

**United States Department of Justice  
Executive Office for Immigration Review**



**FY 2023 Performance Budget  
Congressional Budget Submission**

**March 2022**

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## **I. Overview for Executive Office for Immigration Review**

### **Introduction**

To support the mission of the agency, the Department of Justice's (DOJ or "the Department") Executive Office for Immigration Review (EOIR) requests a total of \$1,354,889,000; 4,995 permanent positions, and 3,539 full-time equivalents (FTEs). This request includes a \$4,000,000 transfer from the Department of Homeland Security's (DHS) Immigration Examination Fee Account. This President's Budget also includes a new mandatory resources request of \$4,500,000,000 over a 10-year period to enable EOIR to make grants and enter into contracts or cooperative agreements to increase access to legal representation.

EOIR is responsible for conducting immigration court proceedings, appellate reviews, and administrative hearings to fairly, expeditiously, and uniformly administer and interpret U.S. immigration laws. As the Department's primary office for applying and adjudicating immigration law, EOIR plays an essential role in the Nation's larger immigration system. As a major actor within the immigration space, it is crucial that EOIR be prepared to meet current and future challenges.

Immigration cases typically begin when DHS files a Notice to Appear (NTA), which charges a potential undocumented noncitizen with a violation of federal immigration law and seeks the removal of that individual from the United States. Due to recent changes in immigration enforcement priorities and policies, DHS agencies such as the Immigration and Customs Enforcement (ICE), the Customs and Border Protection (CBP), and the United States Citizenship and Immigration Services (CIS) have significantly increased their enforcement and processing and will likely continue to do so in the coming years. As a result, it remains critically important that EOIR has sufficient resources to keep pace with DHS enforcement efforts.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <https://www.justice.gov/doj/budget-and-performance>.

### **Budget Summary**

EOIR's primary strategic focus is reducing the current 1.5 million pending caseload by increasing adjudicatory and case processing capacity in a fair, expeditious, and uniform manner. Although EOIR is examining all potential avenues to increase efficiency and adjudicative capacity through existing means, additional resources are necessary. EOIR's Fiscal Year (FY) 2023 budget request includes program increases totaling over \$377.8 million to provide funding for: additional immigration judges (IJs) and the necessary support staff; increased efforts to promote legal access, including a new \$150.0 million grant program to support legal representation; improvements to EOIR privacy protections and programs; and moving the immigration courts into a more technologically savvy virtual capability. Additionally, this legal representation program is complemented by mandatory resources of \$4.5 billion over a 10-year period is requested to provide legal representation.

This request is essential to enable EOIR to advance initiatives that fulfill Presidential and Attorney General strategic and priority goals to advance civil rights, equity, and justice for all

while also fulfilling EOIR's mission and continuing to improve court business processes and record keeping processes and infrastructure.

## **Program Overview**

### **Organization of EOIR**

EOIR administers the Nation's immigration court system. EOIR primarily decides whether foreign-born individuals charged by DHS with violating immigration law should be a) ordered removed from the United States or b) granted relief or protection from removal and allowed to remain in the country. To make these critical determinations, EOIR operates approximately 70 immigration courts and adjudication centers throughout the country and has a centralized Board of Immigration Appeals (BIA) located at EOIR Headquarters in Falls Church, Virginia.

EOIR also adjudicates cases involving illegal hiring and employment eligibility verification violations, document fraud, and immigration-related employment discrimination. EOIR Headquarters provides centralized operational, policy, and administrative support to EOIR immigration proceedings and programs conducted throughout the United States.

### **EOIR's FY 2023 Budget Strategy**

EOIR's program increase of \$377.8 million supports EOIR's current strategic initiatives of increasing adjudicatory and case processing capacity, which help advance EOIR's mission<sup>1</sup>. Increasing adjudicatory and case processing capacity is particularly important given the 1.5 million pending caseload and the increase in the rate of new NTAs filed. EOIR also seeks to increase access to EOIR's proceedings for all parties, ensuring that EOIR's proceedings are fundamentally fair and more efficient.

### **The Growing Caseload**

EOIR continues to face both internal and external challenges to increasing adjudicative and case processing capacity needed to help reduce the pending caseload. Over the years, several factors have contributed to record growth in both the number of pending immigration cases and the time required to adjudicate them. These include substantial changes across the immigration landscape, including but not limited to changes in case law, law enforcement priorities, and trends in migration. These factors are largely outside EOIR's control. While increased staffing of IJs will improve EOIR's ability to adjudicate more cases, staffing alone will not address all the issues contributing to the sustained growth in the immigration pending caseload in the near term.

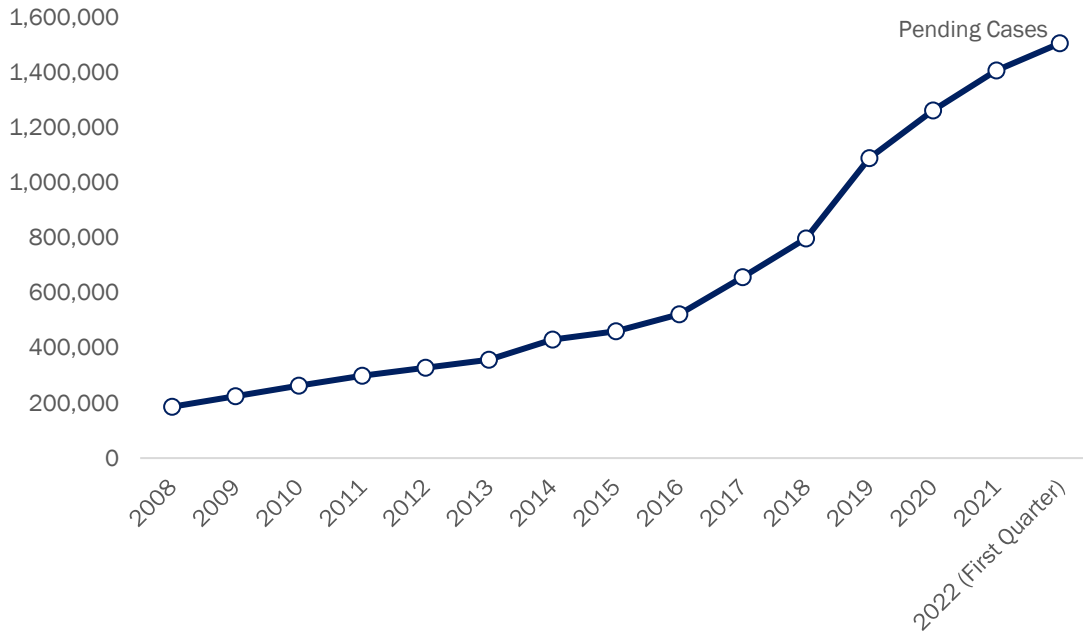
At the end of FY 2021, there were approximately 1.4 million active cases pending in immigration courts nationwide, by far the largest ever pending caseload before the agency, continuing the fifteenth consecutive year of increased pending caseloads. At the end of the first quarter of FY 2022, the number of pending cases has risen to just over 1.5 million. Additionally, in FY 2021, DHS filed approximately 240,000 NTAs. And through just one quarter of FY 2022 approximately 139,000 have already been filed. While the final number of NTAs filed in FY 2021 was lower than the over 545,000 NTAs filed in FY 2019, this reduction was likely due to

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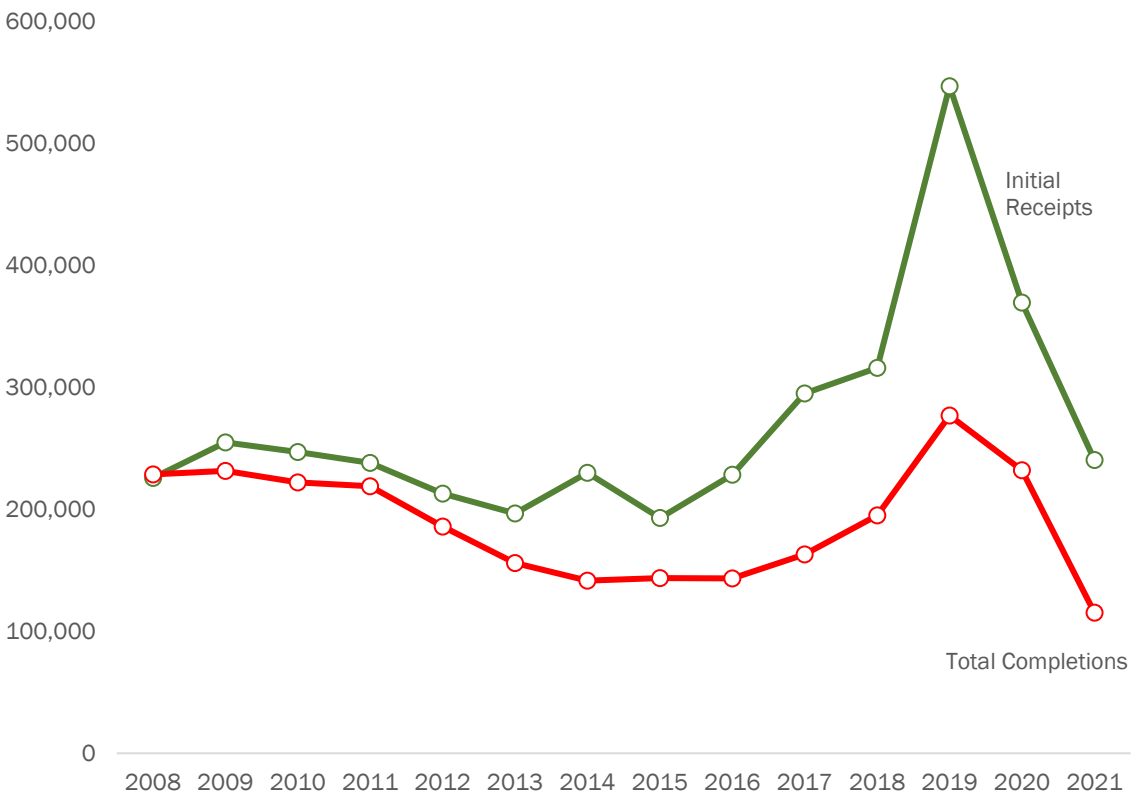
<sup>1</sup> EOIR's primary mission is to, "adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws."

issues surrounding the COVID-19 pandemic. Based on the increased number of filings in quarter one, EOIR projects FY 2022 to approach FY 2019 NTA filing heights.

