

USPTO financial update

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November 16, 2022

Patent Public Advisory Committee meeting



UNITED STATES
PATENT AND TRADEMARK OFFICE ®

FY 2022: PPAC Annual Report recommendations

The 2022 PPAC Annual Report makes the following financial proposals:

- The USPTO should determine how previously collected but temporarily unavailable funds can be used to improve the reliability and durability of the patent right and expand diversity, equity, and inclusion in innovation. Once the USPTO has made this determination, the USPTO should request an appropriation of these funds from Congress at the next convenient opportunity.
- Upon receiving a specific request from the USPTO, Congress should appropriate these funds to the USPTO. Preferably, Congress should make the appropriation outside of normal budget scoring, so that the appropriation will not adversely affect the appropriation to any other federal agency.
- The USPTO should continue to diligently monitor the rates of filing, payment of issue fees, and payment of maintenance fees to ensure the continued sustainability of the fee funding model.
- Congress should appropriate the USPTO its estimated annual fee collections as requested in the Biden Administration's FY 2023 budget and as required by the AIA.
- Congress should grant AIA fee setting authority on a permanent basis or for another seven or eight years (for consistency with the grant periods under the AIA and the SUCCESS Act).
- Congress should expand AIA fee setting authority to give the USPTO discretion to decouple fee setting from entity size.

Agenda

- Fiscal year 2022 recap
- Fiscal year 2023 status
- On the horizon

FY 2022 financial recap

The end of year patent operating reserve was \$771.7M, which is above the minimum operating reserve level of \$325M.

<i>\$ in millions</i>	Patents	Trademarks	USPTO
USPTO FY 2022 appropriation level	\$ 3,608.3	\$ 450.1	\$ 4,058.4
Update to fee revenue estimate	23.5	8.2	31.6
End of year fee revenue	3,631.7	458.3	4,090.0
Less fees collected in PTFRF	(23.5)	(8.2)	(31.6)
Operating reserve and other revenue ¹	521.0	214.0	735.0
Recoveries in excess of apportionment	(3.3)	-	(3.3)
Total FY 2022 funds available	4,125.9	664.2	4,790.1
Total end of year spending	(3,354.2)	(455.5)	(3,809.7)
End of year operating reserve	\$ 771.7	\$ 208.7	\$ 980.4

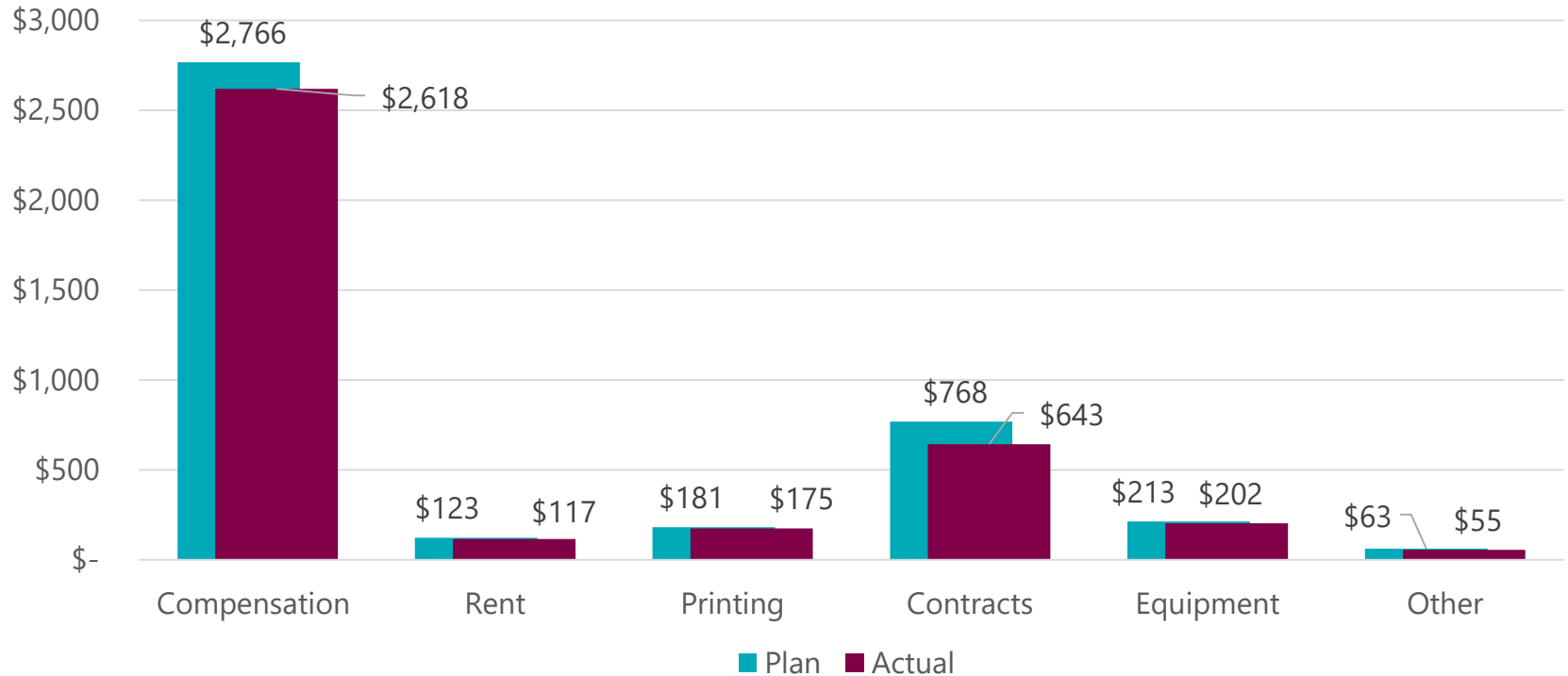
¹ This line reflects the beginning of year operating reserve balance plus estimated other revenue and deducts the Office of Inspector General (OIG) transfer. The OIG Transfer of \$2M is required per our appropriation. Other revenue includes recoveries, parking fees, reimbursements, and expenditure refunds.

Patent and Trademark Fee Reserve Fund (PTFRF): The revenue collections were \$31.6M above the appropriation level resulting in a deposit to the PTFRF.

