	TBD	
TBD	TBD	
TBD	TBD	
Pilot Programs	FY 2019 Targets	FY 2019 Results
TBD	TBD	
TBD	TBD	
TBD	TBD	
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
TBD	TBD	

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 20%)

Patent Classification Process Measures	FY 2019 Targets	FY 2019 Results
Cooperative Patent Classification Quality Metrics		
TBD	TBD	

International Cooperation/Engagement Measures	FY 2019 Targets	FY 2019 Results
TBD	TBD	

Domestic Outreach Measures	FY 2019 targets	FY 2019 Results
TBD	TBD	

Internal Engagement Initiatives	FY 2019 targets	FY 2019 Results
TBD	TBD	

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 20%)

Potent Legal Administration Measures			
	FY 2019 Targets	FY 2019 Results	
% of Clear and Timely Guidance and Memos Completed	75-85%		
% of Clear and Timely Rulemaking and Notices Published	75-85%		
% of Timely Implementation of Legislative Changes and Case Law			
Developments	75-85%		

Office of Petitions Measures

Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2019

	FY 2019 Targets	FY 2019 Results		
% of Timely Petition Decisions ¹⁾	TBD			
% of Timely Track 1 Petition Decisions ²⁾	TBD			
% of Timely PPH Petitions ³⁾	TBD			

1) Petitions processed in less than five months from the filing date.

2) Track 1 petitions processed in less than 45 days:

a. The timeliness of a Track 1 request decision is based upon its status 17/20 date (prior to this date, the Track 1 request cannot be decided).

3) PPH petitions processed in less than 90 days.

Patent Administration Measures							
Patents-End-to-End (PE2E)Transition	FY 2019 targets	FY 2019 Results					
TBD	TBD	2, 51.					
TBD	TBD						

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

Part 6: Summary Rating Narrative :

Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Commissioner Na	ame			Appraisal 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 Driver Initial Elemen Score	
				Points 475 – 500 = Level 5 Rating		
Performance Requirement 1		50		Score Points 400 – 474 = Level 4 Rating Score		
Performance Requirement 2		50		Points 300– 399 = Level 3 Rating Score Points 200– 299 = Level 2 Rating		
Performance Requirement 3				Score Any PR rated Level 1 overall score must be = Level 1 Rating Score		
Performance Requirement 4	at a second s					
	State State	= 100%				
Performance Requirement Total Score				= Level		
xample of Result						
Results Driven	Performance	Weight	Performance	Point Ranges to Rating Level Score	Results Driven	
Performance	Requirement	(multiply	Requirement		Initial Element	
Requirements (PR)	Rating Level Score	by)	Points Score		Score	
	1197.1.246 Se			Points 475 – 500 = Level 5 Rating	Reference in the real of	
Performance Requirement 1	4	x 25	100	Score Points 400 – 474 ≈ Level 4 Rating		
Performance Requirement 2	5	x 30	150	Score Points 300− 399 = Level 3 Rating		

*Results Driven Rating is 4 – to be transferred to Initial Element Score beside Results Driven Critical Element on the bottom of page 1.

75

90

415

x 15

x 30

= 100%

Performance

Performance

Performance

Requirement Total Score

Requirement 3

Requirement 4

5

3

Score

Score

415= Level 4

Points 200-299 = Level 2 Rating

Any PR rated Level 1 overall score

4*

must be = Level 1 Rating Score



Commissioner Performance Agreement

Part 1. Consultation. I have reviewed this plan and have been consulted on its development.										
Commissioner's Name (Lost, First, MI): Hirshfeld, Andrew H.							1	Appraisal Pd. FY 2016		
Commissioner's Signature: (b)(6)							(Date: 12/10/15-		
Title: Commissioner for Patents							(Organization: USPTO		
Secretary of Commerce Name (Lost, First, MI): Pritzker, Penny										
(b)(6) Secretary of Commerce's Signature							٥	Date: (2-19-15		
Part 2. Progress Review										
Commissioner's Signature:							1	Date:		
•13							(Date:		
Secretary of Commerce's Signature:										
Part 3. Annual Summary										
Annual Summary Rating	Outstand		_	evel 4 nendable				Level 2 Level 1 Ainimally Unsatisfactory atisfactory		
Commissioner's Signature:							1	Date:		
Secretary of Commerce:							1	Date:		
Part 4. Derivation Form	ula and Ca	culation of	Annu	alSumma	ry Rating					
	Elem	ent Rating				Score				
Critical Element	Initial	Final (if changed	d)	Weight	Initial	Final (if changed	d)	Summarv	Level Ranges	
	(b)(6)			10						
2. Leading People				10	i					
3. Business Acumen				10					0 = Level 5 4 = Level 4	
4. Building Coalitions				10				400-474 = Level 4 300-399 = Level 3		
5. Results Driven				60			۲.	200-299 = Level 2 Any CE rated Level 1 = Level 1		
Total				100%	(b)(6)			Min CE Laren Tendi I = Fendi I		

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	
ta di seconda di second	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

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;
- Monitors effectiveness of the revised count system for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents telework and any expansion of the program; ensures coordination and agreement with the appropriate union for bargaining unit employees aspect;
- Continues to strengthen time and attendance controls for both teleworking and non-teleworking employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to examiners Corps-wide;
- Supports the continued establishment of the office of the Deputy Commissioner for Patent Quality and related quality initiatives; and
- Leads the implementation of all quality initiatives developed under the Enhanced Patent Quality Initiative (EPQI) in support of achieving excellence in: work products, customer service, and measuring patent quality.
- Ensure that Training within Patents is delivered in a timely manner.
- Ensure that Supervisory Patent Examiner workloads are monitored with respect to the EPQI and take appropriate steps to make sure that workloads are appropriate.

Secretary of Commerce Narrative: (Optional)					
				-1	
Critical Element Rating – Leading Change	Level S	Level 4	Level 3	Level 2	Level 1

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Critical Element 2. Leading People	Weight 10%
Designs and implements strategies that maximize employee potential; connects the organization horizonta vertically; and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provise workplace that fosters the development of others to their full potential; allows for full participation by all of facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. En performance plans are aligned with the organization's mission and goals, that employees receive construct and that employees are realistically appraised against clearly defined and communicated performance state employees accountable for appropriate levels of performance and conduct. Seeks and considers employeer retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the natio needed to accomplish organizational performance objectives while supporting workforce diversity, workpland equal employment policies and programs.	des an inclusive employees; sures employee tive feedback, ndards. Holds e input. Recruits, n, with the skills
Agency-Specific Performance Requirements	
Builds and manages an appropriately skilled workforce by:	
 Supporting the enhancement of the Employee Relations (ER) liaison program; 	
 Ensuring surveys (including Federal Employee Viewpoint Survey) and other instruments are in plac develop plans to provide a work environment that optimizes performance and increases job satisfier 	
Embracing equal opportunity principles;	
 Fostering a diverse and inclusive environment characterized by cultural sensitivity and respect for employee backgrounds; 	divergent
 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; 	
 Identifying talent gaps and providing training and developmental opportunities, coaching and court 	nseling to
employees to strengthen performance or address concerns; and	
 Encouraging employees to develop new and better ways of performing tasks. 	
Supporting a culture of transparency, communication and collaboration in the Patents Business are	2a.
Secretary of Commerce Narrative: (Optional)	
	×
	161
Critical Element Rating – Leading People	Level 1

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Weight 10% Critical Element 3. Business Acumen 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 Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reduces hiring time, and supports new hires' successful transition into the Federal Service; Assesses current and future staffing needs on a regular basis; Implements the 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 the USPTO's employees and focuses on the implementation of any new actions and guidance as may be necessary.

Secretary of Commerce Narrative: (Optional)					
			-		
Critical Element Rating – Business Acumen	Level 5	Level 4	Level 3	Level 2	Level 1

Critical Element 4. Building Coalitions

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

- 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 in order to appropriately address client needs;
- 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 Enhanced Patent Quality Initiative;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO; and
- Promotes 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.
- Supports a transparent and collaborative work environment.
- Encourages enhanced communication within and across Business Units.

Secretary of Commerce: (Optional)	ti. Inc				
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Ti di					
Critical Element Rating – Building Coalitions	Level 5	Level 4	Level 3	Level 2	Level 1

Weight 60%

Critical Element 5. Results Driven

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]*

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.

Sub Element/Performance Requirement 1: Patent Pendency, Backlog and Strategic Alignment: Timeliness (Weight: 25%) Strategic Alignment: Strategic Goal 1 **/Objective Alignment 1-2** Develop an effective and efficient business planning strategy and performance Goal I, Objectives 1 and 2 of the USPTO measurement system to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget. 2014-2018 Strategic Plan will be accomplished when patent pendency is As a fee-funded agency, the USPTO relies on user fee collections to fund optimized, allowing a final action on the merits within one year of filing for any operations. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads. While many of these defining applicant who requests it, with overall indicators point toward renewed economic expansion, considerable patent pendency time reduced to 10 uncertainty still remains regarding the current and near future prospects for months for a first office action and 20 growth. This uncertainty could affect anticipated USPTO workloads and fee months total pendency. This is a longcollections which in turn could significantly impact the USPTO's long-term term, multi-year goal to be achieved over goals, objectives and targets, and therefore simultaneously affect any interim the next several years. 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.

Sub Element/Performance Requirement 2: Quality and Training [Weight: 45%] 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 FY 2016 Budget. 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.	Strategic Alignment: Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment <u>4</u> Goal I, Objective 4 of the USPTO 2014- 2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent.
Performance Requirement 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach [Weight: 15%]Improve on the existing classification system with a set of information services and information processes to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget.Develop and strengthen outreach and partnerships with international IP communities especially as it relates to CPC.Develop and strengthen outreach and partnerships with domestic partners and stakeholders such as, independent inventors, small business, colleges and universities, women and minorities.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 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	Strategic Alignment: Strategic Goal 1 /Objective Alignment 3.6 Goal I, Objective 3 of the USPTO 2014- 2018 Strategic Plan will be accomplished by increasing international cooperation and work sharing, fully implementing CPC, maximizing the use of PPH, and implementing the Global Dossier to improve examiner and external stakeholder access to work products of other IP offices. Goal I, Objective 6 of the USPTO 2014- 2018 Strategic Plan will be accomplished by focusing on improving and enhancing stakeholder and public outreach and increasing awareness and transparency of patent information, and patent application and ownership information.

Performance Requirement 4: Patent Legal Administration, Office of Petitions and Patent Administration [Weight: 15%]

Develop an effective and efficient planning strategy and performance measurement system for the office of the Deputy Commissioner for Patent Examination Policy including the areas of patent legal administration the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget.

Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2016 Budget.

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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.

Strategic Alignment: Strategic Goal 1 /Objective Alignments <u>1, 2, 4, 5</u>

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Goal I, Objective 4 of the USPTO 2014-2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent

Goal I, Objective 5 of the USPTO 2014-2018 Strategic Plan will be accomplished by improving the processing of electronic-based information, and providing information in a variety of services to employees to improve efficiencies, job performance, and achievement of strategic goals.