Office of the Chief Immigration Judge  
Historic Caseload through FY 2022 Q1

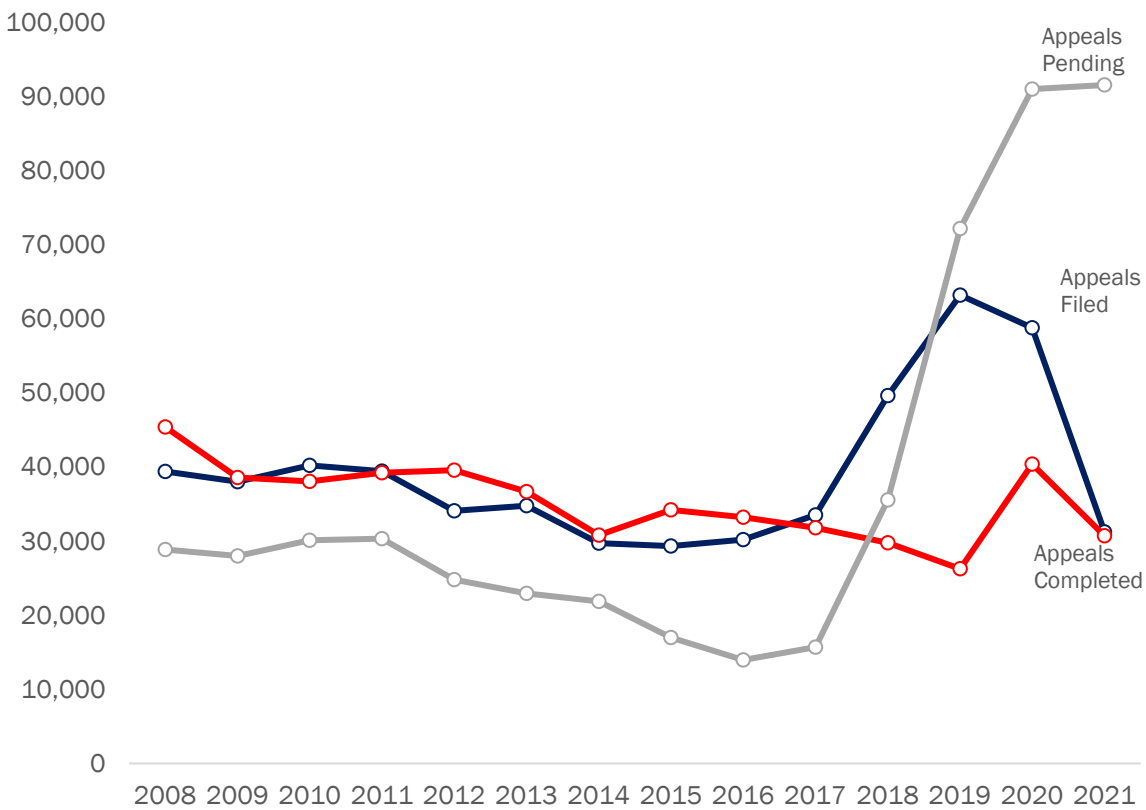


New Cases and Total Completions through FY 2021



Additionally, EOIR remains cognizant that the large and growing pending caseload will also affect the BIA. In FY 2018, nearly 50 percent more appeals were filed than the previous year and in FY 2019, appeals received at the BIA increased by a further 27 percent over FY 2018. Despite issues surrounding the COVID-19 pandemic, approximately 59,000 appeals were filed in FY 2020 and 31,000 in FY 2021. The BIA completed nearly 31,000 appeals in FY 2021 holding the current pending caseload at roughly the same level as the year prior. This work is shared across 23 permanent Board Members, an extremely large volume for any appellate body. As NTAs and the number of immigration judges increase, the BIA will likely continue to face an increase in the number of appeals filed.

Board of Immigration Appeals FY 2021



## Internal Challenges

Moving from the authorization of additional IJ positions to having those IJs in courtrooms ready to adjudicate is a lengthy process. The thorough vetting and hiring process for IJs historically took well over a year. However, due to changes implemented at EOIR and the Department, IJ hiring time improved dramatically across FYs 2018, 2019, and 2020, with EOIR hiring 81, 92, and 99 IJs respectively during each fiscal year. Recent hiring time has been reduced to generally six months or less with 65 IJs hired in FY 2021. Additionally, IJ retirements and separations were higher in recent years than in prior years. The average attrition was roughly 12 IJs a year from 2009 to 2016. That average has more than doubled to approximately 25 IJ attrition losses annually since. While, the initial impact of recent adjustments to the hiring process have been positive, EOIR and the Department continue to monitor the time to hire and ensure that each phase of the process moves as expeditiously as practicable.

Further, with having successfully improved the time to hire IJs, EOIR is now focusing on ensuring that courtrooms are available as soon as those adjudicators are trained. EOIR is prioritizing courtroom utilization and scheduling management, which allows EOIR to maximize its hearing blocks. Thus, a critical challenge in increasing adjudicatory capacity is not just time to hire, but also the associated time to obtain or build out space for those IJs and staff. Throughout the initial growth of the Immigration Court program over the last few years, EOIR has successfully partnered with General Services Administration to reduce the traditional time frames to obtain and occupy space and has successfully sped up the space acquisition process.

Another challenge focuses around EOIR's current case management system (CASE), which is a fragmented, paper-based system. In FY 2017, EOIR began developing an EOIR Court and Appeals Systems (ECAS) to upgrade the current case management system to a single, electronic platform and deployed the ECAS pilot to five courts and the BIA in the late summer/early fall of 2018. EOIR began the nationwide rollout in FY 2020, but was temporarily paused due to travel restrictions associated with COVID-19, which affected training. EOIR is pleased to announce however that upon conclusion of calendar year 2021, ECAS had been rolled across all immigration courts nationwide and the BIA. Although the ECAS system is doing much to enhance EOIR's business process going forward, it does not speak to the existing paper records. Of EOIR's approximately 1.5 million pending cases, at least one million of them exist in a paper format. In order to improve efficiency, increase flexibility to adjudicate across the agency, and prepare for the future closure of the Federal Records Center, EOIR must work towards converting paper files to electronic, and move to a wholly electronic based system rather than a hybrid paper and electronic system.

## External Challenges

EOIR faces four prominent external challenges: (1) unpredictable immigration flows; (2) the continuing residual impact of prior policies and recent surges of families and unaccompanied noncitizen children; (3) court rulings on immigration matters which either temporarily or permanently impact government operations; and (4) the exponential increase in the number of Freedom of Information Act (FOIA) requests since FY 2016.

Increased immigration flows, particularly of family units, unaccompanied noncitizen children, and putative asylum seekers from Central America, have led to a substantial increase in new case filings by DHS. Approximately 316,000 new NTAs were filed with EOIR during FY 2018, an

average of about 26,000 cases per month. In FY 2019, over 545,000 new cases were filed, an average of over 44,000 per month and in FY 2020, with numbers reduced from expected levels due to the COVID-19 pandemic, EOIR still received approximately 370,000 new cases. In FY 2021 EOIR received just over 240,000 new cases. The already large pending caseload has increased dramatically in this new enforcement environment, now reaching a peak of over 1.5 million pending cases as of the end of the first quarter of FY 2022.

The residual impact of cases generated by past and current border surges, and of prior EOIR policies, continues to impact EOIR's pending caseload. The surges included an increase in both unaccompanied children and adults with children. Cases involving children tend to take longer to resolve, as their cases often require continuances. Finally, the significant increase in immigration adjudications combined with the FOIA Amendments of 2016, plus increased media and public scrutiny of immigration operations, have resulted in an exponential increase in EOIR FOIA requests. EOIR has had difficulty dealing with this increase due to a paper-based file system, obsolete processing technology, as well as staffing shortages.



## II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Dollars (\$000)	Page
<b>Adjudicatory Expansion Initiative</b>	<ul style="list-style-type: none"> <li>Enables EOIR to add 100 IJs and support staff.</li> <li>Each IJ and related support staff cost approximately \$1.7 million and includes salaries and expenses for a full year.</li> </ul>	600	300	\$173,776	25
<b>Protecting the Privacy of EOIR Information</b>	<ul style="list-style-type: none"> <li>Provides for additional staff and resources to manage EOIR privacy needs, provide training for EOIR employees on privacy requirements and protections, and improve EOIR's cybersecurity posture.</li> </ul>	11	6	\$5,673	30
<b>Legal Access Initiatives</b>	<ul style="list-style-type: none"> <li>Enables EOIR to provide funding for certain vulnerable populations, including unaccompanied children as well as individuals who are mentally incapacitated.</li> <li>Provides for additional funding to expand services to a broader pool of custodians for unaccompanied children.</li> <li>Enables EOIR to provide legal orientation information to individuals in immigration detention in remote or underserved areas.</li> <li>Provides increased funding for the immigration court helpdesk program to expand into newly and recently constructed court locations.</li> <li>Provides funding for grants to provide legal representation of certain individuals in immigration court.</li> </ul>	20	10	\$188,585	35
<b>Virtual Court Initiative</b>	<ul style="list-style-type: none"> <li>Further digitalization efforts to move EOIR closer towards paperless adjudications; provides for a remote or automated option for all processes executed by adjudicatory personnel or support staff; enables transactions external to EOIR to be conducted electronically; and remote participation for stakeholders in EOIR led proceedings.</li> </ul>	3	2	\$9,792	41
<b>Total</b>		<b>634</b>	<b>318</b>	<b>\$377,826</b>	

### III. Appropriations Language and Analysis of Appropriations Language

#### Appropriations Language:

Executive Office for Immigration Review  
(Including Transfer of Funds)

For expenses necessary for the administration of immigration-related activities of the Executive Office for Immigration Review, [\$891,190,000] \$1,354,889,000 of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the “Immigration Examinations Fee” account: Provided, That, [not to exceed \$50,000,000 of the total amount made available under this heading shall remain available until expended] of the amounts made available under this heading, \$125,000,000 shall remain available until expended, of which \$75,000,000 shall be available for necessary build-out and modifications of courtroom space: Provided further, That, of the amounts made available under this heading, not less than \$223,371,000 shall be for Legal Access Programs activities, of which \$150,000,000 shall remain available until expended to make grants and enter into contracts or cooperative agreements to provide legal representation: Provided further, That not more than 3 percent of the funds available for legal representation in the previous proviso shall be available for necessary administrative expenses.

#### Analysis of Appropriations Language

Provides additional language for the authority to create a no-year account for courtroom buildout, separate from the current no-year authority. With this new separate no-year authority, EOIR will be able to obligate funding for new courts, which will expedite court availability for new IJs, thereby addressing a significant bottleneck in the hiring process. Further provides funding to make grants and enter into cooperative agreements to provide legal representation. It also sets a limit on the amount of legal representation funds that can be used for administrative expenses.

#### IV. Program Activity Justification

<i>Executive Office for Immigration Review</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2021 Enacted <sup>1/</sup>	3,761	2,277	\$734,000
2022 Annualized CR	3,761	2,621	734,000
Expected Change from FY2022 CR	600	300	157,190
Adjustments to Base and Technical Adjustments	0	300	85,873
2023 Current Services	4,361	3,221	977,063
2023 Program Increases	634	318	377,826
2023 Request	4,995	3,539	1,354,889
<b>Total Change 2022-2023</b>	<b>634</b>	<b>618</b>	<b>463,699</b>
<i>Executive Office for Immigration Review- Information Technology Breakout (of Decision Unit Total)</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2021 Enacted <sup>1/</sup>	39	39	\$116,302
2022 Annualized CR <sup>2/</sup>	39	39	139,661
Expected Change from FY2022 CR	0	0	0
Adjustments to Base and Technical Adjustments	0	0	0
2023 Current Services	39	39	139,661
2023 Program Increases	7	4	14,565
2023 Request	46	43	154,226
<b>Total Change 2022-2023</b>	<b>7</b>	<b>4</b>	<b>14,565</b>

<sup>1/</sup> FY 2021 FTE is actual.

