

## SUPPORTING STATEMENT

### FOIAXpress / FOIA Public Access Link

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#### Part A. Justification

1. Necessity of Information – Regulations prescribe how to make a request for access to Department of Justice records under the Freedom of Information Act, 5 U.S.C. § 552. Generally, one should write directly to the FOIA office of the component that maintains the records being sought or to the FOIA/PA Mail Referral Unit, Justice Management Division, Department of Justice. 28 C.F.R. §16.3(a)(1)-(2). The regulations require that the requestor describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. 28 C.F.R. §16.3(b). The request should include, whenever possible, specific information that may assist a component in identifying the requested records, such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number. *Id.* FOIA requests are subject to applicable fees. 28 C.F.R. §16.10. The component that first receives a request for a record and maintains that record is the component responsible for responding to the request, which requires the requestor to provide contact information including name, mailing address and an e-mail address, if available. 28 C.F.R. §16.4(a). Furthermore, a substantial number of EOIR FOIA requests are third party requests for individual records of proceedings for those undergoing immigration proceedings within EOIR immigration courts, which requires the requestor to submit proper authorization allowing release of the information. The EOIR FOIA

Program recommends third party requesters submit a DOJ-361 to substantiate proper authorization, which includes the name, address, signature and alien identification number signed by the individual the subject of the immigration proceeding.

FOIAXpress is a software program that provides the EOIR FOIA Program with a single, unified application for managing the entire lifecycle of FOIA requests and appeals from the initial request submitted by a requestor to delivery of documents. The Public Access Link (PAL) is a secure web portal that provides a platform for the public to immediately file a FOIA request with EOIR. PAL is integrated directly with FOIAXpress and offers a centralized location for receiving online FOIA requests, delivering responsive records, communicating with requesters, collecting fees, and providing access to released documents in a public reading room in accordance with agency proactive disclosure guidelines.

PAL collects personal, identifying data about the requestor to enable EOIR to communicate with the requestor as required under the Freedom of Information Act, 5 U.S.C. § 552(a)(6)(a), and its implementing regulations. PAL also collects personal data in the form of a DOJ-361 or other proper authorization in order to verify proper authorization of third party requests for individual records of proceedings.

2. Needs and Uses – Use of the PAL is optional and voluntary. It offers the public requestor a secure option for submitting and receiving a FOIA request electronically. All

communications through the PAL will be conducted electronically, eliminating the need for any paper submissions. It will also provide the government with a single, unified application for managing the entire lifecycle of FOIA requests, allowing for more efficient use of government resources and records keeping in processing FOIA requests.

3. Use of Technology - The use of this collection will provide the most efficient means for collecting and processing the required requests. The PAL will be available as a secure web portal that provides a platform for the public to immediately file a FOIA request with EOIR.

4. Efforts to Identify Duplication – There is no electronic portal currently available for the public to submit FOIA requests with EOIR. Presently, requestors must send written requests by mail or email. A review of EOIR’s collections revealed no duplication of effort, and there is no other similar information collection currently available that can be used for this purpose.

5. Impact on Small Businesses - This collection does not have an impact on small businesses or other small entities. The use of the PAL is optional and voluntary, and may be used at the discretion of the requestor. When used, this collection does not impose an undue burden on the requesting individuals or the recipients of the records. Rather, it provides a more efficient streamlined method for submitting direct requests to EOIR’s FOIA program. EOIR estimates that it will take approximately three (3) minutes to

complete a request using the PAL.

6. Consequences of Less Frequent Collection - Failure to collect this information would deprive an individual of an efficient method to request the release of the information and records sought under the FOIA or Privacy Act.

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 November 18, 2020, 85 FR 73513. 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 parties in cases or immigration proceedings, attorneys, accredited representatives, qualified organizations, or other third parties.

10. Assurance of Confidentiality – The EOIR Office of the General Counsel, FOIA Program will maintain the original request. EOIR protects the confidentiality of the contents of the requests submitted via the PAL, 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.

12. Estimate of Hour Burden

a. Number of Respondents	33,984
b. Number of Responses per Respondent	1 each
c. Total Annual Responses	33,984
d. Hours per Response	3 minutes
e. Total Annual Hourly Reporting Burden	1,699 hours

33,984 respondents x 1 response per respondent x 3 minutes per response = 1,699 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 should they elect to use this optional method of submitting a FOIA request. Respondents may incur a cost if they hire an attorney to assist them with completing their request. The Bureau of Labor Statistics reports that the median hourly wage for lawyers is \$57.68. For those respondents who proceed without an attorney, there is an estimated cost of \$10 per hour for completing the request (the individuals' time and supplies) in lieu of the practitioner cost. There are also no fees associated with submitting a FOIA request.

14. Estimated Cost to the Federal Government – It is estimated that the annual government cost for processing FOIA requests received through the PAL will be \$51,730. This amount also includes processing and maintenance costs of \$12,241, which was derived by calculating the personnel and overhead costs to EOIR for processing the requests.

15. Plans for Publication - The information from this collection will be used internally to locate and release records of individuals who are requesting information and documentation from EOIR pursuant to the FOIA.

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.

**PAPERWORK CERTIFICATION**

In submitting this request for Office of Management and Budget (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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Date