Secretary of Commerce Narrative: (Optional)

Critical Element Rating – Results Driven	Level 5	Level 4	Level 3	Level 2	Level 1

Part 6: Summary Rating Narrative :

Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

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
					Points 475 – 500 = Level 5	
Performance			25%		Rating Score	
Requirement 1					Points 400 – 474 = Level 4	
(Backlog, Pendenc	y and				Rating Score	
Timeliness)			•		Points 300 - 399 = Level 3	
Performance			45%		Rating Score	
Requirement 2					Points 200 – 299 = Level 2	
(Quality and Traini	ing)	1			Rating Score	
Performance			15%		Any PR rated Level 1 overall	
Requirement 3		*).			score must be = Level 1	
(Patent Classificati	on				Rating Score	
Processes, Interna	tional					
Cooperation/Enga	gement	,				
and Domestic Out	reach)					
Performance			15%		-	
Requirement 4						
(Patent Legal						
Administration, Of	fice of					
Petitions and Pate	nt					
Administration)						
			= 100%	100,0000		
Performance						
Requirement Tota	I Score				= Level	
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xample of Results	Driven El	ement Being R	ated Level	4		
Results Driven	Performa	and the second sec	Perform		anges to Rating Level Score	Results Driven
Performance	Requiren				0	Initial Element
Requirements	Rating Le		Points S			Score
	Score	,	1			
			1	Points 4	75 – 500 = Level 5 Rating	
Performance	4	x 25	100	Score		
Requirement 1				Points 4	00 – 474 = Level 4 Rating	

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
				Points 475 – 500 = Level 5 Rating	
Performance Requirement 1	4	x 25	100	Score Points 400 – 474 = Level 4 Rating	
Performance Requirement 2	5	x 30	150	Score Points 300 – 399 = Level 3 Rating	
Performance Requirement 3	5	x 15	75	Score Points 200 – 299 = Level 2 Rating	
Performance Requirement 4	3	x 30	90	Score Any PR rated Level 1 overall score	
		= 100%		must be = Level 1 Rating Score	
Performance				2	i

Commissioner Performance Agreement -10/2015

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equirement otal Score	415	415= Level 4	4*
sults Driven Rating is 4 – to	be transferred to Initial	Element Score beside Results [Driven Critical Element on the
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27			2
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Commissioner Performance Agreement -10/2015

Results Sub Element 1: Backlog, Pendency and Timeliness (Weight 25%)

Backlog, Pendency and Timeliness Measures	FY 2016 Targets	FY 2016 Results
Backlog Metrics		
Unexamined Backlog	450,000 - 500,000	
RCE backlog	25,000 - 29,000	
Pendency and Timeliness		
First Action Pendency	14.0 - 15.5	and in commonwhich VA or a more
Total Pendency	24.1 - 26.7	
UPR PUs	608,000 - 672,000	
T1 Pendency (snapshots < 12 months)	97.1%-97.7%	
RCE Pendency (inventory > 4 months)	30% - 36%	

Results Sub Element 2: Quality and Training (Weight 45%)

FY 2016 Quality Results, Measures and Targets	FY 2016 Results
Develop and implement the Correctness and Clarity Data Collection Form (CCDC) for	P30)=
reviews in the Office of Patent Quality Assurance (OPQA).	
Obtain Public input on the CCDC and new Quality Metrics.	Transferra II
Develop baseline Correctness and Clarity metrics utilizing the results of the FY 2016	
CCDC reviews.	
Develop Quality Metrics and Targets for FY 2017 in the 4 th Quarter of the FY utilizing	
the baselined Correctness and Clarity Metrics.	
Implement Clarity of the Record Pilot Program - develop best practices for	
enhancing the clarity of all aspects of the prosecution record and then study the	
impact of implementing these best practices during examination.	
Develop a program/process for providing post-grant outcomes from sources, such	
as the Patent Trial and Appeal Board (PTAB), to the examiner of record and the	
examiners of related applications. (EPQI – Post Grant Outcome Initiative).	
Develop a program for reviewing the consistency of examination and developing	
programs to address any inconsistencies.	
Administer two External Quality Surveys and two Internal Quality Surveys	

Training Measures and Targets	FY 2016 Results
Ensure that Training is delivered in a timely manner in accordance with established timelines.	
Develop and provide Clarity of the Record Training modules for examiners on effective ways to improve all aspects of the clarity of the prosecution record.	
Patent Examiner Technical Training Program (PETTP) - Increase participation and the number of training hours over FY15 totals.	

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 15%)

Patent Classification Process Measures	FY 2016 Targets	FY 2016 Results
CPC Quality Metrics		
Ensure quality of PG Pubs symbol placement	90-95%	

International Cooperation/Engagement Measures	FY 2016 Targets	FY 2016 Results

Initiate Projects within the newly formed Industrial Design Five (ID5) Framework	Launch one or more projects to be led by OIPC/Patent Ops team
Release the first service for Global Dossier – Dossier Access	Publically release – First Quarter FY 2016
Define new services/features/functions for the Global Dossier	Deliver requirements for 1 or more new services to the implementation team
Continue CPC engagement and training with other IP offices	3 to 5 Offices

Domestic Outreach Measures	FY 2016 targets	FY 2016 Results	
Independent inventor conferences	1-2		
Outreach programs to small business & entrepreneurs	8-12		
Outreach programs to colleges/universities	25-35		
Outreach programs to women & minority inventors	4-8		
Outreach programs for/with Satellite Offices	10-12		

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 15%)

Patent Legal Administration Measures	FY 2016 Targets	FY 2016 Results
% of Clear and Timely Guidance and Memos Completed	75-85%	
% of Clear and Timely Rulemaking and Notices Published	75-85%	
% of Timely Implementation of Legislative Changes and Case Law		
Developments	75-85%	
Office of Petitions Measures	FY 2016 Targets	FY 2016 Results
% of Timely Petition Decisions ¹⁾	75-85%	
% of Timely Track 1 Petition Decisions ²¹	75-85%	
% of Timely PPH Petitions ³	75-85%	

1) Petitions processed in less than six months from the filing date:

a. Does not include PTA petitions.

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2) Track 1 petitions processed in less than 60 days.

3) PPH petitions processed in less than 120 days.

Potent Administration Measures	FY 2016 targets	FY 2016 Results
Potents-End-to-End (PE2E)Transition		
Implement IT components of PE2E in Operations (DAV)	1-2	
Test/Pilot IT components of PE2E in Operations (OC)	1-2	
IT System Improvements		V and the second s
Deploy enhancements to PE2E Docket and Application Viewer tool	Enhancement Deployed	
Deploy enhancements to PE2E Cooperative Patent Classification tool	Enhancement Deployed	

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

15-047.394



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

THEC 11 2015

MEMORANUDM FOR THE SECRETARY

FROM:

(b)(6)Michelle K. Lee Under Secretary and Deputy Director

SUBJECT: Prop sed 2016 Performance Agreement between Andrew H. Hirshfeld, Commissioner for Patents, and the Secretary of Commerce

Attached for your approval and signature is a proposed Performance Agreement for Fiscal Year 2016 between Andrew H. Hirshfeld, Commissioner for Faterns, Oor 10, and The Performance, Commerce, as specified by the Employment Agreement with Mr. Hirshfeld. The Performance relate to the management and direction of all aspects of patent operations. ECUTIVE SECRETARIA

Recommendation:

It is recommended that you sign the attached Performance Agreement.

Attachment

Executive Secretariat Clearance:

(b)(6)

Executive Secretariat

Executive Secretariat Clearance Sheet Phone: 202-482-9080 Fax: 202-482-4090

	Fnone: 202-482-9080	rax. 202-402-4090
Name: Agency Generated	- 1926-5 x	Tracking No: 15-047395
Subject: Proposed 2016 Pc	rformance Agreement between Andrew	H. Hirshfeld, Commissioner for Patents and
the Secretary of Commerce		
Agency: PTO	Signature Level: Secretary	yDue Date: 12/15 @5pm

Re-Clear Due Date: _____

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TIME CRITICAL DUE DATE & TIME:

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ExccSec Clearance (b)(6)	
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TIME CRITICAL	
DATE NEEDED:	
REASON FOR EXPEDITING:	

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Clearances:

(b)(6) 12/10/15 Andrew H. Hirshfeld

Commissioner for Patents (571) 272-8800

Date

(b)(6)

<u>µ/10/15</u> Date

Sarah T. Harris General Counsel (571) 272-7000

(b)(6)

1

12/10

Vikrum D. Ayier Chief of Staff (571) 272-8818

Date



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1

Commissioner for Patents Performance Agreement

Part 1. Consultation.	I have revi	ewed this plan	and have be	en consulted	d on its develo	pment.	
Commissioner's Name (Last, First, MI): Hirshfeld, Andrew H.					Appraisal Pd.	Appraisal Pd. FY 2017	
Commissioner's Signature: (b)(6)						Date: 12	18/16
Title: Commissioner	for Patent	S	4			Organization:	USPTO
Secretary of Commerce	e's Name (L	.ast, First, Ml):	Pritzker, Po	enny			
Secretary of Commerce	e's Signatur	e; ^{(b)(6)}				Date:	
Part 2. Progress Review	w		8	an 10 101			
Commissioner's Signatu	ıre: (b)(6)					Date: 4/2	0/17
Secretary of Commerce	's Signatur	e: (b)(6)	44			Date: 4.2.	P. 17
Part 3. Annual Summa	-		v				
Annual Summary Rating	(b)(6) Outstan	ding Co	mmendable	Fully St	uccessful	Mınımally Satişfactory	Unsatisfactory
Commissioner's Signatu	re: (b)(6)					Date: 11/13	117
Secretary of Commerce:	81	(b)(6)	_			Date: $11/13$ Date: $11/28$	117
Part 4. Derivation Form	ula and Ca	lculation of An	inual Summa	ary Rating			
	Elem	ent Rating	1		Score	N	
Critical Element (CE)	Initial	Final (if changed)	Weight	Initial	Final (if changed)	Summarv	Level Ranges
	(b)(6)		(b)(6)		<u> </u>		
2. Leading People							
3. Business Acumen						475-50) = Level 5
4. Building Coalitions						A DECEMBER OF A	1 = Level 4 9 = Level 3
5. Results Driven						200-299) = Level 2
Total			100%	(b)(6)		Any CE rated	evel 1 = Level 1.

Commissioner's Name: Andrew H. Hirshfeld

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.

Level 5 = 5 points
Level 4 = 4 points
Level 3 = 3 points
Level 2 = 2 points
Level 1 = 0 points

Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2017

Critical Element 1. Leading Change

Weight 10%

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 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;
- Monitors effectiveness of the revised count system for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents telework and any expansion of the program; ensures any necessary coordination and agreement with the appropriate union from a bargaining unit employee aspect;
- Continues to strengthen time and attendance controls for both teleworking and non-teleworking employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to all appropriate employees within the Patents Business Unit;
- Supports the continued development and establishment of the office of the Deputy Commissioner for Patent Quality and related quality initiatives;
 - Leads the implementation of all quality initiatives developed within the Patents Business Unit in support of achieving excellence in: work products, customer service, and measuring patent quality;
 - Ensures that training within the Patents Business Unit is delivered in a timely manner;
 - Ensure that employee workloads are monitored and takes steps to ensure that workloads are appropriate;
- Supports the ongoing examination time analysis (ETA) and the USPTO's effort to conduct a comprehensive study of examination time; and
- Supports the Presidential transition efforts.

Secretary of Commerce Narrative: (Optional)

Critical Element Rating – Leading Change

Level 5 Level 4

Level 2

Level 3

Level 1

<u>Commissioner's Name:</u> Andrew H. Hirshfeld

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Appraisal	Period:	FY 2017

Critical Element 2. Leading People	Weight 10%
Designs and implements strategies that maximize employee potential; connects the organization horizontall vertically; and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provide workplace that fosters the development of others to their full potential; allows for full participation by all en facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ensu performance plans are aligned with the organization's mission and goals, that employees receive constructive and that employees are realistically appraised against clearly defined and communicated performance stand employees accountable for appropriate levels of performance and conduct. Seeks and considers employee i retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation, needed to accomplish organizational performance objectives while supporting workforce diversity, workplace and equal employment policies and programs.	es an inclusive pployees; res employee e feedback, ards. Holds nput. Recruits, with the skills
Agency-Specific Performance Requirements	
 Builds and manages an appropriately skilled workforce by: Supporting the enhancement of the Workforce Management Alliance and Patents Workforce Manag 	omont
 Supporting the enhancement of the workforce Management Alliance and Patents workforce Manag Advisors; 	CITCIT
 Advisors; Ensuring surveys (including Federal Employee Viewpoint Survey) and other instruments are in place t develop plans to provide a work environment that optimizes performance and increases job satisfact Embracing equal opportunity principles; Fostering a diverse and inclusive environment characterized by cultural sensitivity and respect for div employee backgrounds; Promptly and appropriately addressing allegations of harassment or discrimination; Overseeing the recruitment, selection, appraisal and recognition of employees based on individual per Supporting Agency efforts to train employees on equal opportunity principles; Identifying talent gaps and providing training and developmental opportunities, coaching and counse employees to strengthen performance or address concerns; Encouraging employees to develop new and better ways of performing tasks; and Supporting a culture of transparency, communication and collaboration in the Patents Business Unit. 	ion; ergent rformance;
Secretary of Commerce Narrative: (Optional)	
Critical Element Rating – Leading People	Level 1

Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2017

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 Performar	nce Requirements
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- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reduces hiring time, and supports new hires' successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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 assesses and improves controls as needed to best manage the USPTO's employees and focuses on the implementation of any new actions and guidance as may be necessary.