<sup>2/</sup> FY 2022 annualized CR dollar amount includes a higher rate for continued IT service contract.

#### 1. Program Description

Under the direction of the EOIR Director and Deputy Director, the following components conduct adjudicative proceedings:

##### Adjudicative Components

- Office of the Chief Immigration Judge (OCIJ) – The OCIJ oversees the administration of approximately 70 immigration courts and adjudication centers located throughout the United States and exercises administrative supervision over EOIR employees, including immigration judges, assigned to those courts. The OCIJ develops policies and procedures for immigration proceedings throughout the immigration court system. The IJs in OCIJ preside over administrative court proceedings, called removal proceedings, to determine whether foreign-born individuals, who are charged by DHS with violating immigration law, should be ordered removed from the United States or should be granted relief or protection from removal and be permitted to remain in this country. Generally, IJs determine removability and adjudicate applications for relief from removal such as cancellation of removal, adjustment of status, asylum, or waivers of removability. Custody redetermination hearings are held when a noncitizen in DHS custody seeks a reduction in the bond amount set by DHS, or a release on his or her own recognizance.

With respect to criminal noncitizen adjudications, the Institutional Hearing Program (IHP)<sup>2</sup> provides the framework for hearings to determine the immigration status of noncitizens convicted of offenses who are incarcerated in federal, state, and local prisons across the United States. EOIR's IHP is designed to expedite the removal of criminal noncitizens and involves close coordination with DHS, the Bureau of Prisons, and state and local corrections authorities.

The Chief Immigration Judge provides overall program direction, articulates policy, and establishes priorities for the immigration judges located in courts throughout the United States. The Chief Immigration Judge carries out these responsibilities with the assistance of Deputy and Assistant Chief Immigration Judges; offices such as the Chief Clerk's Office and Language Services Unit assist with coordinating management and operation of the immigration courts.

- Board of Immigration Appeals (BIA) – The BIA hears appeals of decisions of immigration judges and certain decisions of DHS officers in a wide variety of proceedings in which the Government of the United States is one party and the other party is a noncitizen, a citizen, permanent resident, or a transportation carrier. The BIA exercises independent judgment in hearing appeals for the Attorney General and provides a nationally uniform application of the immigration laws. The majority of cases before the BIA involve appeals from orders of EOIR's immigration judges entered in immigration proceedings.

Appeals of decisions of DHS officers, reviewed by the BIA, principally involve appeals from familial visa petition denials and decisions involving administrative fines on transportation carriers. The BIA also issues decisions relating to the EOIR Attorney Discipline Program.

BIA decisions are binding on immigration judges and all DHS officers unless modified or overruled by the Attorney General or a Federal Court. Certain BIA decisions that the BIA designates as precedent decisions apply to immigration cases nationwide. Through precedent decisions, the BIA provides guidance to immigration judges, DHS, and the general public on the proper interpretation and administration of the immigration laws and regulations. The BIA is the highest administrative tribunal for interpreting and applying U.S. immigration law.

The BIA plays the major role in interpreting the immigration laws of the country in an area of law the courts have characterized as uniquely complex. A challenge for the BIA is to maintain a high-volume administrative caseload while addressing the differing issues associated with the law of eleven different circuits and the Supreme Court.

- Office of the Chief Administrative Hearing Officer (OCAHO) – The OCAHO adjudicates cases involving illegal hiring and employment eligibility verification violations (“employer sanctions”), document fraud, and employment discrimination under the Immigration and Nationality Act (INA). The OCAHO is headed by a Chief Administrative Hearing Officer (CAHO) who provides overall program direction and

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<sup>2</sup> Note, DHS refers to this same program as the “Institutional Hearing and Removal Program.”

management, articulates and develops policies and procedures, establishes priorities, assigns cases, and administers the hearing process presided over by Administrative Law Judges (ALJs). The CAHO also reviews decisions and orders issued by OCAHO ALJs in employer sanctions and document fraud cases, and may modify, vacate, or remand those decisions and orders.

OCAHO employs ALJs appointed pursuant to 5 U.S.C. § 3105 to adjudicate cases arising under Sections 274A, 274B, and 274C of the INA. Section 274A provides for sanctions (civil penalties and injunctive relief) against employers or entities who: (1) knowingly hire, recruit, or refer for a fee, or continue to employ, unauthorized noncitizens; (2) fail to comply with employment eligibility verification requirements; or (3) require the execution of an indemnity bond by employees to protect the employer or entity from potential liability for unlawful employment practices. Section 274B prohibits employment discrimination based on national origin or citizenship status and provides for civil penalties and various equitable remedies. Section 274C provides civil penalties for immigration-related document fraud. Adjudicative proceedings are initiated by complaints filed with OCAHO by DHS (in Section 274A and Section 274C cases), or the Immigrant and Employee Rights (IER) section in the Civil Rights Division, and/or aggrieved private parties and entities (in section 274B cases).

Parties may seek administrative reviews of ALJ decisions in INA Sections 274A and 274C cases, or the CAHO may review such decisions on their own initiative, and may affirm, modify, vacate, and/or remand such decisions. Unless the case is certified to the Attorney General, the CAHO's decision on review constitutes the final agency action with respect to these cases. Appeals from final OCAHO decisions are brought before the U.S. circuit courts of appeal.

### **Non-Adjudicative Components**

A number of other Headquarters offices also provide EOIR-wide mission support:

- **Office of the Director (OOD)** – In addition to the Director, Deputy Director, Chief Management Officer, and senior advisors, the OOD includes the Equal Employment Opportunity Office, the Ombuds, and the Planning, Analysis, and Statistics Division. These offices provide mission support to the OOD by (1) ensuring equality and diversity in the workplace; (2) providing oversight of certain pilot programs and initiatives; (3) overseeing the strategic management process; (4) conducting research, evaluation, and statistical analysis; (5) expanding analytics capacity to meet the demand for advances and predictive analysis; and (6) enhancing data quality and governance to quickly and effectively mitigate any data quality issues in the field. Other mission support housed within OOD includes many of the legal access functions of the Legal Access Programs. Due to the increased need and focus on legal access and representation, many of these programs are now managed out of OOD.
- **Office of the General Counsel (OGC)** – Provides legal advice on a wide variety of matters involving EOIR employees in the performance of their official duties. OGC staff handle employee labor relations issues, review and prosecute complaints involving attorney misconduct, and coordinate and respond to requests for assistance involving

immigration fraud. OGC also coordinates development of agency regulations and forms; provides litigation support to U.S. Attorneys, the Civil Division's Office of Immigration Litigation, and the Solicitor General's Office; coordinates inter-agency activities; and responds to all EOIR FOIA and Privacy Act requests.

- Office of Policy (OP) – Centralizes coordination between the components on a number of policy projects and issues, including policy development, communications, training, and legal updates. This office (1) identifies, develops, drafts, standardizes, and communicates agency priorities and policies; (2) oversees and standardizes the EOIR regulatory process; (3) coordinates all legal training and related resources; and (4) other related programs.
- Office of Administration (OA) – Provides administrative and managerial support in several areas concerning financial management or special emphasis and compliance programs. Specifically, OA supports the following areas: budget and financial management, contracts and procurement, human resources, space and facilities management, and security.
- Office of Information Technology (OIT) – Responsible for the design, development, operations, and maintenance of the complete range of information technology systems supporting EOIR's day-to-day operations. OIT manages programs such as EOIR's current multi-year effort to modernize the case management and related electronic systems that support EOIR's mission.

## Map of the Immigration Courts and Adjudication Centers



### *Adjudication of Immigration Cases*

**Immigration Court Proceedings Overview:** DHS initiates all cases before the immigration courts by charging an individual with potential grounds of removability and issuing an NTA in Immigration Court under §240 of the INA (8 U.S.C. 1229a).

IJs are responsible for conducting formal immigration court proceedings. In removal proceedings, IJs determine whether an individual from a foreign country (a noncitizen) should be allowed to enter or remain in the United States or should be removed. IJs also have jurisdiction to consider various forms of relief or protection from removal. If the IJ finds the individual to be removable as charged, the individual can then request several different forms of relief or protection from removal such as asylum and withholding of removal (including protection under the Convention Against Torture), cancellation of removal, voluntary departure, or other forms of relief or protection from removal. IJ decisions are administratively final unless appealed or certified to the BIA.

Some removal proceedings are conducted in prisons and jails as part of the Institutional Hearing Program. In coordination with DHS and correctional authorities across the country, IJs conduct

hearings to adjudicate the immigration status of noncitizen inmates while they are serving sentences for criminal convictions.

***Appellate Review:*** In most appeals to the BIA, the process begins with filing a notice of appeal challenging an IJ decision. The appeal can be filed either by the noncitizen or the Government (represented by DHS's ICE).

