



Agency Priority Goal Action Plan

# Accelerate Patent Processing

**Goal Leader:**

Drew Hirshfeld, Commissioner for Patents

# Overview

---

## Goal Statement

- By September 30, 2019, the U.S. Patent and Trademark Office will reduce patent pendency to less than 15 months for first action pendency and less than 24 months for total pendency from end of fiscal year 2017 results of 16.3 months and 24.2 months, respectively.

## Challenge

- USPTO promotes technological progress by providing would-be inventors with critical information, and plays a primary role in advancing the Agency's mission to promote American innovation.
- Delays in processing patent applications may significantly impact economic prosperity.

## Opportunity

- Processing patent applications in a high-quality and timely manner advances economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services, and products.

# Summary of Progress

---

- Overall progress
  - As of FY 2019 Q3, first action pendency was 16.2 months.
  - As of FY 2019 Q3, total pendency was 24.2 months.
- Explanation of Progress
  - USPTO continues to reduce pendency, by a combination of appropriate staffing levels and performance management which incentivizes high efficiency.
  - USPTO is making a concerted effort to work off the oldest cases, this caused a temporary rise in first action pendency. Focusing efforts on older cases will decrease future pendency and Patent Term Adjustment (PTA) results.
  - The decrease in first action pendency in Q3 is expected to continue in Q4.
  - Total pendency has remained relatively flat at about 24.0 months.
  - On track to hit targets at end of FY 2019.

# Goal Structure & Strategies

---

- Significant on-going efforts that are key to delivering high quality and timely examination of patent applications in support of this APG:
  - Hire and Retain a High Quality Workforce
  - Evaluate Examination Time to Ensure Balance of Quality and Pendency
  - Improve Information Technology (IT) Infrastructure
  - Improve Compliance with Patent Term Adjustment (PTA) Timeframes
- As traditional pendency measures approach acceptable levels, USPTO will start focusing on more refined pendency measures based on the Patent Term Adjustment (PTA) timeframes, which will reduce the number of patent term adjustments issued, and provide applicants with improved pendency predictability. Once the USPTO achieves the optimal pendency levels, the agency will continue to closely monitor inventory and application filing levels to continue calibrating the examination capacity to maintain both PTA and pendency goals while optimizing examination quality.
- Patent term adjustment (PTA) is a statutory framework which may increase a patent's term based on delays that occur during the examination process.

# Key Milestones

- Hire and Retain a High Quality Workforce
  - Patents has a nationwide workforce that assists in recruiting and retaining top talent from across the country. This is accomplished through a robust full-time telework program and the USPTO regional offices.
  - The USPTO recognizes that patent examiners are the fundamental resource essential to building and strengthening the examination process. Through the dedicated efforts of our employees over the last few years, the USPTO has significantly reduced the patent application backlog and patent pendency.
  - As part of ensuring an optimally efficient workforce, the USPTO seeks to balance employee engagement and morale with appropriate levels of employee accountability.

Milestone Summary

Key Milestones	Milestone Due Date	Milestone status	Change from last month	Anticipated Barriers or other Issues Related to Milestone Completion
Develop an online Record Sharing Platform with badge-in/out and log-in/out data for all employees.	FY 2018 Q1	Completed successfully	N/A	
Incorporate usage of RSP data into timesheet verification process.	FY 2018 Q3	Completed successfully	N/A	
Optimize the workforce by hiring 390 patent examiners.	FY 2018 Q4	Completed	N/A	Hired 381 examiners instead of planned 390 due to higher declination rates.
Optimize the workforce by hiring additional 390 patent examiners.	FY 2019 Q4	Completed		Hired 391 examiners.

# Key Milestones

- Evaluate Examination Time to Ensure Balance of Quality and Pendency
  - Since the examination time goals were assigned over 40 years ago, with only slight modifications since, significant changes affecting examination have occurred, such as increased technological complexity, changes in legal landscape and examination practices, and the Agency's transition from the U.S. Patent Classification (USPC) system to the Cooperative Patent Classification (CPC) system.
  - In FY 2017, Patents began an Examination Time Analysis (ETA) project to have a better understanding of factors that impact examination time.
  - Provide sufficient time for examination to ensure high levels of quality and clarity in office actions commensurate with stakeholder expectations and user fees.

