

United States Patent and Trademark Office

FISCAL YEAR 2006 PRESIDENT'S BUDGET REQUEST

06

February 2005

USPTO Budget-at-a-Glance

DEPARTMENT OF COMMERCE STRATEGIC GOAL 2

“Foster science and technological leadership by protecting intellectual property...”

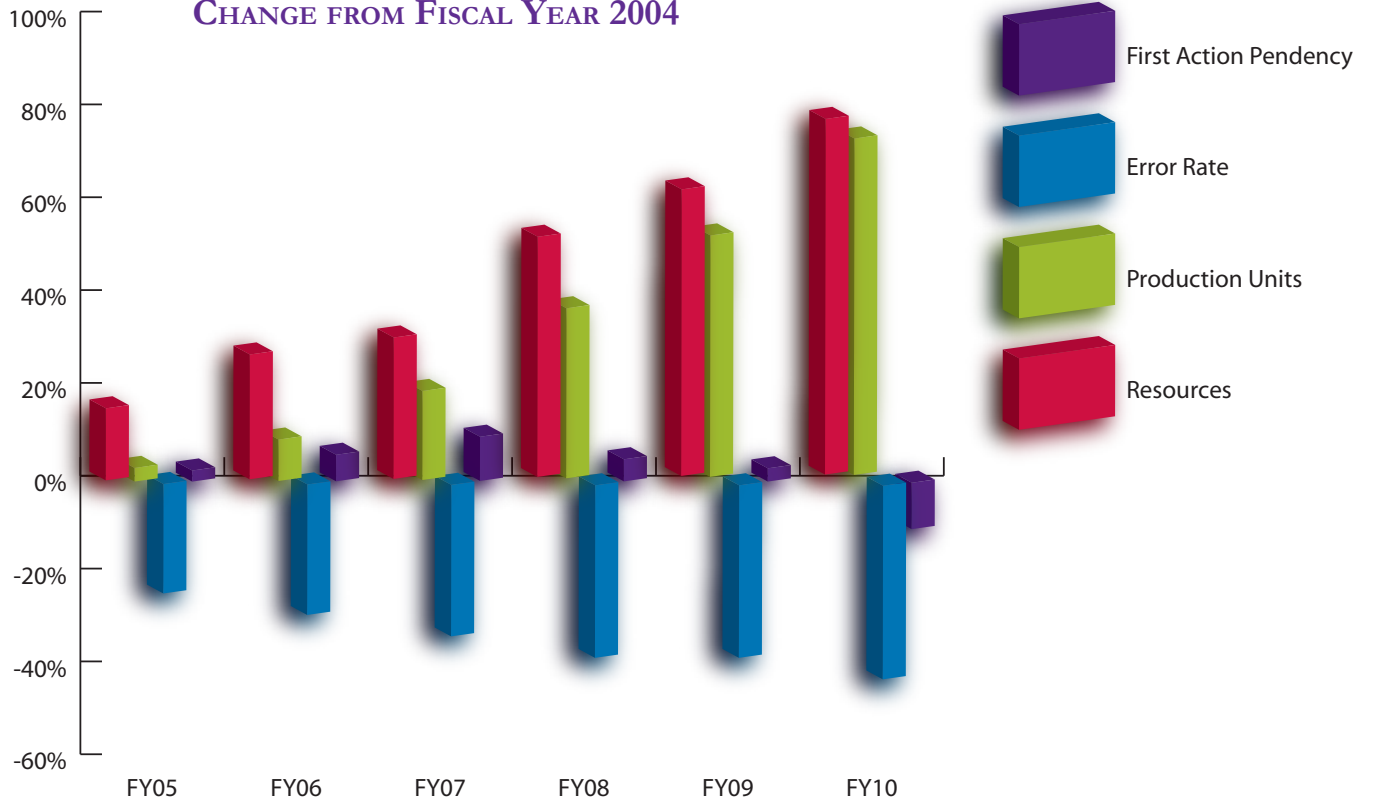
	Actuals	Currently Available	Request	Outyear Estimates			
<i>Dollars in '000s</i>	FY 2004	FY 2005	FY 2006	FY 2007 ¹	FY 2008	FY 2009	FY 2010
USPTO Goal 1: Improve the quality of patent products and services and optimize patent processing time							
Resources	\$1,059,357	\$1,230,392	\$1,355,787	\$1,395,271	\$1,629,846	\$1,740,103	\$1,904,093
Total UPR Production Units	287,752	296,535	314,454	345,191	397,459	443,513	504,842
Allowance Error Rate	5.30%	4.00%	3.75%	3.50%	3.25%	3.25%	3.00%
Average First Action Pendency/UPR (months)	20.2	20.7 ²	21.4	22.2	21.2	20.8	18.1
USPTO Goal 2: Improve the quality of trademark products and services and optimize trademark processing time							
Resources	\$111,716	\$130,413	\$145,113	\$147,832	\$151,880	\$158,366	\$166,690
Total Units of Production (Action Points)	593,966	654,811	743,612	795,523	847,526	879,729	908,130
Final Action Deficiency Rate	5.8%	5.0%	4.8%	4.6%	4.4%	4.2%	4.0%
First Action Pendency (months)	6.6	5.6 ³	5.3	4.2	3.5	3.1	3.0
USPTO Goal 3: Create a more flexible organization through transitioning patent and trademark operations to an e-government environment and advancing IP development worldwide							
Resources	\$62,284	\$210,662	\$202,400	\$195,238	\$190,431	\$192,909	\$197,737
Applications Managed Electronically: Patents	88%	90%	100%	100%	100%	100%	100%
Trademarks	98%	100%	100%	100%	100%	100%	100%
IP Technical Activities Completed	64	80	82	82	82	82	82
USPTO Total resources	\$1,233,357	\$1,571,467	\$1,703,300	\$1,738,341	\$1,972,157	\$2,091,378	\$2,268,520

¹ Budget estimates for fiscal years 2007 through 2010 are contingent upon legislation to permanently enact the Fee Bill.

² The 2005 request was based on receiving 371,130 UPR patent applications with a first action pendency target of 20.7 months. Actual filings for 2004 were 1.6 percent higher than plan; filings for 2005 have been revised to increase by 5.5 percent with a first action pendency target of 21.3 months.

³ The 2005 request was based on receiving 308,000 trademark applications with a first action pendency target of 5.6 months. Actual filings for 2004 were 9.7 percent higher than plan; filings for 2005 have been revised to increase by 8 percent with a first action pendency target of 6.4 months.

USPTO GOAL 1 (PATENTS): PERCENT CHANGE FROM FISCAL YEAR 2004



USPTO GOAL 2 (TRADEMARKS): PERCENT CHANGE FROM FISCAL YEAR 2004

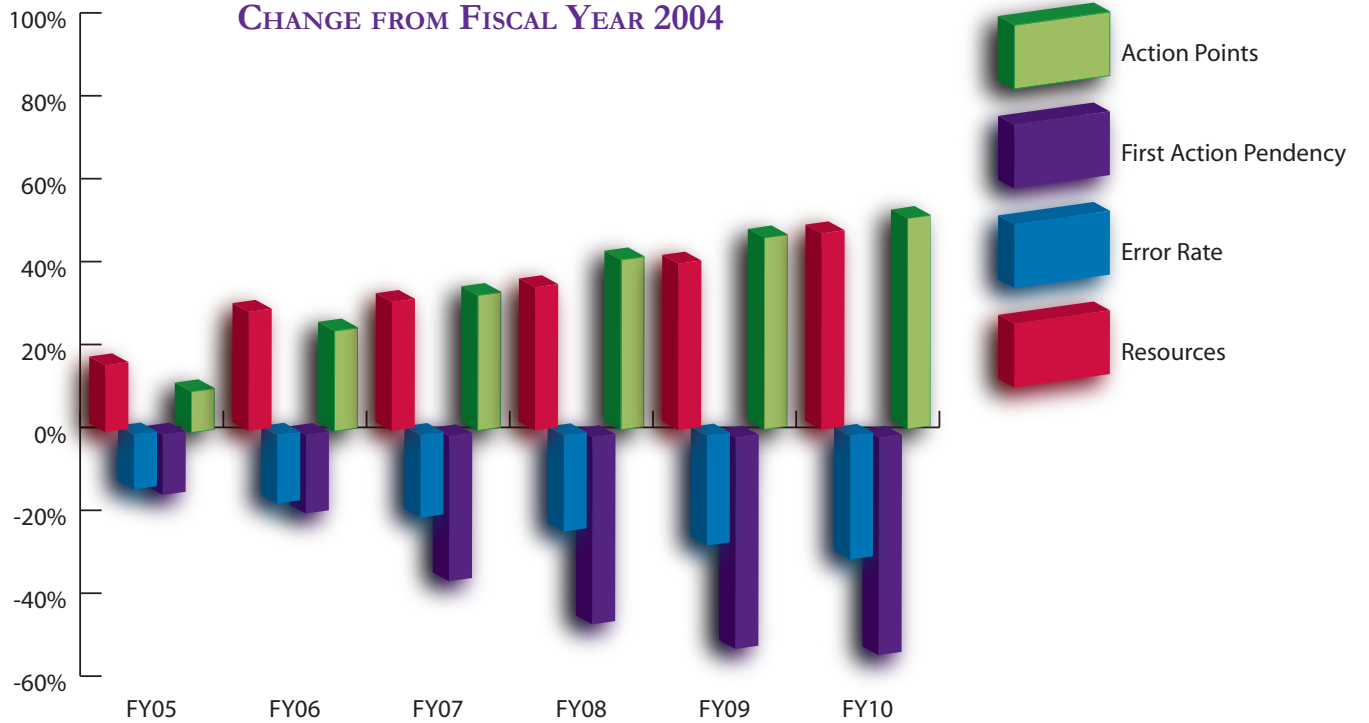


Table of Contents

The fiscal year 2006 Budget request is presented in two views: The first view is in Section I, which presents the USPTO Budget by its two Business Lines. This view is compliant with the official budget line items of the agency and presents resource requirements as was traditionally done in prior years. The second view is in Section II, which presents the Budget request by Performance Goal. The resource requirements in Section II directly link to Exhibit 3A at the end of the document. All other Exhibits are presented in the traditional way.

Executive Summary	1
Key Workload Indicators	3
Section I — Fiscal Year 2006 Budget Request By Business Line	5
Patent Business.....	5
Graph I — Patents — Staffing v. Production Units and First Action Pendency.....	8
Graph II — Patents — Examiner Staffing v. Production and First Action Pendency	9
Trademarks.....	10
Graph III — Trademarks — FTE on Production v. Action Points and First Action Pendency	13
Graph IV — Trademarks — FTE on Production v. Action Points and First Action Pendency	14
Summary of Accomplishments and Future Challenges	15
Commitment to the President’s Management Agenda.....	19
Section II — Fiscal Year 2006 Budget Request by Performance Goal.....	23
Goal 1 — Improve the quality of patent products and services and optimize patent processing time.....	23
Goal 2 — Improve the quality of trademark products and services and optimize trademark processing time.....	32
Goal 3 — Create a more flexible organization through transitioning patent and trademark operations to an e-government environment and advancing intellectual property development worldwide.....	34
Budget Exhibits.....	43
Exhibit 3A — USPTO Resource Requirements by Performance Goal	43

Exhibit 5 — Summary of Resource Requirements.....	50
Exhibit 6 — Summary of Reimbursable Obligations.....	52
Exhibit 7 — Summary of Financing.....	53
Exhibit 8 — Adjustment to Base	54
Exhibit 9 — Justification of Adjustment to Base.....	55
Exhibit 16 — Summary of Requirements by Object Class	65
Exhibit 17 — Detailed Requirements by Object Class.....	67
Exhibit 34 — Advisory and Assistance Services.....	71
Exhibit 35 — Periodicals.....	72
Exhibit 36 — Average Grade and Salary	73
Appendices	74
I — Economic Outlook.....	77
II — Implementation Costs of Strategic Initiatives	76
III — Distribution of Implementation Costs of Strategic Initiatives	78
IV — Fiscal Year 2006 Performance Plan	80

Fiscal Year 2006 Budget Request

EXECUTIVE SUMMARY

USPTO's fiscal year 2006 budget request is for \$1,703 million. This represents a \$149 million, or 9.6 percent, increase over the enacted budget for fiscal year 2005. This request provides a funding of \$1,517 million for completing 336,400 first actions on patentability determinations and over 292,500 patent application disposals; and a funding of \$186 million for completing 368,900 first actions on trademark applications and 330,400 examiner disposals. This request also funds the implementation of the strategic initiatives of the *USPTO 21st Century Strategic Plan* for enhancing the agility, capability and productivity of both USPTO business lines, as well as the expanded intellectual property protection and enforcement program. Corresponding fee income estimates for fiscal year 2006 are \$1,517 million for Patents and \$186 million for Trademarks. The fee income estimates are based on the provisions of Title VIII in the Consolidated Appropriations Act, 2005 (P.L. 108-447).

The USPTO fiscal year 2006 Budget request aligns with the Economic Report of the President and the priorities of the President's Manufacturing Report to maximize U.S. competitiveness, and supports the Department of Commerce in its goal to foster science and technological leadership by protecting intellectual property. The improvements proposed in this request are based on the *USPTO 21st Century Strategic Plan* and guided by the President's Management Agenda initiatives on strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration.

Mission Statement

The mission of the USPTO is to ensure that the intellectual property system contributes to a strong national and global economy, encourages investment in innovation, and fosters entrepreneurship. This mission is accomplished by the USPTO through its two businesses, Patents and Trademarks, which aim to:

- Promote the progress of science and the useful arts by securing, for limited times to inventors, the exclusive rights to their respective discoveries (Article 1, Section 8 of the United States Constitution).
- Provide businesses with enhanced protection of trademark rights and notices of the trademark rights claimed by others, as well as protect consumers against confusion and deception in the marketplace.

USPTO Strategic Plan

The USPTO is committed to the implementation of its strategic plan initiatives. In June 2002, the agency issued *The 21st Century Strategic Plan* — a far-reaching and aggressive plan designed to transform the USPTO into an organization that is responsive to the global economy in which it operates. In response to stakeholder input, the strategic plan was modified and re-released in February 2003. Under the *21st Century Strategic Plan*, the USPTO is working with our Intellectual Property (IP) partners to improve our processing systems; to create more coordinated and streamlined work processes to increase the number of applications and communications received and processed electronically; and to best position the USPTO for

the globalization that characterizes the 21st century economy. The plan was internally adjusted in fiscal year 2004 to revise planned accomplishments to align with funding at the enacted level, which was lower than the agency's projected fee income. The Consolidated Appropriations Act, 2005, which gives the USPTO full access to projected fiscal year 2005 fee income, will enable the agency to commence full implementation of the *21st Century Strategic Plan* and take the actions necessary to begin to reverse the upward trend in pendency that has been generated by filings increasing at a faster pace than the workforce and by the growing complexity of applications. When the strategic plan is fully implemented, market forces will drive the USPTO's business model, geography and time will be inconsequential when doing business with the agency, products and services will be tailored to customer needs, and agency resources will be better focused on our core expertise, examination.

President's Management Agenda

The USPTO is equally committed to the implementation of the President's Management Agenda (PMA). This is evidenced by the progress we have made in improving the strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration. One such notable progress is the electronic business center available at the USPTO Website, www.uspto.gov, which provides everything needed to obtain historical information about patents and trademarks, search patents and trademarks, file patent and trademark applications, view patent and trademark images, and even find a registered patent attorney or agent. Fees can also be paid online. The USPTO's Web site has been ranked number one for its design and content by PricewaterhouseCoopers Endowment for the Business of Government, which rated 148 Web sites on services offered, help features, service navigation, site legitimacy, and accessibility.

Our annual performance plan is linked directly to our budget submission, which reflects our strategic goals and objectives and the Under Secretary's priorities. Consequently, USPTO managers have integrated their funding needs with their programs' goals. We use the Program Assessment Rating Tool (PART) evaluations and other assessment and modeling techniques to enhance program delivery and achieve better results. We have an agency-wide performance measurement program that tracks results routinely and provides USPTO managers with reports that help identify areas requiring additional resources for performance improvement. Organizational goals and crosscutting performance measures are also included in top-level senior executive members' performance appraisal plans. This approach ensures that the performance plans are aligned with mission, goals, and organizational objectives and integrated with the strategic plan, performance plan, and budget.

The Economy and USPTO Workloads

USPTO workloads are dependent upon many factors, including economic activity in the United States and around the world. In addition to the normal difficulties associated with determining business cycle turning points, over the last few years, the economic outlook has been extremely uncertain because of worldwide security concerns. Today, while many of the national security uncertainties remain, the overall direction of the U.S. economy and the global economy, in general, is more positive. With the world and especially the U.S. economy improving, the workload outlook for the USPTO is also positive. Based on this outlook, the projected demand for patents and trademarks is growing, as shown in the table that follows.

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Patents							
Utility, Plant, and Reissue (UPR) applications filed	355,527	375,100	395,700	417,500	440,400	464,700	490,200
Percent change over previous fiscal year	6.6%	5.5%	5.5%	5.5%	5.5%	5.5%	5.5%
Design applications filed	23,468	25,100	26,900	28,700	30,800	32,900	35,200
Percent change over previous fiscal year	6.8%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%
Patent Cooperation Treaty (PCT) applications filed — Chapter I	45,396	48,100	51,000	54,100	57,300	60,750	64,400
Percent change over previous fiscal year	5.7%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
PCT Chapter II demands filed	19,894	22,300	24,200	25,700	27,200	28,800	30,600
Appeals	3,000	2,500	2,600	2,700	2,800	2,900	3,000
Interferences	70	70	70	75	80	80	80

Trademarks							
Applications filed — classes	298,489	322,000	348,000	369,000	391,000	414,000	439,000
Percent change over previous fiscal year	11.7%	8.0%	8.0%	6.0%	6.0%	6.0%	6.0%
Appeals	438	552	688	763	763	763	837
Inter Partes proceedings	101	128	160	177	177	177	194

Fiscal Year 2006 Budget Request By Business Line

The USPTO operates as a performance-based organization (PBO) with two mission-driven business lines — Patents and Trademarks. This view of the budget request is presented in a manner that captures the full cost of patent and trademark operations. By using Activity-Based Costing, we are able to allocate the cost of support functions and other indirect costs of doing business to each business line. Budget estimates in the tables in this section for Patent and Trademark operations include direct costs of examination of patent and trademark applications, shown by principal functions of the examination pipeline, and costs of other USPTO programs, which directly or indirectly support the patent and trademark businesses.

PATENT BUSINESS

Patents — The core mission of the Patent organization is to examine applications and grant valid patents in accordance with the law. This is accomplished by comparing the claimed subject matter of an inventor's application for a patent to a large body of existing technological information to determine whether or not the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. In the course of examining patent applications, examiners make determinations on patentability, prepare answers to briefs in appeals contesting actions rejecting an application, make holdings of abandonments, recommend institution of interference proceedings to determine priority of invention, and act on other post-examination issues in accordance with the provisions of 35 U.S.C. and 37 C.F.R.

The examination of patent applications consists of several distinct, but interrelated functions, which are described below. Workloads, together with the strategic initiatives, drive all increases in budget estimates for fiscal year 2006.

- **Initial Examination — \$32.657 million:** This function includes the administrative review of all applications filed (including those filed under the Patent Cooperation Treaty) before delivery to the patent examining corps for examination. In this phase, the review is for compliance with requirements of form and content; determination of the adequacy and acceptability of statutory fees; conversion to the Image File Wrapper (IFW), except if filed electronically; for electronic processing of all documents and orders; assignment of the official filing date and application tracking number; and inputting of patent bibliographic data in the Patent Application Location Monitoring (PALM) system.

- **Examination — \$672.740 million:** In this phase, examiners compare the application's subject matter to a large body of technological information to determine the patentability of a claimed invention, whether or not the invention is new, useful, and non-obvious to individuals knowledgeable in that subject matter. The fiscal year 2006 cost of examination includes a net increase of 563 in examining staff, which in previous years' budget submissions was reflected under the strategic initiative for reducing pendency. But, since reducing pendency also depends on the resources invested into the other parts of the examination process, it is now presented under examination.

- ***Scientific, Technical, and Classification Services — \$43.927 million:*** The patent scientific, technical and classification services are an integral part of the patent examination process. These functions are required to maintain a patent classification system by subject matter and to provide electronic access to all U.S. and foreign patents and related technical literature used for searching. The current examiner search files contain more than 8 million U.S. patent documents and 22.3 million foreign patent documents. Examiners also have access to over one thousand commercial databases containing non-patent technical literature documents.
- ***Pre-Grant Publication and Patent Issuance — \$98.255 million:*** Pre-grant publication is the process of publishing those applications that are subject to publication 18 months after the earliest effective filing date. The patent issuance function occurs after examiners have allowed applications and includes tasks associated with the preparation for issue and printing of patents and publication of a weekly edition of the electronic Official Gazette for dissemination to the public. Also included in the cost of this phase is the printing of reexamination certificates and Statutory Invention Registrations.
- ***Patent Appeals and Interferences — \$15.525 million:*** This post-examination phase includes hearing and deciding appeals from examiner adverse decisions concerning patent applications, and conducting interference proceedings to make final determinations as to questions of patentability or priority of invention.
- ***Operations, Including Systems Maintenance and Automation Support — \$60.735 million:*** Outside of the above patent examination process components, direct support of patent operations includes costs related to patent executive and policy leadership, quality review and training functions. These estimates also include the costs of maintaining all automated information systems that directly support the patent process. As part of this function, patent automation personnel serve as business process experts in working with the Chief Information Officer (CIO) organization to implement information technology systems and to procure and deploy related hardware and software in support of the patent business.
- ***Strategic Initiatives — \$106.727 million:*** The strategic initiatives supporting the patent business include all of the initiatives discussed under Goal 1 — Improve quality of patent products and services and optimize patent processing time. Additionally, the initiatives discussed under Goal 3 that directly support the Patent Business are also captured here. A detailed presentation of the methodology used in allocating the implementation costs of strategic initiatives is included in Appendix III on page 78.
- ***Other Contributing Resources (allocated cost-share of support functions, space and miscellaneous general expenses) — \$486.248 million:*** These costs represent the patent cost-share of agency-wide strategic initiatives such as IT Security and Disaster Recovery strategic initiatives, and a share of support organizations and expenses such as space rent, utilities, personnel recruitment and hiring, procurement of goods and services, and other activities that support the entire agency. The distribution of these costs to patent and trademark businesses is based on the USPTO's Activity Based Cost accounting system.

