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RE: Comments on OMB Control Number 1125-0013, Agency Information Collection Activities; Proposed Collection; Comments Requested; Extension of a Previously Approved Collection; Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative (Form EOIR-31A)

The Catholic Legal Immigration Network, Inc. (CLINIC),[1] and the undersigned 10 nonprofit agencies submit these comments regarding the current Comments on OMB Control Number 1125-0013, Agency Information Collection Activities; Proposed Collection; Comments Requested; Extension of a Previously Approved Collection; Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative (Form EOIR-31A). Additionally, to improve efficiency in the rule making process, these comments will also address OMB Control Number 1125-0012 and CPCLO Order No. 01-2025 as all three notices address language from the Privacy Act and are relevant to the Department of Justice (DOJ) Recognition and Accreditation (R&A) application process. We are submitting a copy of this letter to each of the comment collection opportunities. On March 14, 2025, the Executive Office for Immigration Review (EOIR), through the *Federal Register*, published OMB Control Numbers 1125-0012 and1125-0013 notices in the agency's Information Collection to update Forms EOIR-31 and EOIR-31A. Subsequently, on April 17, 2025, EOIR, through the *Federal Register*, announced changes to the systems of records pursuant to the Privacy Act of 1974. CLINIC commends the agency's commitment to modernizing the R&A application process and acknowledges the changes can improve EOIR efficiency and increase the number of competent legal practitioners. However, some of the proposed changes could result in the loss of document filing preservation and privacy concerns related to submissions.

Embracing the Gospel value of welcoming the stranger, CLINIC has promoted the dignity and protected the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs since its founding in 1988. CLINIC's network, originally comprised of 17 programs, has now increased to 380 diocesan and community-based programs in

[1] Pedro Alemán-Perfecto, Policy Advocate, Jessica Hernandez, Senior Field Engagement Specialist, and Nina McDermott, Senior Attorney, authored these comments.

48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. We routinely assist our network to understand and complete the process of applying for Recognition and Accreditation of non-attorney representatives. This cost-effective program is an integral tool to EOIR and DHS operations, as accredited representatives who are employed by or volunteer for recognized organizations properly interpret immigration laws and expedite case processing by representing individuals in their removal proceedings or field office interviews. Having a streamlined and efficient application process for recognition and accreditation is essential to nonprofit organizations and government agencies.

I. Changes to the R&A application process

Additional submission venues for Forms EOIR-31 and EOIR-31A

The clarity and accuracy of Forms EOIR-31 and EOIR-31A are extremely important to nonprofits and non-attorneys who practice immigration law in a non-profit setting as they are the principal method for data collection required for their respective applications for credentialing. We commend the Office of Legal Access Program's (OLAP) decision to include language in the revised forms that allow for an alternative method by which R&A applications can be submitted. As EOIR seeks to minimize the burden of information collection, including language that reflects electronic submissions benefits the applicants and the agency since it creates an efficient process to evaluate the candidate(s).

Furthermore, adding the R&A program email address in the "Where to Submit" section of page 6 of the Forms, as expressed in OMB Control Numbers 1125-0012 and 1125-0013, aligns with the exact language of the R&A Frequently Asked Questions (FAQs) "Application Process" section. This decision solidifies OLAP's commitment to streamline the application process and proactively adjudicate submissions in order to expand immigration access and expedite the processing of EOIR cases. Representation of noncitizens is beneficial to both parties and the immigration agency adjudicating application benefits.

Recognition and Accreditation Access system

The Office of Policy's initiative to modernize the R&A application process through the establishment of the Recognition and Accreditation Access (RAA) system should be applauded. The new RAA system, as stated in notice CPCLO Order No. 01-2025, will not only accomplish the purpose of the R&A program in increasing the availability of competent legal practitioners, but will also improve efficiency in the application process. A centralized location for managing applications, document gathering, and general R&A information allows applicants to track and respond to requests in a timely manner and will effectively enhance EOIR's operations. CLINIC welcomes initiatives by EOIR that will expand access to counsel for individuals in an immigration process. Like EOIR and the Department of Homeland Security (DHS), CLINIC is concerned about the record backlog of removal and non-removal cases and believes that the best way to improve the efficiency of EOIR proceedings and DHS' case docket, while also promoting fairness and due process, is through expanded representation.

As OLAP institutes changes to modernize the R&A application system, the agency should always consider maintaining the option of accepting physical filing of Forms EOIR-31 and EOIR-31A via

regular mail. Both OMB 1125-0012 and 1125-0013 notices for the updated Forms encourage emails submission but clarify that physical submissions will still be accepted. However, CPCLO Order No. 01-2025 notice states that "documents received by regular mail are scanned and uploaded to the system." Given various changes to prevision versions of EOIR-31 and EOIR-31A, having an online form identical to the paper version of the forms, allows for proper tracking and consistency in the R&A application process.

