

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



USPTO budget update

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February 11, 2021

Patent Public Advisory Committee quarterly meeting

UNITED STATES
PATENT AND TRADEMARK OFFICE



Agenda

- FY 2021 status
- FY 2022 budget
- Fee setting

FY 2021 status: appropriation

- The FY 2021 Omnibus and COVID Relief and Response Act passed on December 27, 2020
- The bill provides USPTO with \$3.695B in authority for FY 2021 and requires that:
 - Any amount received in excess of the FY 2021 authorized amount will be deposited in the Patent and Trademark Fee Reserve Fund (PTFRF)
 - \$2M shall be transferred to the OIG account for associated with carrying out investigations and audits related to the USPTO not to exceed
 - No more than \$13.5K shall be made available for official reception and representation expenses



FY 2021 status: USPTO two-year financial outlook

| <i>\$ in millions</i> | FY 2020 | FY 2021 | Two year total |
|--|----------------|------------------|----------------|
| Actual Aggregate/fee collections estimate | 3,682.6 | 3,516.2 | 7,198.8 |
| Appropriation | 3,450.6 | \$ 3,695.3 | 7,145.9 |
| <i>Difference</i> | \$232.0 | (\$179.1) | \$52.9 |

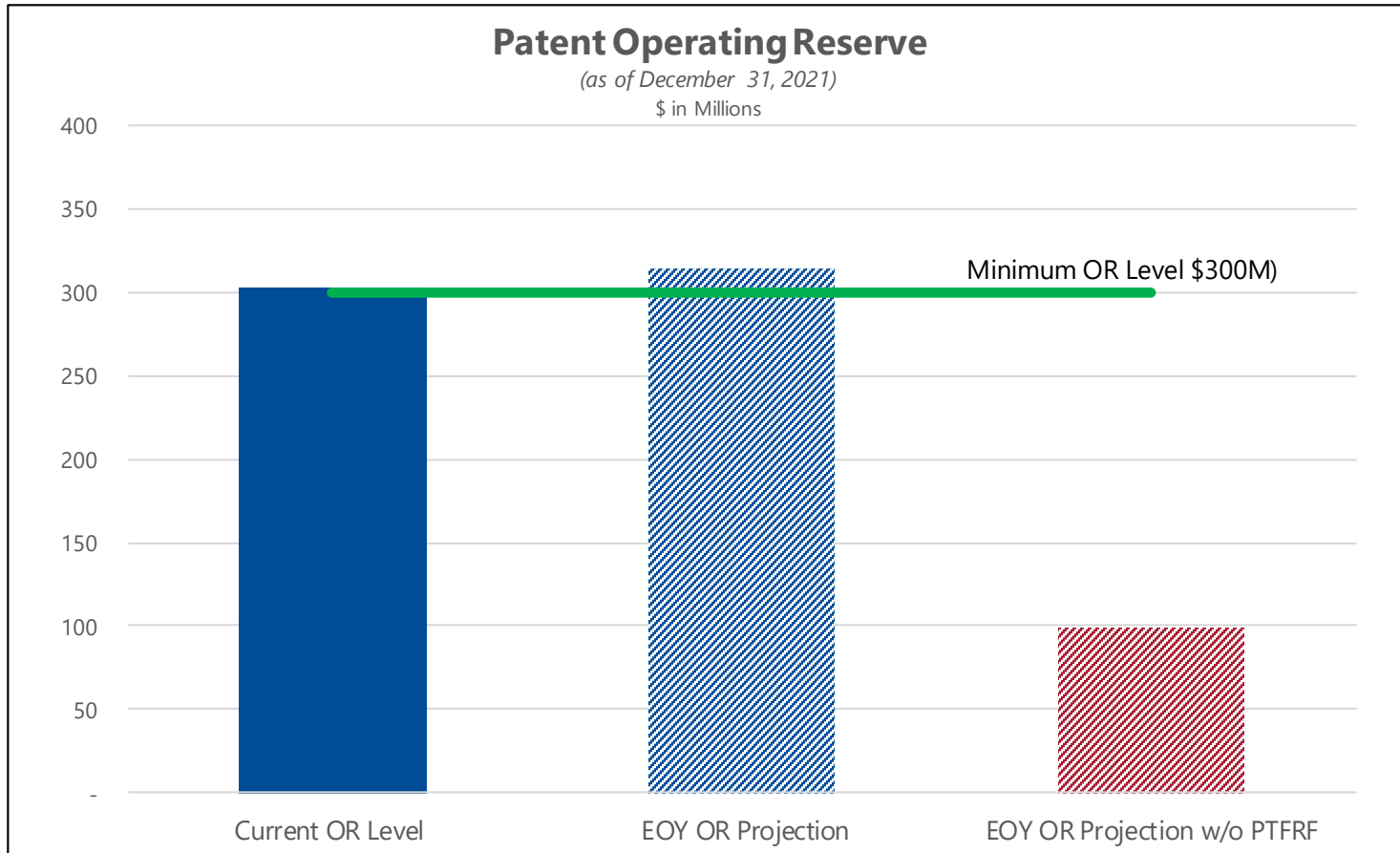
Due to the timing of the patent fee rule, fee payments shifted across the two years. Funds are deposited into the PTFRF that the Agency requires to maintain operations.