Dollars in Thousands

Patents	FY 2004 Actuals	FY 2005 Currently Available	FY 2006 Request
Operations— Resource requirements are driven by incoming workloads and targeted outputs			
● Initial examination	\$29,523	\$30,837	\$32,657
● Examination	549,821	601,246	672,740
● Scientific, technical and classification services	32,304	40,958	43,927
● Pre-grant publication and patent issuance	78,742	88,514	98,255
● Patent appeals and interferences	14,580	15,163	15,525
Operations, including systems maintenance and automation support	51,941	58,262	60,735
Strategic Initiatives (direct)	25,211	106,494	106,727
TOTAL RESOURCES FOR OPERATIONS	\$782,122	\$941,474	\$1,030,566
Other contributing resources (cost-share of support functions, space and miscellaneous general expense)	316,314	454,162	486,248
TOTAL RESOURCES	\$1,098,436	\$1,395,636	\$1,516,814
KEY PERFORMANCE RESULTS			
Efficiency	\$3,556 ⁴	\$4,706	\$4,824
Examiners on-board at end-of-year	3,681	4,201	4,723
Total disposals	287,188	295,500	292,500
Total First Actions	288,316	297,600	336,400
Pendency to First Action (months)	20.2	20.7⁵	21.4
Total Pendency (months)	27.6	31.0	31.3

⁴ This measure is a relative indicator of the efficiency of the patent process, which indicates the degree to which the program can operate within plan relative to examiner outputs. Total FY 2004 expenses display full program costs that include the cost to the Federal government of providing pension and post-retirement health and life insurance benefits to eligible USPTO employees. These costs were not included in the FY 2004 enacted budget that was used to develop the efficiency measure target. If actual expenses were reduced by these benefit costs, the actual patent efficiency measure would be \$3,440.

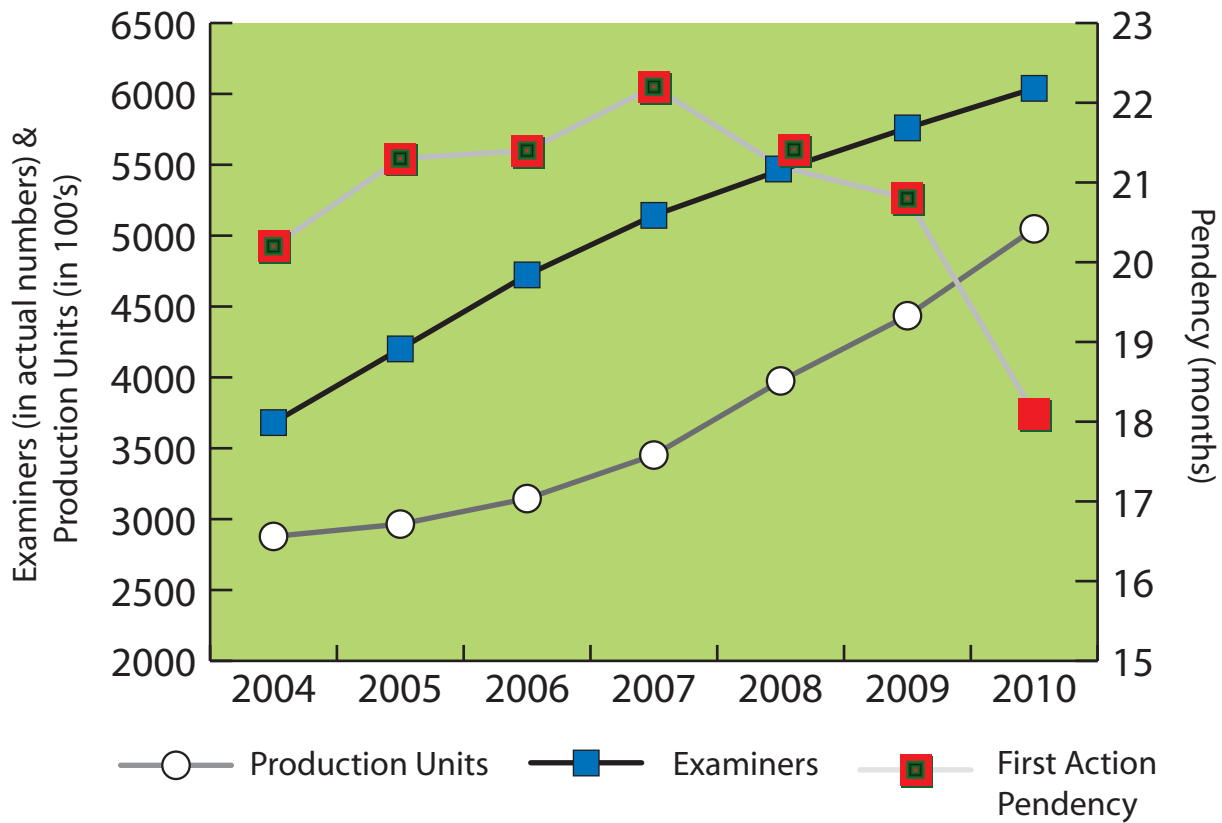
⁵ At the time this target was set, USPTO projected receipt of 371,130 UPR application filings in fiscal year 2005. Based on fiscal year 2004 actuals, the USPTO is now projecting to receive 375,100 UPR applications in fiscal year 2005. Additionally, fiscal year 2004 examiner attrition was higher than expected; therefore, production outputs in fiscal year 2005 have been revised to align with actual production achieved in fiscal year 2004. Since both filings (inputs) and production outputs are key variables in this performance target, the fiscal year 2005 first action pendency target will not be met. Assuming current input and output estimates prove true, the agency should achieve first action pendency of 21.3 months by end of fiscal year 2005.

Planned Performance Results

In fiscal year 2006 the Patent business will:

- Complete over 346,400 first actions on the merits to achieve a first action pendency of 21.4 months; this production target is 13 percent more than the 297,600 first actions planned for fiscal year 2005; and
- Dispose of over 292,500 cases to achieve a total pendency of 31.3 months; and issue and print over 178,900 patents; this target is one percent more than the 176,800 planned for fiscal year 2005.

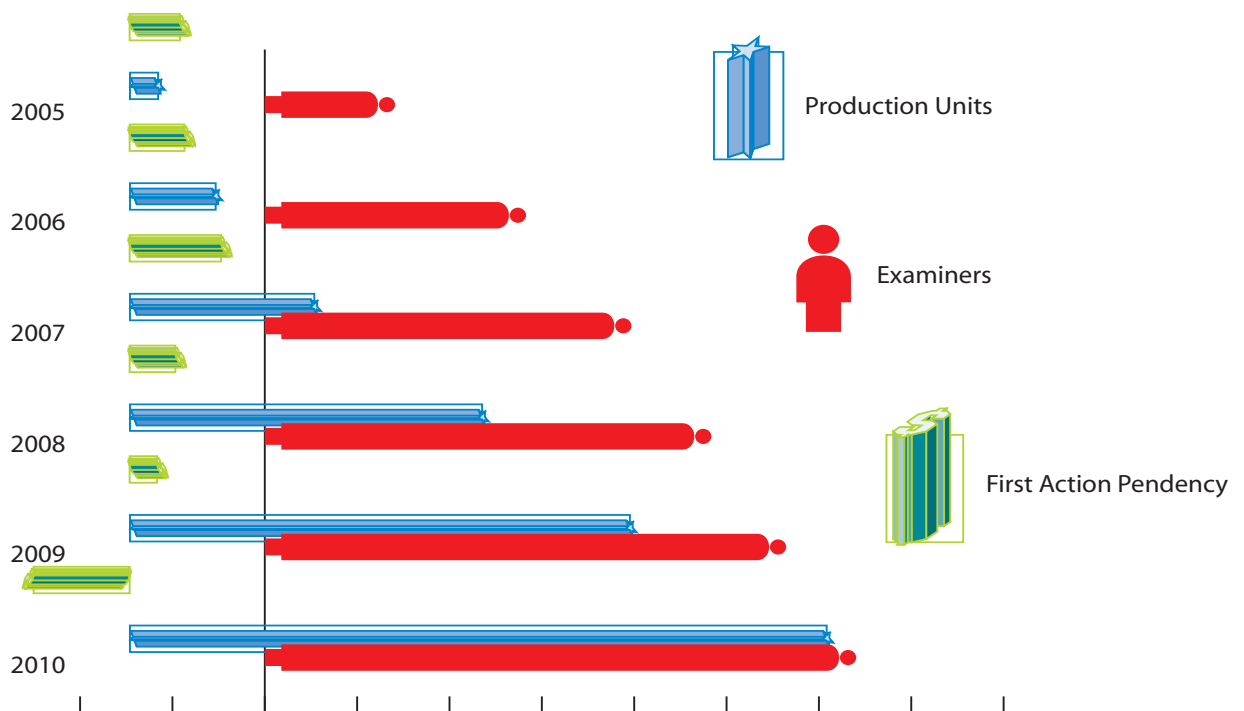
GRAPH I – PATENTS–STAFFING V. PRODUCTION UNITS AND FIRST ACTION PENDENCY
Comparative with and without enactment of the USPTO Fee Modernization Act of 2004



Critical Events

- Enhance the quality of work life for employees by implementing a follow-on to the patent examiner work-at-home program pilot.
- Implement the automated technical and communication skills competency assessment tool to effectively evaluate the large numbers of patent examiner hires.
- Implement an enhanced performance-based award package for supervisory patent examiners and managers.
- Deploy enhanced authoring of Office Actions and soft scanning of outgoing text-based correspondence and digital signature that will allow applicants electronic access to outgoing correspondence from pre-examination to Office Actions.
- Deploy the initial stage of full text-based processing by providing examiners access to text-generated applications in the patent pipeline.
- Provide USPTO, EPO, and JPO examiners access to technical content and prosecution status of electronic application files in each other's offices when those files are related to, or referenced by, an application assigned to them for prosecution.

GRAPH II — PATENTS — EXAMINER STAFFING V. PRODUCTION AND FIRST ACTION PENDENCY
Percent Change from Fiscal Year 2004



TRADEMARKS

Trademarks— The core mission of the Trademark organization is to register marks that meet the requirements of the Trademark Act of 1946, as amended, and provide notice to the public and businesses of the trademark rights claimed in the pending applications and existing registrations of others. With such notice, readily available at www.uspto.gov, a business can make an informed decision when it wishes to adopt a new mark or expand the goods or services marketed under an existing mark. Federal registration provides enhanced protection for the owner's investment in the mark and in the goods and services sold under the registered mark.

The core process within the Trademark organization is the examination of applications for trademark registration. As part of that examination, examining attorneys must make determinations of registrability under the provisions of the Trademark Act of 1946, as amended, including searching the electronic databases for any pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters informing applicants of the attorney's findings, approving applications to be published for opposition, and examining Statements of Use in applications filed under the Intent-to-Use provisions of the Trademark Act.

The examination of trademark applications consists of several distinct or interconnected functions, which are:

- **Initial Examination — \$6.588 million:** When an application is received in Trademarks, it is reviewed for adherence to formalities. If basic filing requirements are met, the application is classified and data is transferred into trademark automated systems. Trademark automated systems are the source for application data that is used in the processing and examination of trademarks and information that is available to the public through the USPTO web site. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.
- **Examination — \$58.150 million:** In this phase of the process, examining attorneys determine if the mark in the application is entitled to registration under the provisions of the Trademark Act of 1946, as amended. As part of the examination process, examining attorneys evaluate many types of marks, such as trademarks, service marks, certification marks, collective marks, and membership marks. Examining attorneys must search a database of about 1.2 million registered marks and more than 500,000 pending marks in order to determine if a mark in the subject application is confusingly similar to an existing mark.
- **Publication and Registration — \$2.965 million:** This phase includes the publication of applications for opposition, the registration of allowed applications that have demonstrated use, and the processing of allowed intent-to-use applications awaiting statements of use.
- **Post Registration — \$3.057 million:** Between the fifth and the sixth year after registration and at ten year intervals after registration, the registrant must file an affidavit and proof that the mark shown in the registration is being used in commerce, or that ground for excusable non-use exists. Failure to file the required affidavit and proof of use results in cancellation of the registration. These requirements serve to remove trademarks from the register when the mark is no longer in use.

- ***Appeals and Inter Partes Proceedings — \$8.455 million:*** This phase includes review, at applicant request, of adverse registrability determinations, opposition hearings where an existing trademark holder believes that an allowed application may be confusingly similar, and other proceedings involving registrations where a third party wishes to challenge the validity of a registration.

- ***Operations, Including Systems and Automation Support — \$23.651 million:*** Outside of the above trademark examination process components, direct support of trademark operations includes costs related to trademark executive and policy leadership, customer assistance, quality review and training functions. These estimates also include the costs of maintaining all automated information systems that directly support the trademark process. Dedicated trademark support personnel serve as business process experts in working with the Chief Information Officer (CIO) organization to implement information technology systems and to procure and deploy related hardware and software in support of the trademark business.

- ***Strategic Initiatives — \$12.376 million:*** This represents the cost of those strategic initiatives that are discussed under Goal 3, but directly support the trademark business, as shown below. A detailed presentation of the methodology used in distributing the cost of implementation of strategic initiatives is included in Appendix III on page 78.

- ***Other Contributing Resources (allocated cost-share of agency-wide strategic initiatives, administrative support, space and miscellaneous general expenses) — \$71.244 million:*** These costs represent the trademark share of strategic initiatives, support functions and expenses that do not directly contribute to the trademark process, such as IT Security and Disaster Recovery, and a share of space rent, utilities, personnel hiring, procurement of goods and services, and other activities that support the entire USPTO.

Dollars in Thousands

Trademarks

Operations — Resource requirements are driven by incoming workloads and targeted outputs

**FY 2004
Actuals** **FY 2005
Currently
Available** **FY 2006
Request**

● Initial examination	\$3,802	\$5,490	\$6,588
● Examination	43,247	49,253	58,150
● Publication and registration	3,440	2,739	2,965
● Post registration	2,873	3,130	3,057
● Appeals and inter partes proceedings	7,968	8,323	8,455
Operations, including systems and automation support	14,293	21,258	23,651
Strategic Initiatives (direct)	8,660	10,044	12,376
TOTAL DIRECT RESOURCES	\$84,283	\$100,237	\$115,242
Other contributing resources (allocated cost-share of support functions, space and miscellaneous general expense)	50,638	75,594	71,244
TOTAL RESOURCES	\$134,921	\$175,831	\$186,486
KEY PERFORMANCE RESULTS			
Efficiency	\$539 ⁶	\$591	\$564
Examining attorney FTE on board at end-of-year	252	296	362
Total examiner disposals	285,978	297,411	330,412
Total First Actions	268,865	318,400	368,900
Pendency to First Action (months)	6.6	5.6 ⁷	5.3
Total pendency (months)	19.5	20.3	18.7

⁶ This measure is a relative indicator of the efficiency of the trademark process, which indicates the degree to which the program can operate within plan relative to outputs. Total FY 2004 expenses display full program costs that include the cost to the Federal government of providing pension and post-retirement health and life insurance benefits to eligible USPTO employees. These costs were not included in the FY 2004 enacted budget that was used to develop the efficiency measure target. If actual expenses were reduced by these benefit costs, the actual trademark efficiency measure would be \$519.

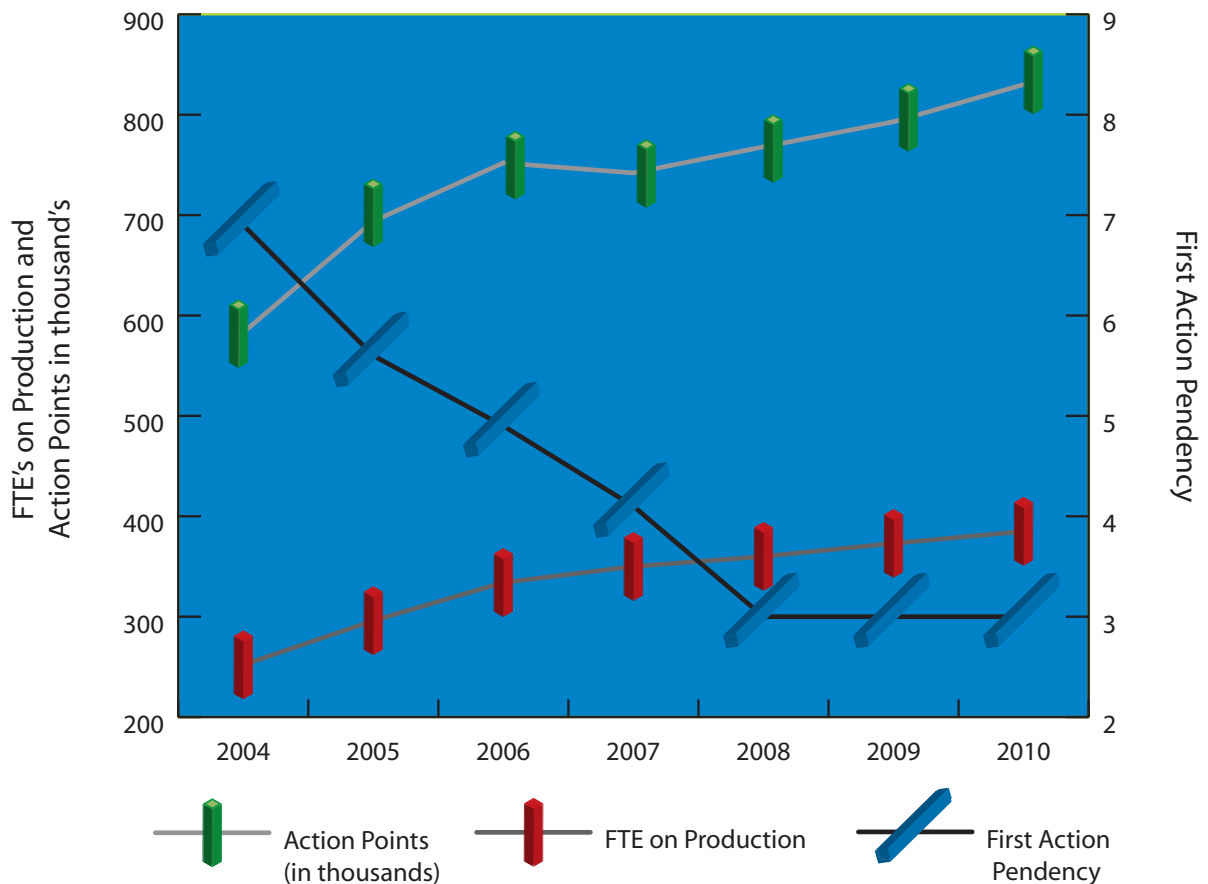
⁷ At the time this target was set, trademark application filings in fiscal year 2004 were projected to be 272,000 and filings in 2005 were projected to be 308,000. The USPTO received 298,489 applications in 2004 and is now projecting to receive 322,000 trademark applications in fiscal year 2005. Since filings are a key variable in this performance target, this end-of-year fiscal year 2005 first action pendency will not be met. Assuming current filing projections prove true, the agency should achieve first action pendency of 6.4 months by the end of fiscal year 2005.

Planned Performance Results

In fiscal year 2006 the Trademark Business line will

- Receive 348,000 new applications for registration;
- Complete 368,900 first actions to achieve a first action pendency of 5.3 months; this production target is about 16 percent more than the 318,400 first actions planned for fiscal year 2005; and
- Complete over 743,600 action points; this production target is 13.5 percent more than the 654,800 action points planned for fiscal year 2005;⁸ and
- Complete 330,400 examiner disposals to achieve a total pendency of 18.7 months; this production target is 11 percent more than the 297,400 disposals planned for fiscal year 2005.

GRAPH III—TRADEMARKS—FTE ON PRODUCTIVITY V. ACTION POINTS AND FIRST ACTION PENDENCY
Percent Change from Fiscal Year 2004



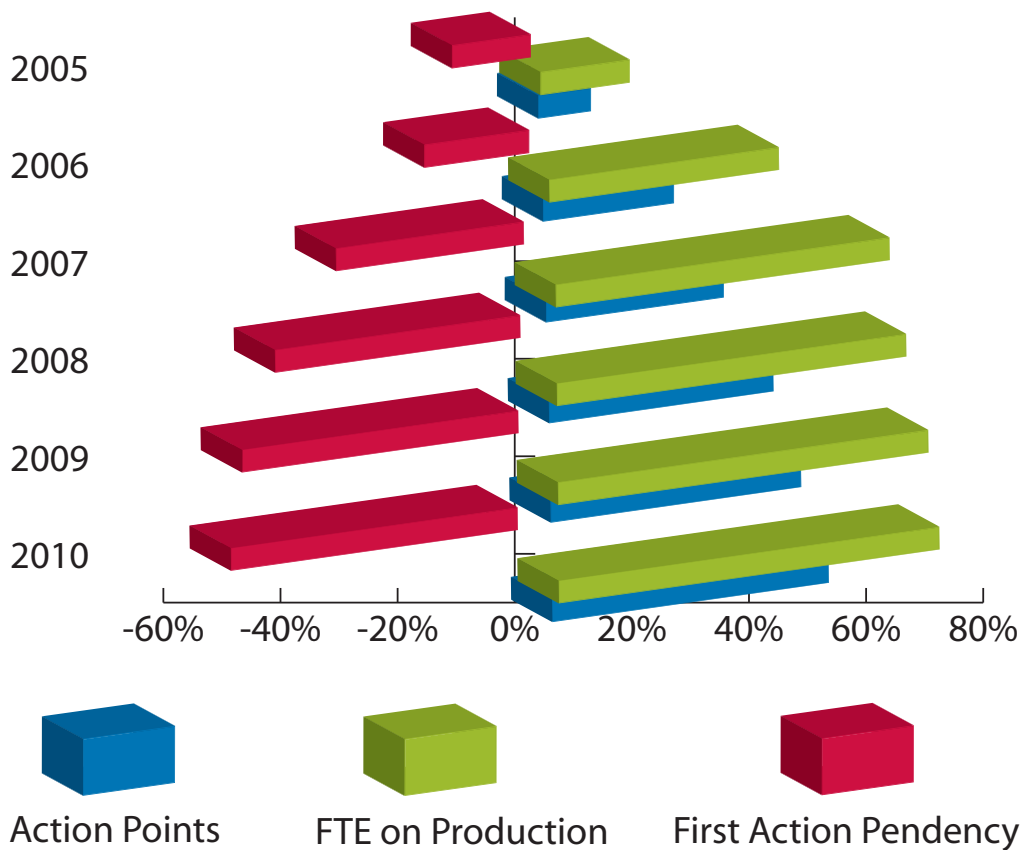
⁸ Action points are values assigned to tasks performed by examining attorneys in various phases of the Trademark examination process. For example, an action point could represent any of the following actions: first action; abandonment before publication; and approval for publication. Approval or rejection of statement-of-use application is counted as 1/2 action point each.