Secretary of Commerce Narrative: (Optional)					
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-					
Critical Element Rating – Business Acumen	Level 5	Level 4	Level 3	Level 2	Level 1

Commissioner's Name: Andrew H. Hirshfeld

Critical Element 4. Building Coalitions

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

- 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 in order to appropriately address client needs;
- 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 Enhanced Patent Quality Initiative;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO;
- Promotes 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;
- Supports a transparent and collaborative work environment; and
- Encourages enhanced communication within and across Business Units.

Secretary of Commerce: (Optional)			•••••		
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					,
Critical Element Rating – Building Coalitions	Level 5	Level 4	Level 3	Level 2	Level 1

Critical Element 5. Results Driven

Weight 60%

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

<u>Sub Element/Performance Requirement 1:</u> Patent Pendency, Backlog and Timeliness [Weight: 25%]

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 FY 2017 Budget.

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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance. Strategic Alignment: Strategic Alignment: Strategic Goal<u>1</u> /Objective Alignment <u>1-2</u>

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Commissioner's Name: Andrew H. Hirshfeld	Appraisal Period: FY 2017
Sub Element/Performance Requirement 2: Quality and Training [Weight: 459	
High-quality patents, i.e. patents that are correctly issued in compliance with	Strategic Alignment: Strategic Goal 1
all the requirements of Title 35 as well as the relevant case law at the time of	/Objective Alignment <u>4</u>
issuance, fuel innovation and reduce needless litigation by providing an	
unambiguous notice of rights through clear claim boundaries, clear	Goal I, Objective 4 of the USPTO 2014-
specifications, and clear prosecution histories. To ensure we continue to issue	
high-quality patents, the USPTO is continuing its efforts to enhance patent	when issued patents are of higher
quality through the Enhanced Patent Quality Initiative (EPQI), which is a	quality, claim clarity is improved, and the
collection of programs and initiatives designed to enhance the quality of issue	
patents.	understanding of the meaning of a
patents.	"quality" patent.
The Detent husiness unit is committed to educational loadership, even lines	quanty patent.
The Patent business unit is committed to educational leadership, excellence,	
and quality in our products and services by (1) providing comprehensive	
training programs in innovative and progressive environments to employees o	
the Patent business unit and, (2) providing education and training in	
coordination with our partners in the Patent community.	
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	
attached document. Meeting or exceeding the targets set forth in the	
attached document represents a level of outstanding performance.	
Performance Requirement 3: Patent Classification Processes, International	Strategic Alignment:
Cooperation/Engagement and Domestic Outreach [Weight: 15%]	Strategic Goal <u>1</u> /Objective Alignment
Improve on the existing classification system with a set of information services	3,6
and information processes to contribute to the achievement of goals,	
objectives and targets based on requirements in the President's FY 2017	Goal I, Objective 3 of the USPTO 2014-
Budget.	2018 Strategic Plan will be accomplished
	by increasing international cooperation
Develop and strengthen outreach and partnerships with international IP	and work sharing, fully implementing
communities especially as it relates to Cooperative Patent Classification (CPC).	CPC, maximizing the use of PPH, and
	implementing the Global Dossier to
Develop and strengthen outreach and partnerships with domestic partners and	improve examiner and external
stakeholders such as, independent inventors, small business, colleges and	stakeholder access to work products of
universities, women and minorities.	other IP o fices.
As a fee-funded agency, the USPTO relies on userfee collections to fund	Goal I, Objective 6 of the USPTO 2014-
operations. The USPTO considers a number of economic factors and relevant	2018 Strategic Plan will be accomplished
indicators when forecasting its workloads. While many of these defining	by focusing on improving and enhancing
indicators point toward renewed economic expansion, considerable	stakeholder and public outreach and
uncertainty still remains regarding the current and near future prospects for	increasing awareness and transparency
growth. This uncertainty could affect anticipated USPTO workloads and fee	of patent information, and patent
collections which in turn could significantly impact the USPTO's long-term	application and ownership information.
Commissioner Performance & meetinent -10/2016 8	

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Commissioner's Name: Andrew H. Hirshfel			Appra	aisal Period:	FY 2017
goals, objectives and targets, and therefore sim results.	nultaneously affe	t any interim			
Success of these objectives will be determined measures laid out in the attached document an overall performance taking into account the tot attached document. Meeting or exceeding the attached document represents a level of outsta	nd will be measure tality of all the me targets set forth	ed based on easures in the in the			
<u>Performance Requirement 4:</u> Patent Legal Adm and Patent Administration [Weight: 15%]	inistration, Offici	e of Petitions	/Objective A	-	ategic Goal 1 , <u>2, 4, 5</u>
Develop an effective and efficient planning strat measurement system for the office of the Deput Examination Policy including the areas of patent Office of Petitions to contribute to the achieven targets based on requirements in the President' Develop an effective and efficient business plann measurement system for the Office of the Deput Administration to contribute to the achievement argets based on requirements in the President's	ty Commissioner t legal administra- nent of goals, obje s FY 2017 Budget ning strategy and ty Commissioner t of goals, objections FY 2017 Budget.	for Patent tion in the ectives and performance for Patent ves and	2014-2018 S accomplishe optimized, a merits within applicant wh patent pende months for a months total	trategic Plan d when pate llowing a fina n one year of no requests it ency time rea first office a pendency. vear goal to b	nt pendency is al action on the filing for any , with overall duced to 10 ction and 20
As a fee-funded agency, the USPTO relies on use operations. The USPTO considers a number of e- indicators when forecasting its workloads. While indicators point toward renewed economic expa- incertainty still remains regarding the current ar rowth. This uncertainty could affect anticipated ollections which in turn could significantly impac- oals, objectives and targets, and therefore simul- esults.	conomic factors a e many of these d nsion, considerat nd near future pro d USPTO workload ct the USPTO's lo	and relevant efining ble ospects for ds and fee ng-term	when issued	<i>ic Plan</i> will be patents are c clarity is imp ommunity he g of the mea	e accomplished of higher proved, and the as a clear
uccess of these objectives will be determined by neasures laid out in the attached document and verall performance taking into account the total ttached document. Meeting or exceeding the ta tached document represents a level of outstand	will be measured lity of all the mea argets set forth in	based on sures in the the	Goal I, Object 2018 Strategi by improving electronic-bas providing info services to em efficiencies, jo achievement o	<i>c Plan</i> will be the processions and information inmation in a aployees to in b performar	accomplished ng of on, and variety of mprove ice, and
ecretary of Commerce Narrative: (Optional)			I		
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Part 6: Summary Rating Narrative :

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Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Commissioner Performance Ameement -10/2016

Commissioner's Name: Andrew H. Hirshfeld ź

Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld Rating Period EY 2017

Results Driven	Performance	Weight	Performance	Point Ranges to Rating Level	Results
Performance	Requirement	(multiply	Requirement	Score	Driven Initia
Requirements (PR)	Rating Level	by)	Points Score		Element
	- Score				Score
和文字中的目的方式的影響的				Points 475 ~ 500 = Level 5	
Performance		25%		Rating Score	
Requirement 1				Points 400 – 474 = Level 4	
(Patent Pendency,				Rating Score	
Backlog and Timeliness)				Points 300-399 = Level 3	alah sebagai karang s Sebagai karang sebagai
Performance		45%		Rating Score	
Requirement 2				Points 200-299 = Leve! 2	
(Quality and Training)				Rating Score	
Performance		15%		Any PR rated Level 1 overall	
Requirement 3				score must be = Level 1	
(Patent Classification		ĺ		Rating Score	
Processes, International	ļ				
Cooperation/Engagement		ļ			
and Domestic Outreach)			İ		
Performance	ſ	15%			
Requirement4					
(Patent Legal	ļ				
Administration, Office of		;	-		
Petitions and Patent			1		
Administration)	ľ				
		= 100%			
Performance		a Arraí			· ·
Requirement Total Score				= Level	

Example of Results Driven Element Being Rated Level 4

Results Driven	Performance	Weight	Performance	Point Ranges to Rating Level Score	Results Driven
Performance	Requirement	(multiply	Requirement	1	Initial Element
Requirements	Rating Level	by)	Points Score		Score
(PR)	Score				
				Points 475 – 500 = Level 5 Rating	
Performance	4	x 25	100	Score	
Requirement 1	2			Points 400 - 474 = Level 4 Rating	
Performance	5	x 30	150	Score	
Requirement 2				Points 300–399 = Level 3 Rating	
Performance	5	x 15	75 ·	Score	
Requirement 3				Points 200-299 = Level2 Rating	
Performance	3	x 30	90	Score	
Requirement 4				Any PR rated Level 1 overall score	
		= 100%		must be = Level 1 Rating Score	ere a contra da Astronomica en la
Performance			•	· · · · · · · · · · · · · · · · · · ·	
Requirement			415	415=Level 4	4*
Total Score					

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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Critical Element 5. Results Driven (Total Weight 60%)

Ì.		FY 201			
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0%-2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	FY 2017 Results
Patent Corps Backlag Metrics	·	l	_ 		
Unexamined Backlog*	469,000 – 477,000	477,000 - 485,000	485,000 - 493,000	493,000 - 502,000	
RCE backlog		28	,000	 	
Patent Corps Pendency and Timeliness Metrics					
First Action Pendency		1	5.5		
Total Pendency		2	5.5	ļ	
UPR PUs		620	,000	ļ	
T1 Pendency (snapshots ≤ 12 months)		97	.5%		
RCE Pendency (inventory ≤ 4 months)		67	7% .	ļ	

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 25%)

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be 477,000 - 485,000).

Results Sub Element 2: Quality and Training (Weight 45%)

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F ^Y 2017 Quality Results	s, Measures and Targets		
Management and Support- Clarity Data Collection Form (CCDC)	FY 2017 Targets	FY 2017 Results	
Implement MRF 3.0	Implement by end of FY '17 Q2		
Management and Support – Quality Metrics for Correctness and Clarity	FY 2017 Targets	FY 2017 Results	
FY 2017 Statutory Compliance Rate Targets			
FY '17 Corps Quality Metrics: 102 Correctness	90 - 95%		
FY '17 Corps Quality Metrics: 103 Correctness	88 - 93%		
FY '17 Corps Quality Metrics: 112 Correctness	87 - 92%		
FY '17 Corps Quality Metrics: 101 Correctness	93 - 98%		
	- · · · ·		
FY '17 Corps Quality Metrics: Clarity	Establish baseline clarity metric(s) for FY '18 by end of Q4		
FY '18 Corps Quality Metrics: Correctness	Re-evaluate current targets	· · · · ·	
Implement Phase 2 of Clarity of Record Pilot	Implement in FY '17		
Enhanced Search Program	Establish pilot in FY'17		
Topic Submissions for Case Studies	Publish reports (6) for studies implemented in FY '16		

Minimization Description American Infonte

Commissioner's Name: Andrew H. Hirshfeld

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Administer two External Quality Surveys and two Internal		
Quality Surveys		
Implement a uniform standard of review to be utilized in		
the Office of Patent Quality Assurance (OPQA) and the		
Technology Centers		
Examination Time Analysis (ETA)	FY 2017 Targets	FY 2017 Results
Address areas of low examination time expectancy by the end of the fiscal year		
Training Measures and Targets	FY 2017 Targets	FY 2017 Results
Ensure that Training is delivered in a timely manner in accordance with established timelines.		
	Continue development and	
Training Measures and Targets – Clarity of the Record	delivery of training related to	
	Clarity of the Record	

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 15%)

Patent Classification Process Measures	FY 2017 Targets	FY 2017 Results
CPC Quality Metrics		1
Ensure quality of PG Pubs symbol placement	90-95%	

International Cooperotion/Engagement Measures	FY 2017 Targets	FY 2017 Results
Initiate Projects within the newly formed Industrial Design Five (ID5)	Launch one or more projects to be led by	
Framework	OIPC/Patent Ops team	
Provide Accessing Office Functionality for WIPO Case under the Global Dossier Program	First Quarter FY '17	
	Deliver requirements for 1	
Define new services/features/functions for the Global Dossier	or more new services to	
	the implementation team	-
Continue CPC engagement and training with other IP offices	3 to 5 Offices	

Domestic Outreach Measures	FY 2017 targets	FY 2017 Results
Independent Inventor Conferences	1-2	
Outreach Programs to Small Businesses & Entrepreneurs	8-12	
Outreach Programs to Colleges/Universities	10~15	
Outreach Programs to Women & Minority Inventors	4-8	•
Outreach Programs for/with Satellite Offices	5 - 10 .	

