

## SUPPORTING STATEMENT

### **1125-0005 Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27)**

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#### **Part A. Justification**

##### 1. Necessity of Information -

**Background.** The Department has detailed regulations regarding the representation of private parties before the Board of Immigration Appeals (Board) and the Immigration Courts. An alien in removal proceedings may be represented by an individual authorized to practice before the Board and the Immigration Courts. *See* Immigration and Nationality Act (INA) §§ 240(b)(4)(A), 292, 8 U.S.C. §§ 1229a(b)(4)(A), 1362 (2006); 8 C.F.R. §§ 1003.16(b), 1003.38(g) (2009). If an alien desires to be represented before the Board by an attorney or representative or if EOIR has ordered the provision of a qualified representative, the attorney or representative must inform the Board that s/he is entering an appearance on behalf of that alien. If an individual or party otherwise appearing before the Board desires to be represented – for example, in an appeal from a visa petition case, a carrier fine or a practitioner disciplinary proceeding – the attorney or representative must inform the Board that s/he is entering an appearance on behalf of that party. An attorney or representative must file a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27) to notify the Board of the representation. *See* 8 C.F.R. §§ 1003.2(g)(1), 1003.38(g). The Form EOIR-27 is also served on the relevant agency of the Department of Homeland Security (DHS) – U.S. Immigration and Customs Enforcement or the U.S. Citizenship and Immigration Services – or the EOIR

Disciplinary Counsel, as applicable.

**Information Collection.** The Form EOIR-27 collects basic information about the represented party and the attorney or representative. With respect to the represented party, the party's name, address, and identifying alien (A) number, where applicable, must be provided. The attorney or representative must also enter, as applicable, the carrier fine number, the docket number for a disciplinary case, or the A number and name for beneficiaries of visa petition cases.

With respect to the attorney or representative, the form requires information – in the form of check boxes – about the type of representation, i.e., attorney, accredited representative, law student or law graduate, reputable individual, accredited foreign government official, or individual authorized to practice on December 23, 1952.

If the individual submitting the form is an attorney, the Form EOIR-27 collects information about bar membership and standing with the bar. For example, the Form EOIR-27 requires the attorney to indicate whether he or she is subject to any order of any court or administrative agency disbarring, suspending, enjoining, restraining, or otherwise restricting him or her in the practice of law. If the attorney is subject to such an order, s/he is instructed not to check the box indicating that s/he is an attorney and, instead, to explain the details of such order on the reverse of the form. If the individual is an accredited representative, as defined in 8 C.F.R. § 1292.1(a)(4), s/he must provide the name of the recognized organization with which s/he is accredited. If the individual is an accredited foreign government official, the individual must indicate which country s/he is from.

For all representatives, whether attorney or non-attorney, the Form EOIR-27 also

collects information about representation status. Specifically, a practitioner must indicate whether s/he is the primary or non-primary attorney/representative and must also denote whether s/he is providing pro bono representation.

For clarity and ease of the practitioner completing the form, EOIR has made several non-substantive changes to the current Form EOIR-27. First, EOIR has added an additional line for the Alien (“A”) Number on the first page, and changed the language to clarify that multiple represented parties can be listed on the form. Second, a space for the representative’s suite has been added to the address section on the first page, and line breaks were added in the representative address and attestation section. Third, additional language and resources to assist practitioners in filing the form EOIR-27, specifically electronic filing, were added to the “Appearances” section on the second page. Lastly, commas were added where needed, and the revision date of the form has been updated.

In addition to the non-substantive changes described above, EOIR has also added language clarifying that the practitioner, by entering his or her appearance before EOIR, acknowledges that the practitioner will be subject to the disciplinary rules and procedures at 8 C.F.R. 1003.101 *et seq.*, including, pursuant to 8 C.F.R. §§ 292.3(h)(3), 1003.108(c), publication of the name of the practitioner and findings of misconduct should the practitioner be subject to any public discipline by EOIR. Additional language was added to the form to clarify that by entering an appearance before EOIR pursuant to the filing of a Form EOIR-27, the practitioner consents to the publication of the practitioner’s name and any findings of misconduct by EOIR, should the practitioner become subject to any public discipline by EOIR pursuant to the rules and procedures at 8 C.F.R. 1003.101 *et seq.* This language provides additional notice to practitioners regarding their obligations

as representatives before EOIR and the potential consequences of any misconduct and is consistent with comments and suggestions received from the public, as discussed further below. This language mirrors that found on the Form EOIR-28, Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court.

**Corresponding Changes to Electronic Form EOIR-27.** As part of EOIR's eRegistry, which is part of a long-term agency initiative to create an electronic case access and filing system for the Immigration Court and the Board, attorneys and accredited representatives may electronically file the Form EOIR-27. The changes to the Form EOIR-27 proposed herein will need to be implemented in eRegistry before the revised form – both hard copy and electronic versions – can be made available for use. The development and implementation of these changes in eRegistry will take several months to complete. In the event that the proposed changes are not ready in eRegistry upon OMB approval of the revisions proposed herein, EOIR will continue to use the current Form EOIR-27 until those changes are finalized. This is necessary to prevent the use of two versions of the same form (i.e., a hard copy form different from an electronic form), avoid confusion as to which form may be used, and to avoid any conflicts the two versions may present. For these reasons, EOIR seeks OMB approval of both the new Form EOIR-27 (with the revisions proposed herein) and the old form until both the hard copy and electronic versions of the new form are ready for use.