Critical Events

- Expand the Trademark Work-at-Home program to 260 participants;
- Establish a cadre of technology and operations specialists to work closely with the Office of the CIO to define and develop business requirements to better support new and enhanced automated systems in support of the Trademark examination process; and
- Expand training and improve the quality of examination and office actions by developing e-learning training modules and policy recommendations related to specific topics as determined through an analysis of quality review findings.

GRAPH IV –TRADEMARKS–FTE ON PRODUCTION V. ACTION POINTS AND FIRST ACTION PENDENCY

Percent Change from Fiscal Year 2004



SUMMARY OF ACCOMPLISHMENTS AND FUTURE CHALLENGES

Strengthening Intellectual Property Protection Worldwide

Throughout fiscal year 2004, strengthening intellectual property protection and enforcement was one of the main themes of USPTO efforts worldwide. Officials from the USPTO discussed ways of enhancing protection for copyrights, geographical indications, patents, trademarks, trade secrets and other forms of intellectual property in China, Brazil, Paraguay, Mexico, Eastern Europe, the Republic of Korea, the Philippines, and many other countries, and for the countries in which the United States is negotiating or has negotiated Free Trade Agreements (Morocco, Bahrain, the Central American countries, Australia, Panama, the Andean countries, Thailand, the Southern Africa Customs Union, Chile, Jordan and Singapore).

Beginning in fiscal year 2005, the USPTO will expand its intellectual property protection and enforcement program based on the provisions in the Consolidated Appropriations Act, 2005 (P.L. 108-447) to include training assistance programs, special work assignments aimed at enhancing technical assistance, a public awareness campaign, and studies on key intellectual property issues.

The U.S. became a member of the Madrid Protocol on November 2, 2003. All the legal requirements for implementing the Madrid Protocol in the U.S. were met to ensure implementation on the effective date. As a result, the process of registering trademarks in one or more of the 60 member countries has greatly improved for U.S. business owners. The USPTO received 1,572 international applications and 4,822 requests for extension of protection containing 9,198 classes from the International Bureau of the World Intellectual Property Organization (WIPO) in the first 11 months under the Protocol.

Electronic Government

On July 30, 2004, the USPTO reached a major milestone in maximizing electronic tools to make the patent examination process fully transparent to the public. Now, anyone with Internet access anywhere in the world can use USPTO's Web site to track the status of a published patent application, review documents in the official application file, and review all decisions made by patent examiners, including their reasons for making them.

The system, known as Public PAIR (Patent Application and Information Retrieval), offers the public an advanced electronic portal to PDF viewing, downloading, and printing an array of information and documents for patent applications not covered by confidentiality laws. As new applications become eligible for publication 18 months after the earliest effective filing date, they will be added to the database. The USPTO projects about 300,000 application files will be added annually.

In August 2004, Patents achieved another significant e-government milestone by completing deployment of the IFW system to all patent examiners, technical support staff, and other adjunct users. The IFW deployment schedule was coordinated with the move of several Technology Centers to our new headquarters in Alexandria to eliminate movement of paper patent applications and to enable an end-to-end electronic patent process at the new location. The IFW system contains all new applications filed since June 30, 2003, and pending applications filed before that date were captured electronically during the IFW deployment.

Full implementation of the USPTO's "Electronic Processing Pipeline" is based on a two-phased approach. The first phase was an image-based solution, achieved through the IFW described above. The second phase is a text-based process that will allow the USPTO to provide more automation of manual processes and will improve accuracy and reliability. In order to increase the number of electronically filed applications, the USPTO will move to PDF as an alternative to the earlier XML solution. Development of the second phase will begin in fiscal year 2005.

Additionally, in fiscal year 2004, Patents deployed the E-Patent Reference system that provided applicants with electronic access via Private PAIR to U.S. references referred to in examiners' office actions. This enabled Patents to eliminate the mailing of paper copies of U.S. patents and published application references to applicants.

The USPTO has received more than 500,000 electronically filed trademark applications including more than 630,000 classes in the six years since its first electronic filing system was offered, making it easier than ever to file for federal registration. Today, more than 70 percent of all new trademark applications are filed using the award-winning Trademark Electronic Application System (TEAS). Electronic communications make it possible to conduct a preliminary search prior to filing an application, determine the status of pending and registered trademarks, respond to office actions, access general information on marks published, registered and renewed, file initial applications and maintain a registered mark through the USPTO website. The USPTO has continued to enhance the system and expand the number and type of transactions that can be completed on-line. Today, 24 TEAS forms are available and provide the means to handle most trademark transactions electronically.

Trademarks has made significant progress in achieving its long term goal to create an e-government operation and now relies exclusively on trademark data and images submitted through electronic forms or captured from paper documents to support examination, publish documents, and issue registrations. All examination is conducted directly from electronic records. Examiners access applications for examination, take subsequent actions and transactions, and manage their individual case docket from electronic records and systems. A complete electronic records database covering all trademark applications, including on-going correspondence, has been created by capturing the text and image of approximately 500,000 pending paper files and documents.

In fiscal year 2004, Trademarks adopted a "consolidated central docket" to electronically manage the distribution and assignment of new applications for examination. A consolidated docket will ensure first in order assignment of new applications, regardless of the law office to which the examining attorneys are assigned. Consolidation was completed prior to the relocation of the Trademark Operation to the new USPTO headquarters in Alexandria, where all paper files are stored in a central location. A consolidated docket will make the order of examination consistent throughout the examining corps, make future planning and predictions more reliable, and provide a more accurate indication of the average time frame the Office is taking to act on applications.

The Trademark Trial and Appeal Board now operates with a completely electronic workflow system, permits electronic filing of all documents, and makes available on the USPTO website image copies of all its proceeding files.

As a result of the tremendous efforts made by the USPTO in e-government, the Winter Corporation recognized our Oracle database for electronic patent processing as one of the largest transactional databases

in the world. The database consists of patent records and images that support the electronic processing of patent applications. The database is growing at the rate of over one terabyte every two months and is approaching 14 terabytes in size. This database automatically replicates every transaction for protection and failover.

Quality Enhancements

In fiscal year 2004, Patents enhanced the quality of its products and services by continuing to implement the initiatives set forth in the *21st Century Strategic Plan*. In the Patent Examining Corps, an enhanced Quality Assurance Program was implemented that includes end product reviews, in-process reviews and enhanced “second pair of eyes” reviews. The feedback from these reviews is used to identify and develop training modules and other quality enhancements. Additionally, to ensure that primary patent examiners maintain the knowledge, skills, and abilities (KSAs) necessary to perform a high quality examination, the USPTO implemented a re-certification program to re-certify primary examiners every three years. This program includes mandatory continuing education courses with quizzes and expanded work product reviews. Also, a certification program was implemented to ensure that junior examiners have the required KSAs prior to promotion to the level where they are given legal and negotiation authority. This program includes a Patent Law and Evidence course and requires passing a certification examination before promotion to the GS-13 level. Additionally, during fiscal year 2004, Patents began development of programs that aim to monitor and improve the quality of work performed by the technical support staff and the quality of the examination of international applications filed under the Patent Cooperation Treaty.

In fiscal year 2004, Trademarks instituted new measures and criteria to create a more comprehensive and meaningful review of what constitutes quality of examination. The results of an examiner’s first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Office has targeted both electronic and traditional training initiatives addressing specific problem areas. In addition, this program provides prompt feedback to examining attorneys when their work products are reviewed. Specific comments on any work product, which is either “excellent” or “deficient,” are sent to the appropriate examining attorney and supervisor. As a result, training takes place both on the micro level, with specific feedback, as well as on the macro level, with training modules that address trends, targeting topics that warrant improvement. Examiners are required to take a series of self-paced e-learning tutorials, as part of the USPTO’s commitment to improve quality of examination and ensure that all examiners possess the knowledge, skills and abilities necessary to perform their jobs. The Office has developed a schedule to implement new e-learning modules throughout the year based on topics that are identified through quality review evaluations.

Growth in Application Filings

The number of patent and trademark applications that were filed continued to rise in fiscal year 2004 at an average growth rate of 6.6 percent and 11.7 percent respectively over fiscal year 2003, with increased growth expected to continue in the future. The continued growth in patent application filings has been further magnified by an overall increase in the technological complexity of patent applications, which together make pendency improvements challenging and unpredictable. More applications, both in numbers, and as a percentage of overall filings, seek patent protection in technology areas that are more complex, and the time spent on complex technology applications is almost double that required for traditional applications.

Actual fiscal year 2004 growth in trademark application filings exceeded the level that was used to estimate resources required to achieve the planned fiscal year 2005 first action pendency target. As a result, the fiscal year 2005 first action pendency target has increased from 5.6 months to 6.4 months.

MANAGEMENT PRIORITIES

● ***Shift in Complexity of Filings / Sustained Emphasis on Quality*** — Technology has become increasingly complex, and demands from the public for higher quality products and services have grown in importance. In order to meet customer needs, USPTO must address the challenges of rising workloads and the shift of applications from traditional arts to more complex technologies. FY 2005 was the first year that the USPTO's *21st Century Strategic Plan* was fully funded. Funding delays, coupled with higher than anticipated filing receipts, will curtail our ability to accomplish some of the quality improvements and many of the efficiency gains projected in the Plan. Priorities will be placed on recruiting and retaining an expanded examiner workforce and testing the concept of contracting out searches so that examiners can devote more time to making determinations of patentability.

● ***Sustained Funding Stream*** — In order to be successful, USPTO must strive to maintain a stable and predictable funding stream to be able to operate like a business. As mentioned earlier, the sustained demands for USPTO products and services have created substantial workload challenges in the processing of patents and trademarks. The Congress, the owners of intellectual property, the Agency's interest groups, and the public-at-large have all told USPTO that it must address these challenges aggressively and promptly. Sustained funding and implementation of the *21st Century Strategic Plan* initiatives will address these challenges and will transform the USPTO into a quality-driven, highly-productive, and efficient organization that will promote expansion of business opportunities, stimulate research and development, and expand U.S. businesses globally. Achievement of the outyear (fiscal years 2007 through 2010) performance targets set forth in this budget submission assume permanent authorization of the revised fee schedule that was set forth in the Consolidated Appropriations Act, 2005 (P.L. 108-447).

● ***Electronic Workplace*** — The Patent and Trademark operations are rapidly moving to eliminate paper documents from their processes. Electronic communications will be improved, encouraging more applicants to do business electronically with the delivery of web-based text and image systems. As the reliance on paper disappears from internal processes, the costs for handling applications and related materials will be reduced. Both Patents and Trademarks have made significant progress in moving towards the long-term goal to create an e-government operation, and Trademarks now relies exclusively on trademark data submitted or captured electronically to support examination, publish documents, and issue registrations.

● ***Multilateral and Bilateral Agreements*** — To streamline the intellectual property system and protections, the USPTO must consult with, and receive the support of, other intellectual property offices in structuring new bilateral and multilateral initiatives and agreements. Reaching bilateral and multilateral agreements will require all sides to openly communicate and strive toward a more global convergence of patent and trademark standards.

COMMITMENT TO THE PRESIDENT'S MANAGEMENT AGENDA

USPTO is committed to the implementation of the President's Management Agenda (PMA). This is evidenced by the progress made in improving the strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration.

- **Strategic Management of Human Capital:** The USPTO's *21st Century Strategic Plan*, together with the *USPTO Strategic Workforce/Restructuring Plan* lay out an explicit workforce planning strategy that is linked to the agency's strategic and program planning efforts. The agency has projected its current and future human capital needs, including the size of the workforce and its deployment across the organization, and has identified key competencies needed to fulfill the agency's mission and strategic goals. The *21st Century Strategic Plan* and the *USPTO Strategic Workforce/Restructuring Plan* demonstrate that the USPTO is focused on building competencies in response to customer demands for enhanced quality. As mentioned earlier, we have instituted a patent examiner certification program, including a certification examination; and testing is underway to ensure that patent examiners have the requisite knowledge and skills to be promoted to the GS-13 level and to be granted certification of legal competency. At the GS-13 level all patent examiners are expected to correctly perform all basic, advanced, and legal examining functions without any prior instructions and with only a cursory review of their work products by their supervisor. The USPTO also is leveraging competitive sourcing and e-government to better manage time devoted to examination of patent and trademark applications. The Office has become a recognized leader in federal government telework programs, and was the recipient of the **2004 Telework in the federal government Leadership Award** for leadership in enterprise-wide telework programs. As a consequence of this recognized success, other Federal agencies have sought our assistance in establishing their own telework programs. The *21st Century Strategic Plan* also views workforce planning from an international perspective, and incorporates how work sharing among intellectual property offices can have an impact on USPTO's human capital planning and management. In addition, the USPTO's current organizational structure supports decision-making at the lowest appropriate level.

- **Competitive Sourcing:** The USPTO is committed to achieving performance enhancements and cost-savings through competitive sourcing. In recent years, we have competitively sourced many functions, such as payroll, mail processing/handling, clerical support, data transcription, systems maintenance and development, help desk support, etc. In particular, service contracts have presented an excellent opportunity to help us deal with fluctuating workloads and to minimize the impact on our employees as the Office transitions to a fully electronic workplace. Currently, approximately 35 percent of the USPTO's total workforce consists of contract personnel working either onsite or offsite at contractor facilities. The *21st Century Strategic Plan* offers new approaches for performing work that is currently accomplished by Federal employees. While preserving the inherently governmental responsibility for examination, the USPTO is committed to increasing total patent examiner output by competitively sourcing prior art searches, classification of patent documents, and performance of administrative reviews associated with the PCT process. All decisions regarding patentability will remain the responsibility of patent examiners who are USPTO employees. USPTO has a competitive sourcing plan and, in fiscal year 2005, plans to conduct two competitions related to classification, one for pre-grant publication documents and one for re-classifying some already published patents and applications to facilitate searching. USPTO also plans to test the concept of competitively sourcing prior art searches by competing and conducting a pilot for searches done in cases filed pursuant to the Patent Cooperation Treaty.

The USPTO also made strides in performance-based services acquisition and, as a result, was awarded the government-wide FY 2004 Excellence in Performance-Based Services Acquisition Award sponsored by the General Services Administration and the Performance Institute.

● **Improved Financial Performance:** The USPTO is in compliance with all Federal accounting principles and standards and has encountered no instances of material weaknesses in internal controls or non-compliance with Federal accounting regulations. We will continue to maintain and strengthen our internal controls and improve the timeliness and usefulness of our financial management information. For fiscal year 2004, the USPTO met all quarterly financial reporting requirements instituted by OMB and the Treasury and accelerated the fiscal year 2003 annual reporting requirement. Again, the USPTO sustained its clean audit opinion with fiscal year 2004 marking the twelfth consecutive unqualified audit opinion and the eighth consecutive year with no material weaknesses. The USPTO has a certified and accredited, fully integrated financial management system that routinely produces timely information and uses a data warehouse to accommodate both financial and operational data. The data warehouse is used by managers for analyzing financial results and performance and by Supervisory Patent Examiners for managing patent processing timeframes. The USPTO also operates a mature Activity Based Cost (ABC) Accounting system that captures costs of core mission activities and both direct and indirect costs for the entire agency. Managers use data from the ABC system to analyze the cost of operations when making decisions regarding improving processes, setting fees, or allocating budgetary resources. Additionally, the USPTO met its fiscal year 2004 financial performance measurement goals. Finally, for the second year in a row, the Association of Government Accountants awarded USPTO the prestigious Certificate of Excellence in Accountability Reporting for the agency's fiscal year 2003 Performance and Accountability Report.

● **Expanded E-Government:** USPTO is accelerating deployment of critical automated information systems, particularly the electronic end-to-end processing of patent and trademark applications. In addition, the USPTO is currently working on ways to improve delivery schedules, reliability, performance, security and monitoring the cost of its automated information systems. USPTO will implement the Trademark Information System (TIS), a Trademark electronic file management system by the end of fiscal year 2006. This will complete a twelve-year effort to provide an end-to-end fully electronic Trademark processing environment. USPTO met its target to deliver an operating pipeline to process patent applications electronically by completing the image-based Image File Wrapper (IFW) system in August 2004, which was developed in conjunction with the EPO's image-based system. This collaboration will help to achieve common goals and share systems already in use or in development. The system implemented in 2004 creates an image-based patent file wrapper system that includes an electronic image of all incoming and outgoing paper documents. The next phase of the patent e-government strategy will be to shift to a text-based system.

USPTO seeks to choose information technology (IT) projects that best support its mission and comply with its enterprise architecture. Individual projects are evaluated in the broader context of technical alignment with other IT systems as well as the investment's impact on the USPTO IT portfolio's performance, as measured by cost, benefit, and risk. As part of the Capital Planning and Investment Control process, USPTO prioritizes each investment and decides which projects will be funded in subsequent fiscal years. Once selected, each project is managed and monitored consistently throughout its life cycle. At key milestone dates, progress reviews are conducted to compare the project's status to planned benefit, cost, schedule, and technical efficiency and effectiveness measures. All major IT system investments are included in fiscal year 2005 Exhibit 53 and Exhibit 300 business cases.

● ***Budget and Performance Integration:*** Since 1999, the USPTO has developed an annual corporate plan that links the annual performance plan and budget request such that resource requirements for continuing programs and new initiatives are aligned with outputs and performance goals. Subsequently, in June 2002, the USPTO introduced the *21st Century Strategic Plan* and an updated version of the plan in February 2003 in order to address issues raised by intellectual property stakeholders. The *21st Century Strategic Plan* is a multi-year plan that identifies critical tasks designed to provide the USPTO and external stakeholders with a long-term vision of agency goals, potential funding levels, and planned outcomes. Following development of the Plan, USPTO has refined its budget formulation process for better integration of budgetary resources with both enterprise-wide strategic goals and individual unit performance targets.

The USPTO 21st Century Strategic Plan

As indicated earlier, this budget request reflects the challenges, approaches and initiatives of the *21st Century Strategic Plan*. The Plan is centered on three strategic themes, which are:

- **Agility:** Address the 21st Century Economy by Becoming a More Agile Organization — We will create a flexible organization and work processes that can handle the increasing expectations of our markets, the growing complexity and volume of our work, and the globalization that characterize the 21st century economy. We will work, both bilaterally and multilaterally, with our partners to create a stronger, better-coordinated and more streamlined framework for protecting intellectual property around the world. We will transform the USPTO workplace by radically reducing labor-intensive paper processing.
- **Capability:** Enhance Quality through Workforce and Process Improvements — We will make patent and trademark quality our highest priority by emphasizing quality in every component of this strategic plan. Through the timely issuance of high-quality patents and trademark registrations, we will respond to market forces by promoting advances in technology, expanding business opportunities and creating jobs.
- **Productivity:** Accelerate Processing Times Through Focused Examination — We will control patent and trademark pendency, reduce time to first Office Action, and recover our investments in people, processes and technology.

The USPTO has developed supporting performance goals and measures to implement our strategic themes. Two of the strategic themes — *Agility* and *Productivity* — have direct relationships with the three USPTO performance goals, while one crosscutting strategic theme — *Capability* — spans all performance goals. The *Agility* theme is linked to the third performance goal and incorporates ongoing initiatives in e-government and collaboration with our intellectual property partners worldwide. As a first priority, the USPTO has made electronic end-to-end processing of both patents and trademarks the centerpiece of its business model by deploying critical automated information systems. In addition, the USPTO is currently working on ways to improve delivery schedules, reliability, performance, security and cost control of all our automated information systems. Further, the USPTO is enhancing existing and establishing new alliances with our friends in other national and international intellectual property organizations to strengthen intellectual property rights around the world.

The *Productivity* theme is linked to performance goals 1 and 2 and addresses the planned longer-term reduction in patent and trademark pendency as measured by the average first action pendency and the average total pendency. Costs related to pendency reduction initiatives are depicted in examination.

The *Capability* theme crosses all performance goals, emphasizes the quality and process improvement element in the USPTO, and permeates throughout all our activities and operations. Quality will be assured throughout the process by hiring the people who make the best patent and trademark examiners, certifying their knowledge and competencies throughout their careers at the USPTO, and focusing on quality throughout the examination of patent and trademark applications.

The budget request for fiscal year 2006 follows and is presented by each of USPTO's three performance goals.

Fiscal Year 2006 Budget Request by Performance Goal

GOAL 1 — BUDGET AND PERFORMANCE

Improve the quality of patent products and services and optimize patent processing time

The core process under Goal 1 is the examination of an inventor's application for a patent by comparing the claimed subject matter of the application to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. A quality review of the examination requirements and practice includes reviewing a random sample of both in process and allowed applications for quality. The patent examination process also includes deciding appeals regarding issues of patentability and preparing interference proceedings.

Other phases of the patent process include the initial administrative review of applications filed before examination and the publication of applications 18 months from the earliest effective filing date and upon issuance for dissemination to the public. Additionally, the Patent organization is responsible for managing automation requirements for implementing and maintaining classification schemes for organizing and retrieving technical information contained in patents and other documents in the search files, and for acquiring, maintaining, and providing access to scientific and technical literature in support of the examination process.

While the *21st Century Strategic Plan's* long-term patent pendency goal remains 18 months, this goal will not be achieved in the near future because of (1) prior constraints on funding for new hires, which resulted in priority through fiscal year 2004 being placed on the Plan's quality initiatives, and (2) the resources that will be required to train and oversee the work of new, junior examiners, which places a limit on the number of examiners that the organization can hire and train in any given year. This is why the *21st Century Strategic Plan* employs competitive sourcing of non-inherently governmental functions currently performed by examiners. By competitive sourcing some search, classification and PCT functions, we can focus more resources on our core examination function and reduce pendency. The USPTO is committed to continue to strive to produce, on average, a first office action for first-filed U.S. non-provisional applications at the time of 18-month publication; and to issue a patent search report for other patent applications within the same time frame.

As stated above, the USPTO began implementing several quality initiatives, including an enhanced Quality Assurance Program that includes end product reviews, in-process reviews, and enhanced "second pair of eyes" reviews. The feedback from these reviews is used to identify and develop training modules and other quality enhancements. In fiscal years 2005 and 2006, we will continue the quality efforts currently implemented. Additionally, we will continue to enhance the pre-employment assessment of patent examiner applicants to make sure they have the needed competencies. We will review work product throughout prosecution to ensure compliance with examination practice and procedures standards.