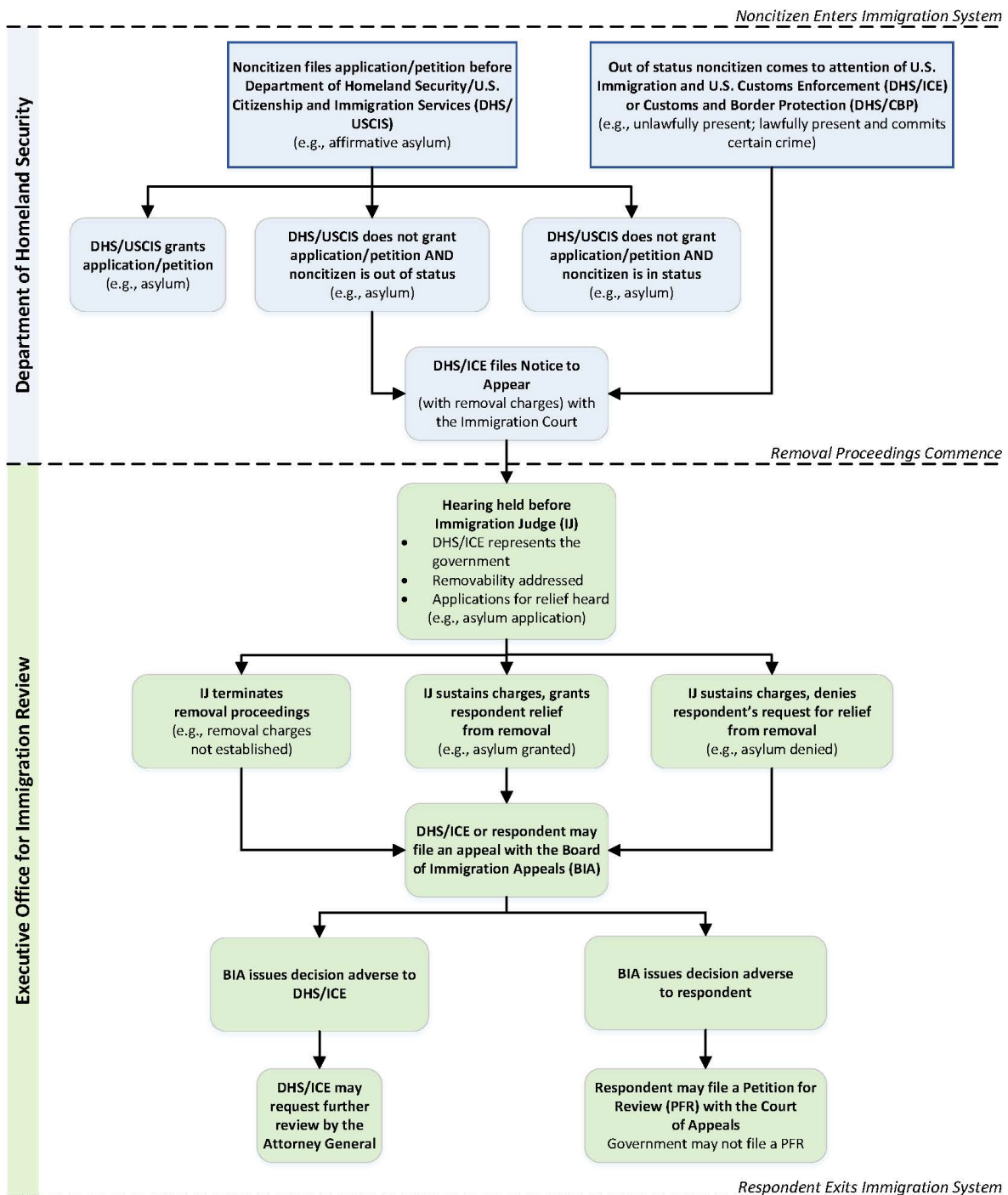
When an appeal is filed by either party, the BIA acknowledges receipt of the appeal, transcribes the proceedings (where appropriate), and sets a briefing schedule to allow both parties to present their arguments. Once briefing concludes, the appeal is adjudicated by a panel of one, three, or all Board Members.

If the decision is not published, the decision is binding only on the parties. If the BIA elects to publish the decision, it becomes legal precedent and is binding nationwide. The BIA's decision will stand unless and until modified or overruled by the Attorney General, a Federal Court, or the BIA itself.



The following flow chart details examples of paths to and through removal proceedings.

### EXAMPLE PATHS TO AND THROUGH REMOVAL PROCEEDINGS



***OCAHO Administrative Hearings:*** OCAHO cases begin with the filing of a complaint, either by the DHS/ICE, in employer sanctions and document fraud cases under INA §§ 274A and 274C, respectively, or by private individuals or entities and/or the Civil Rights Division's IER Section in immigration-related employment discrimination cases under INA § 274B. After the complaint is filed, the respondent is given an opportunity to file an answer. Following the answer, the parties typically file prehearing statements, undertake discovery, and participate in one or more telephonic prehearing conferences with the ALJ. Parties may also engage in settlement negotiations and file dispositive motions with the ALJ. Cases that are not resolved or dismissed proceed to a formal evidentiary hearing, typically held near where the parties reside or the alleged violation(s) occurred. Final decisions and orders issued by the ALJ in employer sanctions and document fraud cases are reviewable by the CAHO and/or the Attorney General. Once a final agency decision has been issued, a party may file an appeal with the appropriate federal circuit court of appeals. Final ALJ decisions in immigration-related employment discrimination cases are not reviewable by the CAHO or the Attorney General; rather, these decisions may be appealed directly to the appropriate federal circuit court of appeals.

## 2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Executive Office for Immigration Review												
RESOURCES (\$ in thousands)			Target		Actual		Target		Changes		Requested (Total)	
			FY 2021		FY 2021		FY 2022		Current Services Adjustments and FY 2023 Program Changes		FY 2023 Request	
Total Costs and FTE (Reimbursable: FTE are included, but costs are bracketed and not included in totals)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			2,621	734,000 [546]	2,277	734,000 [4,840]	2,921	891,190 [23,566]	618	463,699 [0]	3,539	1,354,889 [23,566]
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2021		FY 2021		FY 2022		Current Services Adjustments and FY 2023 Program Changes		FY 2023 Request	
Program Activity	3.4, 5.2	EOIR	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			2,621	734,000	2,277	734,000	2,621	891,190	618	463,699	3,539	1,354,889
<b>APG Measure:</b>	5.2	Decrease median case completion time by 25% from a FY 2021 baseline of 947 days	N/A (New Measure)		N/A (New Measure)		853				711	
<b>APG Measure:</b>	5.2	Reduce the vacancy gap for immigration judges to 5% from a FY 2021 baseline of 12%	N/A (New Measure)		N/A (New Measure)		8%				5%	
<b>KPI:</b>	5.2	Percent of immigration judges who have received all relevant continuing legal education annually	N/A (New Measure)		N/A (New Measure)		90%				92%	
<b>KPI:</b>	5.2	Median case completion time	N/A (New Measure)		N/A (New Measure)		853				711	

<b>KPI:</b>	5.2	Average number of vacancy-days for immigration adjudicator positions	N/A (New Measure)	N/A (New Measure)	403		382
<b>KPI:</b>	5.2	Visits to the Immigration Court Online Resource (ICOR)	N/A (New Measure)	N/A (New Measure)	12,000		24,000
<b>KPI:</b>	3.4	Number and Percent of individuals in Department immigration proceedings with Limited English Proficiency who have access to translation in a language of proficiency	N/A (New Measure)	N/A (New Measure)	99%		99%

Data Definition, Validation, Verification, and Limitations: OCIJ and BIA data are collected from the Case Access System for EOIR (CASE), a nationwide case tracking system at the trial and appellate levels. Court and appellate staff enters data, which is electronically transmitted and stored at EOIR headquarters, allowing for timely and complete data collection. Data are verified by on-line edits of data fields. Headquarters and field staff use routine daily, weekly, and monthly reports that verify data. Data validation is also performed on a routine basis through data comparisons between EOIR and DHS databases. There are no data limitations known at this time. \*A case before the immigration courts is a proceeding that begins when DHS files a charging document. OCIJ case completions do not include administrative closures nor change of venue requests or transfers from one immigration court to another. In addition, initial case completions do not include cases that have been reopened or remanded from the BIA.

Strategic Objective	PERFORMANCE MEASURE TABLE				
	Decision Unit: Executive Office for Immigration Review				
	Performance Measures		FY 2021	FY 2022	FY 2023
			Actual	Target	Target
5.2	Agency Priority Goals	Decrease median case completion time by 25% from a FY 2021 baseline of 947 days	N/A (New Measure)	853	711
5.2	Agency Priority Goals	Reduce the vacancy gap for immigration judges to 5% from a FY 2021 baseline of 12%	N/A (New Measure)	8%	5%
5.2	Key Performance Indicator	Percent of immigration judges who have received all relevant continuing legal education annually	N/A (New Measure)	90%	92%
5.2	Key Performance Indicator	Median case completion time	N/A (New Measure)	853	711
5.2	Key Performance Indicator	Average number of vacancy-days for immigration adjudicator positions	N/A (New Measure)	403	382
5.2	Key Performance Indicator	Visits to the Immigration Court Online Resource (ICOR)	N/A (New Measure)	12,000	24,000
3.4	Key Performance Indicator	Number and Percent of individuals in Department immigration proceedings with Limited English Proficiency who have access to translation in a language of proficiency	N/A (New Measure)	99%	99%

### **3. Performance, Resources, and Strategies**

EOIR's adjudication functions are part of the Government's broader immigration and border control programs. As such, EOIR's ability to adjudicate cases involving individuals housed in DHS detention space in a timely fashion allows EOIR to aid in the efficient utilization of DHS detention space. The guarantee of fairness and due process, including for those individuals in detention, remains a cornerstone of our judicial system. EOIR's role in granting relief from removal in meritorious cases, and in the denial of relief from removal in others, helps assure the integrity of the overall process.

#### **a. Performance Plan and Report for Outcomes**

To align with the DOJ Strategic Plan 2022-2026, EOIR established new metrics which can be found in the Performance and Resources Table and the Metrics Table.

All three of EOIR's adjudicatory components (OCIJ, BIA, and OCAHO) continue their impressive execution of EOIR's mission "to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws."

#### **b. Strategies to Accomplish Outcomes**

##### *Filling Existing Vacancies*

EOIR's continued focus on filling existing vacancies has helped increase adjudicative capacity over the last several years. Despite this increase in adjudicative capacity and EOIR's continued efforts to hire new IJs, the pending caseload continues to grow. To successfully decrease the pending caseload to a manageable level, EOIR requires additional authorized IJs and support staff.

##### *Docket Adjustments*

EOIR continues to make docket adjustments and prioritize certain case types to reflect the shifts in enforcement priorities. EOIR will continue engaging with Federal partners to gauge the impact of enforcement activities, migratory patterns, and other factors that affect the immigration courts and adjust dockets and resource allocations accordingly.

##### *New and Expanded Court Locations*

Over the last several years EOIR has added space in some existing locations, and expanded its number of locations, going from a total of 337 courtrooms at the close of FY 2016 to 545 at the end of the first quarter of FY 2022. New court locations have opened in each of the last five fiscal years, including most recently courts in Van Nuys, CA, Sacramento, CA, Houston, TX, Richmond, VA and Santa Ana, CA. By adding available court space as the IJ corps expands, EOIR will be able to hear a greater volume of cases, reducing the backlog more quickly.

In addition to expanding the number of courts, to better utilize courtroom space EOIR Policy 19-11 "No Dark Courtrooms" memorialized policies to reduce and minimize the impact of unused courtrooms and docket time. EOIR will continue to implement this policy which assigns cases to dockets and IJs in a manner to maximize courtroom usage.

### *Leveraging Existing IT Systems*

To maximize the capacity of immigration courts nationwide, EOIR continues to make efficient use of Video Teleconferencing (VTC) systems, which enable IJs to adjudicate cases in other parts of the country. This has multiple benefits. IJs in locations with a lower caseload can administer cases in higher-volume locations remotely. IJs are able to adjudicate certain detained and Institutional Hearing Program (IHP) cases remotely, diminishing the challenges associated with reaching DHS and Federal facilities that are not co-located with immigration courts. All courtrooms and many conference rooms are now equipped with VTC capability.

Additionally, EOIR has successfully upgraded the Digital Audio Recording systems in all courtrooms. The touch panel and modernized audio-processing components have provided courtroom users with enhanced phone controls, video teleconference capabilities, and simultaneous interpretation controls. Looking forward, EOIR is using analytics to explore how VTC and other video technology use could minimize the number of underutilized courtrooms or expand access beyond a traditional courtroom.