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 15%)

	FY 2017 Targets	FY 2017 Results
% of Clear and Timely Guidance and Memos Completed	75-85%	
% of Clear and Timely Rulemaking and Notices Published	. 75-85%	<u> </u>
% of Timely Implementation of Legislative Changes and Case Law		
Developments	75-85%	4

Commissioner's Name: Andrew H. Hirshfeld.

Appraisal Period: FY 2017

Office of Petitions Measures			
	FY 2017 Targets	FY 2017 Results	
% of Timely Petition Decisions ¹⁾	75-85%	_	
% of Timely Track 1 Petition Decisions ²⁾	75-85%		
% of Timely PPH Petitions ³⁾	75-85%		

1) Petitions processed in less than six months from the filing date:

a. Does not include PTA petitions.

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2) Track 1 petitions processed in less than 60 days.

3) PPH petitions processed in less than 120 days.

Patent Administration Measures				
Patents-End-to-End (PE2E)Transition	FY 2017 targets	FY 2017 Results		
Implement IT components of PE2E in Operations (Official Correspondence)	1-2			
Implement T components of PE2E in Operations (Search)	1-2	1		
Retire Legacy IT Systems (eDan)	1-2			
IT System Improvements	FY 2017 targets	FY 2017 Results		
Deploy Enhancements to PE2E Docket and Application Viewer (DAV)	1-2			
Deploy Enhancements to PE2E Cooperative Patent Classification (CPC)	1-2			
Deploy Enhancements to PE2E eModernization (eMod)	1-2			

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

Andrew H. Hirshfeld Commissionerfor Patents FY 2017 Mid-year Performance Bullets

Critical Element 1: Leading Change (10%):

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(b)(6)

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Office of Quality Management: (b)(6)

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8

(b)(6)	
	38

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Cooperative Patent Classification (CPC) Project:



Office of International Patent Cooperation:

SX.

(b)(6)

9 Patents-End-To-End (PE2E):

(b)(6)

Financial Advisory Board (FAB):

(b)(6)

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Administration Transition:

(b)(6)

Time and Attendance:

(b)(6)

Office of Patent Examination Support Services (OPESS):

(b)(6)

Sets Strategic Direction to address Goals:

(b)(6)

Other:

(b)(6)

(b)(6)

Critical Element 2: Leading People (10%):

225

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(b)(6)

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Human Capital, employee engagement:

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

PE2E (Office of Patent Information Management): (b)(6)

27

Patents Quality:

(b)(6)

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Patents Town Hall Initiative: (b)(6)

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33

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Personnel:

(b)(6)

Training;

(b)(6)

Reports and Audits:

(b)(6)

(b)(6)

Critical Element 3: Business Acumen (10%):

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(b)(6)

Budget & Performance Metrics (Office of Patent Financial Management) (b)(6)

33

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b)(6)

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Patents Telework Program:

(b)(6)			

Time and Attendance:

(b)(6)

Patents Hiring:

(b)(6)

Administration Transition:

(b)(6)

Cooperative Patent Classification (CPC) Project:

85

(b)(6)

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Critical Element 4. Building Coalitions (10%): (b)(6)

Collaborating within USPTO:

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(b)(6)

Outreach to under-represented user groups (Office of Innovation Development): (b)(6) 8

Cooperative Patent Classification (CPC) Project: (b)(6)

Public presentations, representation activities:

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Quality Forum; Collegiate Inventors Award Ceremony; USPTO Patent Quality Conference.

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Critical Element 5. Results Driven (60%):

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 25%)

	FY 2017 Targets			100	
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	Mid-Year FY 2017 Results
Patent Corps Backlog Metrics		<u>.</u>	~		
Unexamined Backlog*	469,000 4 77 ,000	477,000 - 485,000	485,000 - 493,000	493,000 - 502,000	(b)(6)
RCE backlog	28,000				
Patent Corps Pendency and Time liness Metrics					
First Action Pendency	15.5				
Total Pendency	25.5				
UPR PUs	620,000				
T1 Pendency (snapshots ≤ 12 months)	97.5%				
RCE Pendency (inventory ≤ 4 months)		67	7%		

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be 477,000 - 485,000).

 Based on the results at mid-year FY 2017 versus targets set at the beginning of the fiscal year the USPTO expects to meet all of the above targets except the target for unexamined backlog and possibly the first action pendency target. The meeting of these targets have been impacted by the 90-day hiring freeze which began January 20, 2017 and lower than anticipated examiner overtime usage. At mid-year filings are down about 1.2% from FY 2016 with filings expected to finish the fiscal year up about 1.0% as compared to FY 2016.

Results Sub Element 2: Quality and Training (Weight 45%)

 Under the Quality and Training results sub element at mid-fiscal year the following results have been achieved:

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Management and Support - Clarity Data Collection Form (CCDC)	FY 2017 Targets	Mid-Year FY 2017 Results
Implement MRF 3.0	Implement by end of FY '17 Q2	(b)(6)
Management and Support Quality Metrics for Correctness and Clarity	FY 2017 Targets	Mid-Year FY 2017 Results
FY 2017 Statutory Compliance Rate Targets		
FY '17 Corps Quality Metrics: 102 Correctness	90 - 95%	(b)(6)
FY '17 Corps Quality Metrics: 103 Correctness	88 - 93%	
FY '17 Corps Quality Metrics: 112 Correctness	87 - 92%	
FY '17 Corps Quality Metrics: 101 Correctness	93 - 98%	
the state of the s	Establish baseline	
FY '17 Corps Quality Metrics: Clarity	clarity metric(s) for FY	(b)(6)
FF 17 Corps Quality Metrics. Clarity	'18 by end of Q4	
a a mount	Re-evaluate current	
FY '18 Corps Quality Metrics: Correctness		
	targets	
Implement Phase 2 of Clarity of Report Dilat	Implement in tV (17	
Implement Phase 2 of Clarity of Record Pilot	Implement in FY '17	
Enhanced Search Program	Establish pilot in FY '17	
Topic Submissions for Case Studies	Publish reports (6) for	
	studies implemented in	
S.	F Y '16 .	
		-
Administer two External Quality Surveys and		
two Internal Quality Surveys		
		-
mplement a uniform standard of review to	en la construction de la constru	1
be utilized in the Office of Patent Quality		
Assurance (OPQA) and the Technology		
Centers		
Examination Time Analysis (ETA)	FY 2017 Targets	Mid-Year FY 2017 Results
Address areas of low examination time	C	b)(6)
expectancy by the end of the fiscal year		
Training Measures and Targets	FY 2017 Targets	Mid-Year FY 2017 Results
nsure that Training is delivered in a timely	(1	b)(6)
nanner in accordance with established		
melines.		
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	Continue development	
ne Record	and delivery of training	

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related to Clarity of the	
Record	
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Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 15%)

Patent Classification Process Measures	FY 2017 Targets	Mid-Year FY 2017 Results
CPC Quality Metrics		
Ensure quality of PG Pubs symbol placement	90-95%	(b)(6)

		2622236
International Cooperation/Engagement M	easures FY 2017 Targets Mid-Year FY 2017 Targets Results	2017
Initiate Projects within the newly formed Indu Design Five (ID5) Framework	Ustrial Launch one or more (b)(6) projects to be led by OIPC/Patent Ops team	
Provide Accessing Office Functionality for WIF under the Global Dossier Program	PO Case First Quarter FY '17	
Define new services/features/functions for th Dossier	e Global Deliver requirements for 1 or more new services to the implementation team	
Continue CPC engagement and training with c offices	other IP 3 to 5 Offices	

Domestic Outreach Measures	FY 2017 targets	Mid-Year FY 2017 Results	
Independent inventor Conferences	1-2	(b)(6)	
Outreach Programs to Small Businesses & Entrepreneurs	8-12		
Outreach Programs to Colleges/Universities	10-15		
Outreach Programs to Women & Minority Inventors	4-8		
Outreach Programs for/with Satellite Offices	5 - 10		

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 15%)

	FY 2017 Targets	Mid-Year FY 2017 Results
% of Clear and Timely Guidance and Memos		(b)(6)
Completed	75-85%	
% of Clear and Timely Rulemaking and Notices		
Published	75-\$5%	
% of Timely Implementation of Legislative Changes		
and Case Law Developments	75-85%	

Andrew H. Hirshfeld Commissioner for Patents

FY 2017 Mid-year Performance Bullets

	FY 2017 Targets	Mid-YearFY 2017 Results
% of Timely Petition Decisions1)	75-85%	(b)(6)
% of Timely Track 1 Petition Decisions ²⁾	75-85%	
% of Timely PPH Petitions ³⁾	75-85%	

Petitions processed in less than six months from the filing date: 1) Does not include PTA petitions. а.

Track 1 petitions processed in less than 60 days.
 PPH petitions processed in less than 120 days.

Patent Administration Measures					
Patents-End-to-End (PE2E)Transition	FY 2017 targets	Mid-Year FY 2017 Results			
Implement IT components of PE2E in Operations (Official Correspondence)	1-2	(b)(6)			
Implement IT components of PE2E in Operations (Search)	1-2				
Retire Legacy IT Systems (eDan)	1-2				
. IT System Improvements	FV 2017 targets	Mid-Year FY 2017 Results			
Deploy Enhancements to PE2E Docket and Application Viewer (DAV)	1-2	(b)(6)			
Deploy Enhancements to PE2E Cooperative Patent Classification (CPC)	1-2				
Deploy Enhancements to PE2E eModernization (eMod)	1-2				

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

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Commissioner for Patents Performance Agreement

Part 1. Consultation. 1	have revie	wed this plan a	nd have been	consulted	on its developm	nent.	
Commissioner's Name (#	commissioner's Name (Last, First, MI): Hirshfeld, Andrew H.				Appraisal Pd. FY 2018		
Commissioner's Signatur	ature: (b)(6)			Date: ///	13/17		
Title: Commissioner fo	or Patents	s	/			Organization:	JSPTO
Rating Official's Name (L	ast, First,	Mi): Matal, Jo	seph				
Rating Official's Signatur	e: (b)(6)					Date: 11/13/17	
Part 2. Progress Review			2 .	, ,			
Commissioner's Signatur				Date: 6/13	=/18-		
Rating Official's Signatur	Contraction of the Contract of	(b)(6)			Date: $6/18/18$ Date: $6/18/18$		
Part 3. Annual Summary Rating							
Annual Summary Rating	U Leve Outstan		Level 4 mmendable			Level 2 Minimally Satisfactory	Level 1 Unsatisfactory
Commissioner's Signatur						Date: 11/1	clis
Rating Official's Signatur	(b)(6) e:					Date: 11/16	Izois
Part 4. Derivation Form	ula and Ca	alculation of Ar	nual Summar	y Rating			
	Elen	nent Rating			Score		
Critical Element (CE)	Initial	Final (if changed)	Weight	Initial	Final (if changed)	Summany	Level Ranges
1. Leading Change	mittai	(b)(6)	10%	Initial	(b)(6)	Summary	Lever hanges
2. Leading People			10%				
3. Business Acumen			10%			475-50	0 = Level 5
4. Building Coalitions			10%				4 = Level 4 9 = Level 3
5. Results Driven			60%			200-29	9 = Level 2
Total			100%			Any CE rated	Level 1 = Level 1

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.

lement Rating Level Points	
	Level 5 = 5 points
	Level 4 = 4 points
	Level 3 = 3 points
	Level 2 = 2 points
	Level 1 = 0 points

Appraisal Period: FY 2018

Critical Element 1. Leading Change

Weight 10%

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 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;
- Supports the Administration's goals of increasing jobs and growing the economy by ensuring the issuance of high quality patents with clear boundaries of protection;
- 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;
- Monitors effectiveness of Patent's production systems for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents' telework and any expansion of the its telework programs; ensures any necessary coordination and agreement with the appropriate union from a bargaining unit employee aspect;
- Continues to strengthen time and attendance controls for employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to all appropriate employees within the Patents Business Unit;
- Completes the transition, including training, within the Patents Business Unit, to the Official Correspondence (OC) tool;
- Oversees the development and implementation of all quality related initiatives developed within the Patents Business Unit;
- Ensures continued improvement in employee training within the Patents Business Unit;
- Ensures that employee workloads are monitored and takes steps to ensure that workloads are appropriate;
- Supports the USPTO's effort to comprehensively study and plan to adjust examination time goals, as appropriate, to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees;
- Supports the Presidential transition efforts and the transition of a new Under Secretary of Commerce for Intellectual Property and Director of the USPTO;
- Supports the Administration's Regulatory Reform efforts by supporting the elimination of unnecessary, ineffective, and burdensome rules and regulations within the Patents Business Unit; and,
- Supports and provides guidance regarding the implementation of a revised process for routing utility patent applications in light of the transition from U.S. classification (USPC) to the Cooperative Patent Classification System (CPC).