Additionally, in fiscal year 2005, we will continue to focus on the enhancement of the skill sets of examination staff the examiner certification program. The certification program, which includes the development and delivery of a Patent Law and Evidence course, is now mandatory for examiners before becoming primary examiners with full signatory authority. In addition to this primary examiner certification program, the Patent organization also initiated a re-certification course for all primary examiners. This re-certification, which will take place every three years, ensures that primary examiners are maintaining the necessary knowledge, skills, and abilities in current patent law, practice, and procedure. In fiscal years 2005 and 2006, we will continue both the certification and re-certification programs requiring the examiners to pass a comprehensive test that attests to their understanding of the content of the completed training. In combination, all of these quality initiatives will provide improved patent quality by providing review of work product, feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies.

Focus on employee skills sets to improve overall patent quality has also been implemented at the technical support staff level. A comprehensive quality review program began in the second half of fiscal year 2004 and covers technical support staff work related to the processing of new applications, amendments, and issued patents. Employee-level assessments are generated and have been included as part of their annual performance plans. In fiscal years 2005 and 2006, we will continue to monitor quality at key training and certification points to ensure that implemented actions translate into improved work products of technical support staff.

Resource requirements for improving the quality of patent products and services and optimizing patent processing time

<i>Dollars in thousands</i>	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Initial Examination	\$29,523	\$30,837	\$32,657	\$34,534	\$36,108	\$37,788	\$37,911
Examination	549,821	601,246	672,740	727,973	784,452	844,756	901,090
Scientific, Technical and Classification Services	32,304	40,958	43,927	46,466	50,357	51,861	54,461
Pre-Grant Publication and Patent Issuance	78,742	88,514	98,255	108,018	119,338	135,344	149,316
Appeals and Interferences	14,580	15,163	15,525	15,654	15,875	16,139	16,403
SUBTOTAL EXAMINATION	\$704,970	\$776,718	\$863,104	\$932,645	\$1,006,130	\$1,085,888	\$1,159,181
Management, Policy and Administrative Support	19,018	23,643	25,495	25,697	26,159	26,565	27,124
Automation Support (direct)	32,967	34,672	35,297	37,561	37,245	37,451	37,762
Strategic Initiatives	—	19,524	32,261	24,314	176,515	198,834	272,655
SUBTOTAL DIRECT SUPPORT	\$51,985	\$77,839	\$93,053	\$87,572	\$239,919	\$262,850	\$337,541
Cost-Share of Support Functions, Space, and Miscellaneous General Expenses	302,402	375,835	399,630	375,054	383,797	391,365	407,371
Total Funding FOR Goal 1	\$1,059,357	\$1,230,392	\$1,355,787	\$1,395,271	\$1,629,846	\$1,740,103	\$1,904,093
Total FTE FOR Goal 1	5,910	6,348	6,954	7,408	7,793	8,152	8,486
Allowance Error Rate	5.3%	4.0%	3.75%	3.5%	3.25%	3.25%	3.0%
In-Process Examination Compliance Rate	82%	84%	85%	87%	89%	90%	91%
Total Units of Production	287,752	296,500	314,500	345,200	397,500	443,500	504,800
Average First Action Pendency (months)	20.2	20.7	21.4	22.2	21.2	20.8	18.1
Average Total Pendency (months)	27.6	31.0	31.3	31.4	32.2	31.2	30.8

Strategic Initiatives Under Goal 1

Agility/Flexibility 1 — Initial and PGPub Classification of Newly Received Applications

Newly received patent applications are classified for routing to the correct Technology Center and examining unit and those applications that are published at 18 months from filing are subject to PGPub classification. Currently, classifiers in pre-examination, patent examiners, and Supervisory Patent Examiners (SPE) perform this function. The USPTO will begin the process to rely on commercial entities for these classification functions in fiscal year 2005, and will gradually expand to full implementation by the end of fiscal year 2006. This initiative will redirect the time patent examiners now spend on classification to core examination activities. Similarly, SPEs' time will be redirected to focusing on the quality of examiner work products and on training and mentoring examiners.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$7,240	\$7,528	\$7,817	\$8,204	\$8,611
Incremental Funding	\$3,648	\$288	\$289	\$387	\$407

Agility/Flexibility 2 — Support for Patent Cooperation Treaty (PCT) Search Activity

The USPTO receives international applications that require the performance of an international search to discover relevant prior art in Chapter I applications. As an International Searching Authority under the Patent Cooperation Treaty, the USPTO is obligated to perform this search function. The USPTO plans to competitively source this search function, which will allow the USPTO to redirect patent examiner resources back to the examination of U.S. applications. The funding identified below will be used for system modifications and for competitively sourcing the PCT Chapter I search activity. Pursuant to the funding provisions of the Consolidated Appropriations Act, 2005, P.L.108-447, the planning process for this initiative will begin in fiscal year 2005, with award of a contract for a 12-month pilot targeted for the fourth quarter of the fiscal year. At the end of the pilot in fiscal year 2006, USPTO will evaluate the results of the pilot and report to the Congress. Assuming a successful pilot, the Competitive Sourcing of Search Function initiative would be fully implemented (see below).

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$8,702	\$780	\$4,788	\$9,098	\$9,664
Incremental Funding	\$3,863	-\$7,922	\$4,008	\$4,310	\$565

Agility/Competitive Sourcing of Search Function

The Support for PCT Search Activity initiative will serve as the pilot for competitively sourcing the search of national cases. Given the large numbers of patent applications in or awaiting examination, the USPTO plans to competitively source the searches of prior art. This will generate substantial gains in examiner resources by focusing examiners on making patentability determinations rather than spending substantial amounts of time on searching. The USPTO will pilot sourcing the search function through the PCT Search Activity above and will conduct an evaluation of pilot competitive search results before full implementation of the concept throughout the Patent Corps. The USPTO will monitor contractor performance to ensure that these searches (of available prior art relating to the subject matter of inventions claimed in patent applications) meet or exceed established search standards for patentability determinations.

The funding requested below is based on beginning full implementation of the competitive sourcing of search in fiscal year 2008. Based on the provisions of the Consolidated Appropriations Act, 2005 (P.L.108-447), the USPTO will begin a search pilot in late fiscal year 2005 (see Agility/Flexibility 2 above), conduct an evaluation of the pilot and report its findings, and begin full implementation in fiscal year 2008.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	—	—	\$148,346	\$165,815	\$238,365
Incremental Funding	—	—	\$148,346	\$17,469	\$72,550

Agility/Flexibility 3 — Competitive Sourcing of Reclassification Functions and Transition to International Patent Classification System

Over time, the file of issued patents and non-patent literature that patent examiners must search expands significantly. As the numbers of patent documents in each class and sub-class increases, and as new technologies come to the forefront, the classification mechanisms become less focused and new classification schemes must be established. Currently, Federal staff is devoted to carrying out these activities. The USPTO will competitively source the reclassification of documents into the new classification schemes to bring the classification system into greater harmony with the international system. The preliminary planning process for this competitive sourcing will begin in fiscal year 2005. The funding identified below will be used to continue the process of competitive sourcing of reclassification functions in fiscal year 2006.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$3,478	\$3,575	\$3,672	\$3,770	\$3,867
Incremental Funding	\$1,538	\$97	\$97	\$98	\$97

Capability/Transformation 2 — Competitive Compensation Packages for Supervisory Patent Examiners and Managers

The USPTO will create a competitive compensation package for SPEs and other managers to encourage the best candidates to seek supervisory positions and simultaneously reward high-performing incumbent SPEs. The ability of SPEs to train and mentor employees, while demonstrating excellent interpersonal skills and competent knowledge of their art, patent laws and procedures, is fundamental to achieving the desired level of quality and productivity in the examining Corps. The funding identified below will be used to implement a performance-based awards package of up to 10 percent for SPEs and other managers providing them the potential to be rewarded at the same levels as examiners.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$2,774	\$2,946	\$2,979	\$3,013	\$3,047
Incremental Funding	\$161	\$172	\$33	\$34	\$34

Capability/Transformation 7 — Implementation of Pre-Employment Testing for Patent Examiners

One of the most essential competencies of a successful patent examiner is the ability to communicate effectively, both orally and in writing. In the past the USPTO has received negative feedback from our customers regarding the communication skills of some of its examiners. In response, in fiscal year 2002,

Patents launched an interim program for pre-employment testing of oral and written communication skills of applicants for patent examiner positions to ensure that selected candidates possess the requisite language skills to perform their job. The funding identified below will be used for developing an automated competency assessment tool and for exploring suitability testing tools. This development will include enhancements to the Job Application Rating System (JARS) to provide pre-employment testing information to SPEs and the Office of Human Resources; full development and deployment will be completed in fiscal year 2006.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$574	\$314	\$325	\$337	\$350
Incremental Funding	\$76	-\$260	\$11	\$12	\$13

Capability/Transformation 9 — Re-Certification of Primary Patent Examiners

Primary patent examiners are authorized to issue patents with their own signature, generally without further review by a SPE. It takes approximately 5-6 years to reach this level of expertise, during which time individuals are certified only once. However, because of periodic changes in patent law, policy and practice, the USPTO recognizes the advantages of periodic re-certification of primary examiners to ensure that they possess the required up-to-date knowledge, skills, and abilities for making sound patentability determinations. The USPTO implemented a re-certification program in the form of continuing legal education (CLE), in parallel with expanded review of primary examiner work products to ensure that current patent law, practice, and procedures are followed in all completed Office Actions. In fiscal year 2003, the USPTO delivered three CLE programs and initiated the In-Process Review program in all Technology Centers, which increased the number of primary examiner work product reviews completed. In fiscal year 2004, Patents conducted re-certification of one third of primary examiners. The funding identified below will be used for completing the establishment of automated CLE training courses and continuing re-certification of all primary examiners on a three-year cycle.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$406	\$546	\$417	\$421	\$430
Incremental Funding	\$87	\$140	-\$129	\$4	\$9

Capability/Quality 5 — Expand Patent Reviews

In fiscal year 2003, Patents expanded the “second pair of eyes” review that was originally piloted on a limited basis in the art units dealing with business method patents. The purpose of this review was for the reviewer to quickly flag issues that needed further consideration by the examiner and/or examiner’s supervisor. This program has been expanded to other areas identified as having high rates of errors. The funding identified below covers salaries for the staff dedicated to perform this function.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$210	\$175	\$179	\$182	\$186
Incremental Funding	\$42	-\$35	\$4	\$3	\$4

Capability/Legislation/Rules 1c — Monitor Practitioner Adherence to Rules of Practice

The USPTO has identified a number of changes to current processes and procedures to improve legal practice before the agency and thereby help improve the quality of patent examination. With significant input from the public, disciplinary rules will be modernized in fiscal year 2005, including clarifying rules on frivolous filings. A program will be announced providing registered practitioners with options to satisfy a continuing legal education obligation, including the Agency's provision of online education and certification of CLE providers. The funding identified below will be used to support contractor resources for the practitioner continuing legal education and patent examiner re-certification programs. The funding also covers salaries of the specialized staff to support these programs.

Dollars in thousands	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$3,182	\$2,784	\$2,585	\$2,630	\$2,675
Incremental Funding	\$2,295	-\$398	-\$199	\$45	\$45

Capability/Worksharing 1 — Mutual Reliance on Searches

The USPTO supports the reciprocal reliance on prior art search results. This program focuses on utilizing Office of First Filing (OFF) completed search reports or Office actions, as appropriate, for use by the Office of Second Filing (OSF). As a strategic plan goal, the USPTO will rely on prior art searches performed by another intellectual property office to the maximum extent practicable on a reciprocal basis so as to reduce duplication of efforts, decrease workload, and accelerate processing times. In this multi-year initiative, the USPTO will implement mutual reliance on search results with our trilateral partners, the EPO and JPO, to the extent practicable. Based on agreements with EPO and JPO, the USPTO began exchanging search results with them on a pilot basis in fiscal year 2003 for evaluation purposes. In fiscal year 2004, the USPTO undertook an initial assessment of the Search Exchange pilot to review the applicability and quality of the search reports received from the EPO and JPO. The USPTO also evaluated the feedback received from EPO and JPO on the search reports generated by the USPTO and provided to the other intellectual property offices. This feedback focused on the reasons why the other intellectual property offices did or did not rely solely on the search report provided by the USPTO. These search report "gaps" are currently being analyzed to strengthen USPTO prior art search strategies. Fiscal year 2004 activities also addressed the scope of the next phase of the pilot; that is, if and to what extent these OFF searches are available and could be relied upon. The USPTO also pursued bilateral agreements with non-trilateral offices to benefit from searches performed by certain other intellectual property offices, such as the United Kingdom and Australia. In all cases where the USPTO uses a search report provided by another intellectual property office, the patentability determination will still reside with the USPTO and our examiners will have the opportunity to perform additional search, as needed. The funding identified below will be used for contractor resources to complete system requirements for an automated capability to exchange search results among intellectual property offices electronically.

Dollars in thousands	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$865	\$929	\$465	\$471	\$488
Incremental Funding	\$394	\$64	-\$464	\$6	\$17

Productivity/Pendency 2 — Multi-Track Examination

In an effort to dramatically change current business practices, the USPTO will move from a one-size-fits-all patent examination process to a Multi-Track Examination Process in order to eliminate duplication of effort, improve the quality of patents, and decrease processing time. While the current process has served the USPTO well, there are numerous shortcomings that, if unchanged, will not deliver quality patents in a timely manner; therefore, changes are needed to promote expansion of business opportunities, stimulate research and development, and expand U.S. businesses globally. Under the Multi-Track Examination Process, the USPTO will provide applicants with an incentive to: (1) expressly abandon an application if the applicant loses interest in the application before it is taken up for examination by the USPTO; or (2) have the application searched by an intellectual property office with which the USPTO has a bilateral search exchange agreement. These changes will also permit the USPTO to examine applications in Technology Centers having the largest backlogs by using search reports from qualified search authorities rather than conducting complete in-house searches. The Multi-Track Examination Process will provide pendency and quality benefits by eliminating the need for the USPTO to spend resources to examine an application that the applicant decides he/she no longer wishes to pursue before it is taken up for examination, and allows the USPTO to exploit search reports prepared by other intellectual property offices or qualified search contractors.

The Consolidated Appropriations Act, 2005, provides the patent fee structure necessary to implement this Multi-Track Examination Process during fiscal years 2005 and 2006. In the absence of legislation making this patent fee structure permanent, the USPTO will need to revert back to a “one-size-fits-all” patent examination process after fiscal year 2006.

To implement the Multi-Track Examination Process, the USPTO plans to: (1) refund a portion of the search fee if the applicant expressly abandons the application before it is taken up for examination by the USPTO; and (2) refund a portion of the search fee if an intellectual property office provides the USPTO with a search report for the application.

The funding identified below will be used for contractor resources to modify and maintain the workflow processing, electronic filing, fee collection, and application status systems to reflect the new business rules and allow for multiple examination tracks and options.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$675	\$696	\$716	\$738	\$760
Incremental Funding	-\$858	\$21	\$20	\$22	\$22

Productivity/Pendency 3 — New Hire Recruitment Costs

In support of the patent examining corps’ building a competent and diverse patent examiner workforce, as presented in this budget request, the USPTO has developed an outreach recruitment strategy that identifies the agency as an employer of choice and promotes the patent examiner career in the Federal government. Our outreach plan includes recruitment branding, a marketing campaign, college recruiting, and a university partnership program with ten target schools. The funding identified below will be used to implement the branding initiative through media advertisements, job fairs and career conferences, partnered events at target universities, and Internet recruiting.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$727	\$736	\$748	\$760	\$770
Incremental Funding	-\$90	\$9	\$12	\$12	\$10

Productivity/Shared Responsibility 2 — Post-Grant Patent Review of Claims

This initiative reflects support for a new proceeding to allow parties, through litigation at the Patent Board, to obtain post-grant patent review of patent claims. This proposal, contained in the *21st Century Strategic Plan*, has been endorsed in subsequent reports by the National Academies of Sciences and Federal Trade Commission and has been the subject of hearings by the House Judiciary Committee. Congressional comments suggest that the House will introduce proposed legislation on the subject in 2005. The workload projected after implementation of the expected legislation is around 1,000 requests annually (compared to roughly 2,500 district court patent cases filed a year), but initial year workload is estimated at approximately 40 percent of that figure, that is, 400 requests. Of these 400 requests, roughly half would be disposed of on early filings based upon current thinking about the likely process and roughly half of the remaining cases would then settle. On this basis, it is estimated that ten Administrative Patent Judges (APJs) and three paralegals could handle the first-year anticipated workload. These APJs represent an addition to existing staff, as interferences instituted on applications filed before the effective date would have to be concluded. Current estimates are modest, as the private bar is estimating a higher usage rate of post-grant review, and lower early disposition rates may be possible. The USPTO will refine these estimates as the final design of a proceeding becomes clearer in the legislative process. The outyear estimates include four additional positions (three associate solicitors and one paralegal) for the Solicitor to handle a projected increase in contested cases before the Court of Appeals for the Federal Circuit.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$2,688	\$3,022	\$3,195	\$3,112	\$3,160
Incremental Funding	\$1,419	\$334	\$173	-\$83	\$48

Productivity/Accelerated Examination 1 — Accelerated Examination

The USPTO has heard the concerns expressed about the length of time it takes to process applications in certain technology areas and the fact that these processing timeframes do not always lend themselves to the customer's business requirements. Currently, new patent applications are normally taken up for examination in the order of their effective U.S. filing date. In order to respond to these concerns, the USPTO is considering an accelerated examination option (corresponding fee legislation to be drafted in fiscal year 2005). Applicants choosing accelerated examination will pay a higher initial application fee and must meet certain other filing requirements. In return, the applicant will be guaranteed 12-month pendency from the date of filing to patent issuance, rejection or abandonment. In order to provide this option to the public, a statutory change will be required to set the fee for the accelerated examination procedure. The funding identified below will be used for contractor resources to modify and maintain the electronic filing and office action and correspondence systems to allow for multiple prosecution paths.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$740	\$283	\$283	\$283	\$283
Incremental Funding	\$162	-\$457	—	—	—

GOAL 2 — BUDGET AND PERFORMANCE

Improve the quality of trademark products and services and optimize trademark processing time

The core process under Goal 2 is the examination of applications for trademark registration. As part of that examination, examining attorneys make determinations of registrability under the provisions of the Trademark Act of 1946, as amended, including searching the electronic databases for any pending or registered marks to determine if a mark in the subject application is confusingly similar to an existing mark, prepare letters informing applicants of the attorney's findings, approve applications to be published for opposition, and examine Statements of Use in applications filed under the Intent to Use provisions of the Trademark Act. At the requested application filing and funding level in fiscal year 2006, Trademarks will be able to hire sufficient numbers of additional examining attorneys to achieve a trademark first action pendency of 5.3 months and a total pendency of 18.7 months.

Activities under this goal also include initiatives aimed at improving the quality of trademark products and services. The Trademark organization has implemented several of the quality initiatives of the *21st Century Strategic Plan*. During fiscal year 2004, Trademark quality initiatives focused on the development and implementation of training modules to address practice and procedural deficiencies identified through the quality review program. A key component of the approach was the implementation of an extensive quality review program geared towards in-process applications. The "in-process" review program has been designed to determine the quality of examiner's first and final Office Actions as "excellent" and "deficient" to better reflect more meaningful and rigorous standards of quality. Information from these reviews has been used to identify and focus training to enhance overall product quality and to improve the consistency of examination. Quality-driven training modules developed and implemented in fiscal year 2004 included: Scope of Amended Identifications of Goods and Services (for improving the quality of identification practice in Final Refusals); Section 2(a) Scandalous and Offensive Marks (to provide procedural guidance to examiners for handling refusals of this type); and Weak and Diluted Marks Considerations Regarding 2(d) Refusals (to improve the overall quality of 2(d) practice). An additional four training modules, three related to 2(d) Refusals and one covering Concurrent Use Examination, were developed in fiscal year 2004 and will be released in fiscal year 2005. All of the training modules have been and will be provided in an e-learning environment to ensure content is timely, consistent, and available when needed by an employee. Other initiatives put in place to improve quality of the work product include the development of Policy Papers to reinforce proper practice in a wide range of examination activities and the expansion of the review program to assess the quality of work performed by paralegals and other non-attorney personnel. Continuing these quality programs through fiscal year 2006 will improve quality by generating an in-process review first action deficiency rate of 8 percent a final action deficiency rate of 4.8 percent.

The Trademark organization will optimize processing time by taking greater advantage of its success in implementing electronic processing and systems. Applicants will be offered a filing option in 2005 at less cost that will rely on electronic filing and reduce the time to respond to Office Actions by 4 months. Electronic processing will be used more extensively to automate a number of transactions that will eliminate manual processing and directly route applications for processing; reducing the time and the cost associated with the examination and registration of marks.

Resource requirements for improving the quality of trademark products and services and optimize trademark processing time

<i>Dollars in thousands</i>	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Initial Examination	\$3,802	\$5,490	\$6,588	\$7,133	\$6,741	\$6,784	\$6,641
Examination	43,247	49,253	58,150	59,134	63,404	68,156	73,722
Publication and Registration	3,440	2,739	2,965	3,103	3,023	3,058	3,046
Post Registration	2,873	3,130	3,057	3,354	3,575	3,666	3,761
Appeals and Inter Partes Proceedings	7,968	8,323	8,455	8,828	8,945	9,104	9,268
SUBTOTAL EXAMINATION	\$61,330	\$68,935	\$79,215	\$81,552	\$85,688	\$90,768	\$96,438
Management, Policy and Administrative Support	7,414	8,316	9,557	9,864	10,149	10,401	10,654
Automation Support (direct)	6,921	12,988	14,141	16,811	15,515	15,870	16,581
SUBTOTAL DIRECT SUPPORT	\$14,335	\$21,304	\$23,698	\$26,675	\$25,664	\$26,271	\$27,235
Cost-Share of Support Functions, Space, and Miscellaneous General Expenses	36,051	40,174	42,200	39,605	40,528	41,327	43,017
Total Funding for Goal 2	\$111,716	\$130,413	\$145,113	\$147,832	\$151,880	\$158,366	\$166,690
Total FTE for Goal 2	740	779	844	871	882	895	906
Final Action Deficiency Rate	5.8%	5.0%	4.8%	4.6%	4.4%	4.2%	4.0%
First Action Deficiency Rate	7.9%	8.3%	8.0%	7.5%	7.0%	6.5%	5.6%
Total Units of Production (Examiner Action Points Completed)	593,966	654,811	743,612	795,523	847,526	879,729	908,130
Average First Action Pendency (months)	6.6	5.6	5.3	4.2	3.5	3.1	3.0
Average Total Pendency (months)	19.5	20.3	18.7	17.0	16.1	15.7	15.0

Strategic Initiatives Under Goal 2

As described above, the Trademark organization completed initial implementation of the quality initiatives of the *21st Century Strategic Plan* in fiscal year 2004. The costs associated with the continuation of the established quality programs in fiscal year 2006 and outyears are included in the cost of operations above.