FY 2022 spending

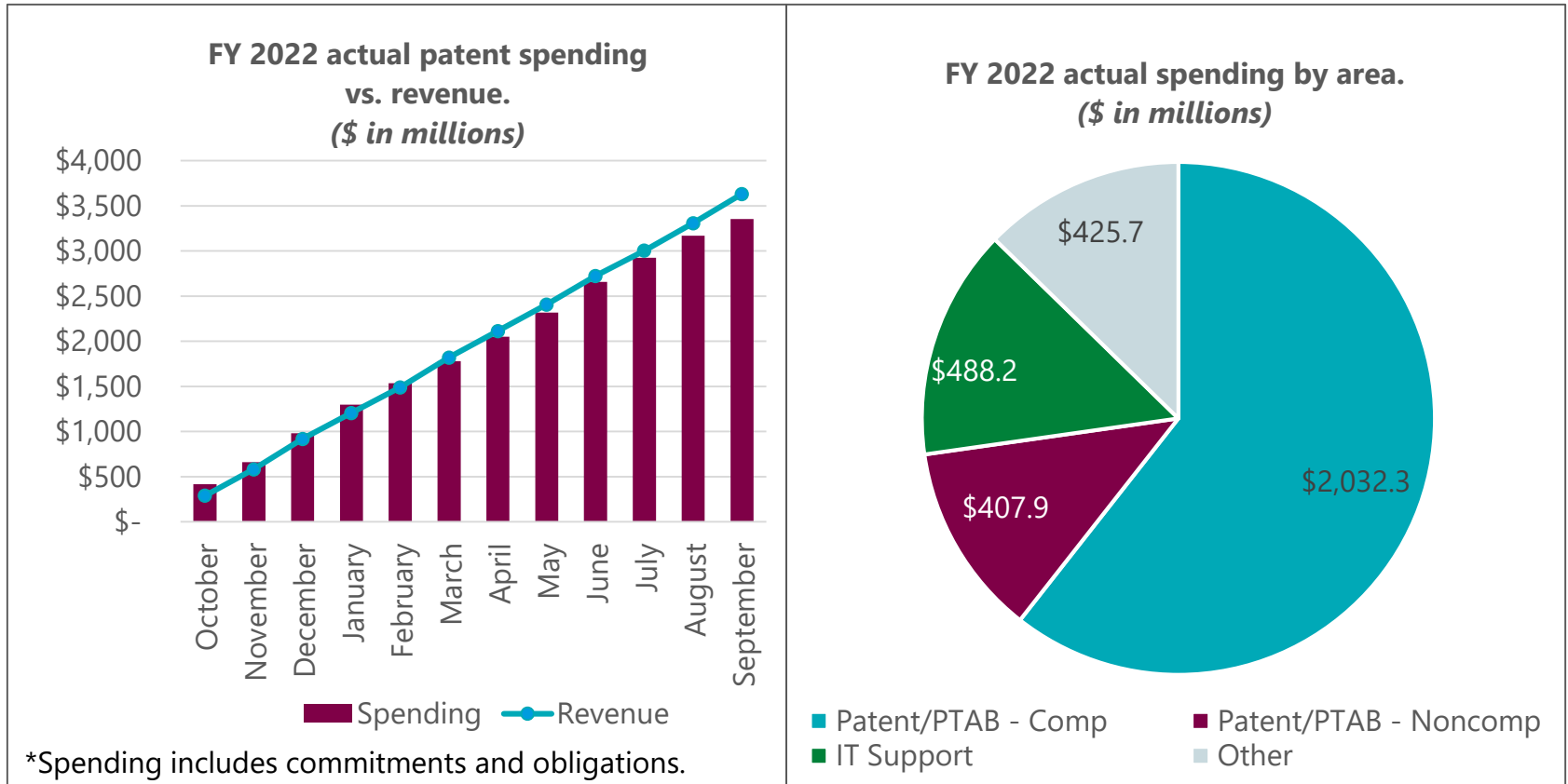
The agency spent 93% of plan, which is slightly lower than prior year spending.

End of year spending: plan vs. actual
(\$ in millions)



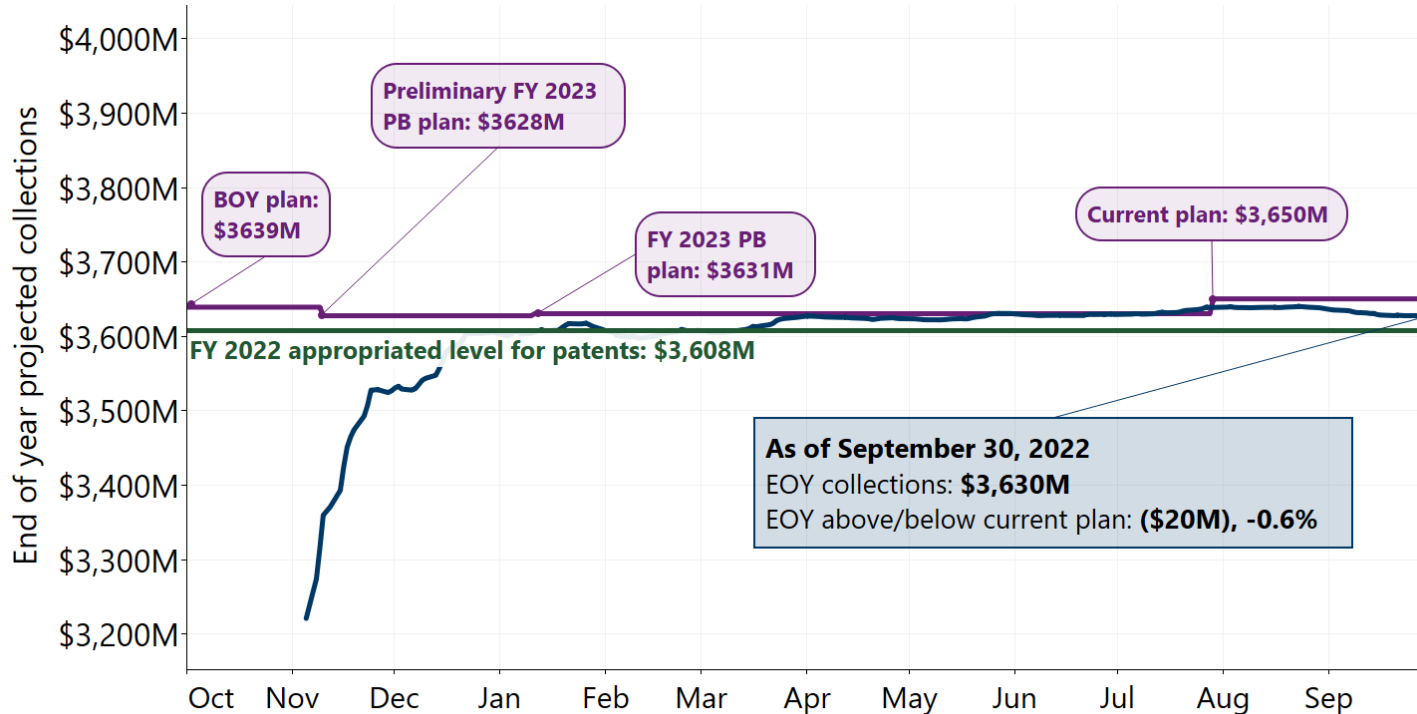
FY 2022 monthly spending vs fee revenue

Fee collections outpaced spending beginning around mid-year.



FY 2022 patent fee collections

End of year (EOY) fee collections were in line with planning levels.

