

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



**FY 2019
Congressional Budget Submission
February 2018**

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I. Overview for Executive Office for Immigration Review

Introduction

To support the mission of the agency, the Executive Office for Immigration Review (EOIR) requests a total of \$563.4 million, 2,951 permanent positions, and 2,344 full-time equivalent (FTE). The request includes a \$4 million transfer from the Department of Homeland Security's (DHS) Immigration Examination Fee Account. 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: <http://www.justice.gov/02organizations/bpp.htm>.

The Department of Justice's (DOJ or "the Department") EOIR is responsible for conducting immigration court proceedings, appellate reviews, and administrative hearings to fairly, expeditiously, and uniformly administer and interpret U.S. immigration law. As the Department's primary office for applying and adjudicating immigration law, EOIR plays an essential role in the larger immigration system. As one of several major actors within the immigration space, it is crucial that EOIR be prepared to meet current and future challenges.

Immigration cases begin when the DHS files a Notice to Appear (NTA), which charges a potential illegal alien 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 Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and United States Citizenship and Immigration Services (CIS) have increased their enforcement and processing significantly 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.

Budget Summary

EOIR's primary strategic focus is increasing adjudicatory and case processing capacity. 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) 2019 budget request includes a program increase totaling almost \$65M to provide funding for: additional immigration judges (IJs) and the necessary support staff, and information technology (IT) modernization efforts. This request is essential to enable EOIR to advance initiatives that implement Presidential and Attorney General priority areas and to support EOIR's mission of adjudicating immigration cases promptly without compromising due process.

EOIR continues to face a myriad of internal and external challenges to increasing adjudicative and case processing capacity to reduce the pending caseload. The additional IJs and enhancements to mission-critical IT systems afforded through these program increases will help EOIR better address these challenges and ensure the efficient administration of immigration law.

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 59 immigration courts throughout the country and has a centralized Board of Immigration Appeals located at EOIR Headquarters.

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

EOIR's 2019 Budget Strategy

EOIR's program increase of \$64,839,000 supports EOIR's current strategic initiatives of increasing adjudicatory and case processing capacity, which help advance EOIR's mission¹. Increasing adjudicatory and case processing capacity is particularly important given the growing pending caseload and the increase in the rate of new NTAs filed.

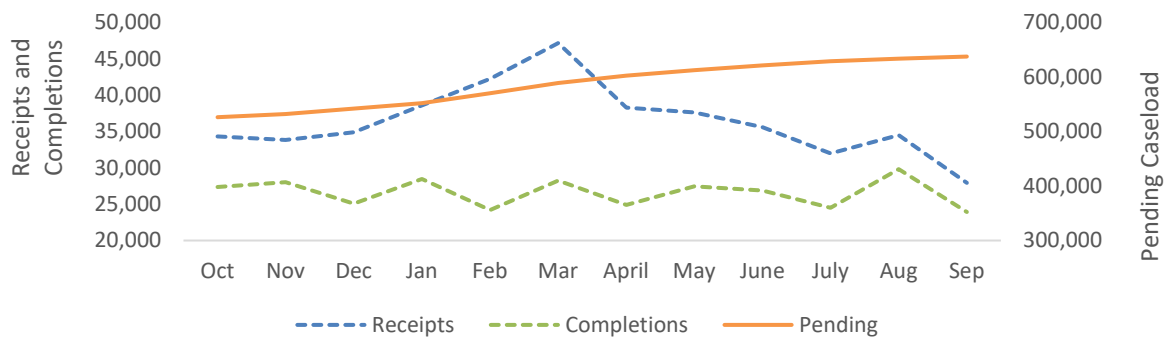
Challenges

EOIR continues to face both internal and external challenges to increasing adjudicative and case processing capacity to help reduce the pending caseload. Internal challenges include the IJ hiring process and the geographic disbursement of courtrooms. Externally, the most significant factor is the recent shift in DHS enforcement priorities and resulting rapid increase in the number of new immigration cases.

As of September 30, 2017, there were nearly 650,000 cases pending in immigration courts nationwide, a 25 percent increase from FY 2016 and by far the largest pending caseload before the agency, marking the eleventh consecutive year of increased pending caseload. Additionally, in FY 2017, DHS filed nearly 300,000 NTAs, compared to fewer than 240,000 NTAs filed during FY 2016, demonstrating a marked increase in enforcement activities.

