

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

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

Critical Non-critical

Element: Quality

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

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 35

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

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

Decisions, orders, and other documents (collectively “decisions”) in ex parte appeals of patent applications, reexamination proceeding appeals, post grant reviews, inter partes reviews, covered business method patent proceedings, derivation proceedings, interference proceedings, and other Board proceedings or matters are authored or drafted.

Written decisions demonstrate clear understanding of the facts of each case, the applicable technology at issue, as well as applicable law including legal statutes, regulations, and case law. Decisions are consistent with binding legal authority and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate. Written decisions are logically presented, soundly reasoned, have accurate analysis, and are concise. Proper judicial tone is maintained throughout written decisions.

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

(CONTINUED)

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

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

Generic Performance Standards for the General Workforce will apply.

Optional Initial Block			
Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 1**

Employee Name:

Performance Element: Quality

Please identify item(s) continued:

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

Item 2. Major Activities (Continued)

Oral arguments are attended and conducted skillfully with proper judicial tone toward all participants.

Surveys, if assigned, are completed. Feedback, including assigned surveys, is provided to the lead judge assessing the work of other Judges or staff, addressing the preparation of opinions, the conduct of oral hearings, judicial demeanor, and other qualities and functions set forth in the elements of the judge performance plan.

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

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

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

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

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

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

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

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

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

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

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

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

Critical Non-critical

Element: Production

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

Weighting Factor (*Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100. Enter weight for this element in the adjacent block.*) 35

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

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

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

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

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

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

Outstanding performance in this element is demonstrated by the Judge making significant efforts toward production needs of the Board. Production will be of an exceptionally high volume, deciding cases in an amount far above the Board's overall rate of production. Exceptionally high volume corresponds to earning no fewer than 100 decisional units annually.

Commendable performance in this element is demonstrated by the Judge making considerable efforts toward production needs of the Board. Production will be of a very high volume, while producing well above the Board's overall rate of production. Very high volume corresponds to earning no fewer than 92 decisional units annually.

(CONTINUED)

Optional Initial Block			
Employee	Date	Supervisor	Date

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

Employee Name:

Performance Element: Production

Please identify item(s) continued:

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

Item 3. Criteria for Evaluation (Continued)

The Fully Successful Judge will earn no fewer than 84 decisional units annually. Reasonable efforts are made to manage the Board's production needs.

The Marginal Judge will earn at least 75 decisional units annually (but fewer than 84). Efforts to manage the Board's production needs are minimally acceptable.

The Unacceptable Judge will earn fewer than 75 decisional units annually. Efforts to manage the Board's production needs are well below what is expected.

NOTES:

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

Decisions and orders in AIA trial proceedings, and decisions and orders in interference proceedings, will be assessed on a case-by-case basis, based on the complexity of the proceeding. Determinations will be made by the Deputy Chief Judge and/or a designee of the Deputy Chief Judge. Please see the PAP Support Document for additional information on AIA Trial crediting.

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

Judges may request, from their supervisor (Lead Judge), additional decisional units to be awarded for extraordinarily complex decisions in an ex parte appeal of a patent application or an ex parte reexamination appeal. Judges may request, from the Deputy Chief Judge or a designee of the Deputy Chief Judge, additional decisional units for extraordinarily complex decisions in AIA proceedings, appeals of inter partes reexamination applications, and interference proceedings.

The above productivity standards do not apply to new judges who are in their first year of the probationary period. In the first year of the probationary period, new judges must demonstrate increased productivity during their first year at the Board in a manner that clearly indicates that they have the potential to achieve the productivity standards.

Judges who are working a part time schedule will have a production goal that is prorated to correspond to the amount of hours worked relative to that of a judge who is working a full time schedule.

(CONTINUED)

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

Employee Name:

Performance Element: Production

Please identify item(s) continued:

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

Item 3. Criteria for Evaluation (Continued)

Production goal adjustments may be made for atypical situations, such as extended medical leave (sick leave used in excess of the total amount of sick leave that can be earned in a fiscal year) or FMLA approved leave (whether annual and/or sick leave is substituted for leave without pay or not). These adjustments will be made on an hour for hour basis based upon the amount of time expected for each decisional unit as APJ1. All calculations will be rounded up or down to the nearest whole number.

Other production goal adjustments may be made in appropriate circumstances, such as significant additional responsibilities, including, but not limited to, assisting the Board with special projects. Special projects that exceed 40 hours may result in a production goal adjustment. Judges must consult with their Lead Judge in advance of the event for which an adjustment is proposed, and in the event of an emergency situation, as soon as practicable.

