

## SUPPORTING STATEMENT

OMB No. 1125-0013

### **Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative Form EOIR-31A**

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

1. Necessity of Information Collection - The Executive Office for Immigration Review (EOIR) seeks an extension with changes of a currently approved information collection (OMB#1125-0013) for the accreditation of non-attorney representatives. Regulations prescribe who may represent individuals in immigration proceedings. The OLAP may accord recognition to organizations, which are then able to seek full or partial accreditation of their representative(s) to practice before the Executive Office for Immigration Review (EOIR) and the Department of Homeland Security (DHS). *See* 8 C.F.R. §§ 1292.12, 1292.13(a). For this to occur, OLAP must first approve a request for recognition from an eligible organization. Then, OLAP must approve a request from a recognized organization for accreditation of its representative(s). An individual who receives full accreditation may represent aliens before EOIR and DHS; an individual who receives partial accreditation may represent aliens before DHS only.

An organization applies for accreditation or renewal of accreditation of a non-attorney representative by submitting a Form EOIR-31A to OLAP, and serving a copy of the Form EOIR-31A on the local District Director of the U.S. Citizenship and Immigration Services (USCIS) of DHS and the local Chief Counsel of the U.S. Immigration and Customs Enforcement (ICE) of DHS. 8 C.F.R. § 1292.12(b). The Form EOIR-31A

collects basic information about the non-attorney representative, including a description of his or her knowledge and experience. This information is necessary to prevent fraud. It also ensures that the representative has available the requisite knowledge and skill to represent individuals in immigration.

EOIR has made a number of changes to the form and the instructions in an effort to provide greater clarity of purpose and the needs and uses of the information collected. In addition, the information collected focuses more on the individual seeking accreditation, as opposed to the organization, and will cease to collect the following information: Other names the organization used; Names the organization previously applied under; Address, telephone, fax, and email of the organization; Date of organization's last approval of recognition. Instead, the form will collect the following information about the individual: Daytime phone number and email; whether the renewal application is for partial or full accreditation; whether the change of accreditation type is partial to full or full to partial; address(es) where proposed representative works or intends to work.

Additional changes have been made to Part 2 in order to better assess the applicant's eligibility for accreditation. Notably, the new Part 2A also asks for the name of the organization that has ever submitted an application on behalf of the individual, what the outcome was of the application, and the reasons for the individual leaving that organization (if applicable); the new Part 2B specifically asks if the representative possesses broad knowledge and adequate experience in immigration law and procedure; the new Part 2B also lists one by one the specific documents required to demonstrate

knowledge and experience rather than referring to the requirements more broadly with a reference to the form instructions as in old Part 4. For renewal applications, the new Part 2B asks how frequently the representative has provided direct legal representation before USCIS or EOIR within the past three years or since last accredited. The new Part 2C asks for the individual's date of birth. This information is important if EOIR Fraud wants to conduct a background check or ask USCIS FDNS to conduct a criminal background check on the proposed representative. The new Part 2C sets up a series of yes/no questions that follow the requirements of 8 CFR § 1292.12. This Part specifically asks if the representative has ever practiced law without authorization, and if the representative ever committed a crime of any kind. These questions are important to help EOIR identify individuals who may be involved in the unlawful practice of law or do not have the required character and fitness to represent clients. Additional changes have been made to streamline the form and better organize the information collected as described in the narrative of changes attached to the supporting statement.

2. Needs and Uses - The application form for request by organization for accreditation of non-attorney representative (Form EOIR-31A) is optional and voluntary. If an organization elects to request accreditation of a representative using the Form EOIR-31A, the form will be filed with and adjudicated by EOIR. Specifically, OLAP receives and processes requests for accreditation of representatives of recognized organizations to represent individuals in immigration proceedings before EOIR and/or DHS. The request is considered by OLAP, as well as USCIS and ICE, which are served with the request, and may respond to it. Careful review of the application materials is necessary to prevent

the accreditation of fraudulent or unqualified representatives and ensure that only individuals with sufficient immigration knowledge will be accredited to represent individuals before EOIR and/or DHS.

3. Use of Technology - The voluntary use of this form will provide the most efficient means for collecting and processing the required data. The Form EOIR-31A will be available on EOIR's website for printing. Information can be typed into the online form, which is then printed for submission to EOIR. In addition, the form may be printed in its entirety and completed by typing or printing legibly. Currently, EOIR only has limited automated capabilities in place to accept the electronic submission of certain forms. However, EOIR is exploring a number of electronic document initiatives, including electronic submission of additional EOIR forms.

4. Efforts to Identify Duplication – The only method for an organization to apply for accreditation of representatives is to file form EOIR-31. A review of EOIR's forms, revealed no duplication of effort and there is no similar information currently available that can be used for this purpose.

5. Impact on Small Businesses - This collection does have an impact on small businesses or other small entities to the extent that they are non-profit organizations applying to OLAP for accreditation of non-attorney representatives before EOIR and/or DHS. However, this collection does not an undue burden on these non-profit organizations; instead, the requested information is necessary for the OLAP's determination of the

accreditation request. The information collection seeks photocopies of pre-existing materials, where applicable, and summaries of information. EOIR estimates that it will take approximately two hours to complete the form and produce the requested documents.

6. Consequences of Less Frequent Collection - Failure to collect this information would deprive the organization of establishing eligibility for accreditation of a representative.

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 was published in the Federal Register on September 5, 2019 (84 FR 46760). A 30-day notice covering this collection will be published in the Federal Register. 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, including recognized organizations and their accredited representatives.

10. Assurance of Confidentiality – EOIR’s Recognition and Accreditation Coordinator will maintain the original application. Those EOIR staff members processing the application may access the Form EOIR-31A. EOIR protects the confidentiality of the

contents of the Form EOIR-31A, to the extent permitted by 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-31A.

12. Estimate of Hour Burden

a. Number of Respondents	818
b. Number of Responses per Respondent	1
c. Total Annual responses	818
d. Hours per response	2
e. Total annual hourly reporting burden	1636

The total annual reporting burden is derived by multiplying the number of respondents (818) by the frequency of response (1) by the number of hours per response (2 hours):  
 $818 \text{ respondents} \times 1 \text{ response per respondent} \times 2 \text{ hours per respondent} = 1636 \text{ burden hours.}$

13. Estimate of Cost Burden

There are no capital or start-up costs associated with this information collection. The estimated public cost is zero.

For informational purposes only, there may be additional costs to respondents.

Respondents may incur a cost if they hire a private practitioner to assist them with

completing the Form EOIR-31A. The Bureau of Labor Statistics reports that the median hourly wage for lawyers is \$58.13. The estimated public cost is a maximum of \$95,101. This amount is reached by multiplying 1636 burden hours by \$58.13 (the current median hourly wage for attorneys. For those respondents who proceed without a practitioner, there is an estimated cost of \$10 per hour for completing the form (the individuals' time and supplies) in lieu of the practitioner cost.

14. Estimated Cost to Federal Government - It is estimated that the annual government cost for printing, distributing, stocking, processing and maintaining the Form EOIR-31A is \$880 for EOIR.

15. Reason for Change in Burden - There is an increase in the burden due to an increase in the amount of forms received annually.

16. Plans for Publication - The information from this collection will be used internally to process the applications for accreditation.

17. Exceptions to 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 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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Executive Office for Immigration Review

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Date