II. Privacy Concerns regarding the updated Forms EOIR-31 and EOIR-31A and the RAA system

Multi-agency data sharing

CLINIC is generally supportive of any effort by EOIR to expand access to counsel. However, OMB 1125-0012, OMB 1125-0013, and CPCLO Order No. 01-2025 notices share language that could potentially bring privacy risks. CLINIC is concerned that EOIR has not properly advised DHS on the new RAA system which, according to the changes in Forms EOIR-31 and EOIR-31A proposed in OMB 1125-0012 and OMB 1125-0013 notices, the electronic system will collect information "for authorized routine uses" and share data with other federal agencies and courts. In fact, EOIR in notice CPCLO Order No. 01-2025 acknowledges that DHS, through USCIS, will have the ability to "upload, save, edit, digitally sign, and submit documents online through the system…" yet the notice does not state how USCIS and the Office of Policy will mitigate any potential privacy or security risks of having multiple agencies share data of applicants.

Expansion of access of Organizational and Individual Information

The expansion of what information can be accessed and who can have access could have a chilling effect for both organizations seeking recognition and individuals seeking accreditation.

All three notices change the definition of what constitutes "routine use" for purposes of data sharing. Both OMB1125-0012 and OMB1125-0013 notices significantly change the language to add EOIR uses the information collected by this form ... "for authorized routine uses, including sharing with other federal government agencies and courts, as provided in the following System of Records Notice (SORN):JUSTICE/BIA-002, Roster of Organizations and their Accredited Representatives Recognized by the Board of Immigration Appeals; or its successors."[2] As of the date of publishing the forms for public comment, the SORN included only USCIS, Organizations and individual applicants, news media and Congress as a "routine use." Even then, information sharing was limited to include either the decision itself and when necessary, supporting documentation and applications submitted.

5 U.S.C. Subsection 552a(e)(4)(D) requires Federal Register publication of "each routine use of the re(a)cords contained in the system, including the categories of users and the purpose of such use." Therefore, the DOJ published notice CPCLO Order No. 01-2025 almost 30 days later,[3] which outlines fifteen "routine uses" that greatly expands access to the entire data base containing

[2] *See* 90 FR 12176 and 90 FR 12178

[3] CPCLO Order No. 01-2025 notice was published on April 17. 2025, 24 business day after OMB 1125-0012 and OMB 1125-0013 were published.

sensitive information about organizations and individuals but also adds proactive data sharing far beyond the scope of what has been in place for almost 45 years.[4]

CLINIC specifically has concerns about the expansion of information sharing, which previously included the information on the roster, applications (including supporting documentation) and decisions. Notice CPCLO Order No. 01-2005 greatly expands the categories of records in the system to include:

- DHS recommendation letters and investigation documents;
- background investigation information for those seeking accreditation; and
- any criminal, civil, and investigative history of the organizations or representatives acquired by Office of Policy during its review of initial or renewal applications for accreditation or recognition.

Expanding the categories of records to include this personal information not only creates an increased risk of information being involuntarily disclosed, but it also allows access to all information, including information not submitted by the individual, to be shared with all agencies, entities and individuals who are listed in the updated list of "routine uses."

For all proposed "routine uses" a limitation of what information could and would be shared should specify that information that has been collected from the agency related to background checks and should not be shared outside the DOJ R and A program, except as authorized under statutory exceptions already delineated in 5 U.S.C. 552a(b).

Additionally, CLINIC has concerns about the following additions to what constitutes a "routine use" for the purposes of sharing information contained as "record" in this new system:

1. Disclosure of information to agencies that are involved in statistical analysis. This addition allows agencies to collect personal identifiable information without limits to their use so long as the agency engages in statistical analysis. This addition goes beyond the statutory exception in U.S.C 553a(b)(5) which requires the recipient to provide the agency with "advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable."[5] CLINIC recommends that this portion of the proposed "routine use" be stricken, and DOJ should instead rely on the exception in place, authorized by congress as a means of balancing the privacy interests of an individual with the need to allow enforcement agencies access to information upon request.