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

OCIJ Caseload in Fiscal Year 2017²



While the challenges noted below are specific to the Office of the Chief Immigration Judge (OCIJ), EOIR remains cognizant that the large and growing pending caseload will also affect the Board of Immigration Appeals (BIA). From FY 2014-2016, BIA received on average about 13,000 appeals per year. However, in FY 2017, over 17,000 appeals were filed with BIA, a 34 percent increase. This work is shared across 16 (out of an authorized 17) current Board Members, an extremely large volume for any appellate body. As both new OCIJ case receipts and the number of immigration judges increase, the BIA will likely continue to face a resultant increase in the number of appeals filed, especially as the appeal rate tends to stay constant (about ten percent of completions).

Internal Challenges

First, the Department-wide hiring freeze between January 2011 and February 2014, coupled with natural and expected attrition, exacerbated the shortfall in adjudicative capacity. During this time, EOIR was unable to hire new immigration judges. Meanwhile, year-to-year fluctuations in case receipts were slowly trending upward, with the pending caseload increasing by about 40 percent from January 2011 to February 2014.

Second, the thorough vetting and hiring process for IJs has historically taken over a year. Although EOIR hired 64 immigration judges in FY 2017, this pace has been insufficient to fully make up for prior shortfalls in filling authorized positions. Although EOIR and the Department are taking steps to improve internal hiring processes, the understaffing resulting from this complex and lengthy process highlights the ongoing challenge of hiring IJs expeditiously.

Third, IJ attrition poses potential difficulties for increasing adjudicative capacity. The typical attrition rate for a fiscal year is roughly 12 judges. However, 21 IJs separated from EOIR in FY 2017, with other retirements or departures expected. Furthermore, with 33 percent of IJs currently eligible to retire, the attrition rate may very likely rise in the coming months and years, further exacerbating understaffing challenges.

Fourth, the current case management system (CASE) is a fragmented, paper-based system. For years, EOIR has been planning to upgrade CASE to a single, electronic platform for all aspects

² Due to data entry lag, recent months underreport the number of receipts, incorrectly implying that the pending caseload is increasing at a slower rate.

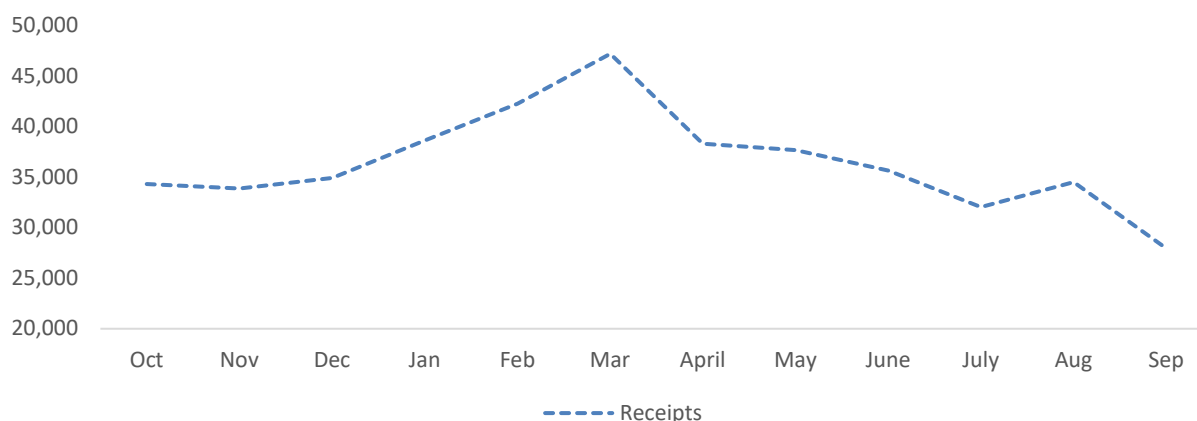
of case management. However, a new system had not yet been deployed due to funding constraints. EOIR began developing an ECAS pilot in late FY 2017 and intends to deploy the pilot in mid-2018. Even then, EOIR will continue to operate without a streamlined approach to case management until the full ECAS system is implemented.

Finally, the geographic disbursement of immigration courts across the country presents several challenges for EOIR. More populous and urban locales tend to attract more IJ candidates, which can create difficulties allocating IJs and supporting staff appropriately across all courts. In addition, EOIR currently has underutilized courtrooms, meaning that the given courtroom is not in use during a typical hearing block. This has several causes, including, but not limited to, unexpected IJ absences, compressed work schedules, scheduling challenges, and understaffing. Operational efforts to use courtroom space more effectively must be executed in tandem with IJ Team increases and the IT modernization program to more fully mitigate this challenge.

