

SUPPORTING STATEMENT

OMB No. 1125-0016

Unfair Immigration-Related Employment Practices Complaint Form

Form EOIR-58

Part A. Justification

1. Necessity of Information Collection – The Executive Office for Immigration Review (EOIR) seeks reauthorization and revision of a previously approved collection (OMB#1125-0016) for individuals seeking to file a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging unfair immigration-related employment practices under Section 274B of the Immigration and Nationality Act (INA) (8 U.S.C. § 1324b). Section 274B of the INA prohibits employment discrimination on the basis of citizenship status or national origin; retaliation or intimidation by an employer against an individual seeking to exercise his or her rights under this section; and "document abuse" or over-documentation by the employer, which occurs when the employer asks an applicant or employee for more or different documents than are required for employment eligibility verification under INA § 274A, with the intent of discriminating against the employee based on the employee's national origin or citizenship status. Individuals who believe that they have suffered discrimination in violation of section 274B may file a charge with the Department of Justice, Immigrant and Employee Rights Section (IER). The IER then has 120 days to determine whether to file a complaint with OCAHO on behalf of the individual charging party. If the IER chooses not to file a complaint, the individual may then file

his or her own complaint directly with OCAHO. This information collection may be used by an individual to file his or her own complaint with OCAHO. Form EOIR-58 will elicit, in a uniform manner, all the required information for OCAHO to assign a section 274B complaint to an Administrative Law Judge (ALJ) for adjudication.

Non-substantive revisions are being made throughout the form and instructions to improve formatting, clarity, and grammar. EOIR has also made changes updating the IER mailing address, revising the Privacy Act notice to include a citation to OCAHO's System of Record Notice (SORN), and revising the amount of time estimated to complete the form. Additionally, to account for anticipated expansion of electronic filing capabilities in the future, EOIR is also revising the instructions to clarify differences in filing procedures for those forms filed by mail versus forms filed electronically.

2. Needs and Uses - The form is filed and considered in the context of an immigration-related unfair employment practices proceeding against an employer pursuant to INA § 274B. Accordingly, the ALJ considers the information contained in the form to the extent necessary to process the complaint and determine appropriate future action in the case. Use of Form EOIR-58 ensures complete collection of necessary information, allowing EOIR to more effectively evaluate the merits of section 274B complaints and to timely process them. Moreover, the form provides a helpful, clear, and concise summary of the steps for preparing and filing a Section 274B complaint.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. Form EOIR-58 will be available on EOIR's website for completion and printing. Following the successful pilot program and electronic filing system in cases filed with OCAHO, *see* <http://go.usa.gov/8wEP>, EOIR sought and has received approval to implement the permanent electronic filing system. *See* OMB No. 1125-0019 (expires Sept. 30, 2027). EOIR is working closely with its Office of Information Technology to launch the electronic filing system, and once deployed, complainants will have the ability to electronically file their complaints. Currently, an applicant may type the requested information into the online form and then print it for submission to EOIR, or an applicant may print the blank form in its entirety and complete it by writing legibly.

4. Efforts to Identify Duplication – The Form EOIR-58 is the only form for filing a Section 274B complaint alleging unfair immigration-related employment practices by an employer. A review of EOIR's existing forms revealed no duplication of effort, and there is no similar information currently being collected which 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 complainants employ practitioners in filing their complaint alleging unfair immigration-related employment practices under INA § 274B. However, this collection does not impose undue burden on the small businesses or other entities. The form requires no filing fee and EOIR estimates that

the form takes sixty minutes (1 hour) to complete. In addition, the requested information is needed to process the Section 274B complaint and determine appropriate future action in the case.

6. Consequences of Less Frequent Collection - Failure to collect this information would inhibit an individual's ability to file a complaint regarding an employer's alleged unfair immigration-related employment practices. It would also substantially hinder EOIR's ability to effectively adjudicate cases under INA § 274B.

7. Special Circumstances Influencing Collection – This collection requires respondents to submit more than an original and two copies. For a complaint filed under INA § 274B, implementing federal regulation requires the respondent to file an original and four copies of the complaint with the Chief Administrative Hearing Office. *See* 28 C.F.R. § 68.6(a).

