

October 13, 2022

*Submitted via Federal Express and via email*

Lauren Alder Reid  
Assistant Director  
Office of Policy  
Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 2500  
Falls Church, Virginia 22041

**Re: Comments on OMB No. 1125-0012, Agency Information Collection; Request for New Recognition, Renewal of Recognition, Extension of Recognition of a Non-Profit Religious, Charitable, Social Service, or Similar Organization (Form EOIR-31)**

Dear Ms. Alder Reid:

The undersigned seven nonprofit immigration legal services agencies that are members of the Recognition and Accreditation Working Group submit these comments in opposition to the proposed revisions in the Executive Office for Immigration Review's (EOIR) Information Collection for Form EOIR-31, Request for New Recognition, Renewal of Recognition, Extension of Recognition of a Non-Profit Religious, Charitable, Social Service or Similar Organization.

The Recognition and Accreditation Working Group is a coalition of networks of immigration legal services organizations or other high-volume users of the Recognition and Accreditation (R&A) program. The coalition advocates for a more efficient and just administration of the R&A program in order to ensure that legal services organizations have the capacity to meet the demand for affordable, high-quality immigration legal services in their communities. We are stakeholders in the DOJ Recognition and Accreditation program and we depend on it to build the capacity of our legal services programs to serve low-income and indigent immigrants in our communities. Having a streamlined and efficient application process for recognition and accreditation is essential to nonprofit organizations that operate on limited budgets and with finite resources.

We oppose the proposed changes not only in this new 2022 version of Form EOIR-31, but also in the previous 2020 version of the form. Some of our members sent a letter objecting to deficiencies in the 2020 information collection process for this form, and as a result, OLAP has continued to accept the 2017 version. During the 2020 commenting period, OLAP provided Catholic Legal Immigration Network, Inc. (CLINIC) with an erroneous version of the 2020 proposed form, and therefore stakeholders did not have meaningful notice or opportunity to comment on those proposed changes. Because many of the changes in the 2020 version have been maintained in the 2022 version, and a full and complete commenting process has never been completed on the changes in the 2020 version, we object to the changes in both the 2020 version and the 2022 version. We recommend that EOIR withdraw both the 2022 and 2020 proposed changes to this form and revert to the Jan. 2017 edition of the form.

**In the remainder of these comments, the term “proposed changes” refers not only to the redlined changes in the 2022 version, but also the changes made in the 2020 version which were not properly introduced for notice or comment.**

We urge EOIR to revert to the 2017 version of the form for several reasons. This Information Collection attempts to change regulation through the form revision process, rather than going through the notice and comment process under the Administrative Procedures Act (APA). Several of the proposed changes increase the evidence required in order to qualify for recognition in ways that are not supported by the current regulations. If DOJ wishes to increase the evidence required to qualify for the program, it would need to introduce these changes as full regulatory rulemaking under the APA, rather than a change to the form.

Further, this Information Collection creates a significant increase in information and documentation contrary to the goals of the Paperwork Reduction Act (PRA), which seeks to reduce the paperwork burden on individuals and organizations.

We will detail some of our primary objections below. These concerns are not an exhaustive list of the objections of all signing organizations, and some may submit individual public comments to address additional concerns.

#### State Non-Profit Status (Part 3)

The first question in Part 3 of the form is about current non-profit status. The instructions (Part 3, p. 2) narrow the evidence to demonstrate non-profit status from a pool of documents describing the entity's non-profit status that an organization can choose from, to one single acceptable document: a printout from a state agency website or contemporaneous letter from the agency confirming status. We object to this narrowing of the evidentiary requirements.

The EOIR-31 form instructions for this question in the 2017 version accurately reflect the regulations by maintaining flexibility in how an organization documents its current non-profit status.

