

## **SUPPORTING STATEMENT**

### **Alien's Change of Address Form Form EOIR- 33/BIA (Board of Immigration Appeals) Form EOIR-33/IC (Immigration Court) (Revision of a Currently Approved Collection)**

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

1. **Necessity of Information Collection** - Individuals in immigration proceedings are required by section 239(a)(1)(F)(i) of the Immigration and Nationality Act to report any change of address to the Attorney General. As the delegated representative of the Attorney General in immigration proceedings, the Executive Office for Immigration Review (EOIR) requires that the collection of such information regarding individuals in proceedings before the Immigration Court or the Board of Immigration Appeals (Board) be standardized and facilitated by the use of the Alien's Change of Address Form. The form exists in two versions: the Form EOIR-33/IC, to be used by individuals in proceedings before the Immigration Court to report a change of address; and Form EOIR-33/BIA, to be used by individuals in proceedings before the Board to report a change of address. The form has been updated to alleviate frequent misunderstandings about the form and aliens' obligation to submit the form. The form has also been updated to include a Privacy Act notice.

The form collects an alien's old and new addresses so that the agency has the correct information necessary to determine where to send notices of the next administrative action or of any decisions in the individual's case. An alien in immigration proceedings at the

immigration court level must mail the change of address form to the immigration court at which the individual is appearing. The form contains the mailing address so that the individual can mail the completed form to the appropriate location. Accordingly, there are over 50 versions of the E-33/IC. The only difference among the forms is the actual address listed on the back page. The various forms containing these distinct addresses are available on EOIR's public website. Please see the supplementary supporting statement for further information.

EOIR changed the EOIR-33/IC to clarify that the EOIR-33/IC is the only mechanism by which an alien's address can be updated with the immigration courts and to underscore the consequence of failing to comply with the requirement to timely submit the address update. Although aliens are required to notify the immigration court within five (5) days of any change of address, *see* 8 C.F.R. § 1003.15(d)(2)(2011), aliens frequently fail to notify the immigration court of the change of address in a timely manner. Further, some aliens fail to timely submit the EOIR-33/IC because they assume that including the new address on other communication, such as an application for relief or a motion, will suffice. Additionally, EOIR made some stylistic changes to the form's opening paragraph to make the form easier to read for individuals who are pro se and may have limited proficiency with the English language.

Accordingly, EOIR has made the following changes to EOIR-33/IC. First, EOIR changed the wording of the following sentence by moving the word "only" to earlier in the

sentence, as denoted in italics: “You will *only* receive notification as to the time, date, and place of hearing or other official correspondence at the address which you provide.”

Moving the modifier to earlier in the sentence should clarify that the immigration court will only send correspondence to the address on file. Second, some aliens have argued that they did not submit the EOIR-33/IC because they had indicated their new address on some other form of communication to the immigration court, including motions, applications for relief or oral communication. *See, e.g., Thongphilack v. Gonzales*, 506 F.3d 1207, 1210 (10th Cir. 2007). Consequently, EOIR changed the form by adding the following sentences in order to prevent confusion about how a change in address is to be communicated to the immigration court: “Changes in address or telephone numbers communicated through any means except this form, e.g., pleadings, motion papers, correspondence, telephone calls, applications for relief, etc. will not be recognized and the address information and record will remain unchanged.” Third, to make the form easier to comprehend, EOIR removed the citation to the specific regulatory provision that requires an alien to file this form and used two sentences to convey the requirement and time limitation. The result is the following two sentences: “If you move or change your phone number, the law requires you to file this Change of Address Form with the Immigration Court. You must file this form within five (5) working days of a change in your address or phone number.”

Finally, EOIR made three other changes to EOIR-33/IC. A Privacy Act notice was added to the second page in order to comply with that Act’s provisions. As discussed below, the

estimated time to complete the form was adjusted upward from three to five minutes and the Paperwork Reduction Act notice on page two was edited to reflect this change.

Additionally, EOIR added an updated revision date at the bottom right hand corner of the form.

EOIR also made several similar changes to the EOIR-33/BIA. Although aliens are required to notify the Board within five (5) days of any change of address, aliens frequently fail to notify the Board of the change of address in a timely manner. *See* 8 C.F.R. § 1003.38(e). To underscore the importance of submitting the form, EOIR added one sentence that highlights the consequences to the alien of not submitting the form. Additionally, EOIR added a sentence, similar to the EOIR-33/IC, that informs aliens that official correspondence will only be sent to the address on record. Finally, EOIR made some wording changes and deletions for purposes of conciseness with respect to the requirement to file the form for a change in an alien's telephone number. Accordingly, the paragraph entitled "When to use this form" now reads as follows:

**When to use this form:** If you move or change your phone number, the law requires you to file this Change of Address Form with the Clerk's Office of the Board of Immigration Appeals. You must file this form within five (5) working days of a change in your address or phone number. Even if you have an attorney or representative, you should file this form with the Board every time you change your address. You will only receive official correspondence at the address which you provide on this form. If you fail to keep your address information up to date, the Board of Immigration Appeals may treat that failure as an abandonment of your appeal or motion.