FY 2021 status: Patent financial outlook

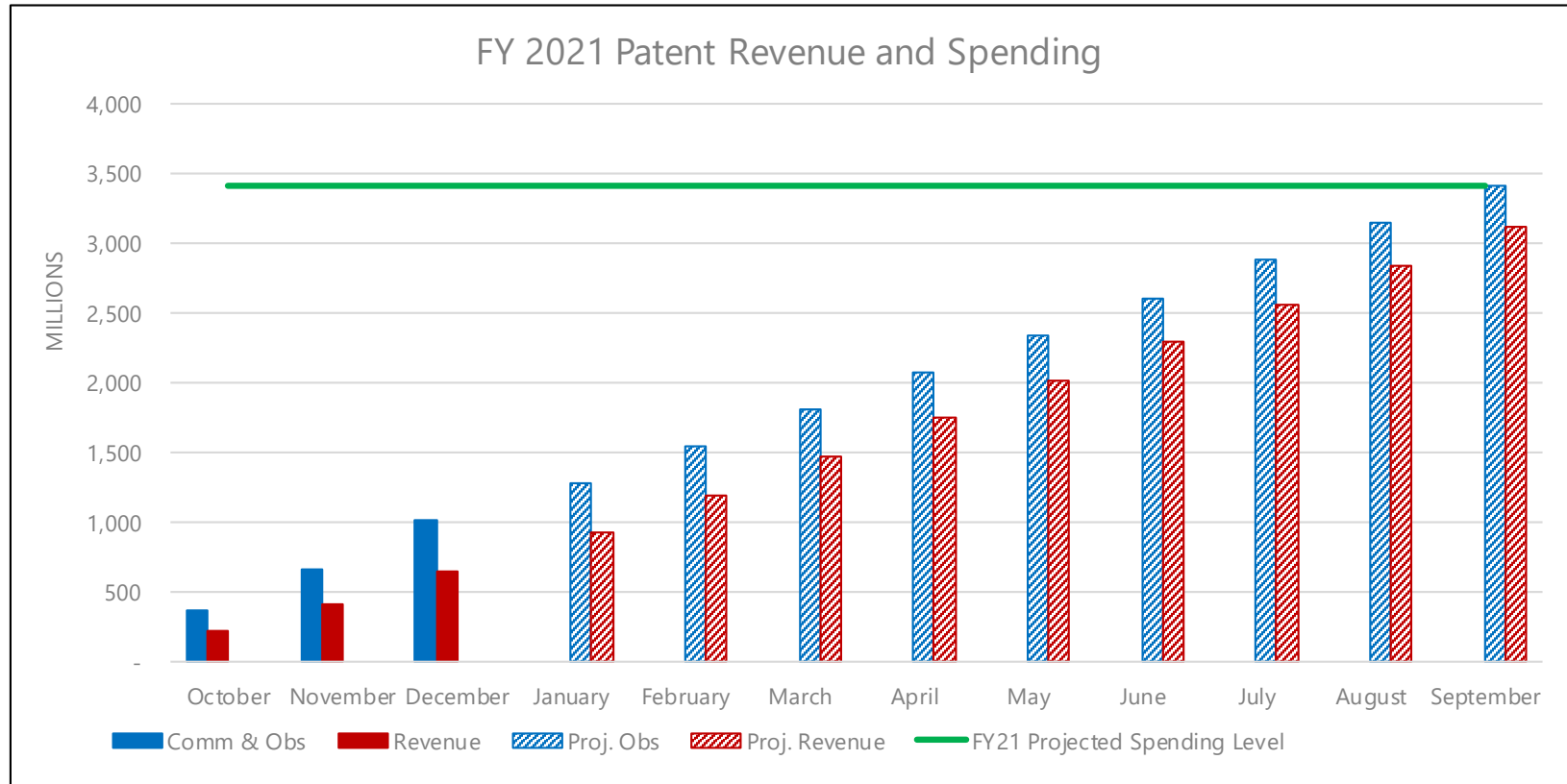
| <i>\$ in millions</i> | USPTO | Patents |
|---|------------------|------------------|
| Projected End of Year Fee Collections | \$3,516.2 | \$3,071.3 |
| Carryover and other income (less OIG transfer) | \$563.3 | \$440.5 |
| Total FY 2021 Projected Spending Authority (Available) | \$4,079.5 | \$3,511.8 |
| Total Projected End of Year Spending | (3,828.1) | (3,413.4) |
| Projected End of Year Operating Reserve (Available) | \$251.4 | \$98.4 |
| Carryover in PTFRF | 231.9 | 215.5 |
| Projected End of Year Operating Reserve (Pending) | \$483.3 | \$313.9 |