In addition, EOIR continues to strive to modernize and digitize its critical information systems. The benefits of an electronic filing and case management system are undisputed. A fully electronic system will improve case scheduling and adjudication efficiency, reduce time spent on administrative tasks related to paper files, and free space to be used for additional staff or court expansion. In 2018 EOIR piloted its new electronic filing system, ECAS, at five immigration courts and the BIA. It is with great news that at the end of calendar year 2021, ECAS has now been launched nationwide across all immigration court locations and the BIA and as of the end of January 2022, over 20,000 attorneys have registered to use ECAS, over 2,300,000 documents have been uploaded, over 480,000 electronic records of proceeding (eROP) have been created, and over 2,400 EOIR users have been trained.

### *Policy Coordination and Analysis*

In addition to process improvement, technology, and communication strategies, EOIR strategies work to ensure that short- and long-term human capital needs are met, particularly as they relate to the IJ hiring process and immigration court staffing and resourcing requirements. OCIJ, BIA, and agency leadership continually examine activities critical to case completion and the amount of time required for staff to complete these activities thoroughly.

EOIR works with DHS, DOJ Office of Legal Policy and others on immigration related policies and regulations to increase the adjudicatory capacity, as well as implement many new internal policies which serve to enhance EOIR decision making by furthering consistency as well as enhancing fraud prevention and detection activities.

### Improving the IJ Hiring Process

EOIR and DOJ continue to take steps to reduce the timeline to hire and on-board new IJs. The Department implemented a streamlined hiring plan in 2017 that EOIR has been using ever since. It retains the same degree of rigorous vetting as before, but aims to reduce the timeline an application is pending before the agency.

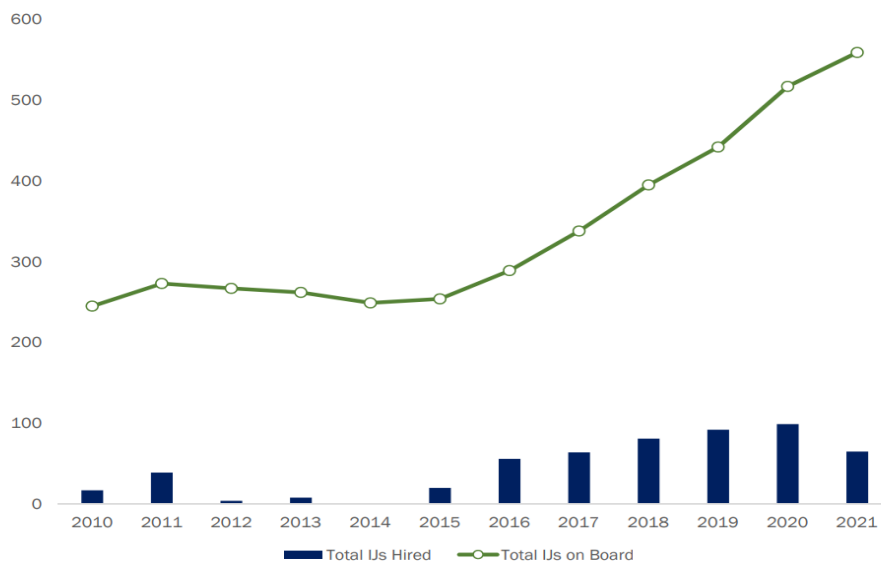
The revised process: 1) sets clear deadlines for assessing applicants at each stage of the process and for making decisions to move them to the next stage; 2) eliminates steps that did not aid or advance the selection process; and 3) allows for temporary appointments pending full background investigations,

which can often take several months to a year to complete. The new process aims to reduce the amount of time that it takes to recommend applicants for appointment to six months or less.

Under the current process, hiring times have been reduced by approximately 50 percent with EOIR hiring 99 IJs in FY 2020, nearly double the number hired in FY 2016, the final year of the prior IJ hiring process. EOIR hired an additional 65 IJs in FY 2021 and has been able to clear a new IJ to start in as little as 150 days and to on-board a new IJ in as little as 195 days, which is a 74 percent reduction in hiring time compared to the 742 days cited in a 2017 GAO report on the subject<sup>3</sup>. Moving forward, EOIR will continue to assess the hiring process and identify any areas for improvement.

Fiscal Year	Total IJs Hired	Total IJs On-Board
2011	39	273
2012	4	267
2013	8	262
2014	0	249
2015	20	254
2016	56	289
2017	64	338
2018	81	395
2019	92	442
2020	99	517
2021	65	559

### Immigration Judge (IJ) Hiring Through FY 2021



<sup>3</sup> Report GAO-17-438, *Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges*



**c. Priority Goals**

EOIR's mission directly aligns with the Department's priority goal to improve efficiency in immigration adjudication. The efforts made by EOIR adjudicators and staff to address the agency mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws means that EOIR employees work every day to address this priority goal. The proposals contained in this budget are all designed to further strengthen EOIR's ability to meet its mission and this goal. By increasing adjudicative capacity, strengthening the privacy protections and framework for the sensitive information shared by participants in the immigration process, providing for meaningful assistance with legal access, and ensuring a system wherein all can participate regardless of location, EOIR is working to improve the immigration system on multiple fronts.

**V. Program Increases by Item**

**Item Name:** Adjudicatory Expansion Initiative

**Budget Decision Unit(s):** Executive Office for Immigration Review

**Organizational Program:** Immigration Adjudications

**Program Increase:** Positions 600 Agt/Atty 250 FTE 300 Dollars \$173.8 million

Description of Item

This request provides \$173.8 million, which will enable EOIR to add 100 new immigration judges (IJs), for a total of 834 authorized IJs, and necessary support staff. To provide needed support to the individual IJs in the courts, as well as to manage the workload in other EOIR components associated with increased immigration court adjudications, this model includes the following positions for each IJ: one attorney position in the immigration courts; one half attorney position for the Board of Immigration Appeals, or other headquarters legal component; one lower grade legal clerk or assistant and one half higher grade legal clerk or assistant; and two other positions comprised of a combination of the following positions on an as-needed basis: additional legal support staff, interpreter, and/or other EOIR mission support staff (see table below for visual representation). Some support positions may also go to headquarters to support the growth of immigration courts. The model has been updated from past years to more accurately reflect the costs associated with the new staff, space, equipment and adjudicatory costs.

IJ Cost Model Positions		
Immigration Judge = 1		Total IJs: 100
Attorney = 1	BIA Attorney = .5	Total Attorney: 150
Lower graded legal clerk or assistant = 1	Higher graded legal clerk or assistant = .5	Total Legal Assistant: 150
Additional legal support staff, interpreter, and/or other EOIR mission support staff = 2		Total Professional Admin: 200

This program increase also includes funding for the necessary corresponding courtrooms, office space, and associated expenses (e.g. interpreter services, furniture, equipment, and funding for guard services). Finally, this program increase also includes adjudicatory costs to account for IJ increases, as well as the changing immigration climate over recent fiscal years. These adjudicatory costs include processing FOIA requests, BIA transcriptions and certifications, and costs associated with the National Qualified Representative Program.

Justification

EOIR must increase the number of immigration judges as the pending caseload has been steadily increasing since FY 2006, hitting a new high of approximately 1.5 million pending cases at the end of the first quarter FY 2022. As a result of the growth in the backlog, the time it takes to close a case has increased. Recently, this caseload increase has been exacerbated by the closures and reductions in service associated with the COVID-19 pandemic, as well as the consistent rise in the number of new

NTAs that DHS has filed before the immigration court over the last five years, even with the reduction in filings over FY 2020 and FY 2021 (from a high of almost 550,000 in FY 2019). While receipts decreased to 370,000 in FY 2020 and just over 240,000 in FY 2021, these decreases were associated with the issues surrounding the COVID-19 pandemic and already through just one quarter of FY 2022 over 144,000 NTAs have been filed. Further, even though receipts declined during COVID-19, EOIR completions continued to fall below incoming receipt levels due to limited operations in the immigration courts during the pandemic. Without corresponding increases in resources, combined with process improvements, EOIR will not be able to successfully manage the incoming caseload, while also addressing the backlog.

As the caseload has grown, processing time has increased. Certain typically lengthy applications, like asylum, have also increased proportional to the incoming receipts. Conversely, voluntary departure, a relatively speedier process, has decreased. EOIR is working to make internal changes that will address the backlog. Beyond the allocation of additional resources, including the hiring of additional immigration judges, EOIR has undertaken measures to address the pending caseload. Specifically, in early 2021 EOIR implemented a revised case flow process to manage its cases, detailed in EOIR Policy Memorandum 21-18. This process will conserve judicial resources by handling more routine and administrative case matters through paper and electronic filings, thereby preserving limited courtroom time for trials and adjudications on the merits. Additionally, EOIR continues to develop priority dockets for adjudication which allows for efficient adjudication of these priority cases, and helps to address the case backlog in the most effective way. Finally, EOIR continues to leverage technological advances to increase access to the courts and its own efficiency with existing resources. Each of these is a step in the right direction, but with the growth of the caseload, additional adjudicators and support staff are necessary to more robustly address the pending caseload.

### Impact on Performance

This program increase directly supports current EOIR strategic initiatives to increase adjudicatory and case processing capacity, and EOIR's overall mission. Through the second quarter of FY 2020, the last quarter with caseloads minimally affected by the COVID-19 pandemic, EOIR had completed approximately 200,000 cases with fewer than 430 IJs hearing full caseloads. The number of cases completed per IJ varies, due to docket size, NTA flow, attrition, and the differences and complexities of each individual case. However, EOIR projects an average of at least 500 cases per IJ, and with additional efficiencies, (as described in EOIR's FY 2022 Presidents Budget Request - Backlog Reduction Efficiencies), EOIR could increase that number substantially, to approximately 600 cases per IJ. EOIR's capability to reduce the pending caseload backlog is still predicated on the receipt of NTAs in a given year being less than EOIR's completion capacity. Even with a robust IJ hiring and on-boarding process, there is a six to twelve month learning curve timeline for new IJs to begin hearing cases at a rate as efficiently as experienced IJs. This program increase will not affect performance immediately but rather over the course of the next several years upon IJ tenure. However, with a sustained commitment to increasing the number of IJs and the number of IJ support staff including attorneys, EOIR will be able to decrease the pending caseload and reduce the amount of time respondents must wait until their case is heard.

## Funding

### 1. Base Funding

FY 2021 Enacted				FY 2022 President's Budget				FY 2023 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
<u>3,761</u>	<u>1,611</u>	<u>2,277</u>	<u>734,000</u>	<u>4,361</u>	<u>1,911</u>	<u>2,921</u>	<u>891,190</u>	<u>4,361</u>	<u>1,911</u>	<u>3,221</u>	<u>977,063</u>

### 2. Personnel Increase Cost Summary

Type of Position/Series	Positions Requested	Annual Costs per Position* (\$000)			FY 2023 Request (\$000)	Annualizations (\$000)	
		1st Year Adjusted Cost	2nd Year Adjusted Cost	3rd Year Full Cost (Modular)		FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Immigration Judges (0905)	100	161	129	299	16,131	12,943	858
Attorneys (0905)	150	114	92	240	17,173	13,843	4,968
Legal Assistant (0986)	150	85	43	128	12,693	6,426	150
Professional Admin and Other Law (001-0599; 950; 1000-2299)	200	118	88	239	23,581	17,628	6,620
<b>Total Personnel</b>	<b>600</b>				<b>69,578</b>	<b>50,840</b>	<b>12,596</b>

\*Annual Costs per Position:

1st Year Adjusted Cost assumes hiring at the minimum grade level and applies a 50% lapse to pay and benefits, reflecting the distribution of hiring new personnel throughout an entire year.