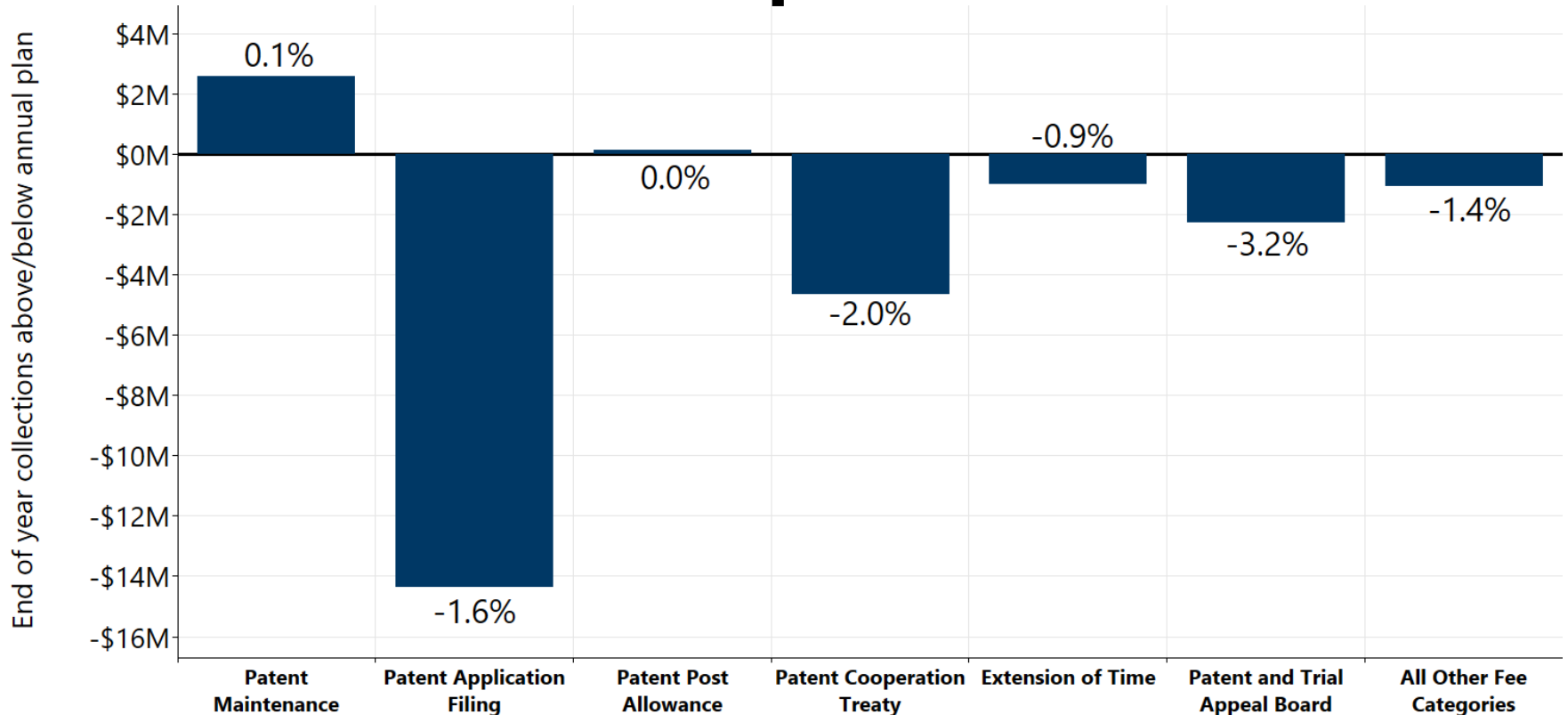


The current plan is based on an updated FY 2022 working estimate refreshed in June 2022.

EOY collections reflect aggregate fee collections and does not include year-end fee collection adjustments.

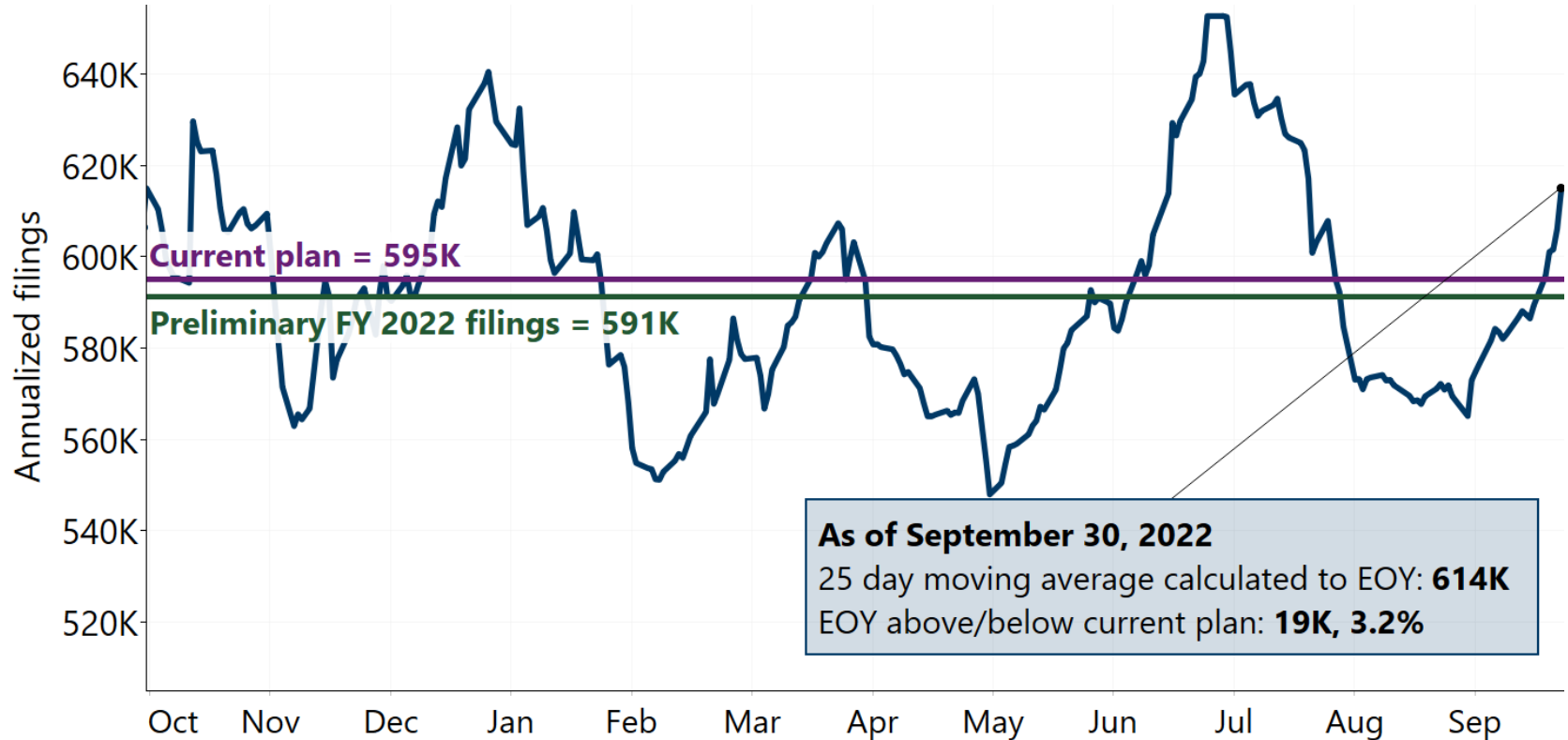
- BOY= Beginning of Year
- PB = President's Budget

FY 2022 patent EOY collections above/below annual plan



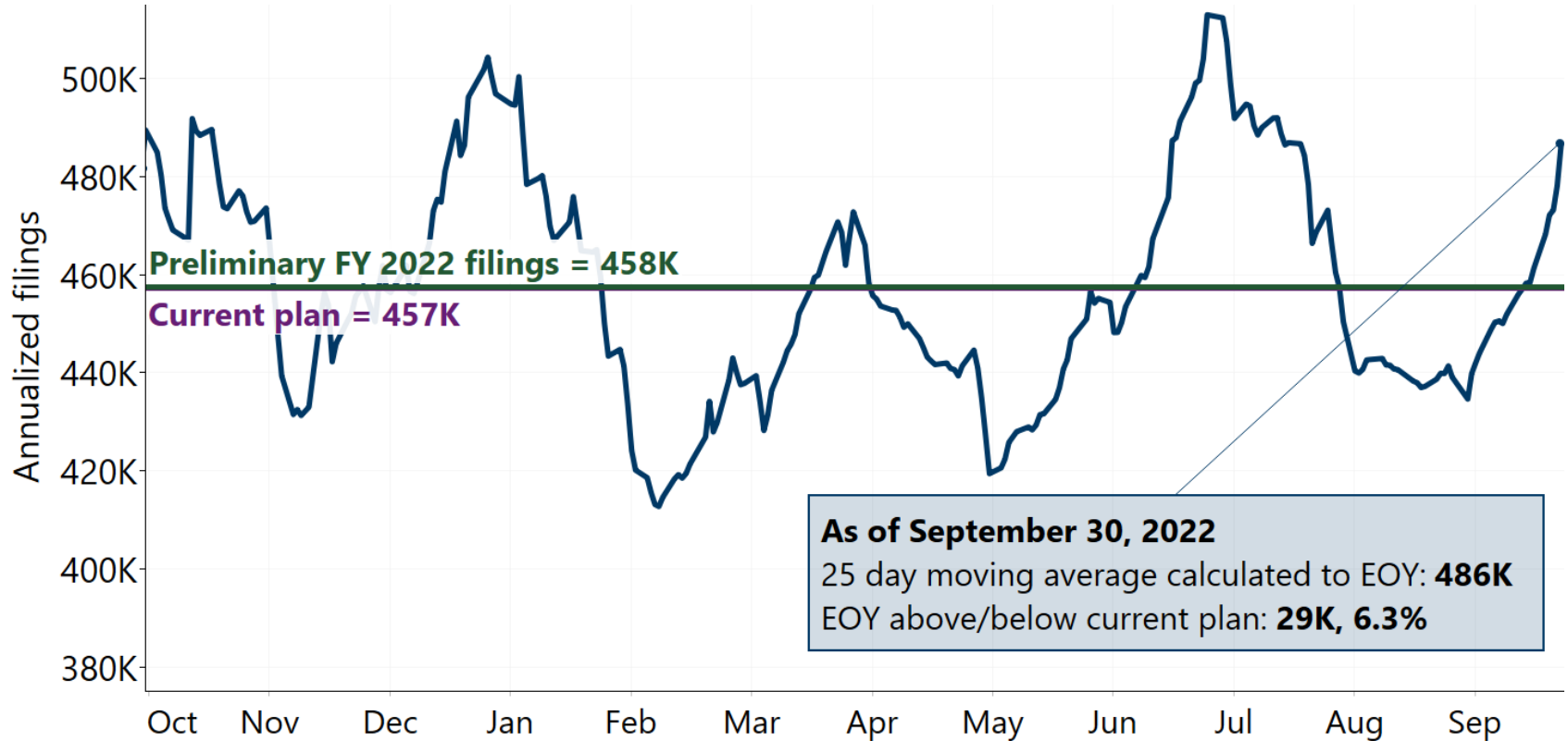
The current plan is based on an updated FY 2022 working estimate refreshed in June 2022.