Milestone Summary				
Key Milestones	Milestone Due Date	Milestone status	Change from last month	Anticipated Barriers or other Issues Related to Milestone Completion
Develop robust examination time analysis (ETA) data models and evaluate factors that impact examination time and the production system.	FY 2018 Q1	Completed successfully	N/A	
Formulate recommendations for time adjustments based on analysis.	FY 2018 Q2	Completed successfully	N/A	
Define a process for routing utility patent applications to examiners in light of the transition from US classification to CPC.	FY 2018 Q3	Completed successfully	N/A	
Negotiate ETA MOU and revised examiner PAP	FY2019 Q1	Completed successfully	N/A	
Conduct any required impact and implementation bargaining and implement time and routing adjustments based on successful completion of bargaining.	FY 2019 Q4	On Track		

# Key Milestones

- Information Technology (IT) Infrastructure
  - Patents has invested significantly in IT enhancements that ultimately lead to higher quality products and services for both internal and external customers, and will continue the transition to Next Generation IT tools by ensuring that the end-to-end systems achieve full capabilities while also balancing the need to maintain legacy systems until they can be phased out.

Milestone Summary

Key Milestones	Milestone Due Date	Milestone status	Change from last month	Anticipated Barriers or other Issues Related to Milestone Completion
Deploy Patent Number Expansion (PNE) capability.	FY 2018 Q2	Completed successfully	N/A	
Deploy enhanced editor and reporting for Cooperative Patent Classification (CPC) system.	FY 2018 Q4	Completed successfully	N/A	
Evaluate recommendations from outside experts to optimize balance between stabilization and modernization efforts.	FY2019 Q3	Completed successfully	N/A	
Expand and deploy Patent Center functionality for applicants to file, view, and retrieve patent applications in text-based documents.	FY 2019 Q4	Delayed		Beta Testing is on-target for October 2019 which will allow 200 external participants to utilize newly developed features and provide feedback for further improvements.
Deploy next generation search tool.	FY 2019 Q4	Delayed		Planned for a pilot release to examiners in Q1 FY 2020 to allow the Office to test the new tool, allow examiners to provide feedback, and evaluate training.

