

SUPPORTING STATEMENT

Revision and Extension of a Currently Approved Collection Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge (OMB No. 1125-0002)

Part A. Justification

1. Necessity of Information Collection – The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation’s immigration laws. EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings. One of EOIR’s adjudicating components is the Board of Immigration Appeals (Board or BIA), which is the highest administrative body for interpreting and applying immigration laws. The Board has been given nationwide jurisdiction to hear appeals from certain decisions rendered by Immigration Judges. The parties to Board appellate proceedings include the respondent/applicant that is the subject of the immigration case and the U.S. Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE).

A party affected by a decision of an Immigration Judge may appeal that decision to the Board, provided the Board has jurisdiction pursuant to 8 C.F.R. § 1003.1(b). An appeal from an Immigration Judge’s decision is taken by completing the Form EOIR-26 and submitting it to the Board. The form requests information necessary for the Board to process an appeal of an Immigration Judge decision, such as the respondent’s/applicant’s name and alien registration number (A-number), the mailing addresses for the appellant and attorney or representative of record, the basis for the appeal, and proof of service of the notice of appeal on the opposing party.

EOIR is revising Form EOIR-26 to implement several changes. Formatting and textual revisions were made through the form and the instructions to improve organization, clarity, and readability. EOIR also updated references and URLs to EOIR's online Policy Manual. With recent updates and expansions to EOIR's electronic filing system, EOIR revised the form and instructions to clarify the differing filing instructions for paper and electronic submissions. In response to filing fee changes enacted under the One Big Beautiful Bill Act ("OBBBA") (H.R. 1), signed into law on July 4, 2025, EOIR also changed the filing instructions to guide form respondents to the EOIR website for the most current filing fee information. EOIR removed references and collection of information pertaining to the BIA Pro Bono Project; this is not currently an active agency program and it is therefore unnecessary for EOIR to collect information solely for the purpose of this program. An option was added to the form for an appellant to specify that he or she is filing an interlocutory appeal from an Immigration Judge decision, as no other EOIR information collection provided a means for parties to file interlocutory appeals. Finally, EOIR added a field to collect the email address for the appellant's attorney or authorized representative.

2. Needs and Uses - The form is used to file an appeal with the Board from a decision of an Immigration Judge. In order to make such an appeal, the appellant must complete and file the form with the Board. Information contained in the form is considered to the extent necessary to process the appeal. The form is retained in the official record of proceedings for the respondent/applicant and certain information on the form is entered into EOIR's internal case management system. The form is reviewed by the Board to determine the sufficiency and

merit of a party's appeal.

2. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-26 is available as a fillable PDF on EOIR's website. An individual may complete the form electronically by typing information or by printing the form and legibly handwrite the requested information. An individual may submit the form by mail or hand delivery. Alternatively, individuals have the ability to access the form in a fillable, fileable, and signable PDF format and may electronically file the form with the Board through the agency's electronic case filing system, EOIR's Courts & Appeals System (ECAS), available at <https://www.justice.gov/eoir/ECAS>.

4. Efforts to Identify Duplication - The only method for appealing an Immigration Judge's decision to the Board is to file a Form EOIR-26, and there is no duplication of effort. EOIR does have a separate form for appealing to the Board the decision of a DHS Officer, Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer (OMB No. 1125-0010). However, the Form EOIR-29 serves a unique use and purpose from the Form EOIR-26. The information needed for the Board to process an appeal of a DHS Officer decision differs drastically from the information needed for the Board to process an appeal of an Immigration Judge decision. For example, a carrier or fine number is required to appeal a DHS Officer decision, which is not necessary or relevant to appeal an Immigration Judge decision. Because the forms serve different uses and purposes, there is no duplication of effort.

5. Impact on Small Businesses - This collection does not have an impact on small businesses or other small entities.

6. Consequences of Less Frequent Collection - Failure to collect the information on the Form EOIR-26 would deprive the party of a mechanism through which to preserve and exercise the regulatory right to appeal an Immigration Judge decision to the Board.

7. Special Circumstances Influencing Collection - A party affected by an Immigration Judge's decision who wishes to appeal the decision must file the Form EOIR-26 within 30 calendar days of the Immigration Judge's oral decision or the mailing date of the Immigration Judge's written decision. 8 C.F.R. § 1003.38(b). None of the other special circumstances identified in OMB instruction number 7 apply to this collection.

8. Federal Register Publication and Consultation- A 60-day notice covering this collection was published in the Federal Register. *See* 90 FR 28815 (Jul. 1, 2025). A correction to the 60-day notice was published in the Federal Register. *See* 90 FR 34677 (Jul. 23, 2025). No comments were received during the 60-day period. A 30-day notice covering this collection was published in the Federal Register. *See* 90 FR 43477 (Sept. 9, 2025). If any additional comments are received, they will be considered and incorporated where appropriate.