Production goals may be measured at any time during the appraisal year, at which point the APJ will be expected to have earned that portion of their expected annual decisional units at least equal to the percentage of the rating period that has been completed. Production goals will be established in accordance with any adjustments made as outlined in the preceding paragraphs of this section. Any time a Judge believes that approved leave or other appropriate circumstances will adversely affect the Judge's earning of a specific portion of the annual production goal, the Judge should contact the Lead Judge to request a deferment of the production goal.

For example, if the annual decisional unit requirement to earn a Fully Successful rating is 84 decisional units, and the APJ is being assessed after the first quarter of production, the APJ would be expected to have earned at least 21 decisional units to be assessed as Fully Successful $([84 \text{ decisional units required}] / [12 \text{ months per year}] \times [3 \text{ months in production}] = 21 \text{ decisional units required})$.

If a judge has questions or concerns, the judge should contact their Lead Judge, Vice Chief Judge, or the Deputy Chief Judge or Chief Judge as appropriate.

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

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

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

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

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

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

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

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

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

Critical Non-critical

Element: Supporting the Mission of the Board / Leadership

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

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

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

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

Sets a professional example for others to emulate. Inspires and empowers other internal stakeholders by example and by encouragement to think positively about work related challenges and seek constructive solutions to achieve organizational goals and objectives, and to achieve higher levels of performance. Puts organizational objectives ahead of personal interests.

Calm, dignified, judicial demeanor is demonstrated at all times in all professional settings. Respect and courtesy is shown to everyone, including all participants in any Board proceeding and to all Board personnel.

Accurate and thorough understanding of applicable laws and regulations, including binding legal authority and written guidance applicable to PTAB proceedings issued by the Director or the Director's delegate, is demonstrated at all times, in all settings.

(CONTINUED)

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

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

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

OUTSTANDING

This is a level of significant, high quality performance in this element. The impact of the judge's leadership/support of the mission of the USPTO and the Board is significant. The judge significantly improves the work processes for which he or she is responsible and/or for the entire Board. Thoughtful adherence to procedures, as well as suggestions for improvement in these areas, increase the judge's usefulness to the objectives of the Board as a whole.

(CONTINUED)

Optional Initial Block			
Employee	Date	Supervisor	Date

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

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

Item 2. Major Activities (Continued)

Assistance is provided to the USPTO and the Board in various aspects other than producing decisions. This assistance may also include participating in and helping the USPTO and the Board to meet goals set throughout the year and address challenges arising during the year.

Additional attributes that contribute to Leadership include whether the Judge:

- Shares efficient processes and methods with other internal stakeholders.
- Considers organizational objectives before personal interests.
- Inspires and empowers other internal stakeholders by example and by encouragement to think positively about work related challenges and to seek constructive solutions, to achieve organizational goals and objectives, and to achieve higher levels of performance.
- Contributes significantly to the design and implementation of organizational methods and strategies that maximize internal stakeholder potential and contribute to organizational objectives.
- Where change is required to better meet organizational objectives, adapts well to change (role model) and helps other internal stakeholders adapt and professionally thrive in a new and changing organizational environment.

See PAP support document for examples of activities that contribute to this element.

Item 3. Criteria for Evaluation (Continued)

OUTSTANDING (Continued)

In meeting element objectives, the judge handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with internal and external stakeholders. The judge seeks additional work or special assignments related to this element or provides assistance to other stakeholders. The quality of such leadership work is high and is done on time without disrupting regular work or unduly burdening others. Appropriate problems are brought to management's attention; most problems are dealt with routinely and with exceptional skill.

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

(CONTINUED)

**Performance Management Record
Continuation Page – Element 3**

Employee Name:

Performance Element: Supporting the Mission of the Board / Leadership

Please identify item(s) continued:

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

Item 3. Criteria for Evaluation (Continued)

COMMENDABLE

This is a level of unusually good performance in this element. The quantity and quality of the judge's leadership/support of the mission of the USPTO and the Board under this element are consistently above average. The knowledge and skill the judge applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The judge follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The judge works effectively on this element when working with all internal and external stakeholders, creating a highly successful cooperative effort. He or she seeks out additional work or special leadership assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work or unduly burdening others. Appropriate problems are brought to management's attention; most problems are dealt with routinely and with above average skill.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other internal stakeholders of the organization.

FULLY SUCCESSFUL

This is the level of good, sound performance in this element. The quality and quantity of the judge's leadership/ support of the mission of the USPTO and the Board under this element are those of a fully competent employee. Leadership performance represents a level of accomplishment expected of the great majority of judges. Leadership tasks are completed in an accurate, thorough, and timely way. The judge's technical skills and knowledge are applied effectively to specific job tasks. In completing leadership assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The judge's work planning is realistic and results in completion of work by established deadlines without unduly burdening others. Priorities are duly considered in planning and performing assigned responsibilities. In accomplishing leadership objectives, the judge's interpersonal behavior toward all internal and external shareholders promotes attainment of work objectives and poses no significant problems.

