

## **SUPPORTING STATEMENT**

**OMB No. 1125-xxxx**

**Office of the Chief Administrative Hearing Officer E-Filing Portal**

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### **Part A. Justification**

1. Necessity of Information Collection – Administrative Law Judges (ALJs) in the Office of Chief Administrative Hearing Officer (OCAHO) adjudicate immigration-related employment cases arising under sections 274A, 274B, and 274C of the Immigration and Nationality Act (Act). These cases begin with the filing of a complaint. In cases arising under section 274A of the Act, the complainant is the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and the respondent is typically a private business or employer. In cases arising under section 274B of the Act, the complainant may be the Immigrant and Employee Rights Section in the Civil Rights Division of the Department of Justice, or an individual or entity, and the respondent is a business or employer. In cases arising under section 274C of the Act, the complainant is DHS ICE, and the respondent is an individual or employer.

Once a complaint is filed, the case is assigned to an ALJ, and the respondent is given an opportunity to file an answer to the complaint. After a complaint is filed, the parties may file prehearing statements, engage in discovery, attempt to negotiate settlement, and file a wide range of motions and requests. During this process, OCAHO ALJs may issue a number of different orders, including orders resolving discovery disputes and orders responding to motions and requests filed by the parties. Cases may proceed to a full evidentiary hearing, or may be resolved by settlement or by a dispositive motion. In every case, the ALJ will issue a final order. Final orders issued by the ALJs in cases arising under sections 274A and 274C of the Act may be

reviewed by the Chief Administrative Hearing Officer (CAHO) and/or the Attorney General. All final Agency orders may be appealed to the appropriate United States Circuit Court of Appeals.

Except for cases enrolled in OCAHO's email filing pilot program, *see* 79 FR 31143, documents filed in OCAHO cases are typically filed by mail or delivery service. Similarly, decisions, notices, and orders issued by OCAHO ALJs and the CAHO are served on the parties by certified or first class mail. In order to improve the efficient adjudication of OCAHO cases and reduce the printing, copying, and mailing costs (for both OCAHO and the parties) associated with OCAHO cases, OCAHO is implementing a new electronic case management system that will include a web-based electronic filing portal.

The portal will allow parties in OCAHO cases to file complaints electronically, request electronic access to a case to which they are a party, file motions and requests electronically, and receive service of orders and decisions from OCAHO by email. In order to utilize the portal, parties will need to register for an account by providing their name, street address, telephone number, and email address. Once a user is registered, he or she will be able to file a new complaint, file documents related to an ongoing case before OCAHO, and track the status of the user's active cases. The portal will also include fully electronic versions of OCAHO's two pre-existing forms (Form EOIR-58, Unfair Immigration-Related Employment Practices Complaint Form (OMB #1125-0016), and EOIR-30, OCAHO Subpoena Form). The electronic versions of those forms will collect the same information collected by the existing paper versions.

2. Needs and Uses – Registration for and creation of an account in this electronic filing portal will allow the parties and their representatives to file, receive, and review complaints and other documents pertaining to their cases that are pending before the ALJs of the OCAHO. The parties and their representatives will only be able to access and view information and documents

relating to their own, but not others', cases. Creation of an account in and use of this electronic filing portal is entirely voluntary. The portal is created for the convenience of the parties appearing before the ALJs of the OCAHO, with the goal of reducing costs and resources required during the course of proceedings. Information collected as part of this electronic filing program will enable OCAHO to ensure that only authorized parties and their representatives will have access to information and documents pertaining to their specific cases. Information collected will also enable OCAHO to identify and categorize new cases and filings to facilitate the efficient adjudication of OCAHO cases.

3. Use of Technology – Creation of an account in and use of this electronic portal consist of submission of the required information through electronic means on a web-based portal created solely for that purpose, and of subsequent access to user-specific case information. The need to complete, print, and submit a printed version of the required information and relevant documents is eliminated, thus reducing the time and resources needed to engage in the adjudication process before OCAHO.

4. Efforts to Identify Duplication – The only way by which a party can create an account in and utilize the electronic filing portal is by completing the required information in the web-based portal. There is no duplication of effort or information in that registration for the web-based account serves as the only means for gaining access to the relevant information for cases pending before OCAHO in electronic form.