Proactively sharing private organizational and individual information includes results of background checks, with federal, state, local territorial, tribal and foreign law enforcement. In addition to being published in the Federal Register,[6] the disclosure of the record must be

[4] *See* 45 FRN 75908 (11-17-1980)
[5] *See* 5 U.S.C. § 552a(b)(5).
[6] U.S.C 553(a)(7)

compatible with the purpose for which the record was collected.[7] Here, the purpose of collecting the information on forms EOIR 31 and EOIR 31A is collected "to determine whether your organization has established an individual's eligibility to provide representation before EOIR's immigration courts, EOIR's Board of Immigration Appeals (BIA), and/or the Department of Homeland Security (DHS) as an accredited representative of a recognized organization.[8] The purpose of collecting this information is not to turn the DOJ Recognition and Accreditation program into a law enforcement program, using unfettered discretion to target individuals and organizations who are simply trying to increase access to justice for those who are seeking to navigate a complicated immigration system. Furthermore, a law enforcement exception already exists that requires "a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought."[9] CLINIC recommends that this portion of the proposed "routine use" be stricken, and DOJ should instead rely on the exception in place, authorized by congress as a means of balancing the privacy interests of an individual with the need to all law enforcement agencies access to information upon request.

Proper record keeping

Language in CPCLO Order No. 01-2025 states that the new automatic RAA system will be limited to Department personnel and safeguarded in accordance with appropriate laws, rules, and policies…" and direct access to said R&A records will be restricted depending on a user's role. However, CLINIC is worried that increased collection of very personal data will be closely examined where multiple stakeholders might breach security measures to access records and scrutinize the information. CLINIC recommends EOIR enhances the necessary security measures and, if necessary, installs guardrails to ensure the proper record keeping of data being submitted in the RAA system.

III. Recommendation to increase the NPRM process by expanding the comment period from 30 to 60 days

To acknowledge multiple perspectives from the public, EOIR should increase the NPRM comment period for CPCLO Order No. 01-2025 30 to 60 days. FRN notices 1125-0012 and 1125-0013 do meet the criteria, CPCLO Order No. 01-2025 does not. Given that all three notices are inherently linked, there needs to be ample time for interested parties to properly respond to the rulemaking process. The FRN notices 1125-0012 and 1125-0013 state they are non-substantive additions to Forms EOIR-31 and EOIR-31A. However, the creation of a new online application system and inclusion of fifteen new "routine uses" for which information in this database can be shared, is a significantly regulatory action as it changes the structure of managing the R&A program application process and expands the scope of disclosure to which organizations and individuals are risking exposure of private information.

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[7] *See* e.g., Britt v. Naval Investigative Serv., 886 F2d 544, 547-50 (3rd Circ. 1989); Brunotte v. Johnson, 892 F. Supp. 2nd 199, 207 (D.D.C. 2012): Shannon v. Gen Elec. Co., 812 f. Supp. 308, 316 (N.D.N.Y 1993)

[8] *See* 90 FR 12176 and 90 FR 12178

[9] See 5 U.S.C. § 552a(b)(7).

In any event, CLINIC believes that all affected individuals should have ample time to submit comments and respectfully requests a 60-day comment period for all three notices, in keeping with common practices that provide the public a 60-day period to review and comment, particularly for changes that would have a significant impact on the public. Executive Order 12866 specifies that "in most cases [rulemaking] should include a comment period of not less than 60 days." Executive Order 13563 explicitly states, "To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be **at least 60 days**."

CLINIC encourages and kindly requests that future comment periods be extended from 30-days to 60-days to allow organizations and the public adequate time to review proposed changes and provide meaningful feedback. As previously mentioned, the public was given a 60-day response period for OMB 1125-0012 and 1125-0013 notices but was not provided with the opportunity to review changes to the R&A system of records and privacy concerns for the new application system. The Information Collection and changes contemplated by these notices that substantially impact attorneys, accredited representatives, and noncitizens necessitate a proper response period. A 60-day comment period would allow more organizations and affected groups to carefully examine the changes and weigh in, in turn providing EOIR with more meaningful information to better address and consider the scope of related issues, assess unintended consequences, and prevent potential waste of resources.

IV. Conclusion

Overall, CLINIC and the undersigned organizations are supportive of the concepts behind the proposed changes that streamline the R&A application process and expand access to counsel for communities. However, modernizing the R&A program should not come with privacy concerns.

Thank you for your consideration of these comments. Please do not hesitate to contact Karen Sullivan, Director of Advocacy, at ksullivan@cliniclegal.org, with any questions or concerns about our submissions.

Sincerely,

Anna Gallagher
Executive Director
Catholic Legal Immigration Network, Inc. (CLINIC)

And

National

Immigrant Connection

Immigrant Legal Resource Center

UFW Foundation

UnidosUS

State

Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA)

Local

Catholic Legal Services, Archdiocese of Miami

Korean Community Service Center

OCA-Greater Houston

Mi Casa Community Services

St. James Immigrant Assistance