9. Payment or Gift to Claimants - EOIR does not provide any payment or gifts to parties in immigration proceedings.

10. Assurance of Confidentiality – The Board and the Immigration Courts retain the original completed form in the official record of proceedings (ROP), along with all other documents filed in the proceeding. EOIR staff members and adjudicators who process, review, and adjudicate the case may access the Form EOIR-26 in the ROP. EOIR protects the confidentiality of the contents of the Form EOIR-26 to the extent permitted by law. EOIR releases information in accordance with the Freedom of Information Act, the Privacy Act (including applicable System of Records Notices (SORNs)), and other laws that may impose confidentiality restrictions on immigration-related information. *See, e.g.*, 8 U.S.C. § 1367; 8 C.F.R. § 1208.6.

11. Justification for Sensitive Questions - There are no questions of a sensitive nature in the Form EOIR-26.

12. Estimate of Hour Burden

a. Number of Respondents	45,473
b. Number of Responses per Respondent	1
c. Total Annual responses	45,473
d. Hours per response	0.5
e. Total annual hourly reporting burden	22,736

The total annual reporting burden is derived by multiplying the number of respondents (45,473) by the frequency of response (1) by the number of hours per response (0.5): 45,473 respondents x 1 response per respondent x 0.5 hour per respondent = 22,736 burden hours. The number of estimated respondents includes the average 42,816 members of the public filing the form

annually as well as the average 2,657 DHS ICE attorneys annually filing appeals of Immigration Judge decisions. It is estimated that the total time to read and complete the form and gather all materials is no more than 30 minutes.

13. Estimate of Cost Burden – The total estimated annual public cost is \$12,747,978. There are no capital or start-up costs associated with this information collection. For respondents/applicants who are subjects of immigration proceedings, there is a fee of \$1,010 to file a Form EOIR-26 with the Board, though respondents/applicants may seek to have the filing fee waived by submitting Form EOIR-26A, Fee Waiver Request (OMB No. 1125-0003). The filing fee requirement does not apply to forms filed by DHS ICE. 8 C.F.R. § 1003.8(a)(2)(vi). The printing cost is estimated at \$0.10 per page, or \$0.80 per form (\$0.10 per page x 8 pages). For forms filed by mail, there is an estimated postage cost of \$10.10 per form. However, printing and postage costs may be avoided by completing and filing the form electronically. Of the total number of responses received annually, 32,339 (71%) are filed electronically and 13,134 (29%) are filed by mail or hand delivery. Of the 13,134 forms received by mail or hand delivery, 12,487 are submitted by respondents/applicants who are subject to the filing fee requirement and 647 are submitted by DHS ICE representatives who are exempt from the filing fee requirement. Assuming an individual prints and files the form by mail and does not obtain a waiver of the filing fee, the upper bound of the estimated public cost is determined by totaling the filing fee, printing cost, and postage of all paper forms submitted by members of the public and DHS ICE:

Cost	Individual	DHS ICE
Printing	\$0.80 per response	\$0.80 per response
Postage	\$10.10 per response	\$10.10 per response
Filing Fee	\$1,010 per response	\$0 per response

Total Per Response	\$1,020.90	\$10.90
<i>Total for All Paper Responses Filed</i>	<i>\$1020.90 x 12,487 = \$12,747,978</i>	<i>\$10.90 x 647 = \$7,052</i>

For informational purposes, there may be additional labor costs to appellants (not DHS ICE), who may incur a cost if they hire a private practitioner to assist them with completing the Form EOIR-26. The Bureau of Labor Statistics reports that the median hourly wage for lawyers is \$72.67.

14. Estimated Cost to Federal Government – EOIR estimates that its annual government cost for printing, distributing, stocking, processing, and maintaining the Form EOIR-26 is \$187,924.11. This amount includes printing costs of \$10,507.20, which was derived by multiplying the 8 pages of the form by an estimated \$0.10 per page by the estimated 13,134 responses with paper ROPs. This amount also includes stocking, processing, and maintenance costs of \$177,357, which was derived by calculating the personnel and overhead costs to EOIR for processing both paper and electronic forms.

15. Reason for Change in Burden - The differences in burden are likely due to an increase in the average number of responses received annually, which correlates with a general increase in the total number of immigration cases. Previously, EOIR estimated 34,921 respondents annually. At present, EOIR estimates it will receive 45,473 responses annually based on the average number of forms received over the last three fiscal years. As the number of hours per response remained the same (30 minutes), the total burden hours increased from 17,461 to 22,736 burden hours, for

an increase of 5,275 additional burden hours. Because of the higher number of responses, and because of filing fee increases mandated by the One Big Beautiful Bill Act (OBBBA), Pub. L. 119-21 (2025), the cost burden similarly changed. The annual cost burden also changed because the prior ICR did not account for differences in cost per response based on whether a filing fee applied to the particular for respondent.

16. Plans for Publication - EOIR does not intend to employ the use of statistics or the publication thereof for this collection of information.

17. Exceptions to Certification Statement - EOIR does not request an exception to the certification of this information collection.

Section B. Collection of Information Employing Statistical Methods

Not applicable.

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with, including paperwork regulations, any applicable statistical standards or directives, and any other information policy directives promulgated under 5 C.F.R. § 1320.

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Justine Fuga
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