Rating Official Narrative: (Optional)					
Critical Element Rating – Leading Change	Level 5	Level 4	Level 3	Level 2	Level 1

Critical Element 1: Leading Change (10%):

(b)(6)

Subject Matter Eligibility:

53

(b)(6)

Search Initiatives:

Examination Time Analysis (ETA)

Andrew H. Hirshfeld **Commissioner for Patents** FY 2018 Year-End Performance Summary

Executive Orders:

(b)(6)

Time and Attendance

(b)(6)

SPE Interest Program (b)(6)

Workforce Effects of Information Technology (IT) Improvements

IT Development Task Force:

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

Office of International Patent Cooperation:

(b)(6)

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Patents-End-To-End (PE2E) and Patent IT initiatives:

(b)(6)

Financial Advisory Board (FAB): (b)(6)

Office of Patent Examination Support Services (OPESS):

(b)(6)

Training:

(b)(6)

Sets Strategic Direction to address Goals:

(b)(6)

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Patent Trial and Appeal Board (PTAB):

(b)(6)

Other:

(b)(6)

2

Appraisal Period: FY 2018

Critical Element 2. Leading People

Weight 10%

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:

- Supporting the enhancement of the Workforce Management Alliance and Patents Workforce Management Advisors;
- Ensuring surveys (including Federal Employee Viewpoint Survey and the USPTO People Survey) and other
 instruments are in place to monitor and develop plans to provide a work environment that optimizes performance
 and increases job satisfaction;
- 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;
- Identifying talent gaps and providing training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns;
- Ensuring that managers are appropriately trained;
- Continuing to strengthen time and attendance controls for employees;
- Encouraging employees to develop new and better ways of performing tasks;
- Ensuring that clear and consistent legal and procedural positions are taken on behalf of the Agency by the Patents Business Unit;
- Supporting a culture of transparency, communication and collaboration in the Patents Business Unit; and
- Ensuring that employees are efficiently working on mission-critical tasks;
- Retaining a highly skilled workforce;
- Rewarding the most productive employees; and,
- Ensuring that employees are appropriately recognized.

 Rating Official Narrative: (Optional)

 Critical Element Rating – Leading People

 Level 5

 Level 4

Critical Element 2: Leading People (10%):

(b)(6)

Human Capital, employee engagement: (b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

PE2E (Office of Patent Information Management) other IT efforts:

Workforce Effects of Information Technology (IT) Improvements



Personnel:

(b)(6)

Training:

(b)(6)

Federal Employee Viewpoint Survey (EVS):

(b)(6)

Time and Attendance

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Year-End Performance Summary

3536

Other:



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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

- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reducing hiring time, and supporting new hires successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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;
- Ensure that reliable, state of the art IT systems are in place in order to meet the needs of employees and stakeholders and to support the Agency's mission;
- Support the rollout and training of a new search tool to employees;
- 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;
- Strengthens the USPTO's telework program and assesses and improves controls as needed to best manage employees and focuses on the implementation of any new actions and guidance as may be necessary;
- Ensures that user fees are appropriately set and utilized;
- Develop an implementation plan to best utilize available electronic resources to provide examiners with information to facilitate patent examination quality and efficiency.

Rating Official Narrative: (Optional)				
Critical Element Rating – Business Acumen	Level 5	Level 4	Level 3	Level 1

Critical Element 3: Business Acumen (10%):

(b)(6)

Budget & Performance Metrics (Office of Patent Financial Management)

(b)(6)

Patents Telework Program:

(b)(6)

Time and Attendance

(b)(6)

Patents Hiring:

(b)(6)

Cooperative Patent Classification (CPC) Project:

Subject Matter Eligibility: (b)(6)

Examination Time Analysis (ETA)

Executive Orders:



Prose Assistance

(b)(6)

Other:

Critical Element 4. Building Coalitions

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

- Assures that each Business Unit participates in the formulation of clear, concise, and effective communication strategies;
- Demonstrates a high degree of responsiveness to the full range of stakeholders, 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;
- 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 stakeholder needs and expectations, responds to identified concerns promptly, professionally and fairly, and improves business and management processes based on customer and employee feedback;
- Improves access to the patent process for small businesses and independent inventors and ensures that assistance is provided to small businesses and independent inventors on understanding how to obtain and enforce Patent rights;
- Provides dedicated examination resources to pro se applicants;
- 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 specific Patent-related initiatives;
- Ensures that messages to stakeholders are clear and consistent and coordinated within and across business units;
- Works with internal and external stakeholders in the development and implementation of quality improvement programs;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO;
- Promotes intra-agency cooperation by ensuring that all Senior Executives (SES) within the Patents organization
 incorporate specific measurable teaming/collaboration tasks in the development of their individual results subelements;
- Supports a transparent and collaborative work environment;
- Puts systems in place to ensure coordination within and among business units so as to ensure that information is being shared; and,
- Encourages enhanced communication within and across Business Units.

Rating Official Narrative: (Optional)		·		
Critical Element Rating – Building Coalitions	Level S	Level 4	el 3 🗌 Level 2	Level 1

Critical Element 4. Building Coalitions (10%):

(b)(6)

Collaborating within USPTO: (b)(6)

Outreach to under-represented user groups (Office of Innovation Development):

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

Public presentations, representation activities:

Weight 60%

Critical Element 5. Results Driven

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

Sub Element/Performance Requirement 1: Patent Pendency, Backlog and Timeliness [Weight: 30%]

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 FY 2018 Budget.

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, 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 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance. Strategic Alignment: Strategic Alignment: **Strategic Goal <u>1</u> /Objective Alignment <u>1-2</u>**

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Commissioner's Name: Andrew H. Hirshfeld	Appraisal Period: FY 2018
Sub Element/Performance Requirement 2: Patent Quality [Weight: 30%] High-quality patents, i.e. patents that are correctly issued in compliance with all the requirements of Title 35 as well as the relevant case law at the time of issuance, fuel innovation and reduce needless litigation by providing an unambiguous notice of rights through clear claim boundaries, clear	Strategic Alignment: Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment <u>4</u> Goal I, Objective 4 of the USPTO 2014-
specifications, and clear prosecution histories. To ensure we continue to issue high-quality patents, the USPTO is continuing its efforts to address patent quality.	2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear
The Patent business unit is committed to educational leadership, excellence, and quality in our products and services by (1) providing comprehensive training programs in innovative and progressive environments to employees of the Patent business unit and, (2) providing education and training in coordination with our partners in the Patent community.	understanding of the meaning of a "quality" patent.
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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.	
Performance Requirement 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach [Weight: 20%] Improve on the existing classification system with a set of information services	Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment <u>3,6</u>
and information processes to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget.	Goal I, Objective 3 of the USPTO 2014- 2018 Strategic Plan will be accomplished by increasing international cooperation
Develop and strengthen outreach and partnerships with international IP communities especially as it relates to Cooperative Patent Classification (CPC).	and work sharing, fully implementing CPC, maximizing the use of PPH, and implementing the Global Dossier to
Develop and strengthen outreach and partnerships with domestic partners and stakeholders such as, independent inventors, entrepreneurs, small business, and colleges and universities.	improve examiner and external stakeholder access to work products of other IP offices.
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	Goal I, Objective 6 of the USPTO 2014- 2018 Strategic Plan will be accomplished by focusing on improving and enhancing stakeholder and public outreach and increasing awareness and transparency of patent information, and patent application and ownership information.
results.	

Commissioner Performance Agreement - 9/2017

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.

<u>Performance Requirement 4:</u> Patent Legal Administration, Office of Petitions and Patent Administration [Weight: 20%]

Develop an effective and efficient planning strategy and performance measurement system for the office of the Deputy Commissioner for Patent Examination Policy including the areas of the Office of Patent Legal Administration (OPLA) and the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget.

Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget.

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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.

Strategic Alignment: **Strategic Goal 1 /Objective Alignments** <u>1</u>, <u>2</u>, <u>4</u>, <u>5</u>

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Goal I, Objective 4 of the USPTO 2014-2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent

Goal I, Objective 5 of the USPTO 2014-2018 Strategic Plan will be accomplished by improving the processing of electronic-based information, and providing information in a variety of services to employees to improve efficiencies, job performance, and achievement of strategic goals.

Rating Official Narrative: (Optional)					
				·····	
Critical Element Rating – Results Driven	Level 5	Level 4	Level 3	Level 2	Level 1

Part 6: Summary Rating Narrative :

Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Critical Element 5. Results Driven (60%):

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 30%)

		FY 201	8 Targets		
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	FY 2018 Results
	Patent	Corps Backlog	Metrics		
Unexamined Inventory***	493,500	505,000	516,000	528,000	(b)(6)
RCE Inventory**		23	,000		_
	Patent Corps P	endency and Ti	meliness Metrics	5	
First Action Pendency**		1	5.4		
Total Pendency**		2	5.0		
UPR Production Units (PUs)**		620,000			
T1 Pendency (snapshots \$ 12 months)	98.0%				
RCE Pendency (inventory ≤ 4 months)	72.0%				
Pate	ent Term Adjustn	nent (PTA) Time	frames (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	47% of actions		inventory of 125 onths	,000 apps > 14	(b)(6)
Respond to a Reply under 35 U.S.C. 132 within 4 months		% of remaining a tions and rema	dment actions; amended invento ining inventory c onths		
Act on an application within 4 months after the date of a decision by PTAB	96 % o f	actions and 969	6 of remaining in	ventory	
Issue a patent within 4 months from payment of the issue fee	98% of	issues and 98%	of remaining inv	ventory	
No more than 36 month application pendency		80% of iss	ued patents		

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be TBD).

** Model targets are accurate to +/- 5%; results within 5% of target will be considered to have met target given this uncertainty.