2. Needs and Uses - The Form EOIR-27 allows attorneys and representatives to notify the Board that they are representing an alien or other party in proceedings before the Board. Upon receipt of a form that establishes an individual is an attorney in good standing or is

otherwise able to represent a party before the Board, the Board designates the individual as the party's legal representative during the proceedings before the Board. The Form EOIR-27 also allows the Board to ensure that only individuals authorized by regulation are entering appearances.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-27 is available on EOIR's website for printing. A practitioner can type information directly into the online form and then print it for submission to EOIR, or s/he may print the blank form in its entirety and complete it by typing or printing legibly. Attorneys and accredited representatives with full accreditation may also electronically submit forms and update existing forms through eRegistry; individuals who are not licensed attorneys or accredited representatives with full accreditation do not have this option.

4. Efforts to Identify Duplication - The only method for an individual to enter his or her appearance on behalf of an alien or other party in proceedings before the Board is to complete and file the Form EOIR-27. A review of EOIR's forms revealed no duplication of effort, and there is no other similar information currently available, which can be used for this purpose.

5. Impact on Small Businesses - This collection has a minor impact on small businesses or other small entities to the extent they employ attorneys or accredited representatives who represent parties in proceedings before the Board. However, this collection does not impose undue burden on the small businesses or other entities. The form requires no

filing fee, and EOIR estimates that the form takes six minutes to complete. In addition, the requested information is needed to ensure that only attorneys in good standing or otherwise qualified individuals are permitted to enter appearances and represent aliens in proceedings before EOIR.

6. Consequences of Less Frequent Collection - Failure to collect this information would preclude individuals from entering appearances on behalf of parties in proceedings before the Board.

7. Special Circumstances Influencing Collection - None of the eight 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 will be published in the Federal Register. A 30-day notice covering this collection will be published in the Federal Register. Copies of these notices are attached. If 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 or their attorneys or representatives.

10. Assurance of Confidentiality - The Board retains the original form and places it in the record of proceedings, along with all other documents filed in the alien's proceeding. EOIR staff members, attorneys, and Board Members who process, review, and adjudicate the case may access the Form EOIR 27. To the extent law permits, EOIR protects the confidentiality of the contents of the Form EOIR-27. EOIR would release information in

accordance with the Privacy Act and the Freedom of Information Act.

11. Justification for Sensitive Questions - To the extent that the Form EOIR-27 includes a sensitive question by asking whether an attorney is in good standing in the bar or subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting him or her in the practice of law), such question is necessary for EOIR to determine whether the individual is duly authorized to represent aliens before the Board. The information is used only to the extent necessary in order to make that determination. To the extent that the Form EOIR-27 includes a sensitive question by asking whether the representation is being provided on a pro bono basis, such question is necessary for EOIR to facilitate its pro bono program. Under Operating Policies and Procedures Memorandum 08-01, the particular needs of pro bono representatives who appear before EOIR should be taken into consideration. OPPM 08-01: "Facilitating Pro Bono Legal Services" (March 10, 2008), *available at* <http://www.justice.gov/eoir/efoia/ocij/oppm08/08-01.pdf>.

12. Estimate of Hour Burden

a. Number of Respondents	20,669
b. Number of Responses per Respondent	1
c. Total Annual responses	20,669
d. Hours per response	6 minutes or 0.1 hour
e. Total annual hourly reporting burden	2,066

20,669 attorneys or representatives x 1 response per respondent x 0.1 hour per response = 2,066 burden hours. It is estimated that the total time to read and complete the form and

gather all materials is no more than 6 minutes.

### 13. Estimate of Cost Burden

There are no capital or start-up costs associated with this information collection. There are also no fees associated with filing this information collection. The estimated public cost is a maximum of \$117,369. This amount is reached by multiplying the burden hours (2,066) by \$56.81, which represents the current median hourly wage for attorneys, as set by the Bureau of Labor Statistics. \$117,369 represents the maximum estimate of cost burden. EOIR notes that this form is submitted by an immigration practitioner, who is either an attorney or other form of representative; as such, respondents are not likely to retain a practitioner to assist them in filling out the form.

14. Estimated Cost to the Federal Government - It is estimated that the annual government cost for printing, distributing, stocking, processing and maintaining the Form EOIR-27 is \$112,657. This amount includes printing costs of \$41,338, which was derived by multiplying the 2 pages of the Form EOIR-27 by an estimated \$.10 per copy by the estimated 20,669 respondents per year. This amount also includes stocking, processing and maintenance costs of \$71,319, which was derived by calculating the personnel and overhead costs to EOIR for processing the form.

15. Reasons for Change in Burden – The difference in hour burden is due to an agency adjustment, specifically a decrease in the number of respondents. Previously, EOIR estimated that there were approximately 26,544 respondents annually and EOIR currently estimates 20,669 respondents annually. The number of hours per response (6 minutes)

remains the same, so the difference in hour burden is due only to fluctuations in the number of respondents.

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

**Section B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.

## PAPERWORK CERTIFICATION

In submitting this request for Office of Management and Budget (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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Christina Baptista  
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4/26/17  
Date