Both of EOIR's change of address forms require an alien to submit a copy of the completed form to the appropriate Office of the Chief Counsel for the Department of Homeland Security. Both EOIR-33/IC and EOIR-33/BIA are two-sided and when properly folded and with correct postage, can be sent in the mail. The back page contains instructions for folding the form. EOIR-33/IC contains an instruction that serves to remind aliens of their obligation to send a copy to the relevant Office of the Chief Counsel for the Department of Homeland Security. EOIR has changed EOIR-33/BIA to include this same instruction. The second page of EOIR-33/BIA now contains the following sentence: "1) Copy the completed form and mail or deliver it to the Office of the Chief Counsel DHS-ICE at the address you inserted in the PROOF OF SERVICE. The PROOF OF SERVICE certifies that you provided a copy of the form to DHS." Because this sentence is now the first of the six instructions, EOIR has also changed the numbering of the remaining instructional sentences accordingly.

EOIR added a bold box around the "Name" and "Alien Number" fields of the EOIR-33/BIA to clearly identify those fields as fields that must be completed along with information regarding an alien's address.

Finally, EOIR made three other changes to EOIR-33/BIA. A Privacy Act notice was added to the second page in order to comply with that Act's provisions. As discussed below, the estimated time to complete the form was adjusted upward from three to five minutes and the Paperwork Reduction Act notice on page two was edited to reflect this

change. Additionally, EOIR added a revision date at the bottom right hand corner of the form.

2. Needs and Uses - The information on the form, which is entered into EOIR's internal-use only computer database, is used by the Immigration Courts and the Board to ascertain where to send the notice of the next administrative action or notice of any decisions which have been rendered in an individual's case.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Forms EOIR-33/IC and EOIR-33/BIA are available on EOIR's website for printing. Information 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 electronic submission of EOIR forms.

4. Efforts to Identify Duplication - The only method for informing the Immigration Courts or the Board of an individual's change of address is to file a Form EOIR-33/IC or EOIR-33/BIA. 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 the information will prevent an individual in immigration proceedings before the Immigration Courts or the Board from fulfilling the statutory requirement of reporting a change of address.

7. Special Circumstances Influencing Collection - An individual in immigration proceedings before the Board is required by regulation to provide written notice of a change of address on Form EOIR-33/BIA to the Board within five working days of any change of address. 8 C.F.R. § 1003.38(e). Similarly, an individual in immigration proceedings before the immigration court is required by regulation to provide written notice of a change of address on Form EOIR-33/IC to the immigration court within five days of any change of address. 8 C.F.R. § 1003.15(d)(2). There are no other special circumstances identified in OMB instruction number 7 that 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 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 Alien's Change of Address Form 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 Alien's Change of Address Form 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-33/IC or EOIR 33/BIA.

12. Estimate of Hour Burden

a. Number of Respondents	15,000
b. Number of Responses per Respondent	1
c. Total Annual responses	15,000
d. Hours per response	5 minutes
e. Total annual hourly reporting burden	1,245

The total annual reporting burden is derived by multiplying the number of respondents (15,000) by the frequency of response (1) by the number of hours per response (.083):  
 $15,000 \text{ respondents} \times 1 \text{ response per respondent} \times .083 \text{ hour per respondent} = 1,245$   
burden hours.

13. Estimate of Cost Burden - There are no capital or start-up costs associated with this information collection. There is no filing fee for 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 Forms EOIR-33/IC and EOIR-33/BIA is \$3,000 (derived by multiplying the 2 pages of each form by an estimated \$.10 per copy by the estimated 15,000 respondents per year).

15. Reasons for Change in Burden - EOIR increased the estimated hours per response from three (3) to five (5) minutes. This increased the total annual hourly reporting burden from 750 to 1,245. This adjustment is based on two factors. First, because of additions made to the forms, such as the Privacy Act Notice, five minutes is a more realistic estimate of the average time an alien will use to complete this form. Second, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), similarly requires aliens to submit a change of address form. USCIS estimates that an alien will need five minutes to complete its change of address form, the AR-11, and this form requires information similar to EOIR's concomitant form. This is a Program change.

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**

Not applicable.