Management and Support- Quality Metrics for Correctness and Clarity	FY 2018 Targets	FY 2018 Results
FY '18 Corps Quality Metrics: 35 U.S.C 102 Correctness	>95%	(b)(6)
FY '18 Corps Quality Metrics: 35 U.S.C 103 Correctness	>93%	
FY '18 Corps Quality Metrics: 35 U.S.C 112 Correctness	>93%	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Correctness	>97%	

Results Sub Element 2: Patent Quality (Weight 30%)

FY '18 Corps Quality Metrics: 35 U.S.C 102 Clarity	>90%	(b)(6)
FY '18 Corps Quality Metrics: 35 U.S.C 103 Clarity	>90%	
FY '18 Corps Quality Metrics: 35 U.S.C 112(b) Clarity	>90%	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Clarity	>90%	-
FY '19 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '19 in Q4 of FY' 18	
Examination Time Analysis (ETA) - Comprehensively study and plan to adjust examination time goals to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees.	FY 2018 Targets	FY 2018 Results
Develop initial implementation plan	Develop plan by the end of FY '18, Q1	(b)(6)
Negotiate implementation of the developed plan with the Examiners bargaining unit (POPA)	Complete implementation negotiations by the end of FY '18, Q3	
Implement negotiated plan	Implement negotiated plan by the end of FY '18	
<u>Access to Relevant Prior Art</u> - Explore how to best utilize ovailable 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 potent examination quality and efficiency.	FY 2018 Targets	FY 2018 Results
Begin development of Phase 1 of the project	FY '18, Q1	(b)(6)
Develop implementation plan for phases to be implemented in FY '19	FY '18 Q2/Q3/Q4	
Complete implementation of Phase 1 of the project	Complete Phase 1 implementation by the end of FY'18	
Pilot Programs	FY 2018 Targets	FY 2018 Results
Clarity of the Record Pilot Phase 2, Part a	Implement in FY '18, Q1	(b)(6)
Clarity of the Record Pilot Phase 2, Part b	Implement in FY '18, Q2	
Diagnostic Interview Pilot	<u>FY18, Q1</u> – Begin pilot <u>FY18, Q3</u> – Begin data analysis from pilot	
35 U.S.C. 112(f) - Improve the frequency of examiner clarification of the record for § 112(f) issues	FY 2018 Targets	FY 2018 Results
		(b)(6)

Notes:

*Quality Metrics results far Correctness have the following sample error: 0.4% (102); 0.4% (103); 0.4% (112); and, 0.3% (101). Quality Metrics results for Clarify have the following sample error: 1.3% (102); 0.8% (103); 1.1% (112(b)); and, 1.4% (101).

**Management and the examiners union began pre-decisional ETA discussions in January 2018. Following these discussions, the Administration issued a set of executive orders that partly covered the scope of union negotiations but

were subsequently changed due to a decision by the district court. Consequently, a new path including pre-decisional engagement with set timeframes was chosen to secure time, routing and PAP changes was determined; the latter half of FY18 was used to develop material needed for this new path.

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 20%)

Patent Classification Process Measures	FY 2018 Targets	FY 2018 Results
Cooperative Patent Classification Quality Metrics		
Establish a cooperative convergence metric with at least one partner office	Establish metric by the end of Q4, FY '18	(b)(6)

International Cooperation/Engagement Measures	FY 2018 Targets	FY 2018 Results
Define new functionality for the Global Dossier	Complete by the end of Q4 FY'18	(b)(6)
PCT Collaborative Search and Examination Pilot	<u>Q3 FY'18</u> – Finalize details of pilot <u>Q4 FY'18</u> - Launch pilot among IP5 offices	
Expand outreach with stakeholder groups through cooperative agreements (e.g. FICPI and AIPPI)	Develop at least one cooperative agreement by the end of FY '18	
Define roadmaps on four USPTO - led IDS projects	Complete the process of defining roadmaps by the end of Q3, FY '18	

Domestic Outreach Measures	FY 2018 targets	FY 2018 Results
Independent Inventor Conferences	1	(b)(6)
Outreach Programs to Small Businesses & Entrepreneurs	8-12	
Outreach to Colleges/Universities	10-15]
Independent Inventor and Small Business Initiative - Enhance assistance to independent inventors and small businesses during the prosecution of their applications.	<u>FY '18 Q2</u> - Increase staff to support the examination of pro-se applications and increase assistance to pro se applicants throughout the entire application process.	

"The pro se are unit team considered a number of options for increasing the examination staff of the art unit. It was ultimately determined that expansion via short-term details, rather than immediately adding permanent positions, was the preferred solution. This allowed the team to move forward more quickly because a formal agreement with the examiner's union was not required, allowing more time to analyze inventory trends for pro se applications, and allowing interested examiners to be exposed to the art unit without a long term commitment. The process of gaining approvals for the plan, having informal discussions with the examiner's union, developing the detail vacancy announcement and receiving approval from the Patents Detail Council, posting the vacancy announcement, and making selections, meant that the increased staff of detailed examiners was in place in the second biweek of Q3.

Internal Engagement Initiatives	FY 2018 targets	FY 2018 Results
Patent Employee Town Hall Initiative 2.0	Hold 40 town hall sessions	b)(6)

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 20%)

Patent Legal Administration Measures				
	FY 2018 Targets	FY 2018 Results		
% of Clear and Timely Guidance and Memos Completed	75-85%	(b)(6)		
% of Clear and Timely Rulemaking and Notices Published	75-85%			
% of Timely Implementation of Legislative Changes and Case Law Developments	75-85%			

Office of Petitions Measures				
	FY 2018 Targets	FY 2018 Results		
% of Timely Petition Decisions ¹⁾	75-85%	(b)(6)		
% of Timely Track 1 Petition Decisions ²⁾	75-85%			
% of Timely PPH Petitions ³⁾	75-85%			

1) Petitions processed in less than five months from the filing date.

2) Track 1 petitions processed in less than 45 days:

a. The timeliness of a Track 1 request decision is based upon its status 17/20 date (prior to this date, the Track 1 request cannot be decided).

3) PPH petitions processed in less than 90 days.

Patent Administration Measures

Patents-End-to-End (PE2E)Transition	FY 2018 targets	FY 2018 Results
Implement IT components of PE2E in Operations (Official Correspondence (OC))	<u>FY '18</u> Complete OC deployment and training to TCs and other business units	(b)(6)
Implement IT components of PE2E in Operations (Search)	<u>FY '18</u> Begin Search deployment and training to Technology Centers and Patents staff	

Commissioner's Name: Andrew H. Hirshfeld

Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

Rating Period FY 2018

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 (Patent Pendency, Backlog and Timeliness) Performance Requirement 2 (Patent Quality) Performance Requirement 3 (Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach)	(b)(6)	30% 30% 20%	(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 PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 4 (Patent Legal Administration, Office of Petitions and Patent Administration)		20%			
Performance Requirement Total Score		- 10078	(b)(6)		

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
Sec. 1				Points 475 – 500 = Level 5 Rating	
Performance Requirement 1	4	x 30	120	Score Points 400 – 474 = Level 4 Rating	1 Carl
Performance Requirement 2	5	x 30	150	Score Points 300– 399 = Level 3 Rating	
Performance Requirement 3	5	x 20	100	Score Points 200 – 299 = Level 2 Rating	
Performance Requirement 4	3	x 20	60	Score Any PR rated Level 1 overall score	án.
State in a second		= 100%		must be = Level 1 Rating Score	
Performance Requirement Total Score			430	430 = Leve I 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.

Commissioner Performance Agreement - 9/2017

Andrew II. Hirshfeld **Commissioner for Patents** FY 2018 Mid-year Performance Bullets

(b)(6)

1

4

Examination Time Analysis (ETA)

Time and Attendance (b)(6)

(b)(6)

SPE Interest Program

(b)(6)

Workforce Effects of Information Technology (IT) Improvements

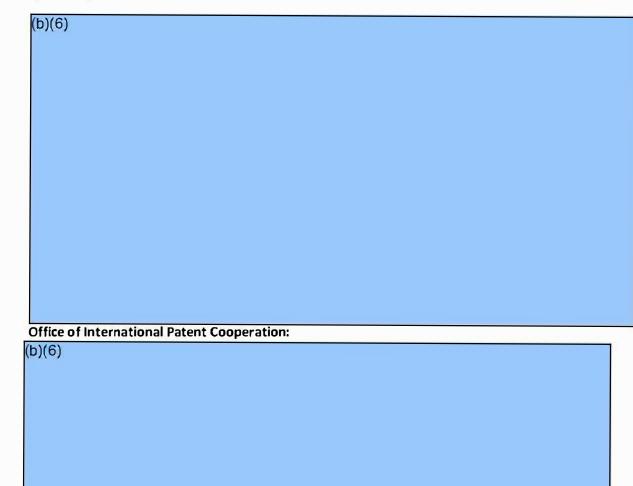
(b)(6)

Subject Matter Eligibility:

(b)(6)

Cooperative Patent Classification (CPC) Project:

•



Patents-End-To-End (PE2E) and Patent IT initiatives:

(b)(6)

Financial Advisory Board (FAB):

(b)(6)

Office of Patent Examination Support Services (OPESS):

(b)(6)

Training:

(b)(6)

Sets Strategic Direction to address Goals:

(b)(6)

Other: (b)(6)

Critical Element 2: Leading People (10%):

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

(b)(6)

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Human Capital, employee engagement:

(b)(6)

SPE Interest Program

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

Cooperative Patent Classification (CPC) Project:

(b)(6)

PE2E (Office of Patent Information Management):

(b)(6)

Workforce Effects of Information Technology (IT) Improvements

(b)(6)

Personnel:

(b)(6)

Training:

(b)(6)

Federal Employee Viewpoint Survey (EVS):

(b)(6)

Time and Attendance

(b)(6)

Other:

(b)(6)

Critical Element 3: Business Acumen (10%):

(b)(6)

Budget & Performance Metrics (Office of Patent Financial Management)

(b)(6)				

Patents Telework Program:

(b)(6)

E.

Time and Attendance (b)(6)

Patents Hiring:

(b)(6)

Cooperative Patent Classification (CPC) Project:

(b)(6)

Subject Matter Eligibility:

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

(b)(6)

Pro se Assistance



Other:

(b)(6)

Critical Element 4. Building Coalitions (10%):

(b)(6)

Collaborating within USPTO:



Outreach to under-represented user groups (Office of Innovation Development):



Cooperative Patent Classification (CPC) Project:

(b)(6)

Public presentations, representation activities:

)(6)	

Critical Element 5. Results Driven (60%):

Results Sub Element 1: Patent Pendency, Backlog and Timeliness (Weight 30%)

	FY 2018 Targets				
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	0% - 2% Filing Growth	2% - 4% Filing Growth	4% - 6% Filing Growth	MY 2018 Results
	Paten	t Corps Backlog	Metrics		
Unexamined Inventory*, **	493,500	505,000	516,000	528,000	(b)(6)
RCE Inventory**		23,000			
	Patent Corps P	Pendency and Ti	meliness Metric.	5	1
First Action Pendency**	15.4				
Total Pendency**		25.0			
UPR Production Units (PUs)**		620,000			
T1 Pendency (snapshots ≤ 12 months)		98.0%			
RCE Pendency (inventory ≤ 4 months)	72.0%			-	
Pate	ent Term Adjustn	nent (PTA) Time	frames (14/4/4,	(4/36)	
Provide at least one notification under 35 U.S.C. 132 within 14 –months from	47% of actions and remaining inventory of 125,000 apps > 14 months			(b)(6)	

Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

filing under section 111(a) or the commencement of the national stage under section 371		(b)(6)
Respond to a Reply under 35 U.S.C. 132 within 4 months	93% of amendment actions; 96% of remaining amended inventory; 78% of RCE actions and remaining inventory of 7,000 apps > 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 issued patents	

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be TBD).

** Model targets are accurate to +/- 5%; results within 5% of target will be considered to have met target given this uncertainty.

