

## SUPPORTING STATEMENT

### List of Pro Bono Legal Service Providers for Individuals in Immigration Proceedings (Form EOIR-56)

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#### Part A. Justification

1. Necessity of Information - Aliens who are placed in removal proceedings pursuant to section 240 of the Immigration and Nationality Act (Act or INA), or who seek asylum under section 208 of the Act (whether or not in removal proceedings), must be provided with a list of persons who have indicated their availability to represent aliens on a pro bono basis. *See* INA § 208(d)(4)(B) (relating to asylum proceedings), and INA § 239(a)(1)(E), (b)(2) (relating to removal proceedings). In order to meet this statutory obligation, the Executive Office for Immigration Review (EOIR) publishes the List of Pro Bono Legal Service Providers (List). The regulations governing the List were first promulgated on February 28, 1997, at 62 FR 9071, and are found at 8 CFR 1003.61-1003.65. On October 1, 2015, EOIR published a Final Rule at 80 FR 59503, amending 8 CFR parts 1003, 1240, and 1241, to enhance the eligibility requirements for organizations, private attorneys, and referral services to be included on the List.

The List is organized by immigration court location; for each location, the List provides the names of private attorneys and non-profit organizations that aliens in proceedings may contact for free legal services. At each immigration court location, aliens are given the portion of the List with the providers for that location. The complete List is posted on the EOIR Web site. *See* [www.usdoj.gov/eoir/probono/states.htm](http://www.usdoj.gov/eoir/probono/states.htm).

The List is central to EOIR's efforts to improve the amount and quality of representation before its adjudicators, and it is an essential tool to inform aliens in proceedings before EOIR of

available pro bono legal services. When EOIR published the final rule in 2015, it created a fillable pdf. form for organizations, private attorneys, and referral services to use to request to be included on the List. EOIR created the form in response to public comments to the Notice of Proposed Rulemaking suggesting that EOIR look for alternative electronic methods through which to make an initial application and apply for continued participation. In the final rule, EOIR indicated that it “EOIR is considering, in the future, permitting prospective and current providers to electronically submit a wide range of documents. Such documents could include applications to appear on the List, declarations that a provider remains qualified to appear on the List, requests to be removed from the List, responses to inquiries and notices from EOIR, and notifications of changes in information or status.” EOIR has since developed an online electronic system for applying for inclusion on the List. EOIR seeks to discontinue use of the paper-based pdf. application form and replace it with the electronic filing option. This endeavor complies with the Government Paperwork Elimination Act, Pub.L. 105-277 and the E-Government Act of 2002, Pub.L. 107-347, Dec. 17, 2002, in furtherance of the Department’s vision for improved immigration adjudication processing and to meet the public expectations for electronic government.

EOIR also seeks to make the EOIR-56 mandatory for all applicants in order to elicit, in a uniform manner, all of the required information for EOIR to determine whether an applicant meets the eligibility requirements for inclusion on the List. As with the current Form EOIR-56, the electronic filing system provides detailed instructions regarding the application process for inclusion on the List, including the documentation necessary to establish eligibility and the appropriate organization official to verify the contents of the application. EOIR’s website will

be updated with further information about how to access and use the electronic filing system to apply for inclusion on the List.

Two substantive changes have been made to the information collected on the Form EOIR-56. In addition to the information currently collected, attorney and organization applicants must also provide (1) the name of the attorney or accredited representative authorized to appear before EOIR, and (2) the EOIR Registration (eReg) number for the attorney or accredited representative authorized to appear before EOIR.

2. Needs and Uses - The application for a request to be included on the List of Pro Bono Legal Service Providers for Individuals in Immigration Proceedings (Form EOIR-56) is filed with and adjudicated by EOIR. Specifically, EOIR receives and processes requests for inclusion on the List. The request is considered by EOIR, after the public has had an opportunity to provide comments on the applicant's request. EOIR intends to post for 15 days the names of the applicants on its website and may post the names at each immigration court location where the applicant intends to practice, to allow the public an opportunity to send comments to EOIR and the applicant. Careful review of the application materials is necessary to prevent misuse of the List and ensure that only those who genuinely intend to provide pro bono services are included on the List.

Placement on the List is completely voluntary and does not confer any rights or benefits on entities or individuals who are included on the List. Placement on the List in no way constitutes government endorsement of a particular entity or private attorney, nor is the List to be used for advertising or soliciting. Rather, the purpose of the List is to provide aliens notification

that these entities or private attorneys are available to provide legal services without any direct or indirect remuneration (other than filing fees or photocopying and mailing expenses).

3. Use of Technology - The use of this form will provide the most efficient means for collecting and processing the required data. In our continued efforts to expand EOIR's electronic initiatives, the Form EOIR-56 will be available on EOIR's website for electronic submission. Initially, applicants will need to create an account, including a log-on user ID and password, and a user profile, the information from which will be used to auto-populated the relevant fields on the application Form EOIR-56. Applicants will be able to maintain and update their user information electronically and, in the future, reapply for the List without having to re-enter information previously provided that remains current and up to date. EOIR will only share the names of the applicants on its website and may post the names at each immigration court location where the applicant intends to practice, to allow the public an opportunity to send comments to EOIR and the applicant.

4. Efforts to Identify Duplication - Currently, there is no other EOIR form for organizations, private attorneys, and referral services to be included on the List. A review of EOIR's forms revealed no duplication of effort, and there is no other similar information currently available that can be used for this purpose.

5. Impact on Small Businesses - This collection has a minor impact on small businesses or other small entities to the extent that the applicant organizations, private attorneys, or referral services

seek to be included on the List. This collection does not impose undue burden on these entities, as the requested information is necessary for the agency's determination of the request. The information collection seeks summaries of information. The form requires no filing fee, and EOIR estimates that it will take approximately 30 minutes to complete the form.

6. Consequences of Less Frequent Collection - Failure to collect this information would deprive the applicant of establishing eligibility for inclusion on the List if not otherwise provided on the applicant's letterhead.

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 will be published in the Federal Register. A 30-day notice covering this collection will be published in the Federal Register following the expiration of the 60-day notice. 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 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 Pro Bono Coordinator will maintain the original application. Those EOIR staff members processing the application may access the Form EOIR-56. EOIR protects the confidentiality of the contents of the Form EOIR-56, 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	161
b. Number of Responses per Respondent	1 each
c. Total Annual Responses	161
d. Hours per Response	.50 hours
e. Total Annual Hourly Reporting Burden	80.50 hours

161 respondents x 1 response per respondent x 30 minutes per response = 80.50 burden 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 collection. The estimated public cost is a maximum of \$4573. This amount is reached by multiplying the burden hours (80.50) by \$56.81, which represents the current median hourly wage for attorneys, as set by the Bureau of Labor Statistics. \$4,573 represents the maximum estimate of cost burden. EOIR notes that this form is submitted by immigration practitioners, who are either an

attorney or other form of representative; as such, respondents are not likely to retain a practitioner to assist them in filling out the form.

14. Estimated Cost to the Federal Government – It is estimated that the annual government cost for printing, distributing, stocking, processing and maintaining the Form EOIR-56 will be \$1,135. There are no printing costs. This amount also includes stocking, processing and maintenance costs of \$268, which was derived by calculating the personnel and overhead costs to EOIR for processing the application form.

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

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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Date