2nd Year Adjusted Cost restores the pay and benefits lapse, removes one-time only costs that are applicable only to the first year, and assumes an increase in pay grade where applicable.

3rd Year Full Cost (Modular) is the standardized full-year cost for each position which includes pay and benefits at the full performance or journeyman level, equipment, training, and miscellaneous expenses.

**3. Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item – Court Costs	FY 2023 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Operational Travel	331	3	100	-260	1
Communications, Utilities, and Miscellaneous Charges	1,758	18	100	-1,310	7
Guard Services – Security Work Authorizations	3,168	32	100	1,119	64
Furniture	2,652	27	100	-2,387	27
Network Costs	2,858	29	100	-1,958	14
Video Teleconferencing (VTC) Equipment	2,217	22	100	-1,668	8
Digital Audio Recording (DAR) System	3,174	32	100	-2,218	14
Printing Equipment	1,177	12	100	-715	7
Document Reader	204	2	100	-142	1
ECAS Scanner	335	3	100	-229	2
Guard Services Equipment (X-ray, magnetometers, etc.)	1,056	11	100	-829	3
Space Buildout Associated with IJ Teams	75,000	750	100	-75,000	0
<b>Total Non-Personnel</b>	<b>93,930</b>	<b>939</b>		<b>-85,596</b>	<b>148</b>

Non-Personnel Item – Adjudicatory Costs	Quantity	Annual Unit Cost (\$000)			FY 2023 Request (\$000)	Annualizations (\$000)	
		1st Year Adjusted Cost	2nd Year Adjusted Cost	3rd Year Full Cost (Modular)		FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
National Qualified Representation Program (NQRP)	100	10	10	21	1,000	1,030	30
Interpretation	100	80	82	164	7,950	8,189	242
Transcription	100	11	11	22	1,075	1,107	33
Litigation Support	100	.17	.17	.3	17	17	1
Freedom of Information Act (FOIA)	100	2	2	5	226	233	7
<b>Total</b>		<b>103</b>	<b>105</b>	<b>212</b>	<b>10,268</b>	<b>10,576</b>	<b>313</b>

**4. Justification for Non-Personnel Annualizations**

The future annualizations contained in the above charts reflect resources needed to fully fund the associated costs with the hiring of 100 IJs.

**5. Total Request for this Item**

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/ Atty	FTE	Personnel	Non-Personnel	Total	FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Current Services	4,361	1,911	3,221	490,887	486,176	977,063		
Increases	600	250	300	69,578	104,198	173,776	-24,180	13,057
<b>Grand Total</b>	<b>4,961</b>	<b>2,161</b>	<b>3,521</b>	<b>560,465</b>	<b>590,374</b>	<b>1,150,839</b>	<b>-24,180</b>	<b>13,057</b>

**6. Affected Crosscuts**

Immigration

**Item Name:** Protecting the Privacy of EOIR Information

Budget Decision Unit(s): Executive Office for Immigration Review

Organizational Program: Immigration Adjudications

Program Increase: Positions 11 Agt/Atty 4 FTE 6 Dollars \$5.7 million

### Description of Item

This budget request will protect the privacy of EOIR information by strengthening the existing privacy program, Freedom of Information Act (FOIA) program, as well as to protect the security of EOIR information and data.

To ensure compliance with privacy and civil liberties-related law, EOIR requests funding for three attorneys and one half analyst to focus on privacy. This will provide the necessary staff to manage EOIR privacy needs, update and complete training for EOIR staff, and remain in compliance with federal statutes and regulations. The additional positions will serve as trainers for the EOIR workforce regarding privacy and cybersecurity issues. By maintaining a properly trained workforce who is diligent of privacy and cybersecurity issues, EOIR information and systems are better equipped to identify and manage accidental and malicious informational breaches. EOIR has consulted with the Office of Privacy and Civil Liberties (OPCL), which is responsible for ensuring the Department's compliance with privacy and civil liberties-related laws and policies on this request. OPCL agrees these positions are necessary for EOIR to continue to comply with its privacy and security obligations.

Additionally, due to ongoing litigation, EOIR expects to be required to make available to the public some portion, if not all decisions released by the BIA. To ensure the protection of personal identifying information (PII) and other critical personal information of citizens, lawful permanent residents, and noncitizens, EOIR requests funding for one attorney and two analysts to build a new team within the FOIA Unit to ensure the removal of all PII from decisions issued by the BIA. To assist in keeping staffing costs low, EOIR also requests funding to obtain artificial intelligence software to effectively redact a majority of information enabling a quicker and more thorough review.

Further, in keeping with Executive Order (EO) 14028, regarding improving the Nation's Cybersecurity, EOIR requests funding to improve EOIR's cybersecurity posture. As noted in the EO, the United States faces persistent and increasingly sophisticated malicious cyber campaigns that threaten the public sector, the private sector, and ultimately the American people's security and privacy. The Federal Government must improve its efforts to identify, deter, protect against, detect, and respond to these actions and actors. Given the sensitive nature of the information EOIR stores and manages related to immigration cases, it is imperative that EOIR ensure the data is protected. This request would provide funding to address the issues and concerns identified as a result of the Deputy Attorney General's comprehensive cyber review in May 2021.

### Justification

With the significant increase in privacy-related work, and the rapidly evolving cybersecurity threat landscape, EOIR's current privacy-focused workforce and perimeter focused IT security architecture is

becoming obsolete, leading to an eventual future degradation of EOIR's risk posture. In order to prevent this, EOIR will need to invest in people, processes, and technologies in multiple areas.

EOIR requires additional staff to support the privacy efforts at the agency. EOIR's privacy team is small, consisting of one attorney who works on the portfolio on a part-time basis, and a judicial law clerk. The addition of a supervisory attorney, two full-time attorney advisors and one analyst would more appropriately match the level of need for EOIR's growing workforce, which has increased in size from 1,393 personnel on-board at the end of FY 2015 to 2,300 personnel on-board at the end of FY 2021 and will continue to grow as more IJs and support staff are added. To keep pace with these on-board levels and an increased need to manage the privacy of records, as well as to train the personnel, the privacy team needs to be expanded to accommodate it. The additional personnel requested would improve EOIR's efforts to address privacy compliance and cybersecurity needs in a timely manner. Further, the additional staff would ensure all planned and active systems and applications are in compliance with the Privacy Act of 1974 and E-Government Act of 2002, especially in EOIR's rapidly growing electronic records keeping and data sharing capabilities. The additional staff would be able to review compliance documents, address informational breaches, and provide training modules for new and existing employees. EOIR's training needs are unique, in that EOIR collects information from noncitizens and legal permanent residents in addition to U.S. citizens, which provides EOIR with unique privacy questions and issues. To address those issues, the additional staff will work to develop EOIR-specific privacy training.

Additionally, EOIR requires additional support for the FOIA program. FOIA receipts have increased by nearly 72 percent from FY 2016 to FY 2021 (from approximately 35,500 to approximately 61,000). EOIR has been in ongoing litigation concerning the potential required release of all BIA decisions. The BIA currently releases approximately 30,000 decisions per year and has decisions dating back to the 1940s. Given the current posture of the litigation, EOIR is concerned it may not prevail and will be responsible for providing some portion if not all of the BIA's decisions to the public. EOIR is not only required by the Privacy Act to redact all PII, EOIR is also responsible under the Immigration and Nationality Act to protect the asylum information of certain vulnerable groups of noncitizens as well as comply with regulations restricting the release of information in all asylum cases. EOIR does not have sufficient staff within the FOIA program to produce these cases for public review while providing the level of privacy protection demanded by the law. Along with the acquisition of Artificial Intelligence software, EOIR requests one attorney and two analysts to effectively meet the FOIA and PII need.

Improving EOIR's cybersecurity posture for the future will require investment in hardware, software, cloud based services and the people to design, install and operate this new environment. With the increase in personnel, the number of devices on EOIR's network that must be managed is now over 10,000 and expanding. The digitization of EOIR's adjudicatory proceedings and other functionality also means more applications and services to be monitored, analyzed, and managed. This, combined with the increased threat landscape as identified by E.O. 14028 and the growing amount of EOIR information present in a cloud based system, requires EOIR to improve its security and resilience. This starts with the appointment of a full-time Chief Information Security Office (CISO). The CISO will formalize and lead a two-pronged strategy to ensure EOIR's security posture rises to today's ever evolving challenges. First, EOIR will adopt DOJ's Zero Trust capability. The journey to zero trust includes:

- Defining the Protect Surface: EOIR's Courts and Appeal System (ECAS) was fully deployed at the end of calendar year 2021 placing EOIR's immigration data completely in the cloud. As EOIR digitizes more of its processes, the environment will get increasingly complex.



Understanding the entire environment and not just its perimeter, is vital to implementing zero trust.

- Map Data Flows: Not only are EOIR's systems becoming more complex, more and more data is flowing in and out of the systems to meet mission needs. Increasingly, DHS components (ICE, USCIS, CBP) are interested in the electronic exchange of information. This effort will address understanding where EOIR data is at rest and where it is moving. The intent is to encrypt data in all its states and to only allow access to appropriate entities.
- Policy Creation: This effort will define role based access and control of EOIR's data and services.
- Service Segmentation: From a cybersecurity perspective, IT services are currently viewed at the macro level. This leads to securing of the network and the ingress and egress to the network. The implementation of a zero trust architecture involves securing at the micro segmentation level – authentication and authorization capabilities will be placed in front of these micro services (e.g. ECAS) to enforce role-based access to the service. These changes must be implemented so that trusted users are recognized and allowed access based on the electronic credentials facilitating single sign on.
- Operate, Monitor, and Maintain: Ensure policies are being applied as planned, make adjustments as needed and as policy changes dictate.

In addition to implementing Zero Trust, EOIR must overhaul its cybersecurity policy and oversight capabilities. As EOIR's IT presence increases and grows more complex, the ability to monitor and review the required security controls requires a significant amount of oversight. EOIR must move from its current three year Accreditation and Authorization process to an ongoing authorization model. EOIR can efficiently and effectively improve the necessary oversight via automation. Specifically, two ways that EOIR will implement automation are: to monitor developers to ensure they are following appropriate security policies and all applications are reviewed before operational release; and to continuously monitor and analyze the security posture of the infrastructure, i.e. reviewing logs for threats and exploited vulnerabilities as well as reporting unauthorized changes to configurations. Successful implementation of this strategy requires skill sets not currently present within the Office of Information Technology (OIT). In addition to contract labor to accomplish this, OIT will require certain skills to be performed by federal employees.

- One Systems Engineer to address identity management, zero trust policy decision and enforcement points, and end point detection and response technologies.
- Two cybersecurity analysts to conduct more detailed risk assessment, supply chain risk assessments, etc.
- One data analyst to define, analyze, and optimize data flows ensuring all EOIR data is accounted for and secured.