Results Sub Element 2: Patent Quality (Weight 30%)

Management and Support – Quality Metrics for Correctness and Clarity	FY 2018 Targets	MY 2018 Results	
FY '18 Corps Quality Metrics: 35 U.S.C 102 Correctness	>95%	(b)(6)	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Correctness	>93%		
FY '18 Corps Quality Metrics: 35 U.S.C 112 Correctness	>93%		
FY '18 Corps Quality Metrics: 35 U.S.C 101 Correctness	>97%		
FY '18 Corps Quality Metrics: 35 U.S.C 102 Clarity	>90%	-	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Clarity	>90%		
FY '18 Corps Quality Metrics: 35 U.S.C 112(b) Clarity	>90%		
FY '18 Corps Quality Metrics: 35 U.S.C 101 Clarity	>90%	-	
FY '19 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '19 in Q4 of FY' 18	-	
Examination Time Analysis (ETA) - Comprehensively study and plan to adjust examination time goals to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees.	FY 2018 Targets	MY 2018 Results	
Develop initial implementation plan	Develop plan by the end of FY '18, Q1	(b)(6)	
Negotiate implementation of the developed plan with the Examiners bargaining unit (POPA)	Complete implementation negotiations by the end of FY'18, Q3		
Implement negotiated plan	Implement negotiated plan by the end of FY '18		
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 guality and efficiency.	FY 2018 Targets	MY 2018 Results	
Begin development of Phase 1 of the project	FY'18, Q1	(b)(6)	

Develop implementation plan for phases to be implemented in FY '19	FY'18 Q2/Q3/Q4	On Track
Complete implementation of Phase 1 of the project	Complete Phase 1 implementation by the end of FY'18	(b)(6)
Pilot Programs	FY 2018 Targets	MY 2018 Results
Clarity of the Record Pilot Phase 2, Part a	Implement in FY '18, Q1	(b)(6)
Clarity of the Record Pilot Phase 2, Part b	Implement in FY '18, Q2	
Diagnostic Interview Pilot	<u>FY18, Q1</u> – Begin pilot <u>FY18, Q3</u> – Begin data analysis from pilot	
<u>35 U.S.C. 112(f)</u> - Improve the frequency of examiner clarification of the record for § 112(f) issues	FY 2018 Targets	MY 2018 Results
Provide Patent Examining Corps-Wide training	FY '18, Q1	(b)(6)

*Quality Metrics results for Correctness and Clarify are accurate to a level of +/- 1.0%

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 20%)

Patent Classification Process Measures	FY 2018 Targets	MY 2018 Results
Cooperative Patent Classification Quality Metrics		
Establish a cooperative convergence metric with at least one partner office	Establish metric by the end of Q4, FY '18	(b)(6)

International Cooperation/Engagement Measures	FY 2018 Torgets	MY 2018 Results
Define new functionality for the Global Dossier	Complete by the end of Q4 FY'18	(b)(6)
PCT Collaborative Search and Examination Pilot	Q3 FY '18 – Finalize details of pilot Q4 FY '18 – Launch pilot among IPS offices	[b)(6)
Expand outreach with stakeholder groups through cooperative agreements (e.g. FICPI and AIPPI)	Develop at least one cooperative agreement by the end of FY '18	
Define roadmaps on four USPTO - led IDS projects	Complete the process of defining roadmaps by the end of Q3, FY '18	

(0)(0)

Domestic Outreach Measures	FY 2018 targets	MY 2018 Results
Independent Inventor Conferences	1	(b)(6)
Outreach Programs to Small Businesses & Entrepreneurs	8-12	
Outreach to Colleges/Universities	10-15	
Independent Inventor and Small Business Initiative - Enhance assistance to independent inventors and small businesses during the prosecution of their applications.	<u>FY '18 Q2</u> - Increase staff to support the examination of pro-se applications and increase assistance to pro se applicants throughout the entire application process.	

Internal Engagement Initiatives	FY 2018 targets	MY 2018 Results
Patent Employee Town Hall Initiative 2.0	Hold 40 town hall sessions	(b)(6)

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 20%)

Patent Legal Administration	Measures	
	FY 2018 Targets	MY 2018 Results
% of Clear and Timely Guidance and Memos Completed	75-85%	(b)(6)
% of Clear and Timely Rulemaking and Notices Published	75-85%	
% of Timely Implementation of Legislative Changes and Case Law		
Developments	75-85%	

Office of Pe	titions Measures	
	FY 2018 Targets	MY 2018 Results
% of Timely Petition Decisions ¹	75-85%	(b)(6)
% of Timely Track 1 Petition Decisions ²⁾	75-85%	
% of Timely PPH Petitions ³⁾	75-85%	

1) Petitions processed in less than five months from the filing date.

2) Track 1 petitions processed in less than 45 days:

a. The timeliness of a Track 1 request decision is based upon its status 17/20 date (prior to this date, the Track 1 request cannot be decided).

3) PPH petitions processed in less than 90 days.

Patent Administration Measures							
Patents-End-to-End (PE2E)Transition	FY 2018 targets	MY 2018 Results					
Implement IT components of PE2E in Operations (Official Correspondence (OC))	<u>FY'18</u> Complete OC deployment and training to TCs and other business units	(b)(6)					

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Andrew H. Hirshfeld Commissioner for Patents FY 2018 Mid-year Performance Bullets

		(b)(6)
Implement IT components of PE2E in Operations (Search)	<u>FY '18</u> Begin Search deployment and training to Technology Centers and Patents staff	



Commissioner for Patents Performance Agreement

Part 1. Consultation. //	have reviel	wed this plai	n and have beel	n consul	lted o	n its develop	ome	ent.		
Commissioner's Name (L	ast, First, I	MI): Hirshf	eld, Andrew H	I	1			Appraisal Pd. F		
Commissioner's Signatur		Date: 9/2-5/18								
Title: Commissioner for Patents								Organization: L	JSPTO	
Rating Official's Name (Last, First, MI): Iancu, Andrei								7		
(b)(6) Rating Official's Signature:								Date: 10/1/	'IP	
Part 2. Progress Review										
Commissioner's Signature:								Date:		
Rating Official's Signature:								Date:		
Part 3. Annual Summary Rating										
Annual Summary Rating	outstanding commendable ruly successful] Level 2 inimally tisfactory	Level 1 Unsatisfactory	
Commissioner's Signatur	e:						1	Date:		
Rating Official's Signature	e:						1	Date:		
Part 4. Derivation Form	ula and Ca	lculation of	Annual Summa	ary Rati	ing	1.0				
	Elem	ent Rating			S	core				
Critical Element (CE)	Initial	Final (if change	d) Weight	Init	rial	Final (if changed	n	Summary	Level Ranges	
1. Leading Change	iniciai	(in change	10%			(in changed	1	Junnary	Level Hunges	
2. Leading People			10%							
3. Business Acumen			10%					475-500	0 = Level 5	
4. Building Coalitions	A. Building Coalitions 10%							4 = Level 4 9 = Level 3		
5. Results Driven 60%							200-299	9 = Level 2		
Total			100%			6		Any CE rated	Level 1 = Level 1	

Commissioner's Name: Andrew H. Hirshfeld

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

Appraisal Period: FY 2019

Critical Element 1. Leading Change

Weight 10%

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 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;
- Supports the Administration's goals of increasing jobs and growing the economy by ensuring the consistency and reliability of issued patents which have clear boundaries of protection;
- 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;
- Monitors effectiveness of Patents' production systems for future improvements;
- Puts procedures in place to analyze examination processes and explore prosecution efficiencies;
- Oversees Patents' telework and any expansion of the it's telework programs; ensures any necessary coordination and agreement with the appropriate union from a bargaining unit employee aspect;
- Continues to strengthen time and attendance controls for employees;
- Supports the continued deployment of Patents-End-to-End (PE2E) tools to all appropriate employees within the Patents Business Unit;
- Completes the transition, including training, within the Patents Business Unit, to the Official Correspondence (OC) tool;
- Oversees the development and implementation of all quality related programs and initiatives developed within the Patents Business Unit;
- Ensures continued improvement in employee training within the Patents Business Unit;
- Ensures that employee workloads are monitored and takes steps to ensure that workloads are appropriate;
- Supports the USPTO's effort to comprehensively study and plan to adjust examination time goals, as appropriate, to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees;
- Supports the Administration's Regulatory Reform efforts by supporting the elimination of unnecessary, ineffective, and burdensome rules and regulations within the Patents Business Unit; and,
- Supports and provides guidance regarding the implementation of a revised process for routing utility patent
 applications in light of the transition from U.S. classification (USPC) to the Cooperative Patent Classification System
 (CPC).

Rating Official Narrative: (Optional)				<u></u>	
Critical Element Rating – Leading Change	Level 5	Level 4	Level 3	Levei 2	Level 1

Appraisal Period: FY 2019

Critical Element 2. Leading People

Weight 10%

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:

- Supporting the enhancement of the Workforce Management Alliance and Patents Workforce Management Advisors;
- Ensuring surveys (including Federal Employee Viewpoint Survey and the USPTO People Survey) and other instruments are in place to monitor and develop plans to provide a work environment that optimizes performance and increases job satisfaction;
- 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;
- Identifying talent gaps and providing training and developmental opportunities, coaching and counseling to employees to strengthen performance or address concerns;
- Ensuring that managers are appropriately trained;
- Continuing to strengthen time and attendance controls for employees;
- Encouraging employees to develop new and better ways of performing tasks;
- Ensuring that clear and consistent legal and procedural positions are taken on behalf of the Agency by the Patents Business Unit;
- Supporting a culture of transparency, communication and collaboration in the Patents Business Unit; and
- Ensuring that employees are efficiently working on mission-critical tasks;
- Retaining a highly skilled workforce;
- Rewarding the most productive employees;
- Ensuring that employees are appropriately recognized;
- Leading, developing, and implementing actions to improve employee engagement within the Patents Business Unit based on employee feedback gathered from sources including the USPTO People Survey, Federal Employee Viewpoint Survey, focus groups and other initiatives;
- Adhering to legal requirements established in 5 U.S.C. Section 2302(b)(8) Whistleblower Retaliation and 5 U.S. Code § 2302 Prohibited Personnel Practices; 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.

Rating Official Narrative: (Optional)					
Critical Element Rating – Leading People	Level 5	Level 4	Level 3	Level 2	Level 1

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

- Supports Hiring Reform efforts of improving the recruitment and hiring process to acquire highly qualified employees, reducing hiring time, and supporting new hires successful transition into the Federal Service;
- Assesses current and future staffing needs on a regular basis;
- Implements the 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;
- Ensure that reliable, state of the art IT systems are in place in order to meet the needs of employees and stakeholders and to support the Agency's mission;
- Support the rollout and training of a new search tool to employees;
- 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;
- Strengthens the USPTO's telework program and assesses and improves controls as needed to best manage employees and focuses on the implementation of any new actions and guidance as may be necessary;
- Ensures that user fees are appropriately set and utilized;
- Develop an implementation plan to best utilize available electronic resources to provide examiners with information to facilitate patent examination quality and efficiency.

Rating Official Narrative: (Optional)		. .	· <u>.</u>		
Critical Element Rating – Business Acumen	Level S	Level 4	Level 3	Level 2	Level 1

Appraisal Period: FY 2019

Critical Element 4. Building Coalitions

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

- Assures that each Business Unit participates in the formulation of clear, concise, and effective communication strategies;
- Demonstrates a high degree of responsiveness to the full range of stakeholders, 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;
- 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 stakeholder needs and expectations, responds to identified concerns promptly, professionally and fairly, and improves business and management processes based on customer and employee feedback;
- Improves access to the patent process for small businesses and independent inventors and ensures that assistance is provided to small businesses and independent inventors on understanding how to obtain and enforce Patent rights;
- Provides dedicated examination resources to pro se applicants;
- 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 specific Patent-related initiatives;
- Ensures that messages to stakeholders are clear and consistent and coordinated within and across business units;
- Works with internal and external stakeholders in the development and implementation of quality improvement programs;
- Ensures appropriate investigation and resolution of labor issues raised with Patents 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 complementary missions, and within the USPTO;
- Promotes intra-agency cooperation by ensuring that all Senior Executives (SES) within the Patents organization
 incorporate specific measurable teaming/collaboration tasks in the development of their individual results subelements;
- Supports a transparent and collaborative work environment;
- Puts systems in place to ensure coordination within and among business units so as to ensure that information is being shared; and,
- Encourages enhanced communication within and across Business Units.

Rating Official Narrative: (Optional)					
Critical Element Rating – Building Coalitions	Level 5	Level 4	Level 3	Level 2	Level 1

Weight 60%

Critical Element 5. Results Driven

Agency Goals/Objectives for current FY: Must have at least 1 result (may have up to 4)

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 for each result specified.

Individual and organizational performance requirements expected to support USPTO strategic initiatives. The executive is accountable for up to four 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 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 provides 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.]

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.

<u>Sub Element/Performance Requirement 1:</u> Patent Pendency, Backlog and Timeliness [Weight: 30%]

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 FY 2019 Budget.