The requirement to submit a valid non-profit status granted by a state agency is too narrow of an evidentiary standard because non-profit status is not always confirmed in this way. For example, where a religious organization gains its tax-exempt status through a group ruling, it may not be required to seek separate, non-profit status from the state where it is located. For example, The United States Conference of Catholic Bishops has a group ruling, and the state of Texas does not issue state non-profit status to an organization that is a subordinate of a federal group exemption. An organization applying for recognition that does not have a traditional, state non-profit status may incorrectly believe that it does not qualify for recognition based on this question.

We recommend that EOIR revert to the wording from the 2017 version of Form EOIR-31 (Part 5), which refers to optional and required documents for proof of non-profit, charitable, social service, or similar organization.

### Legal Services (Part 3)

Part 3 of the proposed form asks about the legal services the organization offers, and the instructions state, "An organization that does not currently offer immigration legal services must include a detailed description of the types of services it intends to provide if recognized. An organization that does currently offer immigration legal services must provide a detailed description of the scope, nature, and history of these services, and by whom they have been provided" (Part 3, p. 3).

This level of detail (scope, nature, and history) is not consistent with the regulations. The regulations and current form merely require a "description of the immigration legal services."<sup>1</sup> To meet this requirement, applicants in our networks generally submit a brief, general statement in the box provided in Part 7e of the Jan. 2017 edition, along with a list of the specific immigration forms they will assist with, typically in the form of a fee schedule. They have been doing this with great success since Jan. 2017 when the new regulations were implemented. We note that the box provided in Part 7e is small, indicating an expectation by OLAP that the description of legal services will be brief. In contrast, the proposed form would change current practice by requiring a lengthy essay that would greatly increase the burden on applicants without support from the regulations and for no apparent reason.

### Extension of Recognition (Part 7)

Part 7 of the proposed form requires extensive documentation in order to obtain recognition for an extension office. For each extension office, the 2022 version of the form would require a description of the frequency of inspections of the extension office; their joint operations, management structure, and finances; and the legal resources they share.

This level of detailed documentation goes far beyond what is required by the regulations and what has been requested in the 2017 edition of the form. The regulations state at 8 CFR § 1292.15 that declarations on the form and in the authorized officer's declaration are sufficient to demonstrate eligibility for extension of recognition. Requiring extensive documentation from all organizations in addition to the declarations is unnecessary and burdensome to both the applicant and to the agency that would have to process this paperwork. It also goes against the intent of the regulations, which was to simplify the application process for extension of recognition.<sup>2</sup>

### **Conclusion**

All told, the changes to the EOIR-31 add many new requirements that are not supported by the regulations. While some of these changes may seem small, the cumulative effect of these changes is to require a significant amount of new information, none of which is necessary for the approval

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<sup>1</sup> See 8 C.F.R. § 1292.11(e) (2003); and U.S. Department of Justice, *Request for New Recognition, Renewal of Recognition, Extension of Recognition of a Non-Profit Religious, Charitable, Social Service, or Similar Organization*, Form EOIR-31, Part 7, p. 5 (Edition: Jan. 2017).

<sup>2</sup> As stated in the instructions of the Feb. 2020 Form EOIR-31, "The purpose of extension of recognition is to *simplify* the communication and application processes between EOIR and a qualifying organization with more than one location" (Part 7, p. 5).

of recognition. These questions would be an unnecessary burden to individual applicants, their employers, and the agency that would need to evaluate this complex information.

If the agency wishes to raise the evidentiary burden for applicants—which we strongly oppose—it would need to change the underlying regulations through the more rigorous APA notice and comment process, not by simply making changes to the form. EOIR should revert to the January 2017 edition of Form EOIR-31, as it more closely matched the requirements set out by the regulations.

Thank you for the opportunity to submit comments on the proposed form changes.

Sincerely,

Catholic Legal Immigration Network, Inc.

Immigrant Legal Resource Center

International Rescue Committee

The Coalition for Humane Immigrant Rights

The Strategic Initiative Group on Migration and Refugee Protection, Villanova University

UFW Foundation

World Relief