### Impact on Performance

Without the requested increase in funding for the proposed privacy and cybersecurity efforts, EOIR will not be able to efficiently address privacy needs, will not be able to respond to results from existing litigation, and will not be best prepared to protect the cybersecurity of the agency's operations.

## Funding

### 1. Base Funding

FY 2021 Enacted				FY 2022 President's Budget				FY 2023 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
3,761	1,611	2,277	734,000	4,361	1,911	2,921	891,190	4,361	1,911	3,221	977,063

### 2. Personnel Increase Cost Summary

Type of Position/Series	Positions Requested	Annual Costs per Position* (\$000)			FY 2023 Request (\$000)	Annualizations (\$000)	
		1st Year Adjusted Cost	2nd Year Adjusted Cost	3rd Year Full Cost (Modular)		FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Attorneys (0905)	4	127	109	274	509	436	149
Professional Admin and Other Law (001-0599; 950; 1000-2299)	7	131	105	273	914	735	260
<b>Total Personnel</b>	<b>11</b>				<b>1,423</b>	<b>1,171</b>	<b>409</b>

\*Annual Costs per Position:

1st Year Adjusted Cost assumes hiring at the minimum grade level and applies a 50% lapse to pay and benefits, reflecting the distribution of hiring new personnel throughout an entire year.

2nd Year Adjusted Cost restores the pay and benefits lapse, removes one-time only costs that are applicable only to the first year, and assumes an increase in pay grade where applicable.

3rd Year Full Cost (Modular) is the standardized full-year cost for each position which includes pay and benefits at the full performance or journeyman level, equipment, training, and miscellaneous expenses.

**3. Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	FY 2023 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Contract Labor	2,000	2,000	1	0	0
Equipment/Hardware	1,000	1,000	1	0	-700
Software Costs	1,150	1,150	1	0	-500
Other Services	100	100	1	0	-100
<b>Total Non-Personnel</b>	<b>4,250</b>	<b>4,250</b>		<b>0</b>	<b>-1,300</b>

**4. Total Request for this Item**

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/ Atty	FTE	Personnel	Non-Personnel	Total	FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Current Services	4,361	1,911	3,221	490,887	486,176	977,063		
Increases	11	4	6	1,423	4,250	5,673	1,171	-891
<b>Grand Total</b>	<b>4,372</b>	<b>1,915</b>	<b>3,227</b>	<b>492,310</b>	<b>490,426</b>	<b>982,736</b>	<b>1,171</b>	<b>-891</b>

**5. Affected Crosscuts**

Immigration  
Cybersecurity

**Item Name:** Legal Access Initiatives  
**Budget Decision Unit(s):** Executive Office for Immigration Review  
**Organizational Program:** Immigration Adjudications

Program Increase: Positions 20 Agt/Atty 8 FTE 10 Dollars \$188.6 million

#### Description of Item

This request provides \$188.6 million to EOIR through the Office of Legal Access Programs (OLAP). The funding will enable EOIR to increase and improve access to adjudications for certain individuals without representation, specifically:

- \$4.7 million for Programs Associated with Unaccompanied Children
  - \$3.0 million for the continuation of a pilot program to provide representation for unaccompanied immigrant children
  - \$1.5 million for Legal Orientation Program for the Custodians of Unaccompanied Alien Children (LOPC) National Call Center
  - \$192,500 for one and a half positions, (one attorney and half a paralegal)
- \$14.4 million for the Nationwide Policy, which includes the National Qualified Representatives Program (NQRP)
  - \$14.2 million for forensic competency evaluations, qualified representation and contract escalations
  - \$192,500 for one and a half positions, (one attorney and half a paralegal)
- \$19.5 million for Current Legal Access Programs
  - \$15.0 million for the expansion of the Immigration Court Helpdesk
  - \$2.5 million increase for pro bono representation
  - \$2.0 million for the creation of a remote virtual or telephonic legal orientation program
- \$150.0 million for Legal Representation
  - \$147.8 million for grant resources supporting representation for specific categories of individuals and families in immigration proceedings before the agency
  - \$2.2 million for 17 positions (six attorneys and 11 professional administration)

#### Justification

##### *Programs Associated with Unaccompanied Children*

EOIR launched the LOPC in the fall of 2010, to provide legal orientation presentations to the adult caregivers (custodians) of unaccompanied children in EOIR removal proceedings. The purpose of this program is to inform the children's custodians of their responsibilities in ensuring the child's

appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking, as provided under the Trafficking Victims Protection Reauthorization Act of 2008. EOIR works with the Department of Health and Human Services, Office of Refugee Resettlement, and non-government partners to carry out this program nationally. Specifically, the LOPC educates custodians on:

- The immigration court process and how it works;
- The importance of the children's attendance at removal hearings and consequences of failure to appear;
- The forms of immigration relief available to children in removal proceedings; and
- The custodians' responsibility to protect the children from mistreatment, exploitation, and human trafficking.

This request includes additional resources for the LOPC and LOPC national call center to enable those programs to continue and expand their valuable work providing legal orientation information to custodians of as many unaccompanied children as possible.

Additionally, the program increase requests funds to continue and expand a pilot program, separate from LOPC, which provides for the representation of unaccompanied immigrant children. Legal representation in immigration court contributes to the effectiveness of proceedings. When unaccompanied children are capably represented, Immigration Courts are able to adjudicate those cases more efficiently. Legal representation also allows for identification of children who have been subjected to mistreatment, exploitation, and trafficking to ensure protection for this vulnerable population.

The pilot was started in FY 2021 with temporary cost-savings associated with reduced services due to COVID-19 and is located in seven immigration courts. This increase would allow the program to remain in those locations and expand to additional locations. In addition, EOIR requests an increase in staffing of one and a half positions to manage this program, which includes one attorney advisor position, and half of a paralegal position.

### *Nationwide Policy*

In April 2013, EOIR, in collaboration with the Department of Homeland Security, initiated a new Nationwide Policy to provide enhanced procedural protections, including competency inquiries, mental health examinations, and bond hearings to certain unrepresented and detained respondents with serious mental disorders or conditions that may render them incompetent to represent themselves in immigration proceedings. At the same time, and as part of the Nationwide Policy's enhanced procedural protections, EOIR also launched the NQRP, a nationwide program to provide qualified representatives to certain unrepresented and detained respondents who are found by an Immigration Judge or the Board of Immigration Appeals to be mentally incompetent to represent themselves in immigration proceedings. At this time, due to the results of the *Franco*<sup>4</sup> litigation and the costs associated with rolling out the Policy nationwide, EOIR is no longer able to absorb the costs without this requested program increase.

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<sup>4</sup> *Franco-Gonzalez, et al. v. Holder et al.*, 10-cv-2211, (C.D. Cal. 2010)

EOIR expects that there will be an increase in the projected number of cases involving detained respondents who are determined to be mentally-incompetent to represent themselves in immigration proceedings. These cases include those identified in the three states covered by the *Franco* class action settlement (CA, WA, and AZ), as well as those identified under the DOJ and DHS' National Policy for Enhanced Procedural Protections for Aliens with Diminished Mental Capacity ("Nationwide Policy"). Cases covered under the *Franco* litigation have different costs than those covered under the Nationwide Policy, and all *Franco* sites are currently active. In January 2022, EOIR completed the roll out of the Nationwide Policy to all remaining locations at which it was not already in place.

In FY 2021, EOIR spent approximately \$12.3 million to provide for forensic competency evaluations and qualified representatives at approximately 75 locations, in an estimated 1,383 cases. This enhancement request would enable the implementation of the nationwide rollout of the Nationwide Policy an approximately 66 percent increase in non-*Franco* (less costly) cases, costing an additional \$14.2 million for the associated forensic competency evaluations and qualified representatives. In addition, this request includes funding for additional staff for OLAP to manage the workload associated with an increase in Nationwide Policy related cases (one attorney advisor position, and one half-time paralegal specialist). This program increase will provide OLAP with adequate staffing resources for its administration of the Nationwide Policy.

#### *Other Legal Access Programs*

At this time, EOIR is asking for additional support for the programs within OLAP. Specifically, EOIR requests funding to support the expansion of the Immigration Court Helpdesk (ICH) program. The ICH is a program currently available to non-detained respondents in 13 immigration courts. It is intended to be a live resource for noncitizens seeking general information. The services rendered at the ICH are not a substitute for legal representation, although they do provide valuable information and resources. In an effort to increase and improve the due process and fairness of immigration proceedings, EOIR is requesting funding sufficient to begin bringing an in-person ICH to every non-detained immigration court location nationwide. This request will provide for ICH presence at the most recently authorized and constructed immigration courts, and any additional funding will be spent bringing the ICH to those locations where there is both a significant demonstrated need for services as well as the physical space in which to house the provider and participant.

Additionally, part of this request would go towards increasing pro bono representation - this funding would be utilized to do research, develop materials, and perform outreach to identify and enlist pro bono providers. Some portion of this funding would also go towards providing contract interpretation assistance for pro bono attorneys that do not have access to interpretation and who agree to represent particularly vulnerable individuals, remotely located individuals, or otherwise challenging to serve clients. As noted in the statement accompanying the President's memorandum to expand access to legal representation and the courts, timely and affordable access to the legal system can make all the difference in a person's life. The statement further noted that the federal government has a critical role to play in expanding access to the nation's legal system and supporting the work of civil legal aid providers and public defenders. EOIR can assist with the identification of, and provision of information regarding pro bono representation. EOIR has previously conducted these efforts through the existing LOP programs as well as through a number of other efforts, such as the Model Hearing Program and the BIA Pro Bono Project.

Finally, EOIR requests resources to focus on increasing access to LOP presentations in remote, underserved, or sparsely populated areas with the creation of a remote virtual or telephonic legal orientation program. Due to the nature of these programs, these LOP presentations would be conducted remotely, over video or telephonically, so as to ensure these hard-to-serve LOP populations receive services similar to those provided at other detention facilities where the broader number of providers or larger demonstrated need has led to greater in person LOP availability.

### *Legal Representation*

Although noncitizens have the right to legal counsel in removal proceedings, there is no right to government-paid counsel, and a significant number therefore do not have counsel when appearing in immigration court. EOIR has historically only provided contract representation services to very small populations, limiting that work to programs for individuals with mental capacity issues or pilot programs for children. This request will provide for grant funding that will allow for increased representation for these and comparable populations appearing in immigration court.

Studies have shown that legal representation can increase efficiency in immigration proceedings and reduce costs associated with immigration enforcement and detention. Those studies observe that represented individuals are more likely to appear for their hearings and less likely to need a continuance to another hearing date. Thus, expanded representation leads to a reduction in time spent by immigration judges on each case, and better use of time leads to greater efficiencies in court proceedings.