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, 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 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance. Strategic Alignment: Strategic Alignment: **Strategic Goal <u>1</u>** /**Objective Alignment <u>1-2</u>**

Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a longterm, multi-year goal to be achieved over the next several years.

Commissioner's Name: Andrew H. Hirshfeld Appraisal Period: FY 2019 Sub Element/Performance Requirement 2: Patent Quality [Weight: 30%] Strategic Alignment: High-quality patents, i.e. patents that are correctly issued in compliance with Strategic Alignment: Strategic Goal 1 **/Objective Alignment 4** all the requirements of Title 35 as well as the relevant case law at the time of issuance, fuel innovation and reduce needless litigation by providing an unambiguous notice of rights through clear claim boundaries, clear Goal I, Objective 4 of the USPTO 2014-2018 Strategic Plan will be accomplished specifications, and clear prosecution histories. To ensure we continue to issue when issued patents are of higher high-quality patents, the USPTO is continuing its efforts to address patent quality, claim clarity is improved, and the quality. stakeholder community has a clear understanding of the meaning of a The Patent business unit is committed to educational leadership, excellence, "quality" patent. and quality in our products and services by (1) providing comprehensive training programs in innovative and progressive environments to employees of the Patent business unit and, (2) providing education and training in coordination with our partners in the Patent community. 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance. Performance Requirement 3: Patent Classification Processes, International Strategic Alignment: Strategic Goal <u>1</u> /Objective Alignment Cooperation/Engagement and Domestic Outreach [Weight: 20%] Improve on the existing classification system with a set of information services 3,6 and information processes to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2019 Goal I, Objective 3 of the USPTO 2014-Budget. 2018 Strategic Plan will be accomplished by increasing international cooperation Develop and strengthen outreach and partnerships with international IP and work sharing, fully implementing communities especially as it relates to Cooperative Patent Classification (CPC). CPC, maximizing the use of PPH, and implementing the Global Dossier to Develop and strengthen outreach and partnerships with domestic partners and improve examiner and external stakeholder access to work products of stakeholders such as, independent inventors, entrepreneurs, small business, other IP offices. and colleges and universities. As a fee-funded agency, the USPTO relies on user fee collections to fund Goal I, Objective 6 of the USPTO 2014operations. The USPTO considers a number of economic factors and relevant 2018 Strategic Plan will be accomplished indicators when forecasting its workloads. While many of these defining by focusing on improving and enhancing indicators point toward renewed economic expansion, considerable stakeholder and public outreach and increasing awareness and transparency uncertainty still remains regarding the current and near future prospects for of patent information, and patent growth. This uncertainty could affect anticipated USPTO workloads and fee collections which in turn could significantly impact the USPTO's long-term application and ownership information. 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 attached document. Meeting or exceeding the targets set forth in the attached document represents a level of outstanding performance.	
<u>Performance Requirement 4:</u> Patent Legal Administration, Office of Petitions and Patent Administration [Weight: 20%]	Strategic Alignment: Strategic Goal 1 /Objective Alignments <u>1, 2, 4, 5</u>
Develop an effective and efficient planning strategy and performance measurement system for the office of the Deputy Commissioner for Patent Examination Policy including the areas of the Office of Patent Legal Administration (OPLA) and the Office of Petitions to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2019 Budget. Develop an effective and efficient business planning strategy and performance measurement system for the Office of the Deputy Commissioner for Patent Administration to contribute to the achievement of goals, objectives and targets based on requirements in the President's FY 2018 Budget. 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	Goal I, Objectives 1 and 2 of the USPTO 2014-2018 Strategic Plan will be accomplished when patent pendency is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency. This is a long- term, multi-year goal to be achieved over the next several years. Goal I, Objective 4 of the USPTO 2014- 2018 Strategic Plan will be accomplished when issued patents are of higher quality, claim clarity is improved, and the stakeholder community has a clear understanding of the meaning of a "quality" patent
results.	Goal I, Objective 5 of the <i>USPTO 2014-</i> 2018 Strategic Plan will be accomplished
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.	by improving the processing of electronic-based information, and providing information in a variety of services to employees to improve efficiencies, job performance, and achievement of strategic goals.
Rating Official Narrative: (Optional)	
Critical Element Rating – Results Driven	Level 3 Level 2 Level 1

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Deriving the Results Driven Rating Worksheet

Commissioner Name Andrew H. Hirshfeld

Rating Period FY 2019

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 (Patent Pendency, Backlog and Timeliness)		30%		Points 475– 500 = Level 5 Rating Score Points 400 – 474 = Level 4 Rating Score Points 300– 399 = Level 3	
Performance Requirement 2 (Patent Quality)		30%		Rating Score Points 200-299 = Level 2 Rating Score	
Performance Requirement 3 (Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach)		20%		Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 4 (Patent Legal Administration, Office of Petitions and Patent Administration)		20%			
Performance Requirement Total Score		= 100%	*	= Level	143

Example of Results Driven Element Being Rated Level 4

Results Driven	Performance	Weight	Performance	Point Ranges to Rating Level Score	Results Driven
Performance	Requirement	(multiply	Requirement		Initial Element
Requirements	Rating Level	by)	Points Score		Score
(PR)	Score				
P. Lunder	ALL PROPERTY			Points 475 – 500 = Level 5 Rating	
Performance	4	x 30	120	Score	A ST AND
Requirement 1				Points 400 – 474 = Level 4 Rating	
Performance	5	x 30	150	Score	
Requirement 2				Points 300 – 399 = Level 3 Rating	W. War D. L.
Performance	5	x 20	100	Score	
Requirement 3				Points 200 – 299 = Level 2 Rating	Carl Street
Performance	3	x 20	60	Score	A Sole State
Requirement 4				Any PR rated Level 1 overall score	Sinter 14
and the state		= 100%	All the star of	must be = Level 1 Rating Score	
Performance					
Requirement	17 Salara		430	430 = Level4	4*
Total Score	12 1 1 1				
*Results Driven R	ating is 4 - to be	e transferre	d to Initial Elem	nent Score beside Results Driven Critica	al Element on the
bottom of page 1					

Critical Element 5. Results Driven (Total Weight 60%)

	FY 2019 Targets				
Patent Pendency, Backlog and Timeliness Measures	-2% - 0% Filing Growth	Filing Filing Filing Filing		FY 2019 Results	
	Pater	t Corps Backlog	Metrics		Colling Statis
Unexamined Inventory***	TBD	TBD	TBD	TBD	
RCE Inventory**			BD		
	Patent Corps	Pendency and T	imeliness Metric	5	
First Action Pendency**		1	BD		
Total Pendency**		1	BD		
UPR Production Units (PUs)**	TBD				
T1 Pendency (snapshots \leq 12 months)	TBD				
RCE Pendency (inventory ≤ 4 months)	TBD				
Pate	nt Term Adjust	ment (PTA) Tim	efromes (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		Ţ	BD		
Respond to a Reply under 35 U.S.C. 132 within 4 months	TBD				
Act on an application within 4 months after the date of a decision by PTAB	TBD				
Issue a patent within 4 months from payment of the issue fee	TBD				
No more than 36 month application pendency		т	BD		

*The Unexamined Backlog goal varies with overall filing growth rate (e.g. if the filing growth rate is 0% - 2% for the FY the backlog goal will be TBD).

** Model targets are accurate to +/- 5%; results within 5% of target will be considered to have met target given this uncertainty.

Results Sub Element 2: Patent Quality (Weight 30%)

Management and Support-Quality Metrics for Correctness and Clarity	FY 2019 Targets	FY 2019 Results
FY '18 Corps Quality Metrics: 35 U.S.C 102 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 112 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Correctness	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 102 Clarity	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 103 Clarity	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 112(b) Clarity	TBD	
FY '18 Corps Quality Metrics: 35 U.S.C 101 Clarity	TBD	

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Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2019

Commissioner 5 Manne. Andrew II. Imstiteid	Appraisa	renou. IT 2015
FY '20 Examination Corps Quality Metrics: Correctness and Clarity	Establish targets for FY '20 in Q4 of FY' 19	
Examination Time Analysis (ETA) - Comprehensively study and plan to ad just examination time goals to ensure optimal USPTO performance in patent pendency and quality that is commensurate with stakeholder expectations and user fees.	FY 2019 Targets	FY 2019 Results
TBD	TBD	
TBD	TBD	
TBD	TBD	
<u>Access to Relevant Prior Art</u> - 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
TBD	TBD	
TBD	TBD	
TBD	TBD	
Pilot Programs	FY 2019 Targets	FY 2019 Results
TBD	TBD	
TBD	TBD	
TBD	TBD	
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
TBD	TBD	

Results Sub Element 3: Patent Classification Processes, International Cooperation/Engagement and Domestic Outreach (Weight: 20%)

Patent Classification Process Measures	FY 2019 Torgets	FY 2019 Results	
Cooperative Patent Classification Quality Metrics	Die HA		
TBD	TBD		

International Cooperation/Engagement Measures	FY 2019 Targets FY 2019 Res		
TBD	TBD		

Domestic Outreach Measures	FY 2019 targets	FY 2019 Results
TBD	TBD	

Internal Engagement Initiatives	FY 2019 targets	FY 2019 Results
TBD	TBD	

Sub Element 4: Patent Legal Administration, Office of Petitions and Patent Administration (Weight: 20%)

Patent Legal Administration Measures			
	FY 2019 Targets	FY 2019 Results	
% of Clear and Timely Guidance and Memos Completed	75-85%		
% of Clear and Timely Rulemaking and Notices Published	75-85%		
% of Timely Implementation of Legislative Changes and Case Law			
Developments	75-85%		

Office of Petitions Measures

Commissioner's Name: Andrew H. Hirshfeld

Appraisal Period: FY 2019

	FY 2019 Torgets	FY 2019 Results	
% of Timely Petition Decisions ¹⁾	TBD		
% of Timely Track 1 Petition Decisions ²⁾	TBD		
% of Timely PPH Petitions ³⁾	TBD		

1) Petitions processed in less than five months from the filing date.

2) Track 1 petitions processed in less than 45 days:

a. The timeliness of a Track 1 request decision is based upon its status 17/20 date (prior to this date, the Track 1 request cannot be decided).

3) PPH petitions processed in less than 90 days.

Patent Administration Measures				
Patents-End-to-End (PE2E)Transition	FY 2019 targets	FY 2019 Results		
TBD	TBD	2.0		
TBD	TBD			

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

Part 6: Summary Rating Narrative :

Part 7: Commissioner's Accomplishment Narrative (Optional)

Part 8: Agency Use

Commissioner Na	mo			Appraisal Period	
Results Driven Performance Requirements (PR)	Performance Requirement Rating Level Score	Weight (multiply by)	Performance Requirement Points Score		Results Driven Initial Element Score
				Points 475 – 500 = Level 5 Rating	and the factor of
Performance Requirement 1		50		Score Points 400 – 474 = Level 4 Rating Score	
Performance Requirement 2		50		Points 300– 399 = Level 3 Rating Score Points 200– 299 = Level 2 Rating	
Performance Requirement 3				Score Any PR rated Level 1 overall score must be = Level 1 Rating Score	
Performance Requirement 4	7				
No. 10 No.	State State	= 100%			
Performance Requirement Total Score				= Level	
xample of Result Results Driven Performance Requirements (PR)	s Driven Elemer Performance Requirement Rating Level Score	t Being Ra t Weight (multiply by)	t ed Level 4 Performance Requirement Points Score	Point Ranges to Rating Level Score Points 475 – 500 ≃ Level 5 Rating	Results Driven Initial Element Score
Performance Requirement 1	4	x 25	100	Score Points 400–474 = Level 4 Rating	
Performance Requirement 2	5	x 30	150	Score Points 300 – 399 = Level 3 Rating	
Performance Requirement 3	5	x 15	75	Score Points 200–299 = Level 2 Rating	
Performance Requirement 4	3	x 30	90	Score Any PR rated Level 1 overall score	
and the second se		= 100%		must be = Level 1 Rating Score	and the second second

*Results Driven Rating is 4– to be transferred to Initial Element Score beside Results Driven Critical Element on the bottom of page 1.