

SUPPORTING STATEMENT

FOIAXpress / FOIA Public Access Link

Part A. Justification

1. Necessity of Information –

Background. Section 16.3 of Title 28 of the Code of Federal Regulations outlines the requirements for members of the public to make requests under the Freedom of Information Act, 5 U.S.C. § 552, to the Department of Justice (the Department or DOJ). “The Department has a decentralized system for responding to FOIA requests, with each component designated a FOIA office to process records from that component.” 28 C.F.R. § 16.3(a)(1). Generally, one should write directly to the Freedom of Information Act (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 FOIA requests received by the Executive Office for Immigration Review (EOIR) are third party requests for individual records of proceedings (ROPs) for those undergoing immigration proceedings before EOIR, which requires the requestor to submit proper authorization for EOIR to release the information to a third-party requestor. The EOIR FOIA Office recommends third party requesters submit a Form DOJ-361, Certification of Identity, or EOIR-59, Certification and Release of Records, to substantiate proper authorization, which includes the name, address, alien registration number (A-number), and signature of the individual who is the subject of the immigration proceeding.

Information Collection. All DOJ components have the capability to receive requests electronically through a web-based application. 28 C.F.R. § 16.3(a)(1). 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. The Public Access Link (PAL) is a secure web-based application that provides an online platform for the public to immediately file a FOIA request with EOIR. The PAL is integrated directly with FOIAXpress and offers a centralized location for EOIR to receive online FOIA requests, deliver responsive records, communicate with requesters, collect fees, and provide access to released documents in a public reading room in accordance with agency proactive disclosure guidelines.

For EOIR to properly respond to FOIA requests, the PAL collects details about the requestor, the records sought by the requestor, and the records subject. The PAL collects personal, identifying information about the requestor, including the requestor's name, mailing address, and e-mail address, 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. The PAL also collects personal data in the form of a DOJ-361, EOIR-59, or other form of authorization in order to verify the requestor's identity and that the requestor is authorized by the record subject to receive copies of the records sought.

EOIR has developed several changes to the PAL form to streamline EOIR's FOIA request and response process. These include the following substantive changes EOIR made to the PAL form:

- EOIR modified the PAL form to display only those data fields relevant to the type of FOIA request submitted by the requestor. Therefore, the requestor is required upfront to designate the request type on the PAL form. A requestor may choose one of two request types: (1) a FOIA/PA Request Type or (2) an ROP Request Type. EOIR also added instructions to explain the differences between each request type to assist requestors in making the most appropriate selection for their request and to tailor the information the requestor is asked to provide in support of the request.
- For both types of requests—FOIA/PA Request Type or ROP Request Type—the

requestor must provide the following information: request type, requestor category, delivery mode, date range of search, description, and proof of identity. EOIR changed the date range field from voluntary to mandatory to solicit a more precise request and to reduce the processing time for a request.

- For both types of requests—FOIA/PA Request Type or ROP Request Type—the requestor may voluntarily provide the following information: updates to the requestor’s mailing address; details about the documents sought; proof of consent from the record subject; whether the requestor is willing to pay all fees and the amount the requestor is willing to pay; whether a fee waiver is requested and the reason for seeking the waiver; and whether the requestor would like expedited processing and why.
- For the ROP Request Type only, the requestor must provide the following information: the respondent’s name and A-number associated with the ROP; and whether the requestor seeks only the ROP, only the audio recording of immigration proceedings, both the ROP and the audio recording, or a specific document from the ROP. The PAL form now prompts the requestor to voluntarily provide the following information to better assist the EOIR FOIA Program searching for the requested records: the charging document/Notice to Appear (NTA) date and the respondent’s alias, parents’ names, port of entry, date of entry, place of proceeding, and date of proceeding.
- EOIR removed the following fields from the PAL form: action office, action office instructions, billing address, and state (other). EOIR removed these fields

because EOIR determined this information is no longer necessary to fulfill a FOIA request.

EOIR developed the following non-substantive changes to the PAL form:

- EOIR changed the appearance of the PAL form, including color scheme, font, headers, banners, logos, table styles, and formatting, to ensure it conforms with the Department's modernization efforts for the Justice.gov website.
- EOIR updated links to webpages embedded throughout the PAL.
- EOIR revised existing instructions for clarity.
- EOIR added instructions and notices throughout the form to better guide the requestor in completing the form with the correct information; EOIR believes increased guidance to the requestor will reduce common sources of requestor error in completing the PAL form.
- EOIR reorganized some data fields under different sections of the form to enhance the logical flow of completing the PAL from the requestor's perspective.

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 are conducted electronically, eliminating the need for any paper submissions. It also provides 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 provides the most efficient means for EOIR to collect and process FOIA requests. The PAL is available as a secure web-based application that provides a platform for the public to immediately file a FOIA request with EOIR.

4. Efforts to Identify Duplication – There is no other electronic mechanism available for the public to submit FOIA requests with EOIR. Requestors may choose to submit 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 February 9, 2024, at 89 FR 9178. EOIR did not receive any comments in response to the 60-day notice. A 30-day notice covering this collection was published in the Federal Register on April 29, 2024, at 89 FR 33397. Copies of these notices are attached. If comments are received in response 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 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. Those EOIR staff members processing the FOIA request may access the PAL form submitted by each requestor. 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	24,804
b. Number of Responses per Respondent	1 each
c. Total Annual Responses	24,804
d. Hours per Response	3 minutes (0.05 hours)
e. Total Annual Hourly Reporting Burden	1,240 hours

24,804 respondents x 1 response per respondent x 3 minutes (0.05 hours) per response =
1,240 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 average hourly wage for lawyers is \$78.74. 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 via the PAL.

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 \$75,937. This amount also includes processing costs of \$57,967 and overhead costs of \$17,970. There are no printing costs associated with this information collection as it is exclusively an electronic collection.

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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04-29-2024

Date