FY 2022 utility, plant, and reissue filings: 25-day moving average



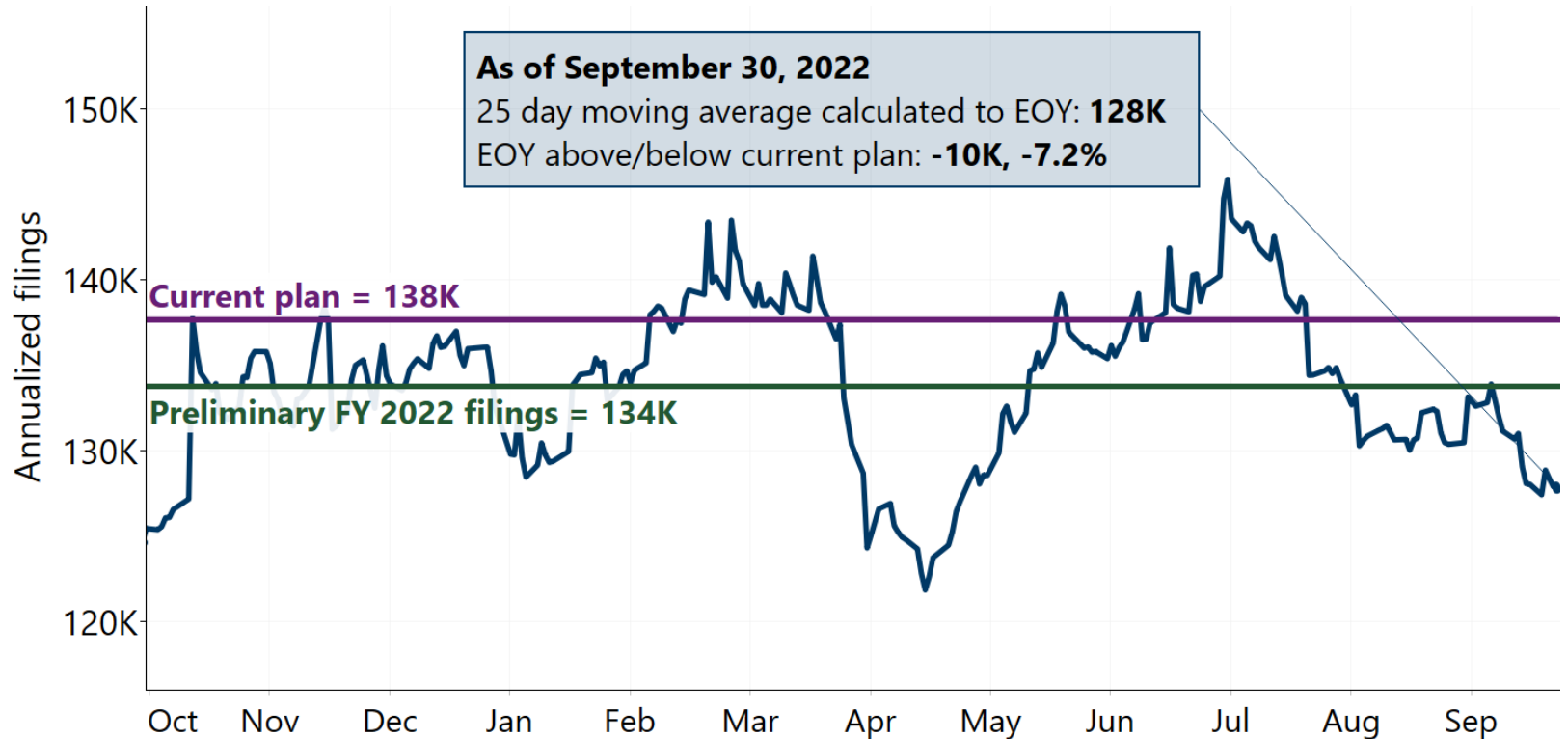
The current plan is based on an updated FY 2022 working estimate refreshed in June 2022.

FY 2022 patent serialized annualized filings: 25-day moving average



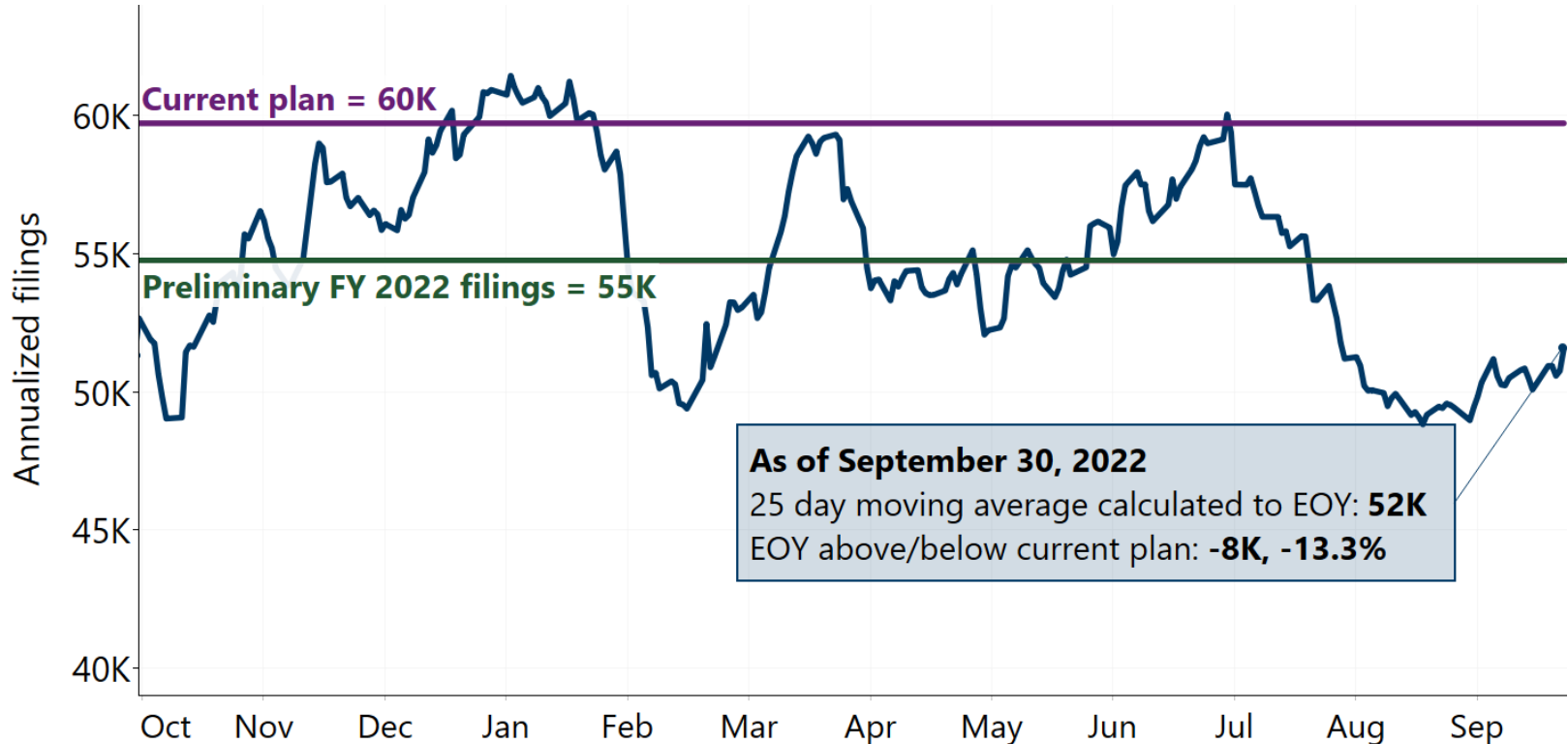
The current plan is based on an updated FY 2022 working estimate refreshed in June 2022.

