

## SUPPORTING STATEMENT

### Volunteer Waiver for Gratuitous Services (Form EOIR-62)

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#### Part A. Justification

1. Necessity of Information – This information collection is necessary to accept gratuitous services rendered for the Executive Office for Immigration Review (EOIR), in compliance with the Anti-Deficiency Act (“ADA”). 31 U.S.C. §1342; 5 U.S.C. § 3111. Generally, the government may not accept voluntary services, except when (1) voluntary services are authorized by law; (2) emergency services are required; or (3) services are gratuitous. 31 U.S.C. §1342. Gratuitous services require a written waiver of future compensation. The waiver must (1) be executed before the individual starts rendering performance and (2) the waiver must expressly mention that the individual waives any future pay claims against the government and that the services are being offered without the expectation of payment. *See generally Department of Treasury - Acceptance of Voluntary Services*, Comp. Gen. Dec. B-324214 (Jan. 27, 2014). EOIR has developed the Form EOIR-62 to serve as the template written waiver of compensation to be used for gratuitous services rendered.

EOIR is dedicated to pursuing greater efficiency and fairness in proceedings before immigration courts. EOIR is implementing programs that focus on this mission, such as the Friend of the Court (FOC) program. The FOC would allow individuals or organizations to participate in an immigration court proceeding to assist pro se non-citizens appearing in immigration court and to facilitate the flow of information in the

courtroom. Such services further EOIR's core mission of ensuring due process and fair adjudication of those in immigration proceedings. Therefore, in accordance with the Anti-deficiency Act, this information collection is required to obtain a written waiver of compensation for such gratuitous services.

The individual component that has a need to use the form to accept gratuitous services will be responsible for collecting and retaining the Form EOIR-62. For example, EOIR's Legal Access Program staff will collect the form either directly from the individual or from the immigration court where an individual intends to render gratuitous services under the FOC program. Approval of this collection will ensure EOIR remains compliant with the ADA by allowing it to obtain signed written waivers in advance of services being rendered. 31 U.S.C. §1342.

2. Needs and Uses - The volunteer waiver for gratuitous services form (Form EOIR-62) is required for those individuals performing gratuitous services for EOIR. 31 U.S.C. §1342.

3. Use of Technology - The use of this form will provide the most efficient means for collecting and processing the required data. The Form EOIR-62 will be available as a fillable pdf on EOIR's website. Information can be typed into the online form, which is then printed out for submission to EOIR in person or by electronic or physical mail, where appropriate. In addition, an applicant may print the form in its entirety for completion by typing or printing legibly.

4. Efforts to Identify Duplication – There is no EOIR or DOJ form that waives compensation for gratuitous services rendered. A review of EOIR’s and DOJ’s forms revealed no duplication, and there is no other similar information 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 because while a written waiver is required for EOIR accept gratuitous services, the option to render the services is optional and voluntary. EOIR estimates that it will take approximately five (5) minutes to complete the form and produce the requested documents.

6. Consequences of Less Frequent Collection – Failure to collect this information would prevent EOIR from obtaining written waivers necessary to accept gratuitous services in compliance with the Anti-deficiency 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 23, 2021 at 86 Fed. Reg. 66592. A 30-day notice covering this collection will be published in the Federal Register. Copies of these notices are attached. No comments were received pursuant to the 60-day notice. If comments are received pursuant to the 30-day notice, they will be

considered and incorporated where appropriate.

9. Payment or Gift to Claimants - EOIR does not provide any payment or gifts to respondents, other than remuneration of contractors or grantees.

10. Assurance of Confidentiality – The individual component offices within EOIR will process and maintain the forms EOIR-62. EOIR staff members processing the form may access the Form EOIR-62. EOIR intends to post a publically accessible roster of individuals who have current valid EOIR-62s on file with the Agency for particular programs, such as the FOC, in order for the individual providers and the immigration court staff to easily confirm the provider’s status in advance of the provision and receipt of gratuitous services. EOIR protects the confidentiality of the contents of the Form EOIR-62, 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	200
b. Number of Responses per Respondent	1 each
c. Total Annual Responses	200
d. Hours per Response	5 minutes or 0.12 hours
e. Total Annual Hourly Reporting Burden	24 hours

200 respondents x 1 response per respondent x 0.12 hours per response = 24 burden hours. It is estimated that the total time to review and complete the form is no more than 5 minutes.

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 \$1,464. This amount is reached by multiplying \$61.03 (the current median hourly wage for attorneys that is set by the Bureau of Labor Statistics) by 24 (the total public burden hours). EOIR notes, however, that this form will almost always be submitted by a practitioner, who is either an attorney or other form of representative. As such, respondents are not likely to retain an attorney to assist them in filling out the form.

For those individuals 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. This amount is not included as it is less than the estimated practitioner cost and would not add to the maximum cost of \$1,464.

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-62 will be \$397.41. This amount includes printing costs of \$20 which was derived by multiplying the 1 page of the Form EOIR-62 by an estimated \$.10 per copy by the estimated 200 respondents per year. This amount also includes stocking, processing and

maintenance costs of \$288.10, which was derived by calculating the personnel and overhead costs to EOIR for processing the form.

15. Plans for Publication – The information from this collection will be used internally to identify those rendering gratuitous services for EOIR who have waived compensation for their services. EOIR also intends to maintain a list of individuals who have a valid active waiver in place to be publically available on its website for individuals and EOIR staff to consult to ensure the individual has a waiver in place before providing gratuitous services.

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  
Senior Counsel  
Executive Office for Immigration Review

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Date