# Key Milestones

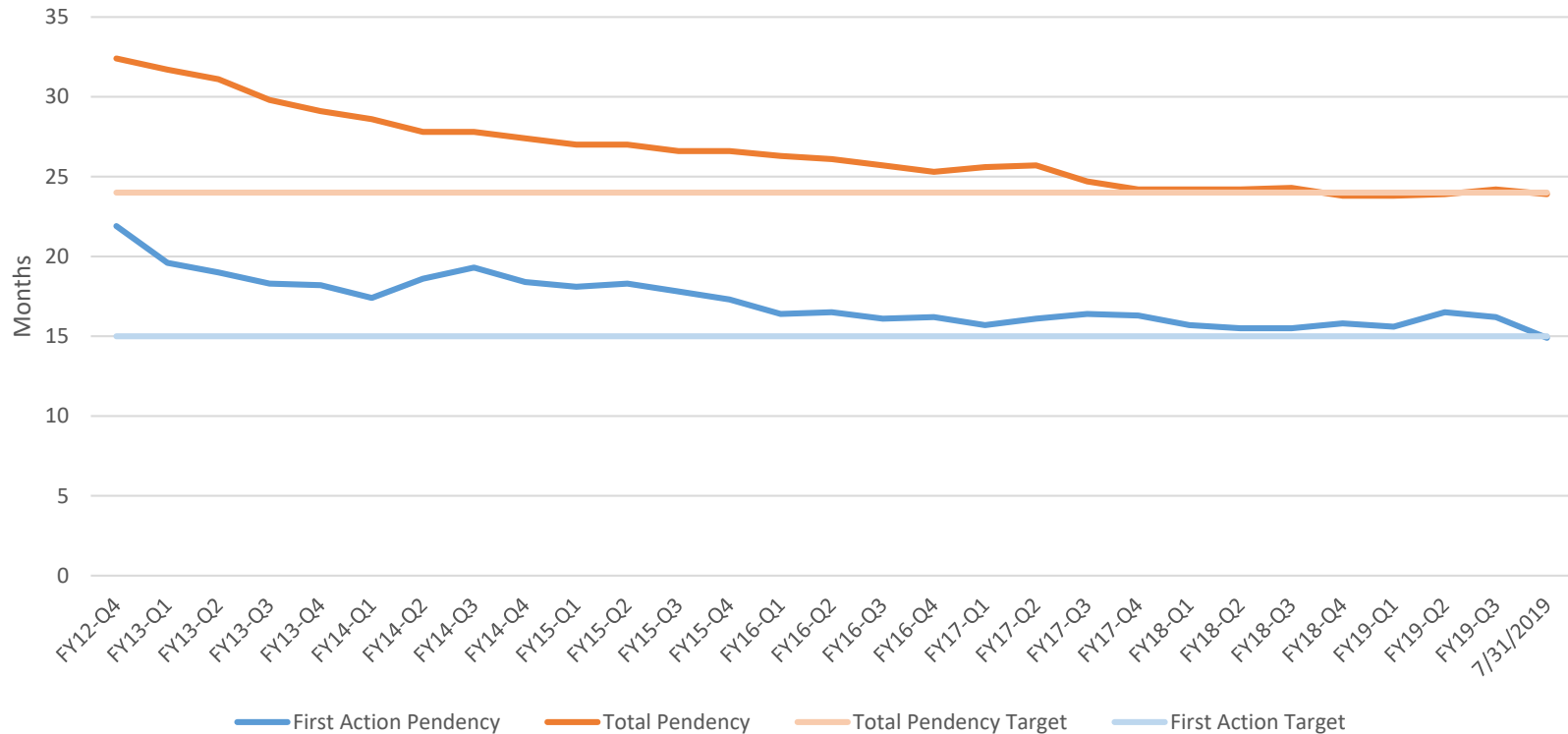
- Improve Compliance with Patent Term Adjustment (PTA) Timeframes
  - Compliance with PTA timeframes provides consistently short pendency for all applications, reduces uncertainty in the marketplace, and ensures that patents expire and become available to the public at the statutorily defined time of 20 years from filing.
  - Promotes operational efficiency throughout the entire examination process.

Milestone Summary				
Key Milestones	Milestone Due Date	Milestone status	Change from last month	Anticipated Barriers or other Issues Related to Milestone Completion
Develop compliance targets within the PTA examination timeframes (14-4-4-4-36)	FY 2018 Q2	Completed successfully	N/A	
Revise internal workflow processes to facilitate meeting PTA targets	FY 2018 Q4	Completed successfully	N/A	
Begin publicly reporting PTA goals and progress towards achieving them on a monthly basis.	FY 2019 Q1	Completed successfully	N/A	
Identify and rebalance dockets at the Examiner level in line with the principle of first in, first out.	FY 2019 Q3	Completed successfully	N/A	
Meet established PTA targets.	FY 2019 Q4	5 out of 6 On Target		Patents is currently on track to meet 5 of 6 PTA targets. The 14-month target will not be met due to the emphasis on working off older cases at the beginning of the year.



# Key Indicators

## First Action and Total Pendency Over Time



From highs in FY 2009 of 25.9 months for first action and 33.8 months for total pendency, by the end of FY18 USPTO had reduced first action and total pendency to 15.8 and 23.8 months respectively. USPTO continues to achieve steady progress towards the FY19 APG goals of less than 15 and 24 months. Additionally, as shown on the next slide, a greater percentage of cases are being acted upon with the statutory timeframe of fourteen months, reducing PTA and increasing certainty in prosecution timing for patent applicants