- Fee Collection Revenues
 - USPTO is authorized to spend \$ 3.695B in fee collections. \$3.25B of this is Patent revenue
 - Patent revenues forecasts are around \$3.07B, which is \$179.7M less than the authority level
 - Through January 19th, Patent fee collections were 98.7 percent of plan
- Operating Reserve
 - The EOY Patent reserve is expected to be \$313.9M with the reprogramming of the PTFRF. Without it, the operating reserve is projected to be \$98.4M
 - The PTFRF reprogramming request is current being reviewed by Congress

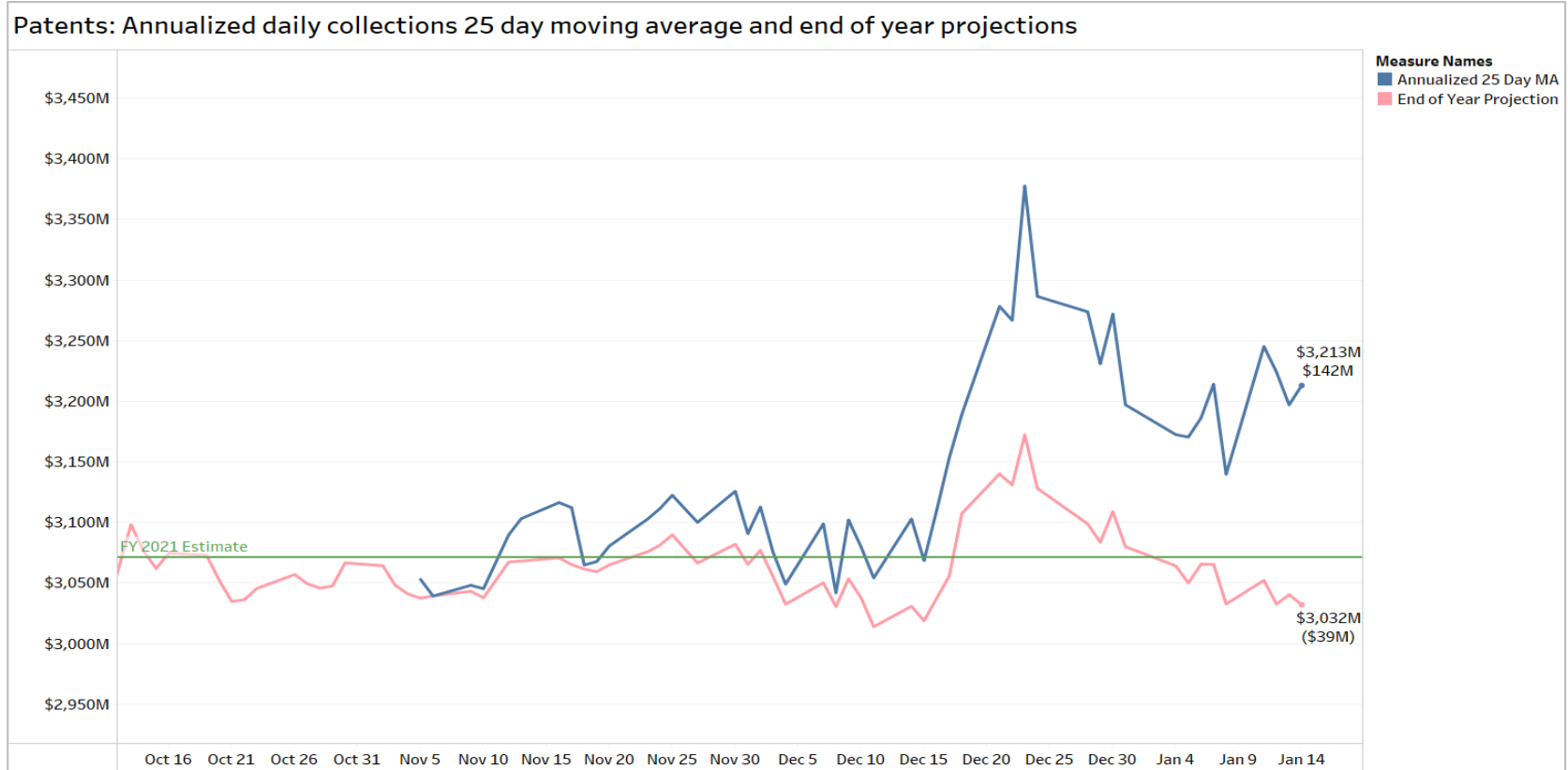
FY 2021 status: Patent operating reserve