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

(CONTINUED)

**Performance Management Record
Continuation Page – Element 3**

Employee Name:**Performance Element:** Supporting the Mission of the Board / Leadership**Please identify item(s) continued:**

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

Item 3. Criteria for Evaluation (Continued)

MARGINAL

This level of performance shows notable deficiencies in relation to leadership and support of the mission of the USPTO and the Board. For example, a judge's own work product is such that it negatively impacts the mission and goals of the Board. Leadership performance represents a level of accomplishment below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the judge's leadership/ support of the mission of the USPTO and the Board is less than Fully Successful, often jeopardizing attainment of the element's objective.

In accomplishing leadership objectives, the judge's interpersonal behavior toward all internal and external shareholders detracts from attainment of work objectives and poses problems.

It may be the case that much in the judge's performance is useful. However, performance, including work product, is inconsistent in quality and timeliness. Problems caused by deficiencies counterbalance acceptable work and require significant effort by others to bring the work to an acceptable level. These deficiencies cannot be overlooked because they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned. The experience of the judge, including time as a judge at the Board, will be taken into account when considering these aspects.

UNSATISFACTORY

This level of performance shows notable and routine deficiencies in relation to leadership and support of the mission of the USPTO and the Board. For example, a judge's own work product is such that it regularly negatively impacts the mission and goals of the Board. Leadership performance represents a level of accomplishment well below the level expected for the position, and routinely requires corrective action. The quality, quantity or timeliness of the judge's leadership/ support of the mission of the USPTO and the Board is less than Marginal, regularly jeopardizing attainment of the element's objective.

The judge's behavior obstructs the successful completion of their own work or work of others, including through lack of cooperation with internal or external stakeholders, or by loss of credibility due to irresponsible speech or work activity.

If the judge participates in any special projects, the judge either sacrifices essential regular work or fails to complete projects on time. The judge fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

It is rarely the case that much in the judge's performance is useful. Performance, including work product, is routinely poor in quality and timeliness. Problems caused by deficiencies counterbalance the work and require significant effort by other judges to bring the work to an acceptable level. These deficiencies cannot be overlooked because they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work is often not finished with such quality, quantity and timeliness that other work can proceed as planned.

Name

Element

Sheet

Supporting the Mission of the Board /

No. 1 of

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

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

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

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

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

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

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

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

Approving Official/Appointing Authority Signature

Date

SECTION I—PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

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

Critical Non-critical

Element: Internal/External Stakeholder Interactions

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

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

20

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

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

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

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

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

(CONTINUED)

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

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

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

Outstanding performance in this element includes, as the need arises, rarely without exception, appropriately, promptly, and courteously addressing any questions, comments, or requests from internal and external stakeholders. Outstanding performance may include meeting a frequent need on behalf of the Board in this regard in relation to both internal and external stakeholders. Outstanding performance also includes completing oldest cases, almost always without exception, before newer cases – exceptions are completely justified. Decisions are, almost always without exception, placed in circulation well in advance of deadlines. Exceptional circumstances requiring shortened circulation time occur infrequently and are clearly communicated to reviewing judges well in advance of circulating the decision or order. Interlocutory issues are addressed in a timely manner. End-loading is non-existent or fully justified.

(CONTINUED)

Optional Initial Block			
Employee	Date	Supervisor	Date

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

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

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

Item 2. Major Activities (Continued)

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

Stakeholder interactions may include representing the Board to outside organizations (either visiting the Board or at other locations) or providing presentations to external shareholders generally, for example at public speaking engagements or conferences. Senior management is consulted before communicating outside of the Board. Any requests for public speaking or teaching engagements are cleared through Board management in advance.

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

Matters are disposed of efficiently, in a timely manner and meeting all deadlines. Older cases are prioritized before newer ones, for all cases that do not have deadlines.

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

Decisions are sent for processing promptly when prepared, routed to panel members promptly when processed, reviewed promptly, and mailed promptly after being approved by the panel, and not withheld unless fully justified. Decisions are not to be held to normalize production between months and/or between fiscal years.

