

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 or 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 has established his or her inability to pay the filing fee.

The Executive Office for Immigration Review (EOIR) made several edits to Form EOIR-26A. Included at the bottom of the form is a supporting statement and signature section for the applicant's attorney or representative, if any, to assure the Board that the applicant is unable to pay the modest filing fee and that the practitioner is satisfied that the request for filing *in forma pauperis* is made in good faith. *See Matter of Lopez*, 14 I&N Dec. 424, 426 (BIA 1977) (an alien's representative should not represent to the Board that his or her client is unable to pay the modest filing fee unless he or she is satisfied that the application is made in good faith. And if he or she is so satisfied, he or she should disclose to the Board sufficient details so that the claim

of poverty may be properly assessed). The alien's attorney or representative, if any, shall complete the attestation section, which states: "I hereby attest that I have reviewed the details provided herein and I am satisfied that this fee waiver request is made in good faith." In addition to including the attestation, EOIR capitalized the "a" in "EOIR-26A" at the bottom of the page, and will update the revised date accordingly.

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. The information can be typed into the online form, which is then printed out for submission to the agency, or the form can be printed in its entirety and then completed by typing or printing legibly.

Currently, EOIR does not have the capability to accept electronic submission of the Form EOIR-26A. However, EOIR has developed an 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 of Immigration Appeals. eRegistry allows attorneys and accredited representatives with full accreditation to create and maintain a personal profile in order to electronically submit forms and update existing forms. Electronic submission of the Form EOIR-26A through eRegistry is part of EOIR's long-term electronic filing initiative.

4. Efforts to Identify Duplication - The only method by which an individual can request a waiver of the filing fee for 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

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|---|-------|
| a. Number of Respondents | 8,614 |
| b. Number of Responses per Respondent | 1 |
| c. Total Annual responses | 8,614 |
| d. Hours per response | 1 |
| e. Total annual hourly reporting burden | 8,614 |

The total annual reporting burden is derived by multiplying the number of respondents (8,614) by the frequency of response (1) by the number of hours per response (1): 8,614 respondents x 1 response per respondent x 1 hour per response = 8,614 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 \$86,140. This estimate is derived by multiplying the number of respondents (8,614) 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): 8,614 respondents x 1 hour per response x \$10/hr = \$86,140. There is no filing fee associated with this collection.

14. Estimated Annualized Cost to the Federal Government – EOIR estimates that the annual government cost for printing, distributing, stocking, processing, and maintaining the Form EOIR-26A is \$5,326.

15. Reasons for Change in Burden - The burden increased due to an increase in the number of submissions received over the past three years.

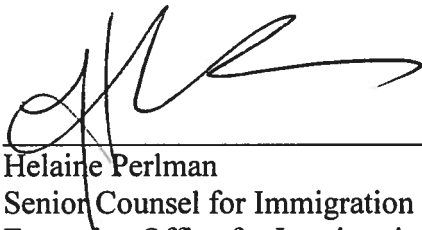
16. Plans for Publication - EOIR does not intend to employ the use of statistics or the publication thereof for this collection of information.

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.

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.



Helaine Perlman
Senior Counsel for Immigration
Executive Office for Immigration Review

8/11/14

Date