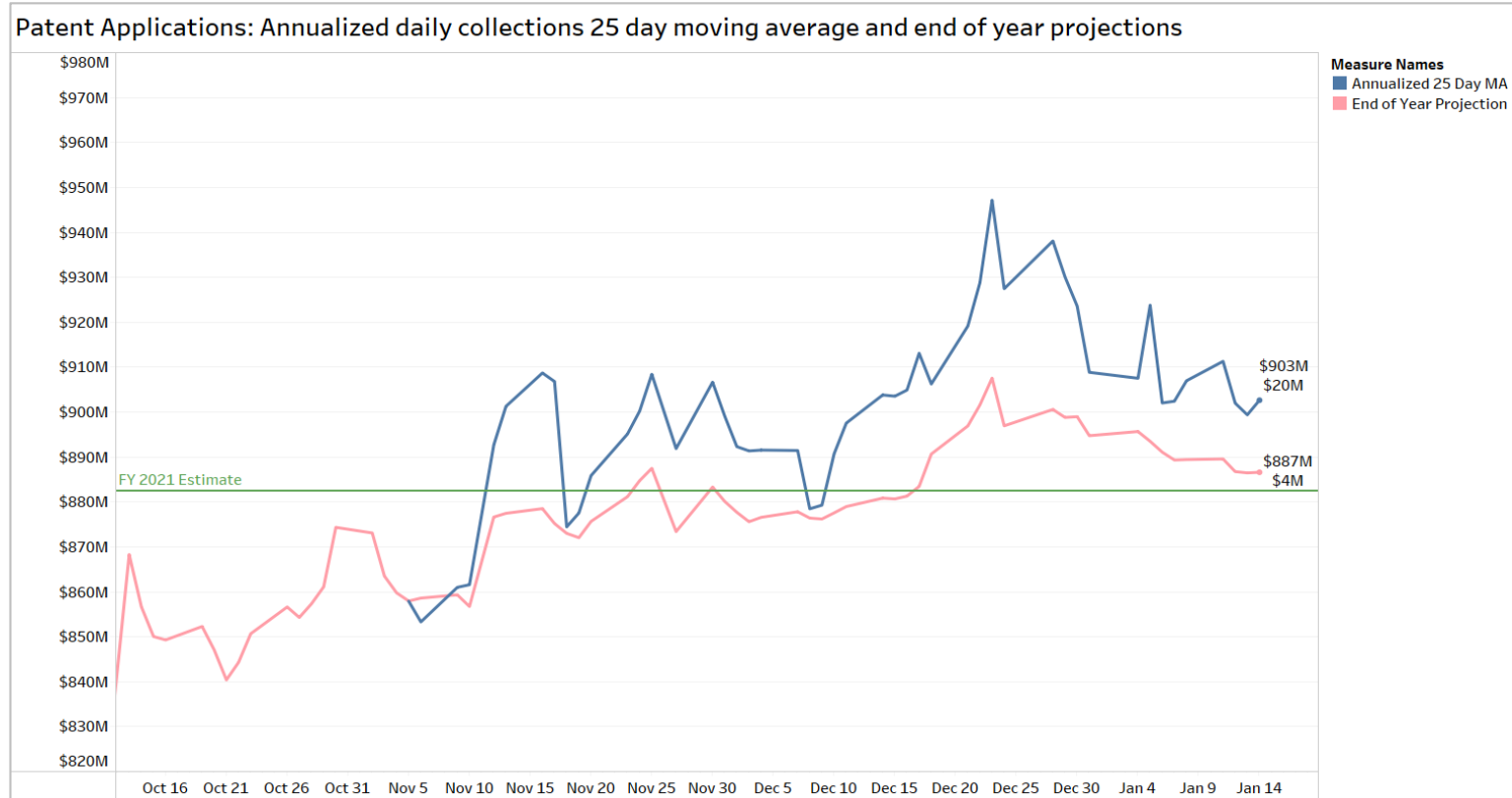
FY 2021 status: revenue and spending



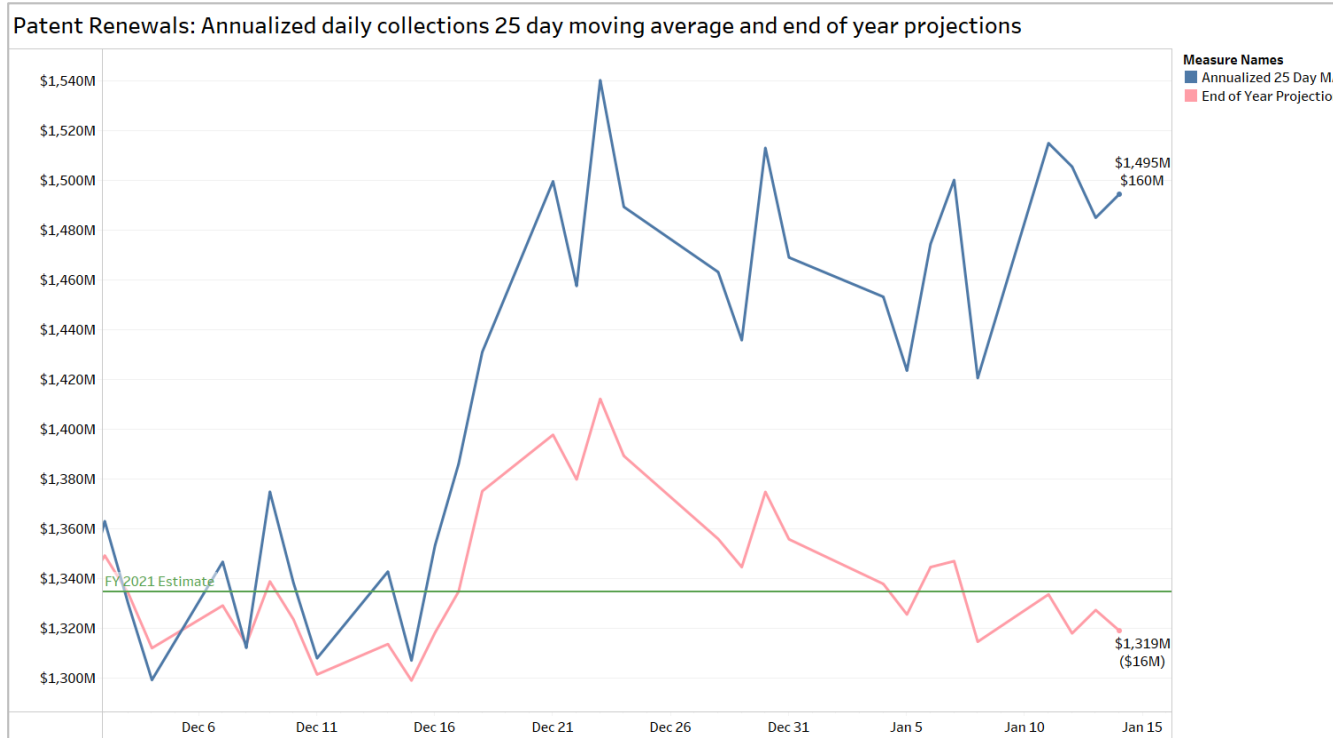
FY 2021 status: annualized revenue and EOY projections



FY 2021 status: application filings annualized revenue and EOY projections