GOAL 3—BUDGET AND PERFORMANCE

Create a more flexible organization through transitioning patent and trademark operations to an e-government environment and advancing IP development worldwide

The USPTO has made significant strides toward achieving the milestones and goals of the e-government initiatives of the *21st Century Strategic Plan*. In Patents, implementation of the IFW — an image-based electronic version of the former paper patent application file wrapper— has been completed. IFW was fully deployed in late summer 2004, before the scheduled target date of October 1, 2004. Completion of this phase of e-government provides instant and concurrent access to a patent application, eliminates examiner interruption for paper entry, and eliminates the loss or damage experienced with paper files. The continued implementation of e-government initiatives will result in additional functionalities that are described under corresponding e-government initiatives below.

Additionally, this goal includes multilateral and bilateral agreements, which form an integral part of USPTO's goal of advancing intellectual property development worldwide. The USPTO continues to work with other intellectual property offices in structuring new agreements in order to streamline the intellectual property system and protection. This includes PCT reform efforts, focusing on the USPTO's proposal for simplified processing; developing a universal electronic patent application by leveraging USPTO's experience in trademarks and the EPO's experience with patent filings; and promoting intellectual property law harmonization to strengthen the rights of American intellectual property holders, making it easier for them to obtain international protection for their inventions and creations.

Resource requirements for creating a more flexible organization through transitioning patent and trademark applications to e-government operations and advancing IP development worldwide

<i>Dollars in thousands</i>	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
E-Government Initiatives	\$36,006	\$123,070	\$105,595	\$101,846	\$94,793	\$93,763	\$94,232
IP Development and Enforcement - Operations	5,996	8,253	8,413	8,847	8,655	9,138	8,988
IP Development and Enforcement - Strategic Initiatives	0	13,932	16,065	16,743	18,208	19,885	21,604
SUBTOTAL E-GOVERNMENT AND IP ADVANCEMENT	\$42,002	\$145,255	\$130,073	\$127,436	\$121,656	\$122,786	\$124,824
Automation Support (direct)	1,816	1,639	3,633	3,332	2,803	2,849	2,888
Cost-Share of Support Functions, Space, and Miscellaneous General Expenses	18,466	63,768	68,694	64,470	65,973	67,274	70,025
Total Funding for Goal 3	\$62,284	\$210,662	\$202,400	\$195,238	\$190,431	\$192,909	\$197,737
Total FTE for Goal 3	47	71	77	76	75	74	74
PT Applications Filed Electronically	1.5%	4%	10%	20%	30%	40%	50%
PT Applications Managed Electronically	88%	90%	100%	100%	100%	100%	100%
TM Applications Filed Electronically	73%	75%	80%	80%	80%	80%	80%
TM Applications Managed Electronically	98%	100%	100%	100%	100%	100%	100%
Technical Assistance Activities Completed (activities/countries)	64/63	80/75	82/77	82/77	82/77	82/77	82/77

Strategic Initiatives Under Goal 3

Agility/E-Government 1 — Trademark E-Government

In fiscal year 2004, the USPTO made substantial progress in continuing to improve and expand its e-government capabilities. As a result, trademark owners were able to electronically transfer ownership, pay on-line, and receive a receipt via the Internet; the public, Trademark Trial and Appeal Board (TTAB) members and examiners could view image records of TTAB proceedings; and opposition filings, requests for extension, processing, and notification could be executed electronically.

In fiscal year 2005, Trademarks will have the full contents of its pending application file inventory available to the public as electronic file records through the Trademark Document Retrieval (TDR) system, which will contain the complete contents of all pending trademark files including the initial application, subsequent correspondence, and Office Actions that examiners use to conduct examination. Subsequently, over a multi-year period, the Office will include the file contents for all active U.S. registrations through TDR. The USPTO intends to deploy the Trademark Information System (TIS) and complete its transition to full electronic workflow and examination in fiscal year 2006.

In fiscal year 2006, the USPTO will begin enhancing the Trademark Electronic Application Submission (TEAS) system to support the use of portable document format (PDF) and additional forms for improved electronic communications with customers. Simultaneously, we will also expand the Madrid Forms submission system to support additional forms. We will deploy a Trademark status web service that will enable customers to view and print the content and status of a registration certificate.

As electronic communications with our customers increase, it becomes critical to enhance electronic workflow systems for managing applications. This includes enhancement of our electronic records management system and TICRS to support higher volumes of electronic applications, improved search capability, and enhanced color images.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$11,390	\$4,038	\$3,061	\$3,105	\$3,148
Incremental Funding	\$2,541	-\$7,352	-\$977	\$44	\$43

Agility/E-Government 2 — Patent E-Government

In fiscal year 2004, Patents completed deployment of the IFW to all Art Units, allowing examiners concurrent desktop access to the application file and delivering an end-to-end electronic operating pipeline to process all patent applications. All applications filed in fiscal year 2004 were converted to IFW applications upon receipt and pending applications filed earlier were scanned into the IFW system; as a result, all pending applications are now being processed electronically. Additionally, Patents completed the IFW content portal, allowing the public to view via the Internet the application file content of all published or issued applications that have been captured in IFW.

In fiscal year 2005, the USPTO will begin development of the initial stage of full text-based processing aimed at providing examiners access to text generated from IFW images in the patent examination pipeline. Concurrent enhancement of the Patent Application Image Retrieval (PAIR) system will provide the applicants with secure private access to their unpublished application documents via the Internet as soon

as the application is internally processed. The first phase of integration of workflow tools with IFW will provide examiners with enhanced access to IFW information and prosecution support, facilitating more efficient patent examination.

Completion of the operational system for processing patent applications electronically will facilitate applications processing and reduce costs of handling paper application file wrappers. When complete, the text-based system will allow for full-text searching of application file technical content and supporting documents, automation of amendment processing, and content validation (formalities checking) of applications in the pre-examination process. Additionally, text-based processing will better support Federal electronic records management and paper elimination requirements and meet USPTO international agreements with the other trilateral offices (EPO, JPO, and WIPO) in supporting the “author once, file many” concept. In fiscal year 2007, the USPTO plans to begin integrating dissemination and other processes into a text-based pipeline.

A cornerstone of this e-government strategy is collaboration with EPO and JPO to enhance processing systems to achieve common goals and share systems already in use or in development. The USPTO will ultimately implement an e-government strategy that includes electronic receipt, processing, reporting, and publication through the entire application process lifecycle.

The funding identified below will be used for systems development, integration, and enhancement, as well as for scanning incoming and outgoing paper documents and new applications filed. The critical milestones planned for completion in fiscal year 2006 include: enhanced authoring of Office Actions, soft-scanning of outgoing text-based correspondence with digital signature, and providing applicants with electronic access to outgoing correspondence from pre-examination and Office Actions. Phase two of the integration of workflow applications will continue toward further enhancement of products and workflow tools and will continue through 2010.

Moving to a text-based process in fiscal year 2005, the second phase of patent systems development will allow the Office to provide more automation of manual processes and to improve accuracy and reliability. In order to increase the number of electronically filed applications, the USPTO will use a PDF format as an alternative to the earlier XML solution. PDF as the format for electronic filing has multiple benefits, which can be translated to the current paper scanning process. In this phase, the USPTO plans to accomplish a major reengineering of the IFW system components into PFW in fiscal years 2005 and 2006 to provide the functionality to capture and process application text data as well as image data; reduce the manual steps required to index and scan application papers; provide the functionality to capture color and grayscale images; consolidate the data capture and interaction with the publications contractor to reduce cost and redundant efforts; migrate to a more robust storage architecture for a combined text and image file structure using PDF technology; migrate to evolutionary, stable retrieval architecture to support increased examiner staffing and application volumes; strengthen the user access and authentication controls to sensitive application content; and increase the integration of the business process support AISs to improve efficiency and eliminate manual processing wherever possible. Electronic PDF Text and scanned PDF image plus text is expected to provide examiners with use of text in Office Actions, search capabilities within applications, as well as interference searching.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$67,944	\$63,222	\$59,937	\$60,817	\$61,963
Incremental Funding	-\$10,824	-\$4,722	-\$3,285	\$880	\$1,146

Agility/E-Government 3 — Post-Grant Patent Review E-Processing (See Shared Responsibility 2 — Post-Grant Review of Patent Claims)

In support of the proposed post-grant patent review of patent claims (in legislation for submission by the Administration to the 109th Congress), the USPTO will develop an automated information system that will provide an electronic file from which Administrative Patent Judges (APJs) can retrieve documents in connection with contested patent review proceedings. The new system, which would also support existing inter partes proceedings, will enable APJs to receive, store, search, and process records electronically, and is an extension of the USPTO's move to a fully electronic work environment for all phases of the patent process. This system will also increase operational efficiency and accuracy, as well as enhance system security through the availability of application data and support documentation electronically. The funding identified below will be used for systems development, integration, and maintenance.

Development of the system in support of this strategic initiative will begin in fiscal year 2005. The funding identified below will be used to define user requirements for system development, acquisition of hardware and software for the system, and implementation of electronic processing for existing procedures in fiscal year 2006. That deployment will include processing for Post-Grant review if legislation is enacted and corresponding rule changes are adopted or permit rapid expansion once Post-Grant review is enacted.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$1,880	\$427	\$552	\$444	\$451
Incremental Funding	\$508	-\$1,453	\$125	-\$108	\$7

Agility/E-Government 4 — Information Technology Security Program

As guardians of U.S. intellectual property, USPTO information security is of critical importance to inventor confidence. The growth of Internet based vulnerabilities requires a commensurate response in technical controls and counter-measures. As the USPTO implements e-government, its automated information systems (AIS) are increasingly exposed to external systems. Consequently, security risk factors increase geometrically as a result of operating system security flaws and a growing community of sophisticated hackers. The IT Security Program provides the infrastructure security systems and standards that protect the USPTO systems and safeguard public trust. All USPTO systems were accredited in fiscal years 2003 and 2004. The system accreditation process will start again every three years. In fiscal year 2005, accreditation of perimeter systems will be completed.

The funding requested below will support the development of an infrastructure of technologies and methodology to address security issues across all systems, both those planned and in use. This will facilitate efficiency in maintaining full accreditation status for all USPTO AISs, as mandated by Clinger-Cohen and the Financial Information System Management Act (FISMA).

Dollars in thousands	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$5,834	\$6,188	\$5,293	\$5,746	\$5,682
Incremental Funding	-\$372	\$354	-\$895	\$453	-\$64

Agility/E-Government 5 — Data Replication for High Availability and Disaster Recovery

The USPTO Business Continuity Program is committed to ensuring protection of USPTO data from damage in the event of a disaster. The goal of this investment is to guarantee the availability of patent and trademark data to patent examiners, trademark examining attorneys, the general public, and foreign patent and trademark offices in the event of a disaster resulting in the complete or partial destruction of the USPTO's single data center. By fiscal year 2005, the USPTO will be operating both the patent and trademark production pipelines in a predominantly electronic environment and will be dependent on automated systems to support the end-to-end processing of patent and trademark applications. As such, the continuing operations of the USPTO are at an increased risk should catastrophe strike the single data center prior to the full deployment of disaster recovery services. The USPTO is proposing a phased implementation for deploying dual, load-balanced data centers that would enable the USPTO to start protecting its mission critical patent and trademark data. Through an evolutionary process, this phased implementation will provide recovery capabilities in the event of a disaster at the USPTO primary data center.

The USPTO's Business Continuity Program will be completed in seven major phases between fiscal years 2003 and 2010. In Phase One (fiscal years 2003-2004), critical services and the associated applications were identified and assessed for criticality, sensitivity, and support to core business functions. In Phase Two (fiscal year 2005), disaster recovery capabilities for five of the twenty mission critical applications will be implemented by establishing network connectivity from a recovery location to the USPTO. In fiscal year 2006, Phase Three will provide recovery capabilities for an additional ten mission critical applications. Phase Four through Seven will provide recovery capabilities for the remaining mission critical applications and to essential business applications, will focus on server load balancing for mission critical and business essential applications, and will fine-tune load balancing to maximize availability to users.

Dollars in thousands	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$12,000	\$19,937	\$17,434	\$17,260	\$17,087
Incremental Funding	-\$6,482	\$7,937	-\$2,503	-\$174	-\$173

Agility/Other E-Government Initiatives — Customer Deposit Accounts and Increased Use of Electronic Payments

The USPTO currently maintains an Internet accessible system that applicants and USPTO employees use to record electronic payments for a variety of patent and trademark fees. The system accommodates credit card transactions; electronic funds transfer from an applicant's bank account; and replenishment and debit of funds from customer deposit accounts, which the USPTO maintains on behalf of its customers. The USPTO currently processes approximately 3.5 million payments each year, of which 30 percent are received electronically. The USPTO's commitment to implementing e-government and the public's growing acceptance of this venue for conducting business will create demands the existing system is unable to support. One aspect of the e-government automation plan is modernization of our current fee collection system to accommodate increased demand for electronic fee collection no later than September 30, 2008.

The funding identified below will be used for contractor resources to automate a wider range of patent and trademark fee payments so that they can be made electronically, as well as increase marketing of this functionality. In fiscal year 2006, the USPTO will complete identification of expanded electronic fee collection requirements and begin development of the modernized system in fiscal year 2007. It is estimated that the new system will be deployed in fiscal year 2008.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$3,018	\$3,012	\$3,016	\$612	\$126
Incremental Funding	\$545	-\$6	\$4	-\$2,404	-\$486

Agility/Work-at-Home — Trademark Work-at-Home

The Trademark Work-at-Home program is a nationally recognized telecommuting program. It began as a pilot in March of 1997 and has expanded to include 180 positions in fiscal year 2004. Initially, each examining attorney in the program worked at home three days per week and shared an office at the USPTO work site with another attorney who also participated in the Work-at-Home program. In March 2003, Trademarks implemented a “hoteling” program to provide even greater telecommuting opportunities while making the program more efficient and effective. Under this program, Work-at-Home participants spend more than 90 percent of their workweek at home and are at the USPTO work site less than two to four hours per week. Hoteling participants are not assigned a personal office, but reserve an office to use when they must come in the work site. As a result, the Trademark organization was able to reduce its space requirements by almost 47,000 square feet. The funds requested below will provide hardware and software to accommodate an additional 40 users in each of fiscal years 2005 and 2006.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$986	\$1,072	\$1,187	\$873	\$869
Incremental Funding	-\$209	\$86	\$115	-\$314	-\$4

Agility/Work-at-Home — Patent Work-at-Home

The Patent Work at Home program is designed to comply with Congressional direction and build upon the lessons learned from the very successful Trademark Work-at-Home program the USPTO has implemented. The long term goal is to have the optimal number of patent examiners working at home consistent with the law, and at the same time achieving productivity and quality performance targets, at a reasonable cost. If successfully implemented, this program also has the potential to assist in the recruitment, hiring, and retention of examiners. The funds requested below will be used for implementing a successor program to the pilot initiated in fiscal year 2004

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$2,543	\$3,950	\$4,313	\$4,906	\$4,906
Incremental Funding	-\$526	\$1,407	\$363	\$593	\$ —

Agility/Global Development 1 — Pursuit of Substantive Patent Law Harmonization

The USPTO is currently engaged in Substantive Patent Law Treaty discussions with the Standing Committee on the Law of Patents (SCP) at the WIPO. There are a number of major issues in discussion that have significant implications for the USPTO and the U.S. intellectual property community, such as claim requirements, global prior art definition, and methodologies for determining novelty and non-obviousness. The funding identified below covers the salaries of specialized staff devoted to holding discussions and pursuing substantive Patent Law harmonization both within and outside of the SCP in support of the *21st Century Strategic Plan* goals and objectives.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$455	\$395	\$400	\$405	\$409
Incremental Funding	\$215	-\$61	\$5	\$5	\$4

Agility/Global Development 2 — Other Bilateral/Multilateral Agreements

The USPTO will pursue bilateral and/or multilateral arrangements to share search and examination results among offices. This is critical to assisting the USPTO in managing projected significant workload increases (considering the fact that approximately 45 percent of new applications come from foreign countries) and implementing the changes to the patent processes identified in the *21st Century Strategic Plan*.

Agreements are currently being negotiated based on the results of the trilateral pilot projects that started in fiscal year 2003. The funding identified below covers specialized staff devoted to continuing multilateral discussions leading to agreements on behalf of the United States.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$978	\$990	\$1,003	\$1,031	\$1,043
Incremental Funding	\$174	\$12	\$13	\$28	\$12

Agility/Global Development 3 — Patent Cooperation Treaty Reform

The United States has been at the forefront of PCT reform efforts since 1999. While some important changes have taken place, further streamlining and simplification are required. In fiscal year 2003, first stage reforms were completed and the revised guidelines for PCT search and examination were adopted effective January 1, 2004. Continued reform to PCT provisions will have a number of benefits for the USPTO, including improved international patent application filings, integration of national and international processing in the USPTO, and enhanced reliance on PCT work products by other authorities and offices. The funding identified below covers the salaries of specialized staff devoted to continuing negotiations for PCT reform, as well as contractor resources to complete systems modifications needed to implement the resulting business process and rule changes.

<i>Dollars in thousands</i>	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full Funding	\$1,169	\$827	\$857	\$940	\$930
Incremental Funding	-\$67	-\$342	\$30	\$83	-\$10

Agility/Intellectual Property Enforcement

With increased demands for countries to implement effective systems for IPR enforcement to meet their WTO TRIPs obligations and to comply with existing and new bilateral/multilateral trade agreement commitments, the Office of Enforcement is focused on providing practical technical training and capacity-building programs in the areas of IPR enforcement, judicial and prosecutorial education, public education and awareness efforts, and capacity-building programs that meet the needs of developing and least developed countries. While the USPTO has long provided such assistance and training, the Office of Enforcement has developed a flexible team approach to meet the challenges of IPR enforcement in today's global economy. This is done by carrying out existing obligations to assist nations in implementing accessible and effective IPR enforcement systems; partnering with others to provide useful programs and training; and working to increase the accessibility, efficiency, and effectiveness of civil, administrative, and criminal enforcement mechanisms in global trade, foreign markets, and electronic commerce.

The New Enforcement Initiative (NEI) is designed to allow the USPTO to address Inspector General recommendations to strengthen efforts to protect U.S. intellectual property rights overseas and to improve the effectiveness of U.S. Government-sponsored intellectual property technical assistance and training. The NEI would allow the Office of Enforcement to hire expert attorney-advisors, which will contribute to the Office's ability and capacity to organize, conduct, and coordinate additional IPR enforcement training and technical assistance activities and capacity-building programs internationally. Such additional legal staff will permit expanded technical assistance and training programs in countries identified as critical to U.S. commercial, economic, and political interests.

BUDGET EXHIBITS

Exhibit 3A — USPTO Resource Requirements by Performance Goal

**U.S. Patent and Trademark Office
USPTO TOTAL RESOURCE REQUIREMENTS**

<i>Dollars in thousands</i> USPTO TOTAL ¹	FY 2003 Actual	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Base	Increase/Decrease	FY 2006 Request	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate	FY 2010 Estimate
Total Funding	\$1,190,941	\$1,233,357	\$1,571,467	\$1,632,622	\$75,178	\$1,707,800	\$1,738,341	\$1,972,157	\$2,091,378	\$2,268,520
Direct Obligations	\$1,190,414	\$1,233,107	\$1,567,117	\$1,628,622	\$74,678	\$1,703,300	\$1,733,841	\$1,967,657	\$2,086,878	\$2,264,020
Reimbursable	\$527	\$250	\$4,350	\$4,000	\$500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500
IT Funding (included above)	\$224,850	\$189,248	\$306,367	\$310,698	-\$7,764	\$302,934	\$302,113	\$291,529	\$292,769	\$306,087
Full-Time Equivalent (FTE) Totals	6,581	6,697	7,198	7,491	384	7,875	8,355	8,750	9,122	9,466

This Exhibit provides a summary of USPTO's resource requirements for all three performance goals. Resource requirements are subsequently presented by each performance goal, along with associated measures and targets. The dollar figures represent total obligations by performance goal. Totals for information technology (IT) funding and FTE resources are also displayed for each performance goal. Total IT funding for the USPTO, as shown in the above table, is also reported in Exhibit 53.

¹ The USPTO established a process of budget formulation by performance goal in fiscal year 2004. Prior year actual data are not captured at this level.

RESOURCE REQUIREMENTS, TARGETS AND PERFORMANCE SUMMARY

GOAL 1: Improve the quality of patent products and services and optimize patent processing time

Dollars in thousands USPTO GOAL 1	FY 2003 Actual	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Base	Increase/Decrease	FY 2006 Request	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate	FY 2010 Estimate
Direct Obligations	\$1,019,557	\$1,059,357	\$1,230,392	\$1,282,246	\$73,541	\$1,355,787	\$1,395,271	\$1,629,846	\$1,740,103	\$1,904,093
IT Funding (included above)	\$161,140	\$136,392	\$171,443	\$174,015	\$852	\$174,867	\$179,344	\$181,155	\$186,364	\$198,735
Full-Time Equivalent (FTE) Totals	5,815	5,910	6,348	6,615	339	6,954	7,408	7,793	8,152	8,486

Allowance Error Rate	4.4%	5.3%	4.0%	—	—	3.75%	3.5%	3.25%	3.25%	3.0%
In-Process Examination Compliance Rate	N/A	82%	84%	—	—	85%	87%	89%	90%	91%
Average First Action Pendency (months)	18.3	20.2	20.7	—	—	21.4	22.2	21.2	20.8	18.1
Average Total Pendency (months)	26.7	27	31.0	—	—	31.3	31.4	32.2	31.2	30.8

Rationale of Performance Goal: This performance goal was established as a result of USPTO's strategic planning process. The *21st Century Strategic Plan* (issued in February 2003) recognized quality and processing time (pendency) as the two measures most significant for our patent user community and other external stakeholders. In particular, the inability to hire new personnel at a rate necessary to keep up with growth in electronic technologies has meant increased pendency in those technologies for which the value of patents depends most on prompt issuance. Additionally, improving the quality of patents through implementation of the quality initiatives in the *21st Century Strategic Plan* are paramount to achieving the targets set forth under this goal.