This new initiative will include public engagement to identify key partners, need, and best practices; the development of a competitive grant program to support expanded legal representation, focusing first on areas of greatest need; and national training and technical assistance for the grantees and those providing noncitizens with legal services. In addition, grantees will be encouraged to coordinate with organizations offering other types of legal assistance or services to noncitizens seeking relief or protection, and organizations providing other legal assistance related to housing, social services, crime victim service, or transition and support services for noncitizens.

In conjunction with other, ongoing efforts to make EOIR adjudications more fair, and more efficient, this legal representation initiative will help to create a more level playing field, so that observers and participants in the immigration adjudication center can feel confident that their case was decided based on the fullness of the merits and the law, and not on whether the noncitizen had access to an attorney to advocate on their behalf. A portion of the provided funding will be used to administer the program.

This program is complemented by a proposed \$4.5 billion in mandatory resources to expand these efforts over a 10-year period.

### Impact on Performance

Without the requested increase in funding for these proposed legal access initiatives, EOIR will not be able to respond as robustly to the legal access needs of the noncitizens with cases before the immigration court. Improved legal access improves efficiencies in court, which could help address the immigration caseload, working to mitigate the current backlog while also improving and increasing fairness in the process.

## Funding

### 1. Base Funding

FY 2021 Enacted				FY 2022 President's Budget				FY 2023 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
<u>3,761</u>	<u>1,611</u>	<u>2,277</u>	<u>34,786</u>	<u>4,361</u>	<u>1,911</u>	<u>2,921</u>	<u>34,786</u>	<u>4,361</u>	<u>1,911</u>	<u>3,221</u>	<u>34,786</u>

### 2. Personnel Increase Cost Summary

Type of Position/Series	Positions Requested	Annual Costs per Position* (\$000)			FY 2023 Request (\$000)	Annualizations (\$000)	
		1st Year Adjusted Cost	2nd Year Adjusted Cost	3rd Year Full Cost (Modular)		FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Attorneys (0905)	8	127	109	274	1,017	873	297
Professional Admin and Other Law (001-0599; 950; 1000-2299)	12	131	105	273	1,568	1,259	446
<b>Total Personnel</b>	<b>20</b>				<b>2,585</b>	<b>2,132</b>	<b>743</b>

\*Annual Costs per Position:

1st Year Adjusted Cost assumes hiring at the minimum grade level and applies a 50% lapse to pay and benefits, reflecting the distribution of hiring new personnel throughout an entire year.

2nd Year Adjusted Cost restores the pay and benefits lapse, removes one-time only costs that are applicable only to the first year, and assumes an increase in pay grade where applicable.

3rd Year Full Cost (Modular) is the standardized full-year cost for each position which includes pay and benefits at the full performance or journeyman level, equipment, training, and miscellaneous expenses.

### 3. Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	FY 2023 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Representation of Unaccompanied Minors	3,000	3,000	1	0	0
LOPC Call Centers	1,500	1,500	1	0	0
Nationwide Policy	14,200	14,200	1	0	0
Office of Legal Access Programs	19,500	19,500	1	0	0
Legal Representation	147,800	147,800	1	0	0
<b>Total Non-Personnel</b>	<b>186,000</b>	<b>186,000</b>		<b>0</b>	<b>0</b>



**4. Total Request for this Item**

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Current Services	4,361	1,911	3,221		34,786	34,786		
Increases	20	8	10	2,585	186,000	188,585	323	111
<b>Grand Total</b>	<b>4,381</b>	<b>1,919</b>	<b>3,231</b>	<b>2,585</b>	<b>220,786</b>	<b>223,371</b>	<b>2,132</b>	<b>743</b>

**5. Affected Crosscuts**

Access to Justice  
Immigration

**Item Name:** Virtual Court Initiative  
**Budget Decision Unit(s):** Executive Office for Immigration Review  
**Organizational Program:** Immigration Adjudications

Program Increase: Positions 3 Agt/Atty 0 FTE 2 Dollars \$9.8 million

Description of Item

The Virtual Court Initiative will further the digitization efforts currently being undertaken at EOIR such that: (1) EOIR adjudications will become paperless or near paperless; (2) all process executed by adjudicatory personnel and support staff can be executed remotely and/or with automation; (3) all transactions external to EOIR will be capable of being conducted electronically; and (4) all stakeholders participating in EOIR led proceedings will be able to participate remotely. EOIR requests \$9.8 million to complete this initiative.

Achieving a “virtual court” begins with ensuring court operations occur consistently whether stakeholders are physically present in court or appearing remotely. At its core, such a development requires establishment of a “cloud-based” court. In effect, such a program would, once complete, allow stakeholders appearing remotely to authenticate themselves, or “check-in,” in order to receive proper permissions for their appropriate role in a proceeding. The remote stakeholders would then have the necessary visual and audio access to effectively participate in the hearing. During and after the hearing, processes would be improved to allow for fully electronic management of the paperwork and data associated with the case.

The Electronic Courts and Appeals System (ECAS) was EOIR’s first step to migrate away from paper processes. ECAS includes a portal that allows DHS components to electronically file and view some documents, and it also includes identity federation with DHS to facilitate single sign on and improved direct system to system data exchange. To complement and build on the ECAS program, the following, as part of a virtual court program, will minimize paper, improve court efficiency, and increase the agency’s ability to respond to weather-related or other court closure.

*Check In* – Currently, EOIR is rolling out a system of electronic docket displays that will replace paper dockets posted in lobby areas with an electronic display of the daily docket with courtroom information for respondents and their attorneys. In the virtual court model, this information will also be accessible remotely to parties to the proceedings once they authenticate into the system. Check in will be available via smartphone in addition to at the registration desk. Electronic check in will increase capacity at the registration desk for the staff to answer more complicated questions as well as send the relevant information directly to the assigned courtroom so as to assist with the daily management of dockets.

*Virtual Court Proceedings* – Requested funds will allow EOIR to continue to provide for appropriate remote work kits and other technology for adjudicators and staff so that they can work from any appropriate location. It will improve virtual meeting technologies for not only EOIR employees but all parties to create better configurations and “meeting rooms.” Further, it will enable electronic display and submission during proceedings of court documents for all parties and provide for appropriate

cameras so that individuals who appear remotely and need sign language interpretation will be able to receive those services.

*Automation* – Funding will increase the use of electronic transcription, which will reduce the time required to convert the digital audio recording of proceedings to text. This will also not only enable indexing and searching capabilities for proceedings, but will also decrease transcription contract costs in the out-years. Remote participants will be able to sign documents in real time as if they were approaching the clerk’s station during a hearing. No one would have to leave their station, all document sharing, signatures, etc. would be electronic. Additionally, EOIR will work to improve automation of other manual processes, such as certain monthly reports and data downloads.

*Virtual Presence* – Each EOIR physical courtroom will have a virtual presence. Utilizing the capabilities of such products as WebEx and Teams, where stakeholders whether remote or in person, will be able to be present in a virtual space. Each courtroom will have the capability to have virtual rooms for the judge to conduct a sidebar, attorneys to consult with their clients, etc. Each courtroom will also be able to be broadcast to a gallery of authenticated interested parties.

*Infrastructure* – Additional network infrastructure will be required to support agency operations with the increasing amount of electronic documents. The request will include funding for electronic file storage and cloud computer processing capacity. The focus will be on providing a resiliency tool that will both improve performance and maintain operations during times of internet connectivity issues. It will also provide for improved wireless communications, with greater levels of routers or internet bandwidth for adjudicators to improve virtual performance. As the opportunity exists for a hearing to be a hybrid of both in person and remote, each station in the courtroom should be configured with a tablet device with camera capability so that a remote participant will be able to be fully present.

*Security and Resilience* – Participants must authenticate to be allowed access into the virtual courtroom. Adaptation of a zero trust architecture will be utilized to implement security controls. Proceedings must be able to move from virtual to physical and in the reverse in response to incidents such as inclement weather, power outages, building closure, etc.

### Justification

The Virtual Court Initiative is a modernization effort designed to address outdated and inefficient routines and processes. It represents an integrated approach to introduce business process reengineering of existing procedures as well as the intelligent application of technology. Taking a holistic view of the court, the procedures for adjudicators, staff, government attorneys, respondents and their attorneys will be included in the design process. In addition to providing stakeholders with a consistent experience, whether remote or in person, this process change will also include infrastructure upgrades to increase flexibility for EOIR adjudicators. In addition to enabling all courts to operate their processes autonomously for multiple days in the event of a communications outage, conversion to a more virtual platform will enable the Immigration Adjudication Centers to make full use of this model, increasing their agility and ability to pivot to new and developing needs or challenges.

### Impact on Performance

Without the requested increase in funding for the proposed virtual courtroom, EOIR will not be best able to make use of efficiencies to address workload and the pending caseload. Therefore, EOIR will not be able to respond as robustly to the increasing immigration caseload, and it will continue to grow.

## Funding

### 1. Base Funding

FY 2021 Enacted				FY 2022 President's Budget				FY 2023 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
0	0	0	\$1,640	0	0	0	\$650	0	0	0	\$650

### 2. Personnel Increase Cost Summary

Type of Position/Series	Positions Requested	Annual Costs per Position* (\$000)			FY 2023 Request (\$000)	Annualizations (\$000)	
		1st Year Adjusted Cost	2nd Year Adjusted Cost	3rd Year Full Cost (Modular)		FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Professional Admin and Other Law (001-0599; 950; 1000-2299)	3	131	105	273	392	315	112
<b>Total Personnel</b>	<b>3</b>				<b>392</b>	<b>315</b>	<b>112</b>

\*Annual Costs per Position:

1st Year Adjusted Cost assumes hiring at the minimum grade level and applies a 50% lapse to pay and benefits, reflecting the distribution of hiring new personnel throughout an entire year.

2nd Year Adjusted Cost restores the pay and benefits lapse, removes one-time only costs that are applicable only to the first year, and assumes an increase in pay grade where applicable.

3rd Year Full Cost (Modular) is the standardized full-year cost for each position which includes pay and benefits at the full performance or journeyman level, equipment, training, and miscellaneous expenses.

**3. Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	FY 2023 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Contract support for studies, analysis, and implementation services	2,000	2,000	1	500	-500
Infrastructure Equipment	3,000	3,000	1	-1,500	-750
End User Equipment	1,600	1,600	1	-250	-750
Artificial Intelligence/Robotic Process Automation Initiatives	1,900	1,900	1	-650	-500
Software	750	750	1	0	0
Other Services/ODC/Implementation Supplies	150	150	1	0	0
<b>Total Non-Personnel</b>	<b>9,400</b>	<b>9,400</b>		<b>-1,900</b>	<b>-2,500</b>

**4. Total Request for this Item**

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2024 (net change from 2023)	FY 2025 (net change from 2024)
Current Services					\$650	\$650	0	0
Increases	3		2	\$392	\$9,400	\$9,792	-1,585	-2,388
<b>Grand Total</b>	<b>3</b>		<b>2</b>	<b>\$392</b>	<b>\$10,050</b>	<b>\$10,442</b>	<b>-1,585</b>	<b>-2,388</b>

**5. Affected Crosscuts**

Immigration

**VI. Program Offsets by Item**

Not applicable.

**VI. Exhibits**

(Exhibits begin on the following page)