

SUPPORTING STATEMENT

Fee Waiver Request Form EOIR- 26A

(Extension of a Currently Approved Collection)

Part A. Justification

1. Necessity of Information Collection - The Board of Immigration Appeals (Board) may, in its discretion, authorize the filing of an appeal or motion over which the Board has jurisdiction without payment of the required filing fee. See 8 C.F.R. § 1003.8(a)(3) (2011). An individual who wants a waiver of such fee must demonstrate his/her inability to pay it. To request a fee waiver, the individual files with his or her Notice of Appeal or motion a Fee Waiver Request (Form EOIR-26A) in lieu of the filing fee. Id. If the request does not establish the inability to pay the required fee, the appeal or motion will not be deemed properly filed. Id. The form requests information about the individual's assets and expenses, which is then used by the Board to determine whether the individual established his or her inability to pay the filing fee.

EOIR made several edits to Form 26A. EOIR included a Privacy Act Notice in order to comply with its provisions. EOIR also added clarifying language to two portions of the form based on recurring incorrect submissions: the insertion of additional instructional language and specific language at the signature line now makes it clear that the alien, rather than an attorney or representative, should sign the form. EOIR also made changes

to the categories of “Assets” and “Expenses.” These changes will better help EOIR determine whether an alien can afford to pay the fee and otherwise correct typographical or punctuation problems with the form.

2. Needs and Uses - The information provided on the Form EOIR-26A is reviewed by the Board to determine whether to waive the filing fee for an appeal or motion. One Fee Waiver Request is collected for each appeal or motion in which a waiver of the filing fee is requested.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-26A is available on EOIR’s website for printing. Information presently can be typed into the online form which is then printed out for submission to the agency, or the individual has the option of printing the form in its entirety to complete by typing or printing legibly. Currently, EOIR does not have the automated capability in place to accept electronic submission of forms. However, EOIR continues to explore the implementation of a number of electronic document initiatives, including the electronic submission of EOIR forms.

4. Efforts to Identify Duplication - The only method by which an individual can request a waiver of a fee required to file an appeal or motion with the Board is to file the Form EOIR-26A in conjunction with the Notice of Appeal or motion. A review of EOIR’s existing forms revealed no duplication of effort, and there is no similar information

currently available which can be used for this purpose.

5. Methods to Minimize Burden 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 and present this information would deprive an individual who may be unable to pay the required fee for an appeal or motion the opportunity to have his/her request for a fee waiver considered by the Board.

7. Special Circumstances Influencing Collection - None of the eight special circumstances identified in OMB instruction number seven apply to this collection.

8. Reasons for Inconsistencies with 5 CFR 1320.6 - A 60-day notice covering this collection will be published in the Federal Register. A 30-day notice covering this collection also 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 respondents.

10. Assurance of Confidentiality - The original Fee Waiver Request is maintained by EOIR in the official court record of proceeding (ROP) and is accessed by those EOIR employees processing the ROP. The confidentiality of the contents of an individual's Fee Waiver Request (Form EOIR-26A) is protected by EOIR, as are all the documents in the ROP, to the extent permitted by the law, including the Privacy Act and the Freedom of Information Act.

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

12. Estimate of Hour Burden

a. Number of Respondents	5,970
b. Number of Responses per Respondent	1
c. Total Annual responses	5,970
d. Hours per response	1
e. Total annual hourly reporting burden	5,970

The total annual reporting burden is derived by multiplying the number of respondents (5,970) by the frequency of response (1) by the number of hours per response (1): 5,970 respondents x 1 response per respondent x 1 hour per response = 5,970 burden hours.

13. Estimate of Cost Burden

There are no capital or start-up costs associated with this information collection. The

estimated public cost is \$59,700. This estimate is derived by multiplying the number of respondents (5,970) by the hours per response (1) by the individual's estimated cost of \$10 per hour for completing the form (the individual's time and supplies): 5,970 respondents x 1 hour per response x \$10/hr = \$59,700. There is no filing fee associated with this collection.

14. Estimated Annualized Cost to the Federal Government - It is estimated that the annual government cost for printing, distributing, stocking, processing, and maintaining the Form EOIR-26A is \$597 (derived by multiplying the 1 page of the form by an estimated \$.10 per copy by the estimated 5,970 respondents per year).

15. Reasons for Change in Burden - The burden was increased due to a prior agency miscalculation in the number of respondents.

16. Plans for Publication - The 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 - The EOIR does not request an exception to the certification of this information collection.

Section B. Collection of Information Employing Statistical Methods

Not applicable.