External Factors and Mitigation Strategies: The key variables impacting performance under this goal are incoming workloads and resources allotted to improving quality and reducing pendency. The patent incoming workloads are dependent upon many factors, including economic activity around the world, and especially in the United States. Growth of science and technology has had considerable impact on intellectual property protection in the United States. For the USPTO, this growth has meant increases in application filings, and receipt of significantly more complex patent applications supporting the latest technologies. Funding at the fiscal year 2006 budget level will allow the USPTO to continue implementing the strategic plan initiatives and should ultimately result in enhanced quality throughout the Patent examination process. Achievement of the outyear (fiscal years 2007 through 2010) performance targets set forth in this Exhibit assume permanent authorization of the revised fee schedule that was set forth in the Consolidated Appropriations Act, 2005 (P.L. 108-447).

Program Increases for Performance Goal One: + 339 FTE and + \$73.541 million: The increases requested for fiscal year 2006 are for hiring patent examiners and technical support staff and for implementing the strategic initiatives that contribute to achieving the quality and pendency targets shown above. [Please refer to page 23 for a detailed discussion of Goal One activities and initiatives.]

Performance Monitoring and Program Evaluations: The patent examination program is evaluated for quality of examination decisions through in-process and allowance reviews. The focus of the review for patent applications is threefold: (1) to identify patentability errors; (2) to assess adequacy of the field of search and proper classification; and (3) to assess proper examination practice and procedures. The information gathered from the review of these examination program activities help business units identify necessary training with the goal of enhancing overall product quality and improving the consistency of examination. The results of the reviews provide analysis in the form of reports to Patent management. In addition to reporting specific errors, the analysis provides information on recurring problems and trends that may warrant changes in the examination program.

The patent examination program is also monitored for production through tracking and analysis of production counts recorded in the Patent Application Locator Monitoring (PALM) system. Production reports, containing detailed information on time spent examining and actions performed by each patent examiner, are provided to Patent management on a biweekly basis. Like the quality review tools, production monitoring identifies recurring problems and trends that may warrant changes in the examination program.

Additionally, evaluations or proofs of concept have been incorporated into the implementation plans of many strategic initiatives. Completed pilot projects or new ones to be initiated will be tested, as necessary. Evaluations will assess the consistency of pilot program components and will incorporate analyses of pilot results against baseline data, critical success factors, and recommendations for full implementation.

Crosscutting Activities: None other than intra-USPTO.

RESOURCE REQUIREMENTS, TARGETS AND PERFORMANCE SUMMARY

GOAL 2: Improve the quality of trademark products and services and optimize trademark processing time

Dollars in thousands USPTO GOAL 2	FY 2003 Actual	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Base	Increase/Decrease	FY 2006 Request	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate	FY 2010 Estimate
Direct Obligations	\$119,438	\$111,716	\$130,413	\$133,090	\$12,023	\$145,113	\$147,832	\$151,880	\$158,366	\$166,690
IT Funding (included above)	\$24,534	\$15,524	\$22,839	\$23,182	-\$895	\$22,287	\$25,373	\$23,547	\$23,664	\$24,627
Full-Time Equivalent (FTE) Totals	719	740	779	805	39	844	871	882	895	906
Final Action Deficiency Rate	5.3%	5.8%	5.0%	—	—	4.8%	4.6%	4.4%	4.2%	4.0%
In-Process Review Deficiency Rate	Not Applicable	7.9%	8.3%	—	—	8.0%	7.5%	7.0%	6.5%	5.6%
Average First Action Pendency (months)	5.4	6.6	5.6	—	—	5.3	4.2	3.5	3.1	3.0
Average Total Pendency (months)	19.8	19.5	20.3	—	—	18.7	17.0	16.1	15.7	15.0

Rationale of Performance Goal: As in Goal One, this performance goal was also established as a result of USPTO's strategic planning process. The *21st Century Strategic Plan* (issued in February 2003) recognized quality and processing time (pendency) as the two measures most significant for our trademark user community and other external stakeholders. In particular, the inability to hire new personnel at a rate necessary to keep up with growth in filings has meant increased pendency. Additionally, improving the quality of trademark products and services through continuation of the quality initiatives in the *21st Century Strategic Plan* are paramount to achieving the targets set forth under this goal.

External Factors and Mitigation Strategies: The key variables impacting performance under this goal are incoming workloads and resources allotted to improving quality and reducing pendency. The trademark incoming workloads are dependent upon many factors, including economic growth in the United States.

Program Increases for Performance Goal Two: + 39 FTE and + \$12.023 million: The increases requested for fiscal year 2006 are for hiring trademark examining attorneys and technical support staff and for implementing the strategic initiatives that contribute to achieving the quality and pendency targets shown above. [Please refer to page 32 for a detailed discussion of Goal Two activities and initiatives.]

Performance Monitoring and Program Evaluations: The trademark examination program is evaluated for quality of examination decisions through in-process and final action reviews. The focus of the trademark review program is to identify practice and procedural deficiencies and develop training modules to address those deficiencies. The review of trademark applications is centered on addressing the appropriateness or omission of substantive refusals outlined in Section 2 of the Trademark Act. Section 2 of the Trademark Act provides the statutory bases for which the Office refuses marks for registration. The results of the reviews provide analysis in the form of reports to Trademark management. In addition to reporting specific types of errors, the analysis provides information on recurring problems and trends that may warrant changes in the examination program. The information gathered from the review of these examination program activities are also used to develop and implement quality-driven training modules as well as Policy Papers aimed at reinforcing the proper practice in a wide range of examination activities.

The trademark examination program is also monitored for production through tracking and analysis of production counts recorded in the Trademark Reporting and Monitoring (TRAM) system. Production reports, containing detailed information on time spent examining and actions performed by each examining attorneys, are provided to Trademark management on a biweekly basis. Like the quality review tools, production monitoring identifies recurring problems and trends that may warrant changes in the examination program.

Crosscutting Activities: None other than intra-USPTO.

RESOURCE REQUIREMENTS, TARGETS AND PERFORMANCE SUMMARY

GOAL 3: Create a more flexible organization through transitioning patent and trademark applications to e-Government operations and participating in IP development worldwide

Dollars in thousands USPTO GOAL 3	FY 2003 Actual	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Base	Increase/ Decrease	FY 2006 Request	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate	FY 2010 Estimate
Direct Obligations	\$51,946	\$62,284	\$210,662	\$213,286	– \$10,886	\$202,400	\$195,238	\$190,431	\$192,909	\$197,737
IT Funding (included above)	\$39,176	\$37,332	\$112,085	\$113,501	\$7,721	\$105,780	\$97,396	\$86,827	\$82,741	\$82,725
Full-Time Equivalent (FTE) Totals	47	47	71	71	6	77	76	75	75	74
Patent Applications Filed Electronically	1.3%	1.5%	4%	—	—	10%	20%	30%	40%	50%
Patent Applications Managed Electronically	N/A	70%	90%	—	—	100%	100%	100%	100%	100%
Trademark Applications Filed Electronically	57.5%	65%	70%	—	—	75%	80%	80%	80%	80%
Trademark Applications Managed Electronically	N/A	80%	100%	—	—	100%	100%	100%	100%	100%
Technical Assistance Activities Completed (activities/countries)	N/A	64/63	80/75	—	—	82/77	82/77	82/77	82/77	82/77

Rationale of Performance Goal: The goal of creating a flexible organization through e-government incorporates initiatives that enhance and maintain electronic end-to-end processing of patent and trademark applications. This performance goal was established as a result of USPTO's strategic planning process and for the targeted implementation of the President's Management Agenda initiatives. The second part of this performance goal also is an integral part of the *21st Century Strategic Plan* and is achieved through worldwide technical assistance programs designed to address civil, criminal and border enforcement of intellectual property rights. Under this goal, the USPTO provides foreign governments with the tools to encourage economic development through robust protection of intellectual property rights, combat health and safety risks associated with counterfeit and pirated products, and combat growing criminal activity involving intellectual property theft. To maximize resources, these programs are developed and implemented in coordination with national and international intellectual property organizations, Federal agencies and rights owners.

External Factors and Mitigation Strategies: The key variables impacting performance under this goal are passage of the fee legislation and funding at the fiscal year 2006 budget level.

Program Increases for Performance Goal Three: + 6 FTE and - \$10.886 million: The funding decrease reflected above assumes that implementation of e-government strategic initiatives will peak in fiscal year 2005 and will gradually move into maintenance mode at a relatively lower cost. [Please refer to page 37 for a detailed discussion of Goal 3 activities and initiatives.]

Program Evaluations: Evaluations or proofs of concept have been incorporated into the implementation plans of many strategic initiatives. Completed pilot projects or new ones to be initiated will be tested, as necessary. Evaluations will assess the consistency of pilot program components with the intent of the *United States Patent and Trademark Fee Modernization Act of 2004*, where appropriate, and will incorporate analyses of pilot results against baseline data, critical success factors, and recommendations for full implementation.

Crosscutting Activities: Within the Department of Commerce, the USPTO provides support to the International Trade Administration (ITA) at international negotiations on intellectual property rights and advises ITA on patent and trademark issues. The USPTO also works with the Department of State and U.S. Missions abroad in the implementation of intellectual property-focused programs.

Exhibit 5 — Summary of Resource Requirements

DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Salaries and Expenses
 SUMMARY OF RESOURCE REQUIREMENTS
 (Dollar amounts in thousands)

2005 Enacted Budget	Full-Time		Direct
	Permanent Positions	FTE	
Total Obligations	7,610	7,198	\$1,559,104
Full Funding of Federal Employee Retirement Costs	0	0	\$0
Reimbursable Obligations	0	0	(4,350)
Less: 2005 Enacted Budget Direct Obligations	7,610	7,198	\$1,554,754
2006 Adjustments to base	0	293	73,868
Plus: 2006 Base Request	7,610	7,491	\$1,628,622
2006 Program Changes	588	384	74,678
Less of plus: 2006 Presidents Budget	8,198	7,875	\$1,703,300

Exhibit 5 — Summary of Resource Requirements (continued)

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses
 SUMMARY OF REQUIREMENTS BY BUSINESS AREAS
(Dollar amounts in thousands)

	Pos./BA FTE/Obl.	2004 Actual		2005 Currently Available		2006 Base		2006 President's Budget Request		Increase / (Decrease) From 2006 Base	
		Personnel Amount	Amount	Personnel Amount	Amount	Personnel Amount	Amount	Personnel Amount	Amount	Personnel Amount	Amount
Patents	6,060 5,899	\$1,099,871 1,098,242	\$1,384,664 1,391,773	6,775 6,396	6,758 6,653	7,273 6,996	\$1,450,451	7,273 6,996	\$1,516,814	515 343	\$66,363
Trademarks	756 728	135,080 134,865	170,090 175,344	835 802	852 838	925 879	178,171	925 879	186,486	73 41	8,315
Total United States Patent and Trademark Office	6,816 6,627	\$1,234,951 1,233,107	\$1,554,754 \$1,567,117	7,610 7,198	7,610 7,491	8,198 7,875	\$1,628,622	8,198 7,875	\$1,703,300	588 384	\$74,678
Less: Financing from Offsetting Collections	BA	1,320,950	1,563,200				1,628,622		1,703,300		74,678
Less: Rescission of Unobligated Balances	Obl.	1,321,235	1,563,200								
Less: Portion not Available for Obligation CY (limitation on obligations)	BA	0	0								
Less: Prior Year Unobligated Balance Brought Forward	Obl.	(1,412)	(1,412)								
Less: Estimated Recoveries of Prior Year Obligations	BA	(99,902)	(99,902)								
Financing from Direct Appropriated Funds	Obl.	(98,490)	(98,490)								
Total Appropriation	BA	3,541	3,541								
Plus/Less: Change in Offsetting Collections (unavailable balances)	Obl.	10,362	10,362								
Total Budget Authority	BA	10,362	10,362								
	Obl.	(1,412)	(1,412)								
	Obl.	(1,412)	(1,412)								
	BA	(99,902)	(99,902)								
	Obl.	(98,490)	(98,490)								
	BA	(\$99,902)	(\$99,902)								

The FTE and Position numbers reported in this exhibit are adjusted to September 30, 2004.
 /1 The corresponding numbers in MAX are 6,579 and 6,762, respectively, but these reflect actuals to September 18, 2004.

Exhibit 6 — Summary of Reimbursable Obligations

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses
 SUMMARY OF REIMBURSABLE OBLIGATIONS
(Dollar amounts in thousands)

	2004 Actual		2005 Currently Available		2006 Base		2006 Presidents Budget Request		Increase / (Decrease) From 2006 Base	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Patents	0	\$200	0	\$3,863	0	\$3,563	0	\$4,009	0	\$446
	Obl.	194	0		0		0		0	
Trademarks	0	50	0	487	0	437	0	491	0	54
	Obl.	56	0		0		0		0	
Total USPTO	0	\$250	0	\$4,350	0	\$4,000	0	\$4,500	0	\$500
	Obl.	250	0		0		0		0	

Exhibit 7 — Summary of Financing

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Salaries and Expenses

SUMMARY OF FINANCING

(Dollar amounts in thousands)

	2004 Actual	2005 Currently Available	2006 Base Amount	2006 Presidents Budget	Increase/ (Decrease) From 2006 Base
Obligations:					
Total direct obligations	\$1,233,107	\$1,567,117	\$1,628,622	\$1,703,300	\$74,678
Total reimbursable obligations	250	4,350	4,000	4,500	500
Total obligations	\$1,233,357	\$1,571,467	\$1,632,622	\$1,707,800	\$75,178
Financing:					
Offsetting collections from:					
Unavailable balances	0	0	0	0	0
Reimbursable obligations	(250)	(4,350)	(4,000)	(4,500)	(500)
Non-Federal sources/User fee collections	(1,321,469)	(1,563,200)	(1,628,622)	(1,703,300)	(74,678)
Subtotal	(\$1,321,719)	(\$1,567,550)	(\$1,632,622)	(\$1,707,800)	(\$75,178)
Recoveries:					
Prior year obligations	(10,362)	(10,000)	0	0	0
Unobligated balance, start of year	(3,541)	(2,363)	0	0	0
Unobligated balance, end of year	2,363	0	0	0	0
Unobligated Balance, Rescission P.L. 108-199	0	0	0	0	0
Unavailable offsetting collections (limitations on obligations)	99,902	8,446	0	0	0
Net change	\$88,362	(3,917)	0	0	0
Financing from direct appropriated funds	\$0	\$0	0	0	0
Total net appropriation	\$0	\$0	0	0	0

Exhibit 8 — Adjustments to Base

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Salaries and Expenses
 ADJUSTMENTS TO BASE
(Dollar amounts in thousands)

	FTE	Amount
OTHER COST CHANGES		
2005 Pay Raise		\$16,431
2006 Pay Raise		13,217
Full-year cost in 2006 for positions financed for part-year in 2005	293	26,725
Within-grade step increases		8,267
Changes in compensable day		(2,751)
Civil Service Retirement System (CSRS)		(620)
Federal Employees Retirement System (FERS)		948
Thrift Savings Plan		177
Federal Insurance Contribution Act (FICA) - OASDI		359
Health insurance		3,756
Employee Compensation Fund		(77)
Rental payments to GSA		1,404
Printing and reproduction		916
General Pricing Level Adjustment		5,116
TOTAL ADJUSTMENTS TO BASE	293	\$73,868

Exhibit 9 — Justification of Adjustments to Base

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses
 JUSTIFICATION OF ADJUSTMENTS TO BASE
 (Dollars in thousands)

	FTE	Amount
2005 Pay Raise		
<i>Full Year of 2005 pay increase and related costs</i>		
<i>A pay raise of 3.71% is to be effective January 1, 2005.</i>		
Total cost in 2005 of 2005 pay increase		23,579,000
Less amount funded in 2005		-7,148,000
Less amount absorbed		0
Amount requested in 2005 to provide full-year cost of 2004 pay increase		16,431,000
Total cost of Working Capital Find increase		0
Less amount funded in 2004		0
Total, adjustment for 2004 pay increase		16,431,000
2006 Pay Raise		
<i>A general pay raise of 2.6% is assumed to be effective January 1, 2006.</i>		
Total cost in 2006 of pay increase		13,217,000
Less amount absorbed in FY 2005		0
Amount requested for 2006 pay increase		13,217,000
Payment to Working Capital Fund		0
Total, adjustment for 2006 pay increase		13,217,000
		\$13,217

Exhibit 9 — Justification of Adjustments to Base (continued)

**DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**
Salaries and Expenses
JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollars in thousands)

Full-year cost in 2006 of positions financed for part-year in 2005

An increase of \$26,724,670 is required to fund the full-year cost in 2006 of positions financed for part-year in 2005. The computation follows:

	FTE	Amount
Annual salary of new positions in 2004	794	48,407,277
2005 Pay Raise	0	1,795,910
Less 5 percent lapse	-42	-2,510,159
Full-year cost of personnel compensation	752	47,693,028
Less personnel compensation in 2005	-459	-27,014,910
Cost of personnel compensation in 2006	293	20,678,118
Adjustment for 2005 pay raise (2.5% x \$20,678,118)	0	387,714
Amount required for personnel compensation	0	21,065,832
Benefits	0	5,658,838
Total adjustment-to-base	293	26,724,670

Exhibit 9 — Justification of Adjustments to Base (continued)

**DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**
Salaries and Expenses

JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollars in thousands)

Within-grade step increases

An increase of \$8,267,408 is required to cover the cost of within-grade step increases. This estimate reflects the net cost of step increases including merit pay

	FTE	Amount
Estimated number of within-grade step increases	3,595	
Step increases not earned due to turnover (7.1% x 3,595)	255	
Average step above step 1 per separation	3	
Average cost per within-grade step increase	2,458	
Gross cost of scheduled step increase (3,595 x \$2,458)	8,836,510	
Less savings due to separations (\$2,458 x 255 x 3)	-1,880,370	
Subtotal, personnel compensation	6,956,140	
Benefits	1,311,268	
Total adjustment-to-base	8,267,408	

\$8,267

Change in compensable days

The decreased cost of one compensable day in 2006 compared to 2005 is calculated by dividing the 2005 estimated personnel compensation 2005 estimated personnel compensation (\$593,382,000) and applicable benefits (\$121,874,000) by 260 compensable days. The cost decrease of one compensable day is (\$2,750,984)

An increase of \$30,550,879 is required to fund legislation proposed by the Administration requiring agencies to pay the full Government share of the accruing cost of retirement for Civil Service Retirement system employees and to pay the full accruing cost of post-retirement health benefits for current civilian employees.

0 0

(\$2,751)

Exhibit 9 — Justification of Adjustments to Base (continued)

**DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

Salaries and Expenses

**JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollars in thousands)**

FTE **Amount**
(\$620)

Civil Service Retirement System (CSRS)

The number of employees covered by the Civil Service Retirement System (CSRS) continues to drop as positions become vacant and are filled by employees who are covered by the Federal Employees Retirement System (FERS). The estimated percentage of payroll for employees covered by CSRS will drop from 13.30% in 2005 to 11.80% in 2006 for regular employees. The contribution rate of 7.0% will remain the same from FY 2005 to FY 2006 for regular employees.

Regular:		
2006	\$590,348,500 x .118 x .070	4,876,279
2005	\$590,384,500 x .133 x .070	-5,496,145
	Total adjustment-to-base	-619,866

Federal Employees Retirement System (FERS)

The number of employees covered by FERS continues to rise as employees covered by CSRS leave and are replaced by employees covered by FERS. The estimated percentage of payroll for employees covered by FERS will rise from 86.70% in 2005 to 88.20% in 2006 for regular employees. The contribution rate of 10.7% will remain the

Regular:		
2006	\$590,348,500 x .882 x .107	55,713,549
2005	\$590,348,500 x .867 x .107	-54,766,040
	Total adjustment-to-base	947,509

\$948

Exhibit 9 — Justification of Adjustments to Base (continued)

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses
 JUSTIFICATION OF ADJUSTMENTS TO BASE
 (Dollars in thousands)

Thrift Savings Plan (TSP)

The cost of agency contributions to the Thrift Savings Plan will also rise as FERS participation increases. The contribution rate is expected to remain at 2.0%.

	FTE	Amount
		\$177
<hr/>		
Regular:		
2006 \$590,348,500 x .882 x .02		10,413,748
2005 \$590,348,500 x .867 x .02		-10,236,643
Total adjustment-to-base		177,105

Exhibit 9 — Justification of Adjustments to Base (continued)

DEPARTMENT OF COMMERCE United States Patent and Trademark Office Salaries and Expenses JUSTIFICATION OF ADJUSTMENTS TO BASE (Dollars in thousands)

	FTE	Amount
Federal Insurance Contribution Act (FICA)		
<i>As the percentage of payroll covered by FERS lowers, the cost of OASDI contributions will increase. In addition, the maximum salary subject to OASDI will raised from \$91,125 in 2005 to \$92,175 in 2006. The OASDI tax rate will remain 6.2% in 2006.</i>		
Regular:		
2006 \$590,348,500 x .882 x .946 x .062		30,539,356
2005 \$590,348,500 x .867 x .952 x .062		-30,210,381
Subtotal		60,749,737
Other:		
2006 \$54,533,586 x .882 x .946 x .062		2,821,080
2005 \$54,533,586 x .867 x .952 x .062		-2,790,691
Subtotal		30,389
Total adjustment-to-base		60,780,126
		\$3,756
Health Insurance		
<i>Effective January 2004, PTO's contribution to Federal employees' health insurance premiums increased by 11.16%. Applied against the 2005 estimate of \$33,657,000 the amount of increase is \$3,756,121.</i>		

Exhibit 9 — Justification of Adjustments to Base (continued)

**DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Salaries and Expenses
JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollars in thousands)**

Employees' Compensation Fund	FTE	Amount
		(\$77)

The Employees' Compensation Fund bill for the year ending June 30, 2005, is \$77,000 less than the bill for the year ending June 30, 2004. The charges will be reimbursed to the Department of Labor pursuant to 5 U.S.C. 8147.

Effective January 1, 2003, the General Services Administration decreased the mileage rate from 36.5 cents to 36.0 cents a 1.40% decrease. This percentage was applied to the 2004 estimate of \$36,000 to arrive at a decrease of \$504.

Exhibit 9 — Justification of Adjustments to Base (continued)

**DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**
Salaries and Expenses
JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollars in thousands)

Rental Payments to GSA

GSA rates are projected to increase 1.5% in 2006. This percentage was applied to the 2005 estimate of \$93,599,000 to arrive at an increase of \$1,403,985.

Effective January 1, 1998, the Office of Systems and Telecommunications Management projected a surcharge of 4.9% for FTS2000 to cover the costs of providing universal service. This percentage was applied to the 1999 estimate of \$3,258,000 to arrive at an increase of \$159,642.