FY 2022 RCE annualized filings: 25-day moving average



The current plan is based on an updated FY 2022 working estimate refreshed in June 2022.

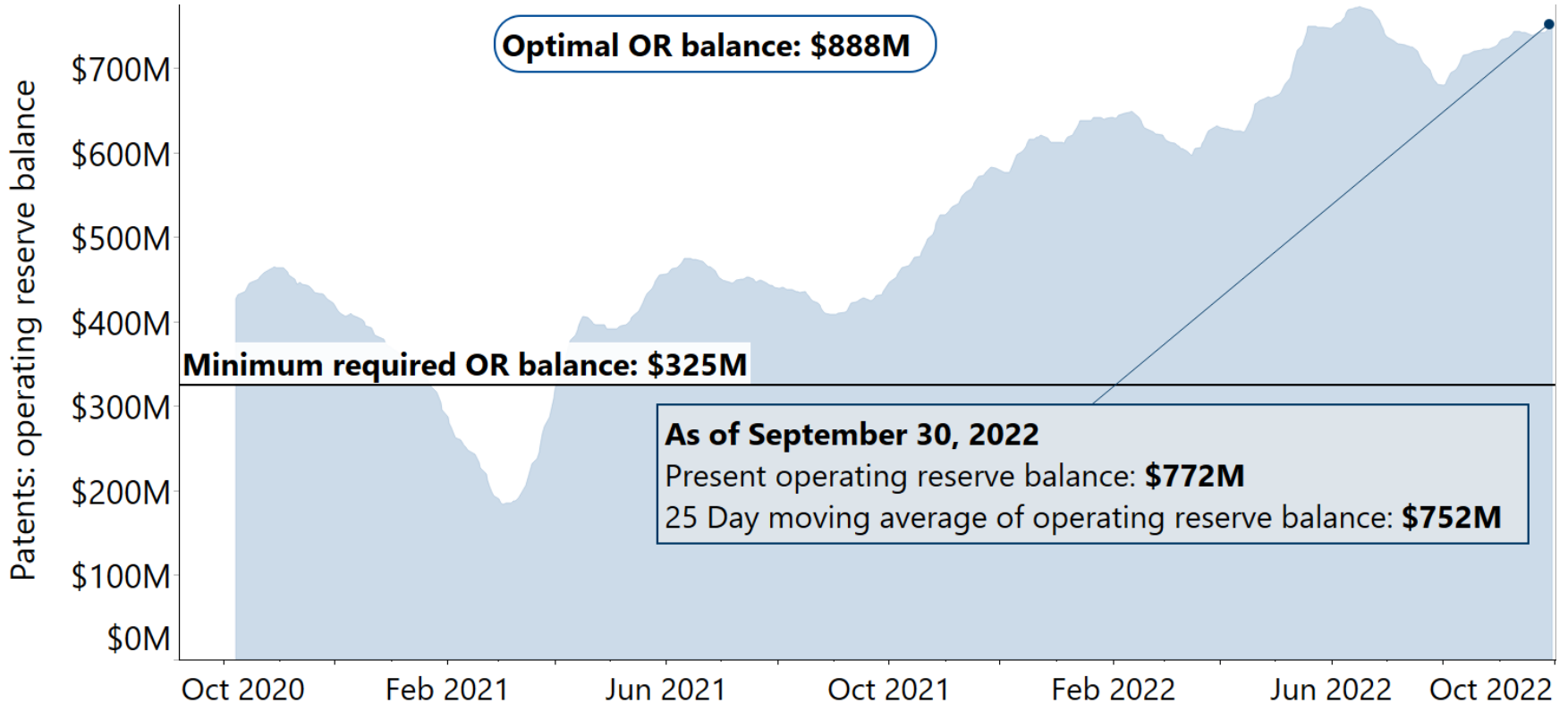
FY 2022 design annualized filings: 25-day moving average



The current plan is based on an updated FY 2022 working estimate refreshed in June 2022.

FY 2022 Patents operating reserve

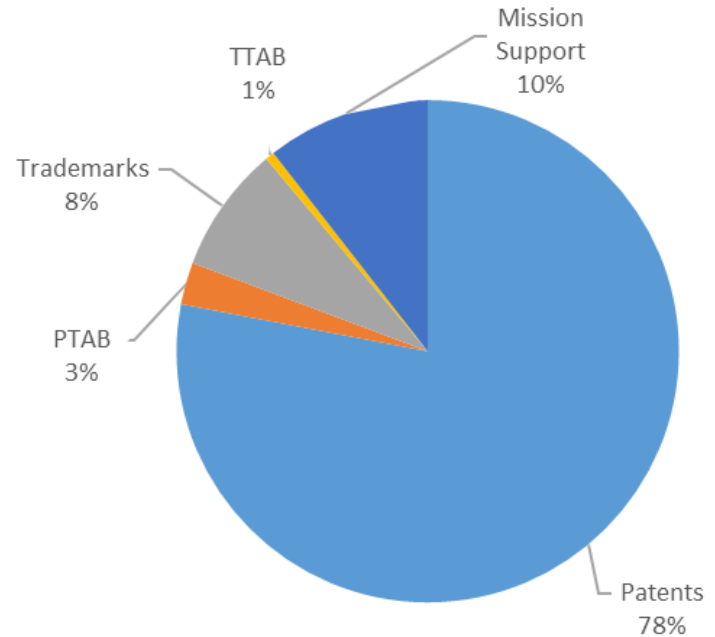
The operating reserve (OR) balance is \$447M above minimum levels.