FY 2021 status: annualized renewal revenue and EOY projections



FY 2022 budget

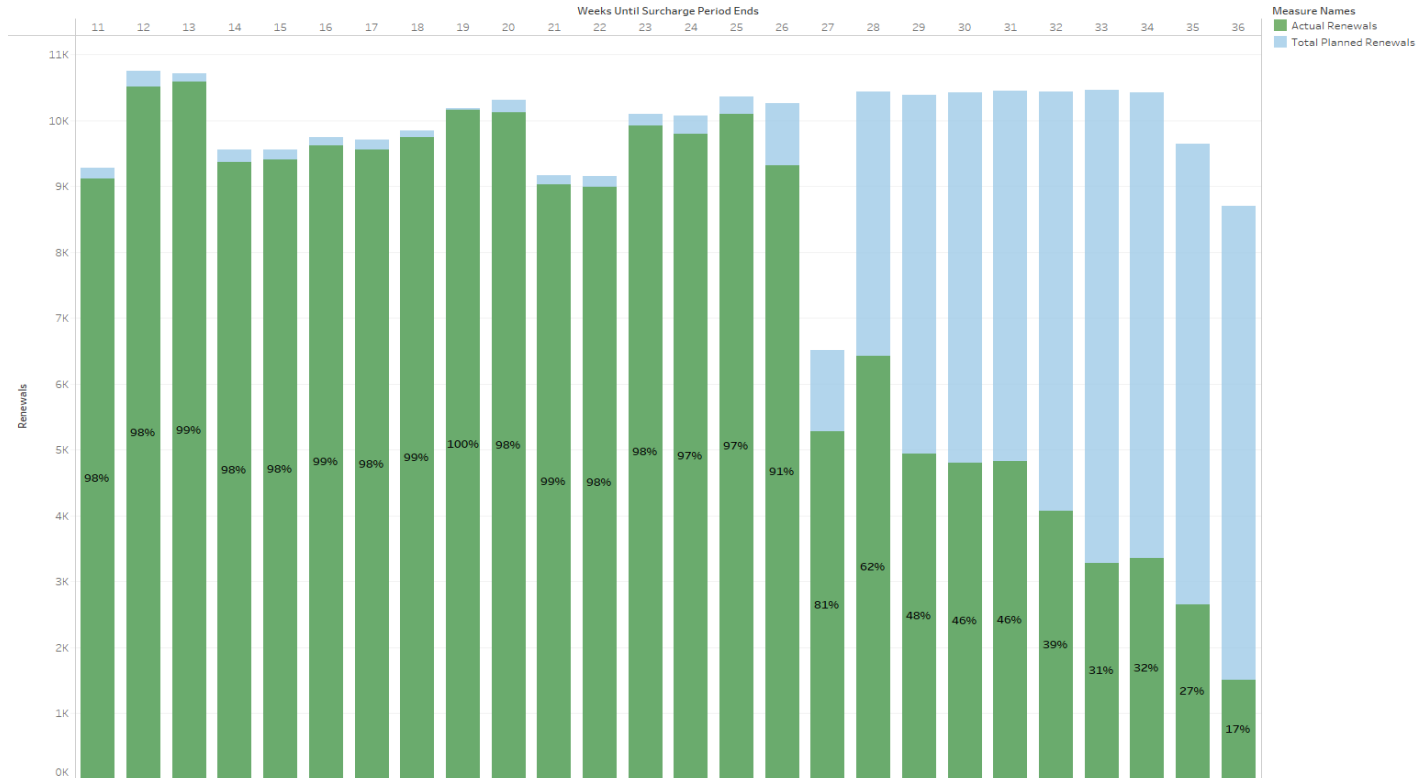
- The USPTO is finalizing its requirements for the FY 2022 President's Budget submission.
 - The budget is due to Congress the first Monday in February. With the change in administration, the submission date is delayed.
- The USPTO expects that the House and Senate CJS Subcommittees on Appropriation will hold hearings for the DOC's FY 2022 budget.