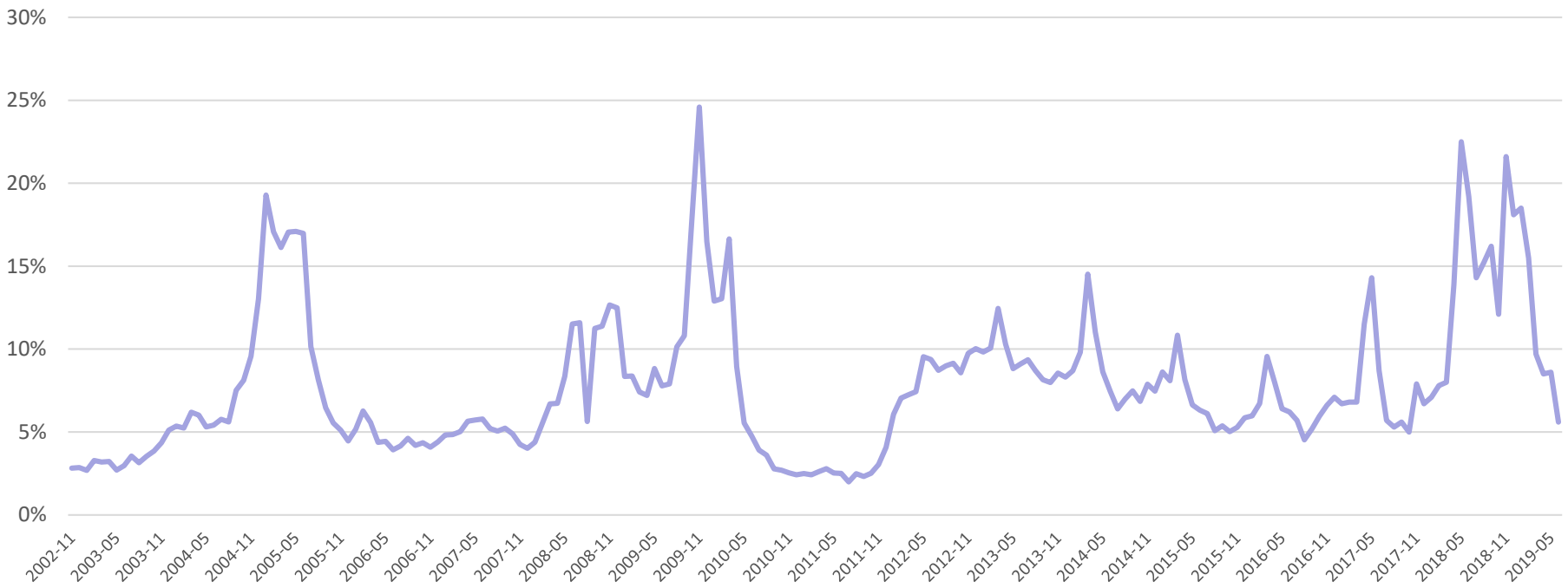
# Key Indicators

First Actions - % over 14 Months



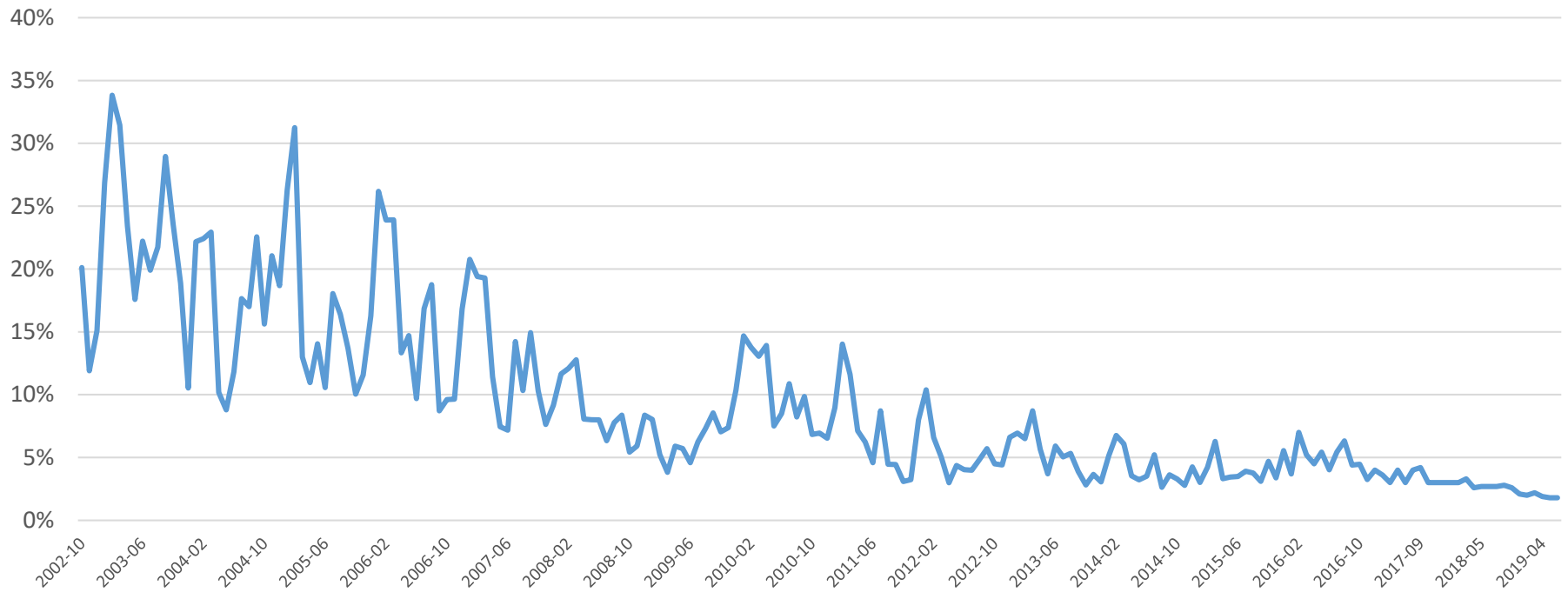
# Key Indicators

Responses to Amendments - % Over 4 Months



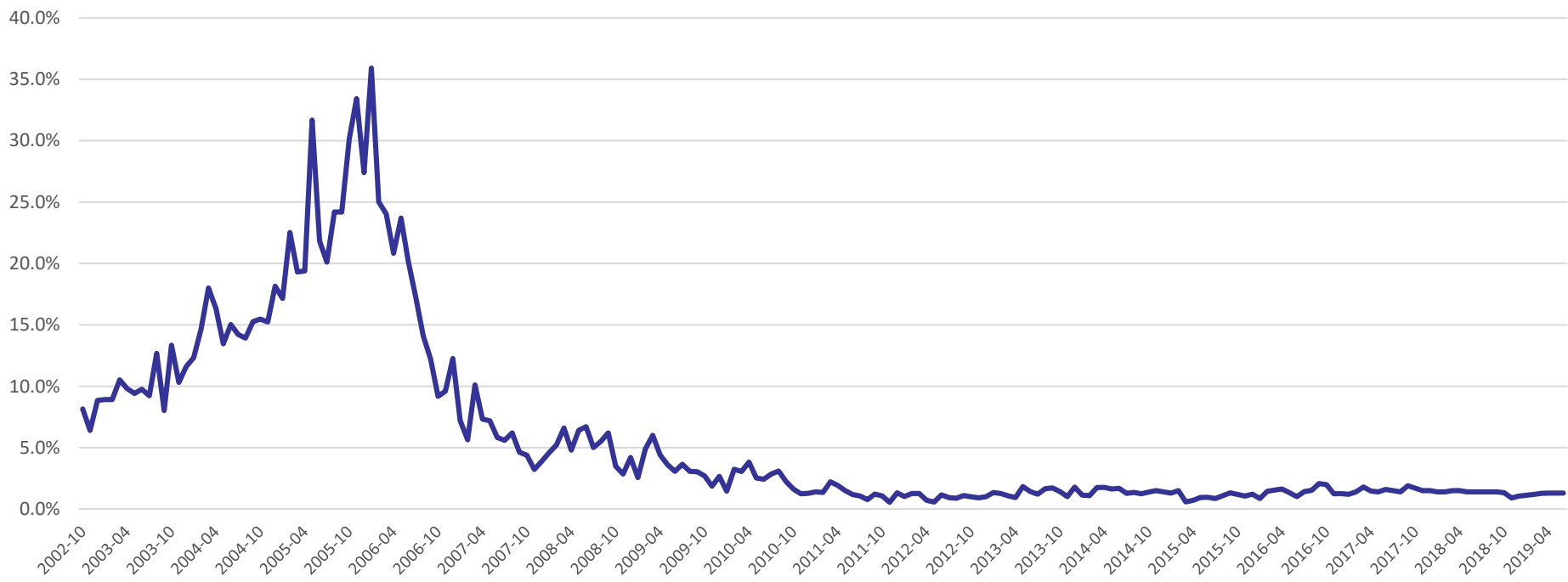
# Key Indicators

Actions after Appeal Decisions - % Over 4 Months



# Key Indicators

Issues - % Over 4 Months



# Data Accuracy and Reliability

## PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with the Government Performance and Results Act Modernization Act of 2010 requirements, the USPTO is committed to making certain that the performance information it reports is complete, accurate, and consistent. The USPTO developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results as follows:

**ACCOUNTABILITY**—Responsibility for providing performance data lies with managers of USPTO programs who are held accountable for making certain that procedures are in place to ensure the accuracy of data and that performance measurement sources are complete and reliable.

**QUALITY CONTROL**—Automated systems and databases that collect, track, and store performance indicators are monitored and maintained by USPTO program managers, with systems support provided by OCIO. Each system, such as the Patent Application Location and Monitoring or Trademark Reporting and Application Monitoring, incorporates internal program edits to control the accuracy of supporting data. The edits typically evaluate data for reasonableness, consistency, and