Item 3. Criteria for Evaluation (Continued)

Commendable performance in this element includes, as the need arises, almost always without exception, appropriately, promptly, and courteously addressing any questions, comments, or requests from internal and external stakeholders. Commendable performance may include meeting a regular need on behalf of the Board in this regard in relation to both internal and external stakeholders. Commendable performance also includes the Judge making considerable efforts toward pendency needs of the Board. The oldest cases, almost without exception, are completed before newer cases. Decisions are, almost without exception, placed in circulation well in advance of deadlines. Circumstances requiring shortened circulation time are reasonably justified and are clearly communicated to reviewing judges well in advance. Interlocutory issues are addressed in a timely manner. End loading is virtually non existent or fully justified.

(CONTINUED)

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

Employee Name:

Performance Element: Internal/External Stakeholder Interactions

Please identify item(s) continued:

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

Item 3. Criteria for Evaluation (Continued)

The Fully Successful Judge makes reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises. In addition, reasonable efforts are made to manage the Board's pendency needs. The docket is effectively managed to ensure older cases are worked generally before newer cases. Reasonable efforts are made to place decisions in circulation well in advance of deadlines. Circumstances requiring shortened circulation time are clearly communicated to reviewing judges prior to circulating the decision or order. Interlocutory issues are addressed in a reasonably timely manner. Reasonable efforts are made to circulate and mail decisions throughout the rating period so that end-loading, including end-of-month, end-of-quarter, mid-year, and end-of-year end-loading, is avoided.

The Marginal Judge's efforts to manage the Board's pendency needs are minimally acceptable. Newer cases are addressed before older cases with minimal justification. Evidence may exist that decisions have been delayed at any stage without justification or authorization. Evidence may exist that decisions have been placed in circulation close to statutory deadlines and/or interlocutory issues are not addressed in a reasonably timely manner. Evidence of end loading may exist. Evidence may exist that the Judge does not make reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises.

The Unacceptable Judge's efforts to manage the Board's pendency needs are well below what is expected. Newer cases are frequently worked before older cases. Decisions may be delayed at any stage without authorization. Decisions frequently are placed in circulation close to deadlines and/or interlocutory issues often are not addressed in a reasonably timely manner. End-loading may be obvious and egregious (for example, 3x or greater decisional units earned in the last month than the median monthly decisional units earned for the remainder of the reviewing period). Evidence exists that the Judge regularly does not make reasonable and appropriate efforts to promptly and courteously address questions, comments, or requests from internal and external stakeholders, as the need arises.

Name

Element
Internal/External Stakeholder

Sheet
No. 1 of

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

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

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

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

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

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

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

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

Approving Official/Appointing Authority Signature

Date

SECTION II—PERFORMANCE SUMMARY AND RATING

Name _____

ITEM 1. INSTRUCTIONS:

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

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

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

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

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

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

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

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

QSI (Outstanding Rating Required)
 Appropriation No. _____

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

APPENDIX A GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

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

When evaluating an element, the rater should:

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

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

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

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

OUTSTANDING

SES

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

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

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

GENERAL WORK FORCE

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

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

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

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

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

SUPERVISORY*

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

COMMENDABLE

SES

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

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

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

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

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

GENERAL WORK FORCE

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

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

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

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

SUPERVISORY*

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

FULLY SUCCESSFUL

SES

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

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

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

The employee communicates clearly and effectively.

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

GENERAL WORK FORCE

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

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

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

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

The employee speaks and writes clearly and effectively.

SUPERVISORY*

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

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

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

MARGINAL

SES

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

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

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

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

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

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

GENERAL WORK FORCE

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

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

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

SUPERVISORY*

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

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

UNSATISFACTORY

SES

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

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

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

GENERAL WORK FORCE

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

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

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

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

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

SUPERVISORY*

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

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

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

FINAL PERFORMANCE RATING USING INTERIM RATING(S)

Name: _____

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

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

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

(1)
a. Enter interim rating total score and multiply by 1: _____ × 1 = _____
b. Enter position of record rating total score and multiply by 2: _____ × 2 = _____
c. Add the results of a and b: TOTAL = _____
d. Divide total score in c by 3 to reach final summary rating: _____ ÷ 3 = _____

(2)
a. Enter interim rating total score and multiply by 1: _____ × 1 = _____
b. Enter interim rating total score and multiply by 1: _____ × 1 = _____
c. Enter position of record rating total score and multiply by 2: _____ × 2 = _____
d. Add the results of a, b and c: TOTAL = _____
e. Divide total score in d by 4 to reach final summary rating: _____ ÷ 4 = _____

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

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

C. SIGNATURES

Rating Official (Immediate Supervisor)

Date

Approving Official

Date

Employee (Signature indicates appraisal meeting held)

Date

EMPLOYEE COMMENTS ATTACHED YES

D. GENERAL WORK FORCE EMPLOYEES ONLY:

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