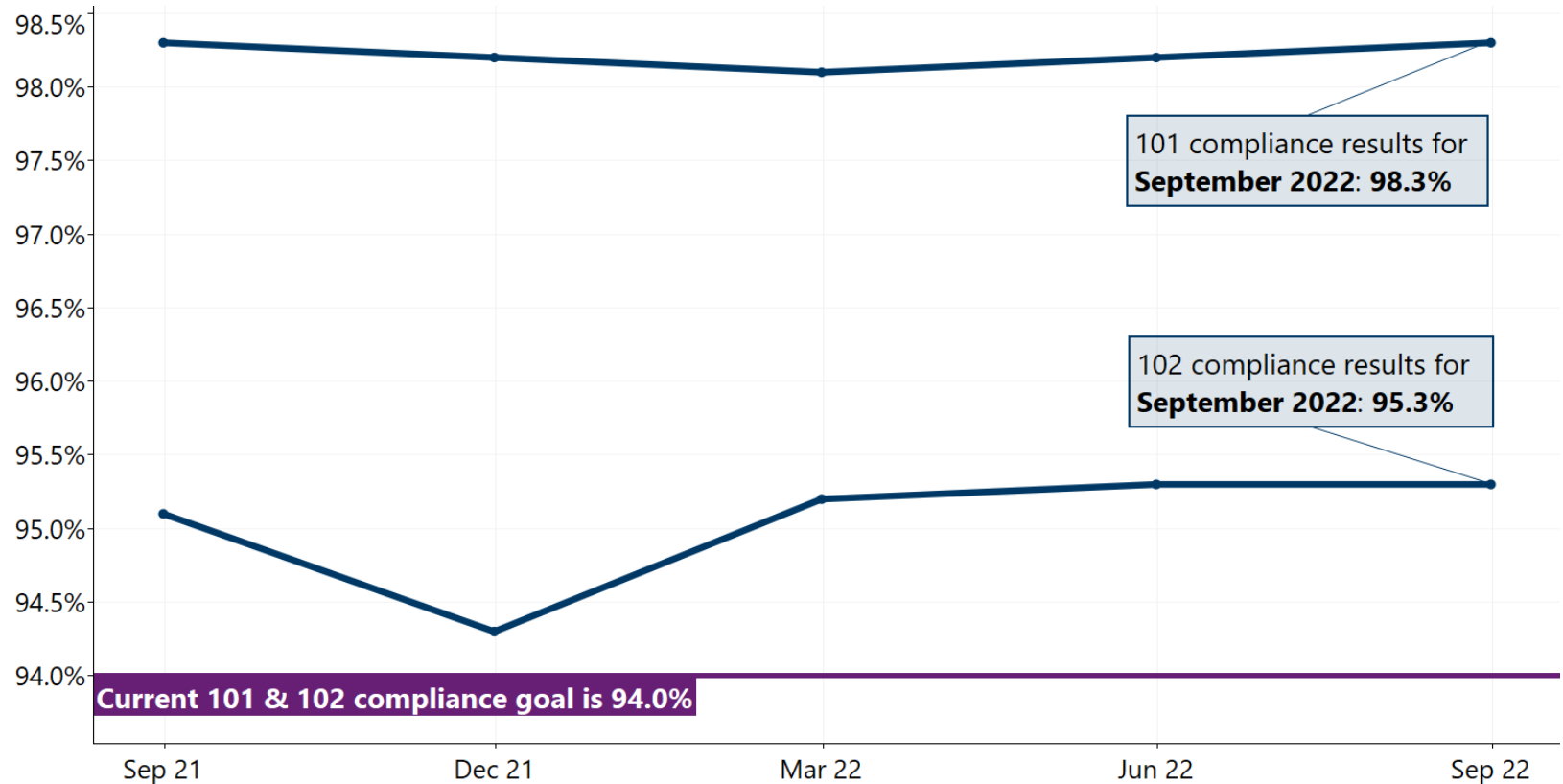
FY 2022 USPTO staffing

Patents and PTAB represent 81% of onboard staff.

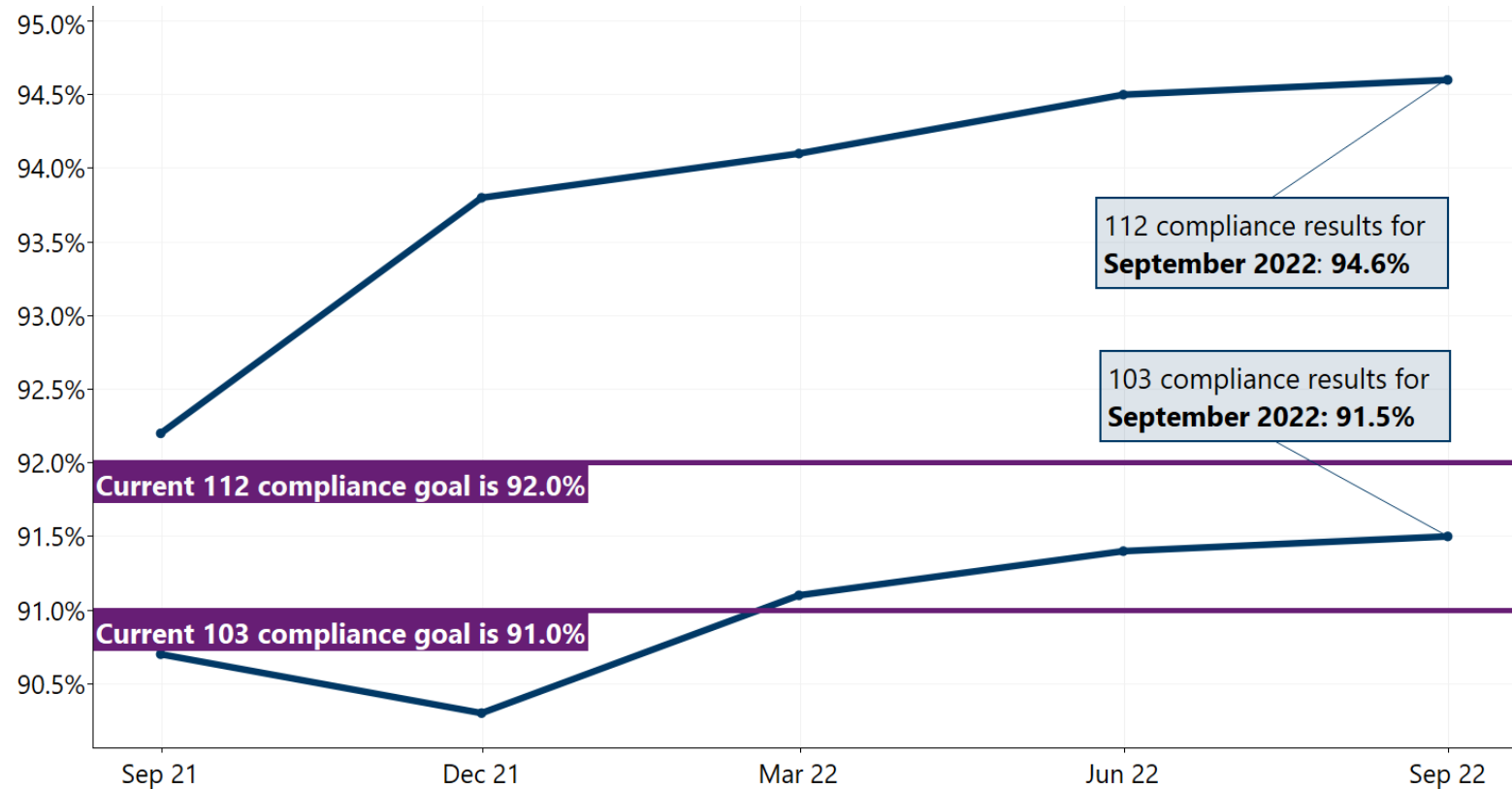
FY 2022 staffing			
Staffing by business unit	Authorized positions	Current on-board	Vacancy rate
Patents	10,751	10,225	5%
<i>Patent examiner hiring goal</i>	650	625	-
PTAB	420	355	15%
Trademarks	1,146	1,072	6%
TTAB	88	75	15%
Mission support	1,612	1,381	14%
Total	14,017	13,108	6%