There are no inflationary adjustments for the Postal Service.
The 2004 estimate of \$ 6,122,000.

	FTE	Amount
		\$1,404
	0	\$0
	0	\$0

Exhibit 9 — Justification of Adjustments to Base (continued)

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses

JUSTIFICATION OF ADJUSTMENTS TO BASE
 (Dollars in thousands)

	FTE	Amount
GPO Printing		\$916
<p>GPO has provided an estimated rate increase of 1.0%. This percentage was applied as follows.</p>		
Other GPO Printing : The percentage was applied to the 2005 estimate of \$804,000 to arrive at an increase of \$8,040	8,040	
Trademark GPO Printing : The percentage was applied to the 2005 estimate of \$1,159,000 to arrive at an increase of \$11,590	11,590	
Patent GPO Printing : The percentage was applied to the 2005 estimate of \$89,685,000 to arrive at an increase of \$896,850	896,850	
	916,480	\$0
An additional \$149,000 is required to fund cost increases in the Department Working Capital Fund to maintain the current level of operations.	0	\$0
An additional \$750,000 is required to fund cost increases in the Department Working Capital Fund for CAMS.	0	\$0
Consistent with the Department of Commerce SES 2000 plan \$5,000 is allocated for development and leadership training for each Senior Executive Service onboard position. Currently the PTO has 33 SES onboard positions. The PTO is requesting a total of \$165,000 (33 x \$5,000) for executive leadership and development training.	0	\$0
In FY 2000, NARA began billing agencies for records storage and maintenance costs. There are no inflationary adjustments for NARA in 2005.		
An adjustment-to-base of \$783,000 is required for the Commerce Administrative Management System.	0	\$0

Exhibit 9 — Justification of Adjustments to Base (continued)

**DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

Salaries and Expenses

**JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollars in thousands)**

FTE	Amount
	\$5,116

General Pricing Level Adjustment

This request applies OMB economic assumptions for 2005 to subject classes where the prices that the Government pays are established through the market rental payments to others (\$72,210); communications, utilities, miscellaneous system. Factors are applied to travel (\$252); transportation of things (\$7,670) charges (excluding postage) (\$185,330); other services (excluding NARA) (\$4,072,530); supplies and materials (\$184,630); and equipment (\$581,020) and Land and Structures (\$12,540).

Total, adjustments-to-base	293	\$73,868
	0	\$0
	293	\$73,868

Exhibit 16 — Summary of Requirements by Object Class

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Salaries and Expenses

DETAILED REQUIREMENTS BY OBJECT CLASS
(Dollar amounts in thousands)

Object Class Title:	FY 2004	FY 2005	FY 2006		FY 2006	FY 2006	FY 2006
	Actual /1	Currently Available	Adjust. To Base	Base	Program Changes	Budget Estimate	Increase (Decrease)
Full-Time Equivalent Employment:							
Full-Time Permanent	6,455	7,100	293	7,393	384	7,777	384
Other Than Full-Time Permanent	172	98	0	98	0	98	0
Total Full-Time Equivalent Employment	6,627	7,198	293	7,491	384	7,875	384
Authorized Positions:							
Full-Time Permanent	6,528	7,450	0	7,450	588	8,038	588
Other Than Full-Time Permanent	288	160	0	160	0	160	0
Total Authorized Positions	6,816	7,610	0	7,610	588	8,198	588

/1 The FTE and Position numbers reported in this exhibit are adjusted to September 30, 2004. The corresponding numbers in MAX are 6,579 and 6,762, respectively, which reflect actuals to September 18, 2004.

Exhibit 16 — Summary of Requirements by Object Class (continued)

DEPARTMENT OF COMMERCE United States Patent and Trademark Office

Salaries and Expenses
DETAILED REQUIREMENTS BY OBJECT CLASS
(Dollar amounts in thousands)

Object Class	Object Class Title:	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Adjust. To Base	FY 2006 Base	FY 2006 Program Changes	FY 2006 Budget Estimate	FY 2006 Increase (Decrease)
Personnel Compensation:								
11.1	Full-Time Permanent Compensation	523,172	583,380	52,217	639,532	9,725	649,257	9,725
11.3	Other Than Full-Time Permanent Compensation	6,491	6,067	219	6,286	0	6,286	0
11.5	Other Personnel Compensation	38,160	53,630	0	51,814	6,648	58,462	6,648
	Total Personnel Compensation	567,823	643,077	52,436	697,632	16,373	714,005	16,373
12.0	Personnel Benefits	136,030	188,905	13,996	207,527	3,528	211,055	3,528
13.0	Benefits for Former Personnel	207	0	0	1,000	0	1,000	0
14.0	Salary Payments from Imprest	0	0	0	0	0	0	0
21.0	Travel and Transportation of Persons	5,282	9,152	0	5,558	5,710	11,268	5,710
22.0	Transportation of Things	1,005	786	8	775	54	829	54
23.1	Rental Payments to GSA	74,758	93,599	1,404	95,003	9,054	104,057	9,054
23.2	Rental Payments to Others	14,700	7,221	72	7,293	0	7,293	0
23.3	Communications, Utilities, and Misc. Charges	24,253	39,075	185	26,647	13,422	40,069	13,422
24.0	Printing and Reproduction	73,257	90,847	916	92,564	734	93,298	734
25.1	Advisory and Assistance Services	7,722	9,598	96	9,694	1,498	11,192	1,498
25.2	Other Services	257,340	393,658	3,757	389,133	24,868	414,001	24,868
25.3	Purchase of Goods and Services from Gov't Accounts	19,422	26,023	219	26,842	(21,000)	5,842	(21,000)
26.0	Supplies and Materials	10,750	12,819	185	13,004	3,693	16,697	3,693
31.0	Equipment	39,286	55,707	581	58,683	18,511	77,194	18,511
32.0	Lands and Structures	1,514	0	13	1,267	(1,267)	0	(1,267)
42.0	Insurance Claims and Indemnities	2	0	0	0	0	0	0
43.0	Interest and Dividends	6	0	0	0	0	0	0
	Total Direct Obligations	1,233,357	1,571,467	73,868	1,632,622	75,178	1,707,800	75,178
	Less: Financing from Offsetting Collections	1,321,719	1,567,200	73,868	1,632,622	75,178	1,707,800	75,178
	Less: Portion not Available for Obligation (limitation on obligations)	(99,902)	(8,446)	0	0	0	0	0
	Less: Unobligated balance, EOY	(2,363)	0	0	0	0	0	0
	Less: Prior Year Unobligated Balance Brought Forward	3,541	2,363	0	0	0	0	0
	Less: Recoveries of Prior Year Obligations	10,362	10,350	0	0	0	0	0
	Financing/(Rescission) from Direct Appropriated Funds	0	0	0	0	0	0	0
	Total Appropriation	0	0	0	0	0	0	0
	Plus: Change in Offsetting Collections (unavailable balances)	(99,902)	(8,446)	0	0	0	0	0
	Total Budget Authority	(99,902)	(8,446)	0	0	0	0	0

Note: FY 2006 total include \$4,500 estimated parking fees, offset by the rental payments for the USPTO parking garage.

Exhibit 17 — Detailed Requirements by Object Class

DEPARTMENT OF COMMERCE United States Patent and Trademark Office

Salaries and Expenses

DETAILED REQUIREMENTS BY OBJECT CLASS

(Dollar amounts in thousands)

Object Class	Object Class Title:	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Adjust. To Base	FY 2006 Base	FY 2006 Program Changes	FY 2006 Budget Estimate	FY 2006 Increase (Decrease)
11	Personnel Compensation:							
11.1	Full-Time Permanent Positions:							
	Executive Level	146	147	5	152	0	152	0
	Senior Executive Service	2,272	7,401	263	7,664	0	7,664	0
	General Schedule	509,342	562,442	51,475	617,852	9,725	627,577	9,725
	Wage Board	248	0	0	0	0	0	0
	Patent Appeals Examiners (P.L. 82-593)	8,810	10,998	389	11,387	0	11,387	0
	Trademark Appeals Examiners (P.L. 98-622)	2,354	2,392	85	2,477	0	2,477	0
11.3	Total, Full-Time Permanent Positions	523,172	583,380	52,217	639,532	9,725	649,257	9,725
	Positions Other Than Full-Time Permanent:							
	General Schedule	6,468	5,772	208	5,980	0	5,980	0
	Wage Board	0	247	9	256	0	256	0
	Intermittent	23	48	2	50	0	50	0
11.5	Total, Positions Other Than FT Permanent	6,491	6,067	219	6,286	0	6,286	0
	Other Personnel Compensation:							
	Overtime	15,280	24,414	0	18,130	6,648	24,778	6,648
	Night Differential - Premium Pay	23	15	0	15	0	15	0
	Awards	22,857	29,201	0	33,669	0	33,669	0
11.9	Total, Other Personnel Compensation	38,160	53,630	0	51,814	6,648	58,462	6,648
12.0	Total Personnel Compensation:	567,823	643,077	52,436	697,632	16,373	714,005	16,373
	Civilian Personnel Benefits:							
	Civil Service Retirement	6,377	8,183	(450)	7,934	118	8,052	118
	Federal Employee Retirement System (FERS)	45,639	48,125	5,029	55,261	825	56,086	825
	Thrift Plan Contributions	18,747	19,961	968	21,418	320	21,738	320
	Federal Insurance Contributions Act (FICA)	25,444	27,306	2,640	30,635	457	31,092	457
	Medicare	8,011	9,420	591	10,242	153	10,395	153
	Health Insurance	29,492	32,852	5,182	38,839	577	39,416	577
	Life Insurance	869	1,173	82	1,284	19	1,303	19
	Post-retirement life and health benefits	0	38,000	0	38,000	1,000	39,000	1,000
	OWC Payments	537	0	(77)	(77)	0	(77)	0
	Flexible Spending Account	79	0	0	0	0	0	0
	Prof Liability Insurance	2	3	0	3	0	3	0
	Prompt Payment Act Interest	15	0	0	0	0	0	0
	Transportation Subsidy	837	3,544	10	3,641	54	3,695	54
	Recruitment Allowance	(19)	327	1	336	5	341	5
	Retention Allowance	0	11	0	11	0	11	0
13.0	Total, Civilian Personnel Benefits	136,030	188,905	13,996	207,527	3,528	211,055	3,528
	Benefits for Former Personnel	207	1,000	0	1,000	0	1,000	0

Exhibit 17 — Detailed Requirements by Object Class (continued)

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Salaries and Expenses
 DETAILED REQUIREMENTS BY OBJECT CLASS
 (Dollar amounts in thousands)

Object Class	Object Class Title:	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Adj. To Base	FY 2006 Base	FY 2006 Program Changes	FY 2006 Budget Estimate	FY 2006 Increase (Decrease)
21.0	Travel and Transportation of Persons:							
	Transportation - Domestic	736	1,020	0	620	637	1,257	637
	Transportation - International	1,081	2,615	0	1,588	1,631	3,219	1,631
	Local Travel	3,441	5,124	0	3,112	3,197	6,309	3,197
	Relocation Travel	4	234	0	142	146	288	146
	Per Diem Allowances	0	0	0	0	0	0	0
	Examiner Education - Domestic	0	10	0	6	6	12	6
	Examiner Education - International	0	5	0	3	3	6	3
	Rental Car Expenses	20	35	0	21	22	43	22
	Privately-Owned Automobiles	0	10	0	6	6	12	6
	Rental of GSA Vehicles	0	99	0	60	62	122	62
	Total, Travel and Transportation of Persons	5,282	9,152	0	5,558	5,710	11,268	5,710
22.0	Transportation of Things:							
	Freight Charges	6	47	1	48	3	51	3
	Transportation of Household Goods	0	0	0	0	0	0	0
	Parcel Post	999	695	7	702	49	751	49
	Other	0	44	0	25	2	27	2
	Total, Transportation of Things	1,005	786	8	775	54	829	54
23.1	Rental Payments to GSA:							
	Rental Payments to Others	74,758	93,599	1,404	95,003	9,054	104,057	9,054
	Communications, Utilities, and Misc. Charges:	14,700	7,221	72	7,293	0	7,293	0
	Rental of IT Equipment	10,031	18,327	124	12,535	6,278	18,813	6,278
	Rental of Office Copying Equipment	68	131	1	90	46	136	46
	Other Equipment Rental	29	83	0	56	28	84	28
	Federal Telecommunications Systems	0	2,668	0	1,807	915	2,722	915
	Telecommunications Systems	7,073	6,156	42	4,211	2,132	6,343	2,132
	Postal Services by USPS	2,459	9,040	0	6,122	3,099	9,221	3,099
	Utilities Services	4,593	2,670	18	1,826	924	2,750	924
	Total, Comm, Utilities, and Misc. Charges	24,253	39,075	185	26,647	13,422	40,069	13,422

Exhibit 17 — Detailed Requirements by Object Class (continued)

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Salaries and Expenses

DETAILED REQUIREMENTS BY OBJECT CLASS
 (Dollar amounts in thousands)

Object Class	Object Class Title:	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Adj. To Base	FY 2006 Base	FY 2006 Program Changes	FY 2006 Budget Estimate	FY 2006 Increase (Decrease)	
24.0	Printing and Reproduction:								
	Patent Printing	71,453	88,884	897	90,582	734	91,316	734	
	Trademark Printing	283	1,159	11	1,170	0	1,170	0	
	General Printing	153	413	0	413	0	413	0	
	Publications	232	78	0	78	0	78	0	
	Binding-OPS	227	71	0	71	0	71	0	
	Other Printing	909	242	8	250	0	250	0	
	Total, Printing and Reproduction	73,257	90,847	916	92,564	734	93,298	734	
	25.1	Advisory and Assistance Services:							
		Management & Professional Support Services	7,722	9,598	96	9,694	1,498	11,192	1,498
Studies, Analyses, & Evaluation		0	0	0	0	0	0	0	
Engineering & Technical Services		0	0	0	0	0	0	0	
Subtotal		7,722	9,598	96	9,694	1,498	11,192	1,498	
25.2		Other Services:							
		University	(1)	4,023	40	4,040	200	4,240	200
		Other	588	9,238	92	9,277	459	9,736	459
		Exhibits and Displays	0	0	0	0	0	0	0
		Install/Reconfigure Existing Systems	559	2,059	20	2,067	102	2,169	102
	Non-IT Maintenance and Repair Services	1,901	2,745	27	2,756	136	2,892	136	
	Operation and Maintenance of Facilities	3,242	1,296	13	1,302	64	1,366	64	
	IT Maintenance and Repair Services	139	11,336	113	11,384	563	11,947	563	
	Building Repairs & Alterations - NonCapitalized	2,994	1,143	11	1,147	57	1,204	57	
	IT Operation Support Services	102,734	103,512	1,029	103,950	5,144	109,094	5,144	
IT Timesharing Services	17,431	27,627	275	27,744	1,373	29,117	1,373		
Other Contractual Services	16,772	1,387	14	1,393	69	1,462	69		
Miscellaneous Goods and Services Non-IT	6,605	16,774	167	16,845	834	17,679	834		
Non-IT Operation Support Services	104,376	212,518	1,956	207,228	15,867	223,095	15,867		
Subtotal	257,340	393,658	3,757	389,133	24,868	414,001	24,868		

Exhibit 17 — Detailed Requirements by Object Class (continued)

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Salaries and Expenses

DETAILED REQUIREMENTS BY OBJECT CLASS

(Dollar amounts in thousands)

Object Class	Object Class Title:	FY 2004 Actual	FY 2005 Currently Available	FY 2006 Adjst. To Base	FY 2006 Base	FY 2006 Program Changes	FY 2006 Budget Estimate	FY 2006 Increase (Decrease)
25.3	Purchase of Goods and Services from Gov't Accounts:							
	Office of Personnel Management Training	374	53	1	54	0	54	0
	Government Services	14,944	21,618	216	21,834	(21,000)	834	(21,000)
	Executive Development and Leadership Training	0	252	2	254	0	254	0
	National Archives and Records Administration (NARA)	0	400	0	400	0	400	0
	Payment to GA, WCF	4,104	3,700	0	4,300	0	4,300	0
	Subtotal	19,422	26,023	219	26,842	(21,000)	5,842	(21,000)
26.0	Supplies and Materials:							
	Office Supplies	5	194	3	197	56	253	56
	GSA Supplies	221	587	8	595	169	764	169
	IT Supplies	496	695	10	705	200	905	200
	Toner Supplies	1,707	1,708	25	1,733	493	2,226	493
	Other Supplies	2,654	3,154	45	3,199	908	4,107	908
	Books and Periodicals	4,466	4,513	65	4,578	1,300	5,878	1,300
	Copier Paper	1,201	1,968	29	1,997	567	2,564	567
	Total, Supplies and Materials	10,750	12,819	185	13,004	3,693	16,697	3,693
31.0	Equipment:							
	Capital Leases	0	1,701	18	1,792	565	2,357	565
	Internal Use Software in Progress (Capitalized)	10,203	4,198	44	4,422	1,395	5,817	1,395
	Hardware for Internal Use Software in Progress (Non-Capitalized)	145	9,480	99	9,987	3,150	13,137	3,150
	IT Equipment (Capitalized)	15,558	0	0	0	0	0	0
	IT Equipment (Non-Capitalized)	1,836	19,208	200	20,234	6,383	26,617	6,383
	Internal Use Software (Capitalized)	4,148	1,212	13	1,277	403	1,680	403
	IT Software (Non-Capitalized)	5,710	12,810	134	13,495	4,256	17,751	4,256
	IT Software (Expensed)	0	75	1	79	25	104	25
	Furniture and Fixtures (Capitalized)	932	4,649	48	4,897	1,545	6,442	1,545
	Furniture and Fixtures (Non-Capitalized)	290	1,038	11	1,094	345	1,439	345
	Office Equipment/Telecommunications (Capitalized)	64	472	5	497	157	654	157
	Office Equipment/Telecommunications (Non-Capitalized)	400	864	8	909	287	1,196	287
	Total, Equipment	39,286	55,707	581	58,683	18,511	77,194	18,511
32.0	Leasehold Improvements Capitalized:	1,514	0	13	1,267	(1,267)	0	(1,267)
42.0	Insurance Claims and Indemnities:	2	0	0	0	0	0	0
43.0	Interest and Dividends:	6	0	0	0	0	0	0
	Total Direct Obligations	1,233,357	1,571,467	73,868	1,632,622	75,178	1,707,800	75,178

Exhibit 34 — Advisory and Assistance Services

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses
ADVISORY AND ASSISTANCE SERVICES
(Dollar amounts in thousands)

	2004 Actual	2005 Currently Available	2006 President's Budget
Management and Professional Support Services	\$7,722	\$9,598	\$11,192
Studies, Analyses and Evaluations	0	0	0
Engineering and Technical Services	0	0	0
TOTAL	\$7,722	\$9,598	\$11,192

Memorandum (non-add) entry:

Amounts included in the categories listed above for R&D activities \$0 \$0 \$0

Exhibit 35 — Periodicals

UNITED STATES PATENT AND TRADEMARK OFFICE
 Salaries and Expenses
PERIODICALS, PAMPHLETS AND AUDIOVISUAL PRODUCTS
(Dollar amounts in thousands)

	2004 Actual	2005 Currently Available	2006 President's Budget
Periodicals	\$227	\$71	\$71
Pamphlets	\$232	\$78	\$78
Audiovisuals	\$909	\$242	\$250
Total	\$1,368	\$391	\$399

Narrative Statement

Technical literature documents in the form of periodicals and pamphlets are essential in the patent and trademark examination process. The printing costs are reflected above. The requirement for technical literature documents is directly proportional to the workload and resultant production in patent and trademark activities. The use of audiovisuals is primarily for USPTO's National Inventors Day program.

Exhibit 36 — Average Grade and Salary

DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Salaries and Expenses
AVERAGE GRADE AND SALARY

	2004 Actual	2005 Currently Available	2006 President's Budget
Average ES salary	\$ 149,108	\$ 154,640	\$ 156,125
Average GS grade	11.7	11.3	11.0
Average GS salary	\$ 76,643	\$ 76,404	\$ 78,987

APPENDICES

I — Economic Outlook

USPTO workloads are dependent upon many factors, including economic activity around the world, and especially in the United States. The USPTO routinely monitors economic conditions utilizing data and analysis prepared by external experts from a number of highly regarded organizations. In addition to the normal difficulties associated with determining business cycle turning points, over the last few years, the economic outlook has been extremely uncertain because of worldwide security concerns. Today, while many of the national security uncertainties remain, the overall direction of the U.S. economy and the global economy in general is much clearer.

U.S. Economy

The U.S. economy has recovered steadily from the recession of 2001. During 2001, two quarters showed negative GDP growth and total growth for the year was extremely low. In 2002, real growth rose to 1.9 percent and then averaged 3.0 percent in 2003. Through the first three quarters of 2004, results point to a rate in excess of 4 percent for the entire year and it is evident that the economy is back on a path of robust growth.

From the standpoint of USPTO workload growth, it is important to note that the current course in economic growth is being powered by double-digit growth in business investment over the past year. Business spending was particularly anemic from mid-2000 to mid-2003, but has bounced back sharply, especially in the critical equipment and software categories. Patent and trademark demand is a part of business investment spending and is strongly affected by plans for new investment in the future. Such plans are now apparently expanding in concert with the overall economy, and will almost certainly contribute to the continuing growth in the demand for intellectual property protection.

For the remainder of this fiscal year, U.S. real GDP growth is expected to remain near 4.0 percent. According to the Congressional Budget Office and private forecasters, such as those represented in the Blue Chip survey, fiscal years 2005 and 2006 growth should continue in excess of 3.0 percent, absent external shocks resulting from terrorist activity in the United States or abroad, or from record high petroleum prices. Based on the probable overall economic growth path alone, the USPTO should experience steady demand for patents and trademarks through fiscal year 2006. There is little evidence thus far, however, that points to a resumption of the extremely high rates of workload growth that the USPTO experienced in the late 1990s.

Research and Development

Another key factor influencing the direction of USPTO workload is R&D expenditures, which is a useful leading indicator of patent application filings. The latest revised figures from the National Science Foundation (NSF) show that total U.S. R&D expenditures increased by \$7.4 billion to \$283.8 billion in 2003. About two-thirds of this total was funded by private industry.

For 2004, Battelle Memorial Institute estimates U.S. R&D expenditures reached \$301 billion, which would be 6.0 percent higher than the 2003 level. By the end of 2005, the expectation is that R&D expenditures will increase by approximately 3.6 percent to \$312 billion. Historically, the USPTO has found R&D expenditures impact its patent filings workload approximately one year later.