accuracy. Crosschecks between other internal automated systems also provide assurances of data reasonableness and consistency. In addition to internal monitoring of each system, experts outside of the business units routinely monitor the data-collection methodology. The OCFO is responsible for monitoring the agency's performance, providing direction and support on data-collection methodology and analysis, ensuring that data-quality checks are in place, and reporting performance-management data.

**DATA ACCURACY**—The USPTO conducts verification and validation of performance measures periodically to ensure quality, reliability, and credibility. At the beginning of each fiscal year, and at various points throughout the reporting or measurement period, sampling techniques and sample counts are reviewed and adjusted to ensure that data are statistically reliable for making inferences about the population as a whole. Data analyses are also conducted to assist the business units in interpreting program data, such as the identification of statistically significant trends and underlying factors that may impact a specific performance indicator. For examination quality measures, the review programs themselves under review are assessed in terms of reviewer variability, data-entry errors, and various potential biases.

# Contributing Programs

---

## Organizations:

- OMB, DOC – Oversight
- Patent Public Advisory Committee (PPAC) – review and advice on patent operations

## Program Activities:

- Patent Business Unit –Implementing organization for APG
- OCIO Business Unit – IT implementation
- CAO Business Unit – Assist in hiring and retention efforts

## Regulations:

- The SUCCESS Act, which extends fee setting authority until September 2026, was enacted.
- An extension of the Telework Enhancement Act Pilot Program (TEAPP), has extended the program through December 31, 2020.

## Policies:

- N/A

## Other Federal Activities:

- N/A

# Stakeholder/Congressional Consultations

---

## Congress

- Over the past few years, the USPTO has taken steps to establish and maintain operating reserves to facilitate execution of multi-year plans. Using fee setting authority and other tools, the USPTO continues to refine its multi-year planning and budgeting.
- The SUCCESS Act, which extends fee setting authority until September 2026, was enacted.
  - Independent fee setting authority has allowed the Office to effectively engage the stakeholder community on proposed increases; fully recover the aggregate costs of its planned operations; develop and maintain sufficient operating reserves; invest in strategic agency initiatives; and respond to changing market needs.
- H.R. 4171, extends the Telework Enhancement Act Pilot Program (TEAPP), part of the Telework Enhancement Act.

## PPAC

- The PPAC reviews the policies, goals, performance, budget, and user fees of patent operations and advises the director on these matters.