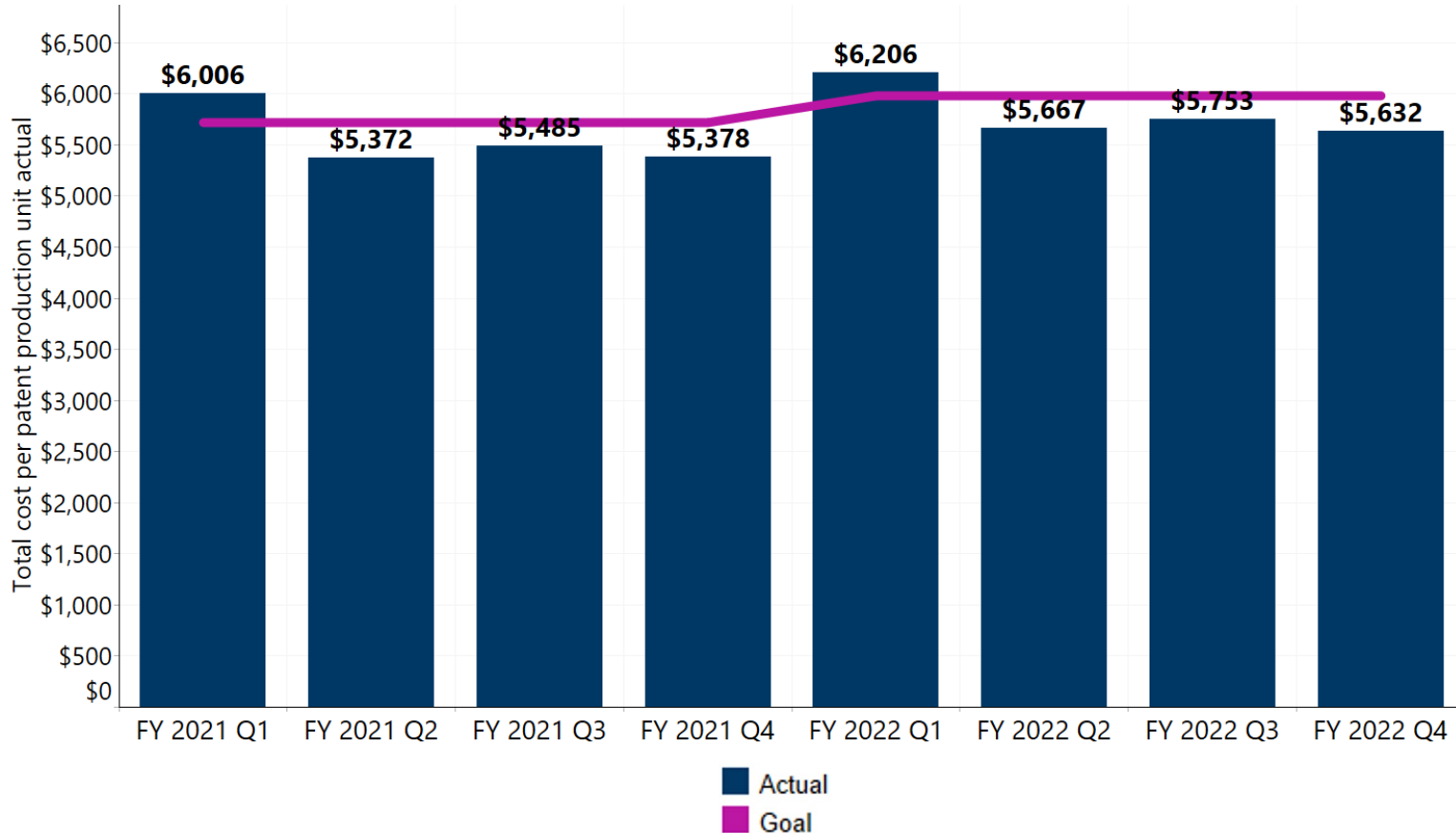
FY 2022 Patents performance quality – 101 & 102 compliance



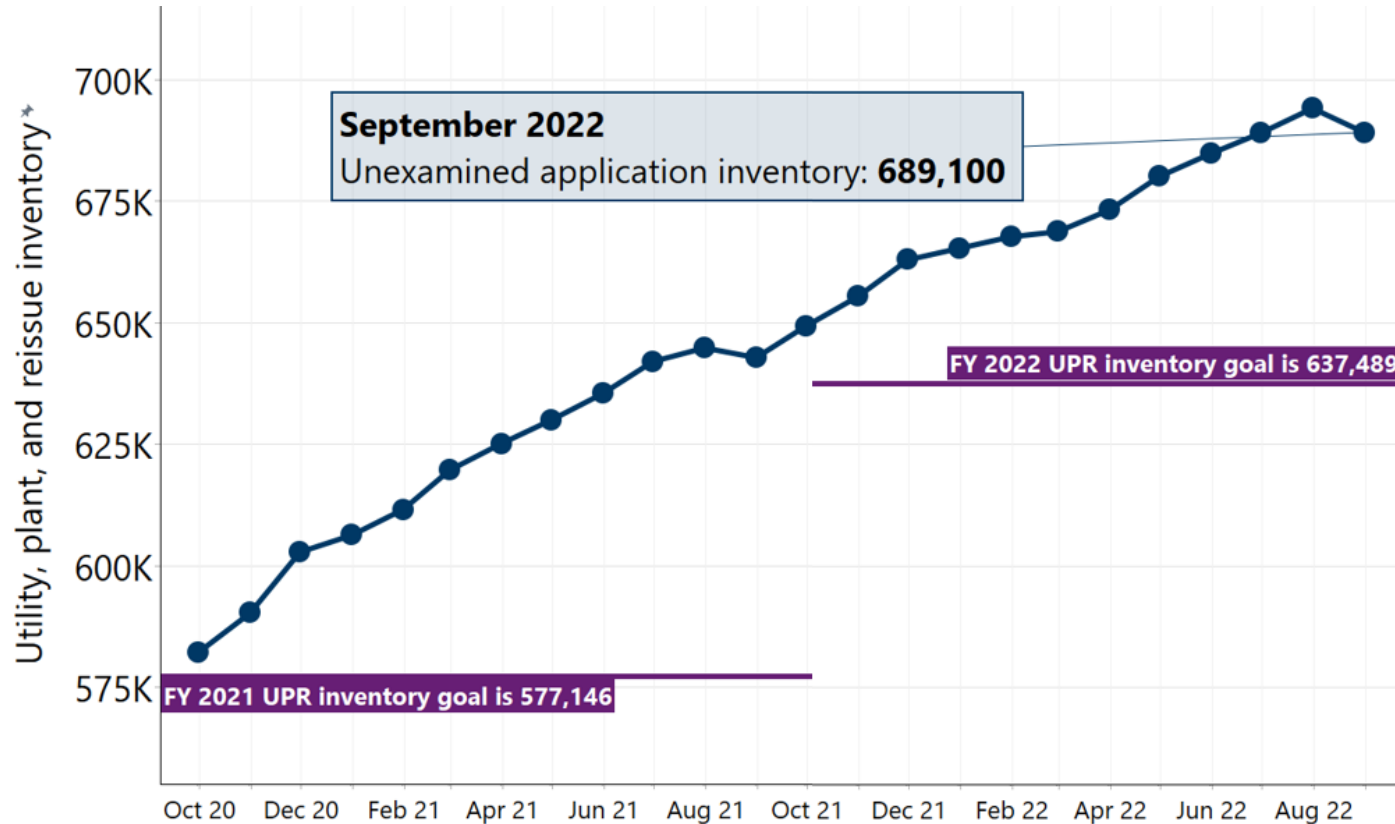
FY 2022 Patents performance quality – 103 & 112 compliance



FY 2022 total cost per patent production unit



FY 2022 utility, plant, and reissue patent application unexamined inventory



FY 2023 status

- The current Continuing Resolution (CR) is through December 16, 2022.
 - The USPTO is held to an adjusted spending level calculated from the FY 2022 appropriated level of \$4.058 billion.
 - Last year's appropriation is \$195M less than USPTO's request for FY 2023.
 - USPTO is also authorized to spend carryover (operating reserve) and other income.
- Fee revenue in excess of the FY 2022 appropriation is currently in the PTFRF. The \$31.6M (\$23.4M in patent revenue) will be available after the reprogramming request is approved.

FY 2023 key planning assumptions*

Assumptions from the FY 2023 President's Budget

Patents business line outlook*

- Estimated fee revenue: \$3.71B
 - Serialized application filings: 1.5% increase in FY 2022 from FY 2021; growth resuming to 2.0% in FY 2023 through FY 2027
- Projected spending: \$3.65B
- Beginning of year operating reserve: \$598M
- End of year operating reserve: \$705M

Spending and operating reserve

- Assumed a pay raise of 3% in FY 2022, 4.6% in FY 2023 and 1% in FY 2024-FY 2027
- Minimum operating reserve level for patents: \$325M for FY 2022; \$350M for FY 2023-FY 2027
- Optimal operating reserve level at 3 months of total spending for patents

*FY 2023 outlook and assumptions will change during the year.