8. Federal Register Publication and Consultation - A 60-day notice covering this collection was published in the Federal Register on June 5, 2025 (90 FR 23960). EOIR received one public comment during the 60-day comment period, discussed below.

Comment: One commenter suggested (1) amendments to INA § 274B and (2) that EOIR is placing too much emphasis on the costs imposed by this information collection on form respondents without U.S. citizenship status.

Response: Related to statutory amendments, EOIR is not authorized to amend the statutory text of INA § 274B. Related to the estimated public costs, EOIR is required by the Paperwork Reduction Act and implementing regulations (5 C.F.R. Part 1320) to provide an estimate for the total annual cost burden to respondents resulting from the collection; such estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. There are printing and postage costs associated with generating and providing the form because EOIR regulations permit respondents to submit the form and attachments by mail or hand delivery. *See* 28 C.F.R. §§ 68.3, 68.5. Both filing methods require printing, and mailed filings require postage. The filing requirements apply regardless of the respondent's citizenship status, and EOIR must therefore consider the associated printing and postage costs in calculating the total annual cost burden to respondents. EOIR notes that printing and postage costs will be eliminated when the agency implements the electronic filing portal.

A 30-day notice covering this collection was published in the Federal Register on August 7, 2025 (90 FR 38180). If any additional 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 individuals in exchange for the information provided in Form EOIR-58.

10. Assurance of Confidentiality – EOIR’s Office of the Chief Administrative Hearing Officer maintains the original complaint. EOIR staff members who process the complaint may access the Form EOIR-58. To the extent permitted by law, EOIR protects the confidentiality of the contents of Form EOIR-58 and its attachments. EOIR would release information in accordance with the Privacy Act, including the applicable System of Records Notice(s), and the Freedom of Information Act.

11. Justification for Sensitive Questions - Any question that inquires into matters commonly considered as private is necessary for the Administrative Law Judge to adjudicate a section 274B complaint regarding alleged unfair immigration-related employment practices.

12. Estimate of Hour Burden

a. Number of Respondents	38
b. Number of Responses per Respondent	1
c. Total Annual responses	38
d. Hours per response	1 hour
e. Total annual hourly reporting burden	38

The total annual reporting burden is derived by multiplying the average number of respondents (38) by the frequency of response (1) by the number of hours per response (1 hour): 38 respondents x 1 response per respondent x 1 hour per respondent = 38 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. For those respondents who proceed without an attorney, there are no external labor costs for pro se individuals because the application may be completed solely by the individual. Currently, most filed Forms EOIR-58 are submitted to OCAHO by United States mail (only some respondents are eligible for email filing under the OCAHO pilot electronic filing program). The average Form EOIR-58 submission consists of 150 pages (five copies of the application and supporting evidence including the IER complaint and IER letter informing the individual that they may file Form EOIR-58 with OCAHO) at an estimated average printing cost of ten cents per page for a total print cost of \$15.00 per submission. The 2025 estimated postage cost to mail the complete Form EOIR-58 package using Priority Mail envelopes is \$10.10. The total cost for a pro se individual to file Forms EOIR-58 is \$25.10. The total cost burden for these pro se respondents is \$953.80 based on 38 respondents multiplied by \$25.10. If an individual chooses to obtain representation to file their EOIR-58 with OCAHO, the total cost to the individual will include the average hourly wage for attorneys for every hour spent completing the form. Currently, the Bureau of Labor Statistics reports that the median hourly wage for lawyers is \$72.67 per hour. EOIR OCAHO continues to work towards implementing full electronic processing with the anticipated implementation of its electronic portal, which would eliminate the copying and postage costs for filing this Form.

14. Estimated Cost to Federal Government - It is estimated that the annual government cost for printing, distributing, filing, processing and maintaining the Form EOIR-58 is \$1,813.92.

15. Reasons for Change in Burden – There is an increase in the costs and burdens to the affected public due to an increase in the average annual number of responses received and an increase in printing and mailing costs. There is an increase in the estimated cost to the federal government due to an increase in the costs associated with processing and maintaining the Form EOIR-58.

16. Plans for Publication - EOIR does not intend to employ the use of statistics or the publication thereof for this collection of information.

17. Display of Expiration Date - EOIR plans to include the expiration date for OMB approval of the information collection.

18. 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 CFR § 1320.

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