Global Economy

As an agency with an international clientele, the global economy is an important component of the USPTO's workload outlook. Approximately 45 percent of patent application filings and about 20 percent of trademark application filings originate in foreign countries.

The global economy has gained momentum over the past two years. Business and consumer confidence continue to strengthen and investment growth has improved in almost all regions. According to the International Monetary Fund (IMF), world output in calendar year 2004 is estimated to have increased by 5.0 percent over 2003 levels. The growth rate in 2003 was also healthy at a 3.9 percent annual rate.

This calendar year, global economic activity is not only accelerating, but broadening as well, with European countries expected to benefit more so than in the recent past. Output in the Euro area is expected to increase by 2.2 percent this year as compared to an anemic 0.5 percent last year. Growth in Asia will continue to be significant this year, especially in China and India where growth rates are expected to be 9.0 percent and 6.4 percent, respectively. In calendar year 2005, the IMF is anticipating global output to continue growing at a 4.3 percent rate. This forecast suggests that USPTO workload originating in foreign countries should continue to strengthen in the future.

Conclusion

Economic activity remains strong and many economists are expecting the bright outlook to continue in the near future. With the economies of the world improving, especially in the United States, the workload outlook for the USPTO remains positive despite some risks, such as the surging oil prices that have recently reached record highs and which could negatively impact the future.

II — Implementation Costs of Strategic Initiatives

FISCAL YEARS 2004 THROUGH 2010

Dollars in thousands

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Agility							
E-Government Initiatives							
Trademark E-Government	\$8,660	\$8,849	\$11,390	\$4,038	\$3,061	\$3,105	\$3,148
Patent E-Government	\$25,211	\$78,768	\$67,944	\$63,222	\$59,937	\$60,817	\$61,963
Post-Grant Review E-Processing	—	\$1,372	\$1,880	\$427	\$552	\$444	\$451
IT Security	\$4,535	\$6,205	\$5,834	\$6,188	\$5,293	\$5,746	\$5,682
Data Replication & Disaster Recovery	—	\$18,482	\$12,000	\$19,937	\$17,434	\$17,260	\$17,087
Increased Use of Electronic Payments	—	\$2,473	\$3,018	\$3,012	\$3,016	\$612	\$126
Trademark Work-at-Home	—	\$1,195	\$986	\$1,072	\$1,187	\$873	\$869
Patent Work-at-Home	—	\$3,069	\$2,543	\$3,950	\$4,313	\$4,906	\$4,906
Subtotal E-Government Initiatives	\$38,406	\$120,413	\$105,595	\$101,846	\$94,793	\$93,763	\$94,232
Flexibility Initiatives							
Initial and PG-Pub Classification	—	\$3,592	\$7,240	\$7,528	\$7,817	\$8,204	\$8,611
Accelerated Outsourcing of Search	—	—	—	—	\$148,346	\$165,815	\$238,365
PCT Search	—	\$4,839	\$8,702	\$780	\$4,788	\$9,098	\$9,663
Reclassification	—	\$1,940	\$3,478	\$3,575	\$3,672	\$3,770	\$3,867
Subtotal Flexibility Initiatives	—	\$10,371	\$19,420	\$11,883	\$164,623	\$186,887	\$260,506
Global Development Initiatives							
Substantive Patent Law Harmonization	—	\$181	\$456	\$395	\$400	\$405	\$409
Other Bilateral and Multilateral Agreements	—	\$804	\$978	\$990	\$1,003	\$1,031	\$1,043
PCT Reform	—	\$869	\$665	\$454	\$463	\$475	\$485
IP Enforcement	—	\$1,236	\$1,169	\$827	\$857	\$940	\$930
Work Sharing	—	\$471	\$865	\$929	\$465	\$471	\$488
Subtotal Global Development Initiatives	—	\$3,561	\$4,133	\$3,595	\$3,188	\$3,322	\$3,355
TOTAL AGILITY INITIATIVES	\$38,406	\$134,345	\$129,148	\$117,324	\$262,604	\$283,972	\$358,093

Dollars in thousands

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Capability							
Transformation Initiatives							
Competitive Compensation for SPE's and Managers	—	\$2,613	\$2,774	\$2,946	\$2,979	\$3,013	\$3,047
Pre-Employment Testing of Patent Examiners	—	\$498	\$574	\$314	\$325	\$337	\$350
Re-Certification of Primary Examiners	—	\$319	\$405	\$546	\$417	\$421	\$430
Subtotal Transformation Initiatives	—	\$3,430	\$3,754	\$3,806	\$3,721	\$3,771	\$3,827
TOTAL QUALITY INITIATIVES							
Expanded Patent Quality Reviews	—	\$168	\$210	\$175	\$179	\$182	\$186
Practitioner Adherence to Rules of Practice	—	\$887	\$3,182	\$2,784	\$2,585	\$2,630	\$2,675
Subtotal Quality Initiatives	—	\$1,055	\$3,392	\$2,959	\$2,764	\$2,812	\$2,861
TOTAL CAPABILITY INITIATIVES	—	\$4,485	\$7,146	\$6,765	\$6,485	\$6,583	\$6,688
Productivity							
Multi-Track Patent Examination	—	\$1,533	\$675	\$696	\$716	\$738	\$760
Improved Examiner Recruitment	—	\$817	\$727	\$736	\$748	\$760	\$770
Accelerated Patent Examination	—	\$578	\$740	\$283	\$283	\$283	\$283
Post-Grant Review of Patent Claims	—	\$1,269	\$2,668	\$3,022	\$3,195	\$3,112	\$3,160
TOTAL PRODUCTIVITY INITIATIVES	—	\$4,197	\$4,830	\$4,737	\$4,942	\$4,893	\$4,973
TOTAL STRATEGIC INITIATIVES	\$38,406	\$143,027	\$141,124	\$128,826	\$274,031	\$295,448	\$369,754

III — Distribution of Implementation Costs of Strategic Initiatives

FISCAL YEARS 2004 THROUGH 2006

<i>Dollars in thousands</i>	Distribution Methodology	FY 2004	FY 2005	FY 2006
Agility				
E-Government Initiatives				
Trademark E-Government [Goal 3]	100% to TM	\$8,660	\$8,849	\$11,390
Patent E-Government [Goal 3]	100% to PT	\$25,211	\$78,768	\$67,944
Post-Grant Review E-Processing [Goal 3]	100% to PT	—	\$1,372	\$1,880
IT Security [Goal 3]		\$4,535	\$6,205	\$5,834
	80.91% to PT	\$3,669	\$5,020	\$4,720
	19.09% to TM	\$866	\$1,185	\$1,114
Data Replication & Disaster Recovery [Goal 3]		—	\$18,482	\$12,000
	80.91% to PT	—	\$14,954	\$9,709
	19.09% to TM	—	\$3,528	\$2,291
Increased Use of Electronic Payments [Goal 3]		—	\$2,473	\$3,018
	80.45% to PT	—	\$1,990	\$2,428
	19.55% to TM	—	\$483	\$590
Trademark Work-at-Home [Goal 3]	100% to TM	—	\$1,195	\$986
Patent Work-at-Home [Goal 3]	100% to PT	—	\$3,069	\$2,543
Subtotal E-Government Initiatives		\$38,406	\$120,413	\$105,595
Flexibility Initiatives				
Initial and PG-Pub Classification [Goal 1]	100% to PT	—	\$3,592	\$7,240
Accelerated Outsourcing of Search [Goal 1]	100% to PT	—	—	—
PCT Search [Goal 1]	100% to PT	—	\$4,839	\$8,702
Reclassification [Goal 1]	100% to PT	—	\$1,940	\$3,478
Subtotal Flexibility Initiatives		—	\$10,371	\$19,420
Global Development Initiatives				
Substantive Patent Law Harmonization [Goal 1]	100% to PT	—	\$181	\$456
Other Bilateral and Multilateral Agreements [Goal 1]	100% to PT	—	\$804	\$978
PCT Reform [Goal 1]	100% to PT	—	\$869	\$665
IP Enforcement [Goal 3]		—	\$1,236	\$1,169
	89.64% to PT	—	\$1,107	\$1,048
	10.36% to TM	—	\$129	\$121
Work Sharing [Goal 1]	100% to PT	—	\$471	\$865
Subtotal Global Development Initiatives		—	\$3,561	\$4,133
TOTAL AGILITY INITIATIVES		\$38,406	\$134,345	\$129,148

<i>Dollars in thousands</i>	Distribution Methodology	FY 2004	FY 2005	FY 2006
Capability				
Transformation Initiatives				
Competitive Compensation for Supervisory Patent Examiners and Managers [Goal 1]	100% to PT	—	\$2,613	\$2,774
Pre-Employment Testing of Patent Examiners [Goal 1]	100% to PT	—	\$498	\$574
Re-Certification of Primary Examiners [Goal 1]	100% to PT	—	\$319	\$406
Subtotal Transformation Initiatives		—	\$3,430	\$3,754
Quality Initiatives				
Expanded Patent Quality Reviews [Goal 1]	100% to PT	—	\$168	\$210
Practitioner Adherence to Rules of Practice [Goal 1]	100% to PT	—	\$887	\$3,182
Subtotal Quality Initiatives		—	\$1,055	\$3,392
TOTAL CAPABILITY INITIATIVES		—	\$4,485	\$7,146

<i>Dollars in thousands</i>	Distribution Methodology	FY 2004	FY 2005	FY 2006
Productivity				
Multi-Track Patent Examination [Goal 1]	100% to PT	—	\$1,533	\$675
Improved Examiner Recruitment [Goal 1]	100% to PT	—	\$817	\$727
Accelerated Patent Examination [Goal 1]	100% to PT	—	\$578	\$740
Post-Grant Review of Patent Claims [Goal 1]	100% to PT	—	\$1,269	\$2,668
TOTAL PRODUCTIVITY INITIATIVES		—	\$4,197	\$4,830
TOTAL STRATEGIC INITIATIVES		\$38,406	\$143,027	\$141,124

IV — Fiscal Year 2006 Performance Plan

Fiscal Year 2006 Performance Plan¹

MISSION STATEMENT

To ensure that the Intellectual Property system contributes to a strong global economy, encourages investment in innovation, and fosters entrepreneurial spirit.

The USPTO is committed

- To promote the progress of science and the useful arts by securing, for limited times to inventors, the exclusive rights to their respective discoveries (Article 1, Section 8 of the United States Constitution).
- To provide businesses protection of ownership of goods and services and to safeguard consumers against confusion and deception in the marketplace (Commerce Clause of the United States Constitution).

The USPTO has three performance goals, tracked through 13 measures that focus on results achieved or degree of progress made from one fiscal year to the next. Additionally, the USPTO measures the efficiency of its two business lines, Patents and Trademarks.

All three USPTO goals support

DEPARTMENT OF COMMERCE STRATEGIC GOAL 2

To foster Science and technological leadership by protecting intellectual property, enhancing technical standards, and advancing measurement science.

¹ The Government Performance and Results Act (GPRA) of 1993 requires agencies to prepare annual performance plans (APP). The USPTO's planning and budget formulation process is performance-driven. Although the budget request itself contains the APP elements, this Appendix IV serves to summarize all of our established performance metrics under each of our three performance goals.

USPTO Performance Goal 1: Improve the quality of patent products and services and optimize patent processing time.

Measure 1 - 1: Patent Allowance Error Rate

This measure assesses product quality as measured by the internal quality review processes. The quality of patent examination decisions will be measured by the reopening rate or similar internal quality measures.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	5.5%	5.0%	4.0%	4.0%	4.0%	3.75%
Actual	5.4%	4.2%	4.4%	5.3%		

Measure 1 - 2: Patent In-process Examination Compliance Rate

This measure assesses patent examination process quality by the internal quality review of office actions from first action on the merits to issue or abandonment. The quality of patent examination decisions will be measured by the ratio of office actions that do not include a deficiency that has a significant impact on the ability of the applicant to advance the prosecution on the merits of the application, to the total number of office actions reviewed. The results of these reviews will be used as part of a continuous quality improvement program to identify problem areas and determine appropriate training needs and other corrective actions.

Fiscal year 2004 data was used to establish the baseline and develop the long-term target and annual goals.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	Baseline	84%	85%
Actual	N/A	N/A	N/A	82%		

Measure 1 - 3: Average First Action Pendency

This measure determines the timeliness of first office actions on patent applications. It measures the time from the application filing date to the date of mailing the first Office Actions.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target (months)	13.9	14.7	18.4	20.2	20.7*	21.4
Actual (months)	14.4	16.7	18.3	20.2		

* At the time this target was set, USPTO projected receipt of 371,130 UPR application filings in fiscal year 2005. Based on fiscal year 2004 actuals, the USPTO is now projecting to receive 375,100 UPR applications in fiscal year 2005. Additionally, fiscal year 2004 examiner attrition was higher than expected; therefore, production outputs in fiscal year 2005 have been revised to align with actual production achieved in fiscal year 2004. Since both filings (inputs) and production outputs are key variables in this performance target, the fiscal year 2005 first action pendency target will not be met. Assuming current input and output estimates prove true, the agency should achieve first action pendency of 21.3 months by end of fiscal year 2005

Measure 1 - 4: Average Total Pendency

This measure identifies the timeliness related to issuance of the patent or abandonment of the application. It measures the average time from the application filing date to the date of issue or abandonment.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target (months)	26.2	26.5	27.7	29.8	31.0	31.3
Actual (months)	24.7	24.0	26.7	27.6		

USPTO Performance Goal 2: Improve the quality of trademark products and services and optimize trademark processing time.

Measure 2 - 1: Trademark Final Action Deficiency Rate

This measure assesses examination quality as measured by the internal quality review of final Office Actions. The quality of trademark examination decisions will be measured by the deficiency rate captured by the inappropriate statutory bases for which the examiner refuses marks for registration in the final office action. Prior to fiscal year 2003, the reported deficiency error rate did not include inappropriate refusals made on the basis of 15 USC § 1052(d)—Likelihood of Confusion. Fiscal year 2003 actual and targets for fiscal years 2004 and 2005 have incorporated this type of error to ensure that all statutory bases are covered.

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	6.0%	5.0%	Baseline	5.0%	5.0%	4.8%
Actual	3.1%	4.3%	5.3%	5.8%		

Measure 2 - 2: Trademark In-Process Review Deficiency Rate

This is a new measure that will assess product quality measured by the in-process quality review of first Office Actions. The quality of trademark examination decisions will be measured by the deficiency rate of examiner work product as determined by inappropriate statutory bases for which the examiner refuses marks for registration in the first Office Action. The results of these reviews will be used as part of a continuous quality improvement program to identify inappropriate statutory bases and determine training needs and other corrective actions. Fiscal year 2004 data will be used to establish the baseline and develop long-term target and annual goals.

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	8.3%	8.3%	8.0%
Actual	N/A	N/A	N/A	7.9%		

Measure 2 - 3: Average First Action Pendency

This measure determines the timeliness of Trademark first Office Actions. It measures the time from the application filing date to the date of mailing the first office actions. Although the Trademark organization met its production targets, it did not meet its first action pendency target. New application filings were more than 8.5 percent above the prior year and 6.0 percent above plan. Process changes adopted in the fourth quarter that will make the operation more efficient in the long run created a short-term negative impact by increasing first action pendency.

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target (months)	6.6	3.0	3.0	5.4	5.6*	5.3
Actual (months)	2.7	4.3	5.4	6.6		

Measure 2 - 4: Average Total Pendency

This measure identifies the timeliness related to office disposals. It measures the average time from the application filing date to the date of registration, notice of allowance, or abandonment. Trademarks will meet its 2004 target based on above plan production and office disposals.

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target (months)	18.0	15.5	15.5	21.6	20.3	18.7
Actual (months)	17.8	19.9	19.8	19.5		

⁷ At the time this target was set, trademark application filings in fiscal year 2004 were projected to be 272,000 and filings in 2005 were projected to be 308,000. The USPTO received 298,489 applications in 2004 and is now projecting to receive 322,000 trademark applications in fiscal year 2005. Since filings are a key variable in this performance target, this end-of-year fiscal year 2005 first action pendency will not be met. Assuming current filing projections prove true, the agency should achieve first action pendency of 6.4 months by the end of fiscal year 2005.

USPTO Performance Goal 3: Create a more flexible organization through transitioning Patent and Trademark operations to an e-government environment and IP development worldwide.

Measure 3 - 1: Patents Applications Filed Electronically

This measure indicates USPTO's support of, and applicants' willingness to operate in, an e-government environment and will identify the percent of basic applications filed electronically.

USPTO did not meet this target in fiscal year 2004. There is some reluctance on the part of the patent applicants to file electronically, because: 1) applicants are familiar with the paper-based systems already in place; 2) they have not invested the time and resources necessary to upgrade their internal processes to enable them to file electronically; and 3) they would like to receive some incentive (in the form of a fee reduction) for filing electronically. The USPTO is instituting an aggressive outreach program to hopefully see significant growth in the number of patent applications filed electronically over the next few years.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	2.0%	2.0%	4.0%	10.0%
Actual	N/A	N/A	1.3%	1.5%		

Measure 3 - 2: Patents Applications Managed Electronically

This measure will indicate the USPTO's progress in moving toward operating in a fully electronic environment. The USPTO implemented a Patent IFW system that enhanced EPO's system in June 2003 and will deliver an operational end-to-end electronic processing pipeline for all examined applications in image format by the end of fiscal year 2004, including electronic capture of all incoming and outgoing paper documents. The electronic pipeline capability will be delivered in phases with the goal of total integration with legacy systems and full text-based processing of all patent applications.

USPTO successfully deployed the Patent IFW system by October 1, 2004, enabling it to exceed the fiscal year 2004 target to electronically manage 70 percent of patent applications. All incoming and outgoing paper documents are captured electronically in the system and the remaining pending paper applications were scanned into the system by the end of the first quarter of fiscal year 2005, with the electronic version of an application now considered the official file.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	70.0%	90.0%	100.0%
Actual	N/A	N/A	N/A	88%		

Measure 3 - 3: Trademark Applications Filed Electronically

This measure indicates the USPTO's support of and applicants' willingness to operate in an e-government environment and will be measured by the percent of initial applications for the registration of trademarks

that are filed electronically. In fiscal year 2004, more than 70 percent of the initial applications for registration of a trademark were filed electronically, an increase of more than 20 percent over fiscal year 2003 results. Enhancements were made and the number of forms available increased to make electronic filing more attractive to encourage greater use and acceptance among those who had not yet adopted electronic communications as their preferred way to transact business with the Office.

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	30%	50.0%	80.0%	65.0%	75.0%	80.0%
Actual	24%	38.0%	57.5%	73%		

Measure 3 - 4: Trademark Applications Managed Electronically

This measure will indicate the USPTO’s progress in moving toward operating in a fully electronic environment. In fiscal year 2005, the USPTO will complete its transition from a paper-based Trademark operation to a fully electronic processing operation with the implementation of an electronic file management system, Trademark Information System (TIS).

Trademarks met its target by electronically capturing 100 percent of the pending application inventory. Trademarks now has a complete text and image file record that includes the initial application, applicant and office correspondence for more than 500,000 pending applications. Examining attorneys have been using the electronic record of the initial application to conduct their first office action since July 2003. In July 2004 second and subsequent actions were added eliminating the need to use paper files to process and examine applications.

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	80%	100%	100%
Actual	N/A	N/A	N/A	98%		

Measure 3 - 5: Technical Assistance Activities Completed

This is a new measure and is intended to track the intellectual property technical assistance provided to countries throughout the world by the USPTO, primarily through the Offices of International Relations and Enforcement. The USPTO’s technical assistance promotes national and international development of intellectual property systems and advocates improvements in and more cost-effective means of protecting intellectual property rights in the United States and throughout the world. The measure is expressed in terms of the number of activities conducted and the number of countries receiving technical assistance.

IP	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	Baseline	80/75	82/77
Actual	N/A	N/A	N/A	64/63		

USPTO BUSINESS LINE PERFORMANCE MEASURE

Measure: Efficiency

This measure is a relative indicator of the efficiency of the Patent and Trademark Businesses. The measure is calculated by dividing total USPTO expenses associated with the examination and processing of patents and trademarks, respectively (including associated overhead and support expenses) by outputs (production units or disposals, respectively). It should be noted that this measure does not represent the average life cycle cost of a patent since production units are only one measure of USPTO products and services.

For the prior years, actuals will be reported using the actual expenses reported in the Statements of Net Cost and all actual production. For the current and budget years, targets are estimated using the budgetary request in place of actual expenses, and all projected production units. It should be noted that outyear calculations are subject to change, depending upon the level of funding actually authorized and spent. Actual results may fluctuate based upon management decisions to redirect resources.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	\$3,444	\$3,502	\$4,706	\$4,824
Actual	\$3,210	\$3,376	\$3,329	\$3,556		

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	\$683	\$583	\$591	\$564
Actual	\$501	\$487	\$433	\$539		

Measure: Labor Productivity

The labor productivity measure, baselined in fiscal year 2004, is generally defined as production output divided by labor input. It measures the overall effectiveness of labor deployment at the USPTO in terms of patent and trademark production. The measure is in the form of a ratio so that production output relative to labor input can be tracked and analyzed. It is designed to incorporate the widest possible labor input from USPTO employees in all work areas, both directly and indirectly supporting the Patent and Trademark organizations, and from contractor staff on the same basis.

Indirect labor is assigned to either patent and trademark support on the basis of cost accounting distributions. All labor hours include actual work hours, excluding annual leave, sick leave, and holidays. In addition, contractor labor for significant one-time projects, such as space acquisition, are excluded. For the Patent organization, production is measured in terms of production units; for Trademarks, production is measured by disposals. The productivity measure viewed over time serves to provide a helpful insight into changes in the effectiveness of labor deployment throughout the USPTO.

PATENTS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	Baseline	TBD	
Actual	N/A	N/A	N/A			

TRADEMARKS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Target	N/A	N/A	N/A	Baseline	TBD	
Actual	N/A	N/A	N/A			

PROGRAM ASSESSMENT RATING TOOL (PART)

OMB's PART review, conducted in fiscal year 2003, was limited to Patent and Trademark operations. The assessment found that (a) the Patent program is adequate, but it has improved relative to the prior assessment, and (b) the Trademark program is moderately effective, however performance has declined slightly relative to the prior assessment. In response to the findings in this assessment, the USPTO will (a) continue implementing its strategic plan initiatives to improve pendency, quality, and implementation of e-government, (b) implement the revised trademark model and projections of staffing requirements, and (c) incorporate cost-efficiency targets into performance plans.



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