FY 2023 revenue highlights

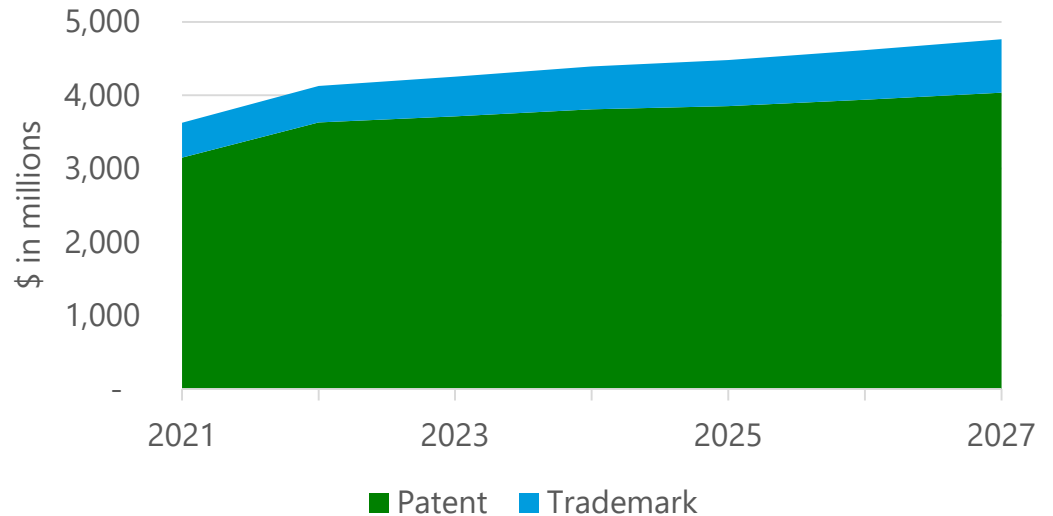
Based on the FY 2023 President's Budget, revenue is expected to increase year over year

FY 2023 USPTO total revenue

\$4.31B

- \$4.253B in fee collections (\$3,711M for Patents; \$542M for Trademarks)
- \$54M in other income (\$43M for Patents; \$10M for Trademarks)
- Fee projections reflected recent data and trends, updated production models, and current assumptions for patent and trademark fees.

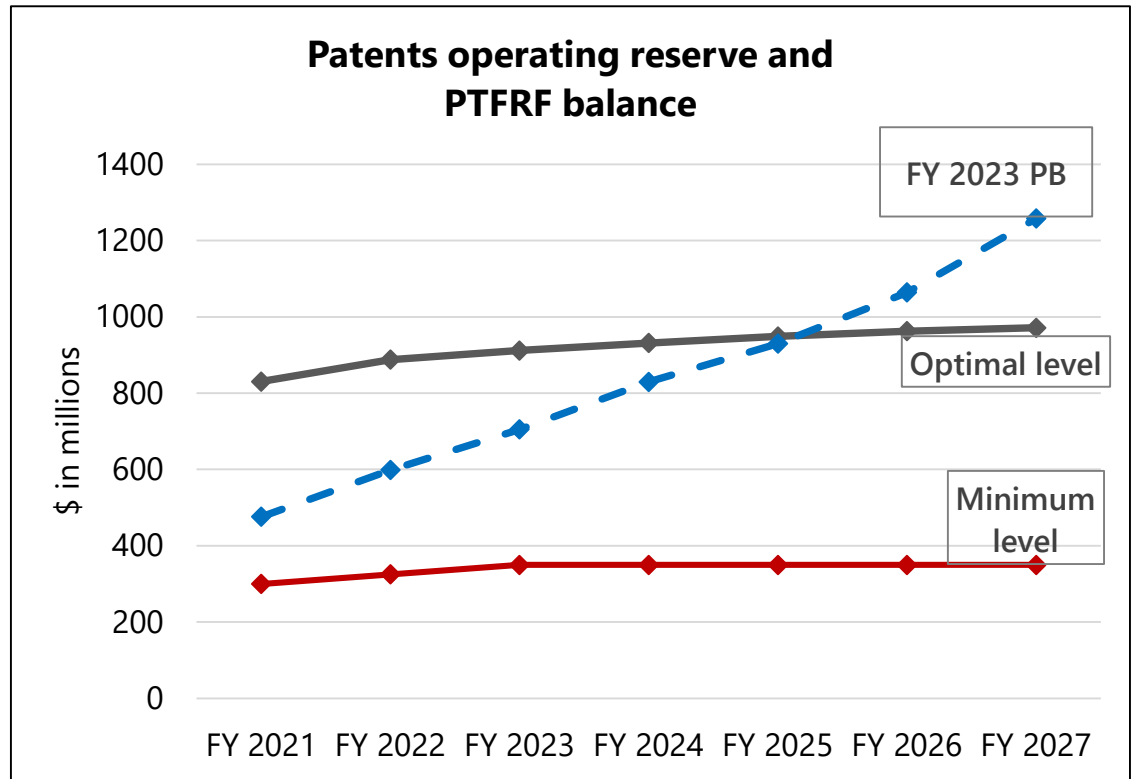
USPTO total fee collections



FY 2023 operating reserve

Based on the FY 2023 President's Budget, the patent operating reserve is healthy.

Patents operating reserve is projected to remain above the minimum level and then exceed optimal levels by fiscal year 2026.



FY 2023 spending highlights

Aggregate spending is primarily for mission production costs.

FY 2023 USPTO total spending

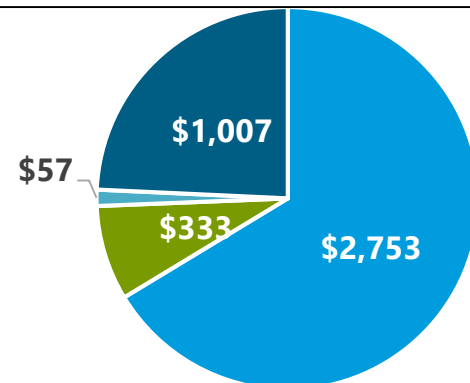
\$4.15B

14,363 federal employees

Annual total spending is comprised largely of costs directly supporting mission-critical production-related activities.

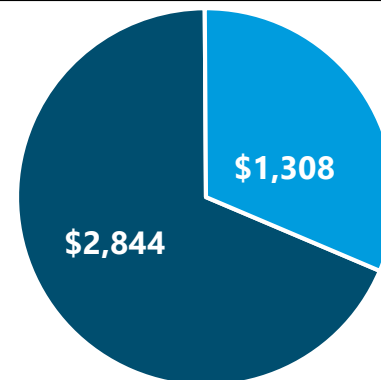
Production related spending comprises 69% of total spending, and other/non-production spending comprises 31% of total spending.

- Patent program
- Trademark program
- IP protection & enforcement program
- Mission support



Dollars in millions

- Production related spending
- Other spending



Dollars in millions

On the horizon: campus lease

Reducing physical space due to an increase in remote workforce

- The USPTO Alexandria main campus lease expires in August 2024.
- Reducing the physical space/campus footprint in response to increased remote work and telework of the USPTO workforce
- USPTO proposes a reduction of one million square feet of campus space:
 - Release of the Remsen and Randolph buildings of the Alexandria main campus at the conclusion of the current lease in August 2024
 - This results in cost savings of ~\$30M per year beginning in FY 2025.
 - Released leased space in two auxiliary facilities in Northern Virginia at the end of 2022
 - This results in cost savings of ~\$4M per year.

On the horizon: inflation

Changes to inflationary guidance impacts the USPTO's requirements.

- Updated inflationary factors since the FY 2023 President's Budget impact spending projections.
- Inflation, supply chain disruptions, and increases to routine cost of operations impacts spending, specifically in the area of IT where contract inflation outpaces general pricing level adjustments.

On the horizon

- The USPTO submitted its FY 2024 budget request to the Office of Management and Budget (OMB) in September 2022.
- The FY 2024 President's Budget request should be submitted to Congress in early February 2023.
- The USPTO plans to release its 2022-2026 Strategic Plan in the winter.



Thank you!

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