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 OCAHO. The electronic filing portal is designed to be easily understood and completed by the parties and their attorneys and representatives. The

burden associated with creating an account is small and estimated to take only a few minutes of time to enter the required information. Furthermore, the pages and screens for submitting complaints, requesting access to a case file, and submitting motions and other documents will similarly take only a few minutes to complete. Individuals creating an account and filing complaints and other documents in the portal will benefit by gaining access to OCAHO case filing system and will be able to quickly and easily file, receive, and review documents and orders pertaining to their cases. As such, the benefits associated with creating an account in the electronic filing system, including convenient and speedy access to case information, will greatly outweigh the burden of entering the required information to create an account.

6. Consequences of Less Frequent Collection – Collection of the initial registration information will ordinarily occur only once for each individual, and/or for his or her attorney or representative. Subsequently, portal registration information will only be collected when the relevant data needs to be modified, changed, or updated, such as with an individual's name, address, email, or continued ability to practice before OCAHO. Information regarding filing complaints and motions or other documents would be collected only as necessary when each party elects or is required to file a particular document as part of the adjudication process. Failure to collect this data would deprive individuals of the ability to participate in case adjudication before OCAHO in electronic form.

7. Special Circumstances Influencing Collection – An attorney or representative will generally have to respond to the portal registration information collection only once. However, an attorney or representative may respond more than quarterly if any of the initially submitted information has changed. Individuals may respond to certain other portions of the portal

information collection more than once throughout the lifetime of a case, but only as necessary to submit new complaints, or new filings in an ongoing case.

8. Federal Register Publication and Consultation – A 60-day notice covering this collection was published in the Federal Register on March 19, 2018. *See* 83 FR 12029 (March 19, 2018). Subsequently, a 30-day notice covering this collection will be published in the Federal Register. Copies of these notices will be provided in ROCIS. If comments are received, they will be considered and incorporated where appropriate.

9. Payment or Gift to Claimants – EOIR does not provide any payments or gifts to individuals in exchange for the information provided.

10. Assurance of Confidentiality – All information requested and obtained is collected in accordance with the Privacy Act as a new system of records. EOIR maintains the information provided in electronic form, and only EOIR staff members who are authorized to review and process the information may access it. Once the information is entered and processed in the electronic database system, only those persons with a valid identification, password, and permission created and maintained by EOIR are authorized to access it. EOIR would only release this information in accordance with the Privacy Act and Freedom of Information Act.

11. Justification for Sensitive Questions – There are no sensitive questions being asked in this information collection.

12. Estimate of Hour Burden

a. Number of Respondents	69
b. Number of Responses per Respondent	1
c. Total Annual Responses	69
d. Hours per Response	10 min.

e. Total Annual Hourly Reporting Burden

18 hours

The total annual reporting burden is derived by multiplying the number of respondents (69) by the frequency of response (1) by the number of hours/minutes per response (10 minutes): 69 respondents x 1 response per respondent x 10 minutes per respondent = 11.7 hours rounded to 18 hours.

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. The estimated public cost is a maximum of \$1,064. This amount is reached by multiplying the burden hours (18) by \$59.11, which represents the current median hourly wage for attorneys, as set by the Bureau of Labor Statistics. \$1,064 represents the maximum estimate of cost burden, if the respondent hires an attorney. For those respondents who complete this information collection without an attorney, there is an estimated cost of \$10 per hour for completing the form (the individual's time and supplies) in lieu of attorney cost.

14. Estimated Cost to Federal Government – EOIR intends to use existing hardware to implement account creation and registration and to process other filings within the portal. Since this registration will only need updating when the registrant changes address or other relevant information, the cost of implementing and administering this registration will be part of the routine business activity taking place while a case is being adjudicated before OCAHO. It is estimated that the annual government cost for processing this registration is \$1,482.09; annual maintenance on the system is expected to cost \$23,160.

15. Plans for Publication – The information from this collection will be used internally to create user accounts and facilitate adjudication of cases before OCAHO. At this time, there are no plans to publish the information subject to this information collection.

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

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

This collection does not employ statistical methods.

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