Fee setting

- The agency is monitoring the impact of the recent fee rate increase, effective October 2, on revenue collections and applicant behavior.
- This includes maintenance fee behavior:
 - 2013 payment behavior (the last time there was a maintenance fee rate change) was used to estimate 2020 early payment behavior
 - Rate increases in 2013 were larger than the increase in 2020, which is why payment behavior differs from USPTO's assumptions
 - The level of accelerated payments did not materialize in advance of the fee rate increase. However, payments are still being received at near normal rates

Fee setting: accelerated maintenance fee tracking

(Issue cohorts where patent holder had the ability to pay, without surcharge, before or after the fee rate change)

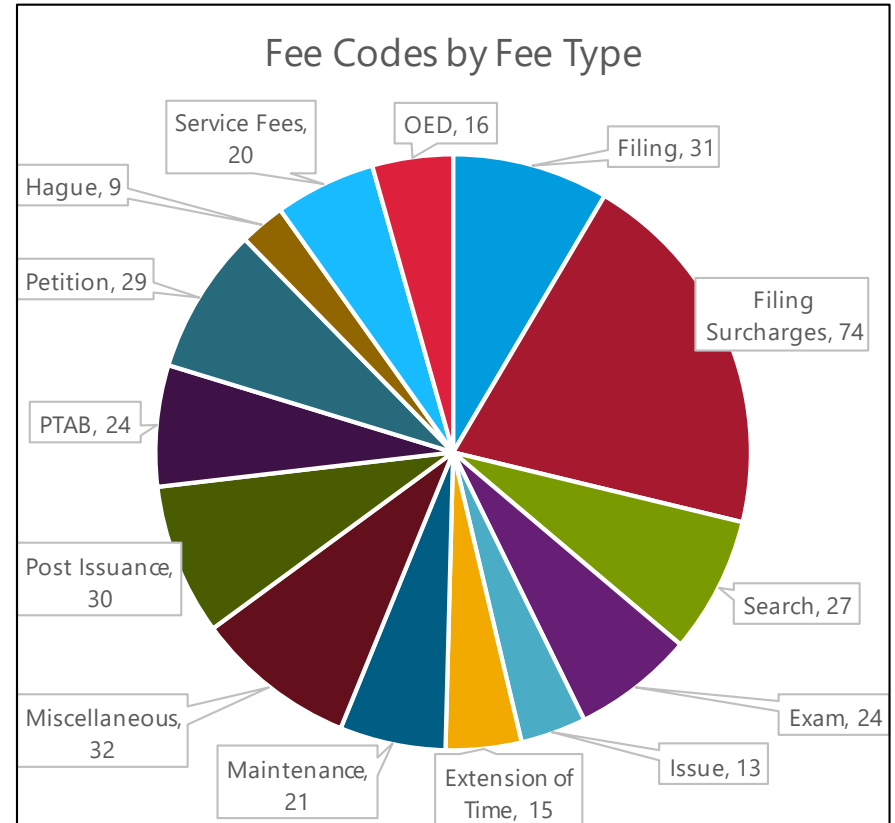


Fee setting

- The USPTO continues evaluating proposals and conducting analysis on potential adjustments to current fees.
- Proposals focus on establishing a fee structure for the future that balances public policy, operation efficiencies and financial needs.

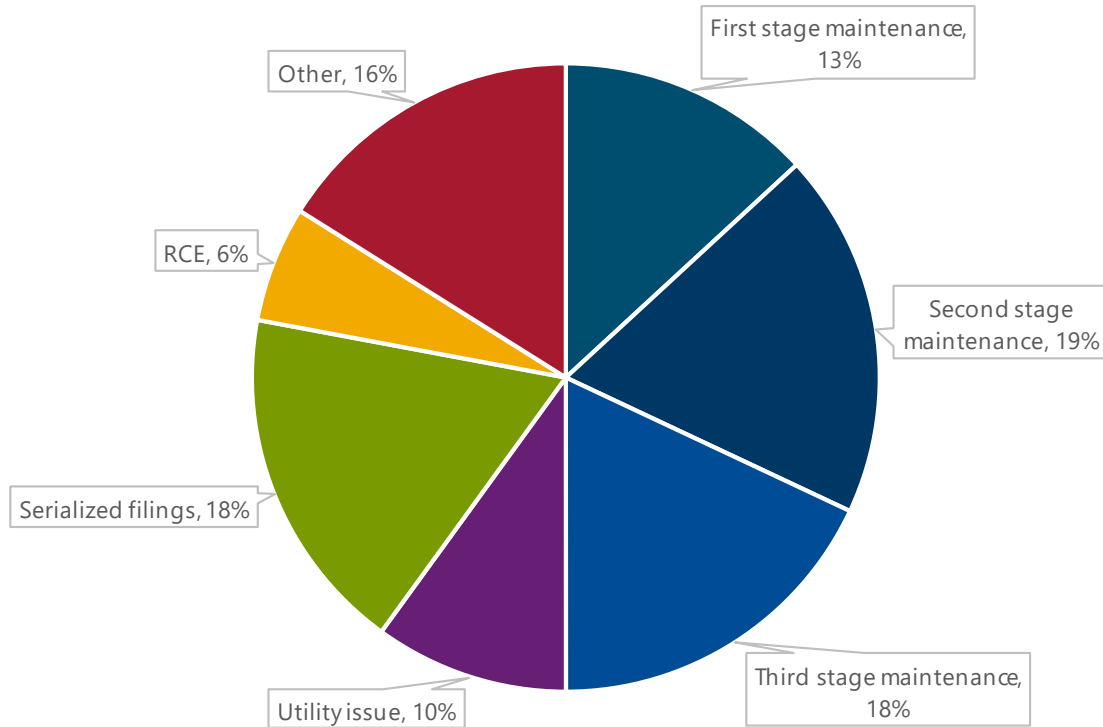
Fee setting: Patent fee schedule summary

- There are currently 365 patent fees
 - The fee codes are comprised of:
 - 162 large entity fee codes
 - 103 small entity fee codes
 - 100 micro entity fee codes
 - Account for 162 unique fee codes
 - 296 were set/adjusted in the last fee rule



Fee setting: Patent fee schedule summary

Revenue by Fee Type





Thank you!

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