External Challenges

EOIR faces two prominent external challenges: (1) recent changes in DHS enforcement policies and (2) the continuing residual impact of the 2014 and 2016 border surges and EOIR's responses to those surges. DHS has made several changes to immigration enforcement, including increased enforcement and decreased use of prosecutorial discretion. With almost 300,000 new NTAs filed with EOIR during FY 2017, the already large pending caseload has increased dramatically in this new enforcement environment, nearly reaching 650,000 cases. In addition to filing more NTAs, DHS used prosecutorial discretion less frequently and EOIR administratively closed fewer cases.

New NTAs Received in Fiscal Year 2017



The residual impact of cases generated by the border surges in the summer of 2014 and in 2016 continues to impact EOIR's pending caseload. This surge included an increase in both unaccompanied children and adults with children, and cases involving children tend to take longer to resolve, as their cases often require continuances.

II. Summary of Program Changes

Item Name	Summary	Pos.	FTE	Dollars (\$000)	Page
Immigration Judges & Support	<ul style="list-style-type: none"> Enables EOIR to add 75 IJs and support Each IJ and support costs approximately \$1.2M and includes salaries and associated expenses (e.g., office space, furniture) 	450	149	39,839	23
IT Modernization	<ul style="list-style-type: none"> Funding to support electronic filing, case management, and schedule management IT modernization programs 	N/A	N/A	25,000	26
Total		450	149	64,839	

The program requirements for increases in the number of immigration judges and support staff assumes that immigration adjudication trends in FY 2019 will be largely similar to FY 2017, other than a sustained decrease in the utilization of administrative closure, predominately stemming from DHS's movement away from the practice of exercising prosecutorial discretion to close cases. EOIR utilized input from DHS and recent trends to approximate the expected levels for case receipts in FY 2019. Using these assumptions and relying on EOIR's Allocation Model for Immigration Courts (AMICUS) (see Appendix A for more information), these program increases and corresponding budget request are projected to achieve between a five and seven percent annual reduction in the pending caseload. Assuming current hiring trends and policies, even with these program increases EOIR expects the pending caseload to continue growing for the next three to four years before beginning to decline and eventually achieving between a five and seven percent annual decrease from its peak.

III. Appropriations Language and Analysis of Appropriations Language

The FY 2019 budget request includes proposed changes in the appropriations language set forth below.

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, \$563,407,000, 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 \$35,000,000 shall remain available until expended; Provided further, That any unobligated balances available from funds appropriated for the Executive Office for Immigration Review under the heading “General Administration, Administrative Review and Appeals” shall be transferred to and merged with the appropriation under this heading.

Analysis of Appropriations Language

No substantive changes proposed.

IV. Program Activity Justification

<i>Executive Office for Immigration Review</i>	Direct Pos.	Estimate FTE	Amount (\$ in thousands)
2017 Enacted	2,198	1,591	440,000
2018 Continuing Resolution	2,198	1,847	437,012
Adjustments to Base and Technical Adjustments	303	348	61,556
2019 Current Services	2,501	2,195	498,568
2019 Program Increases	450	149	64,839
2019 Request	2,951	2,344	563,407
Total Change 2018-2019	753	497	126,395
<i>Executive Office for Immigration Review- Information Technology Breakout (of Decision Unit Total)</i>	Direct Pos.	Estimate FTE	Amount
2017 Enacted	39	39	58,474
2018 Continuing Resolution	39	39	58,109
Adjustments to Base and Technical Adjustments	0	0	0
2019 Current Services	39	39	58,474
2019 Program Increases	0	0	25,000
2019 Request	39	39	83,474
Total Change 2018-2019	0	0	25,000

A. Program Description

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

Adjudicative Components

- Board of Immigration Appeals (BIA) – The BIA hears appeals of decisions of immigration judges (IJs) and certain decisions of officers of DHS in a wide variety of proceedings in which the Government of the United States is one party and the other party is an alien, 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 Immigration Judge (OCIJ) – The OCIJ oversees the administration of 59 immigration courts 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 an alien 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 alien adjudications, the Institutional Hearing Program (IHP)¹ provides the framework for hearings to determine the immigration status of aliens 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 aliens 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.

- 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 management, articulates and develops policies and procedures, establishes priorities,

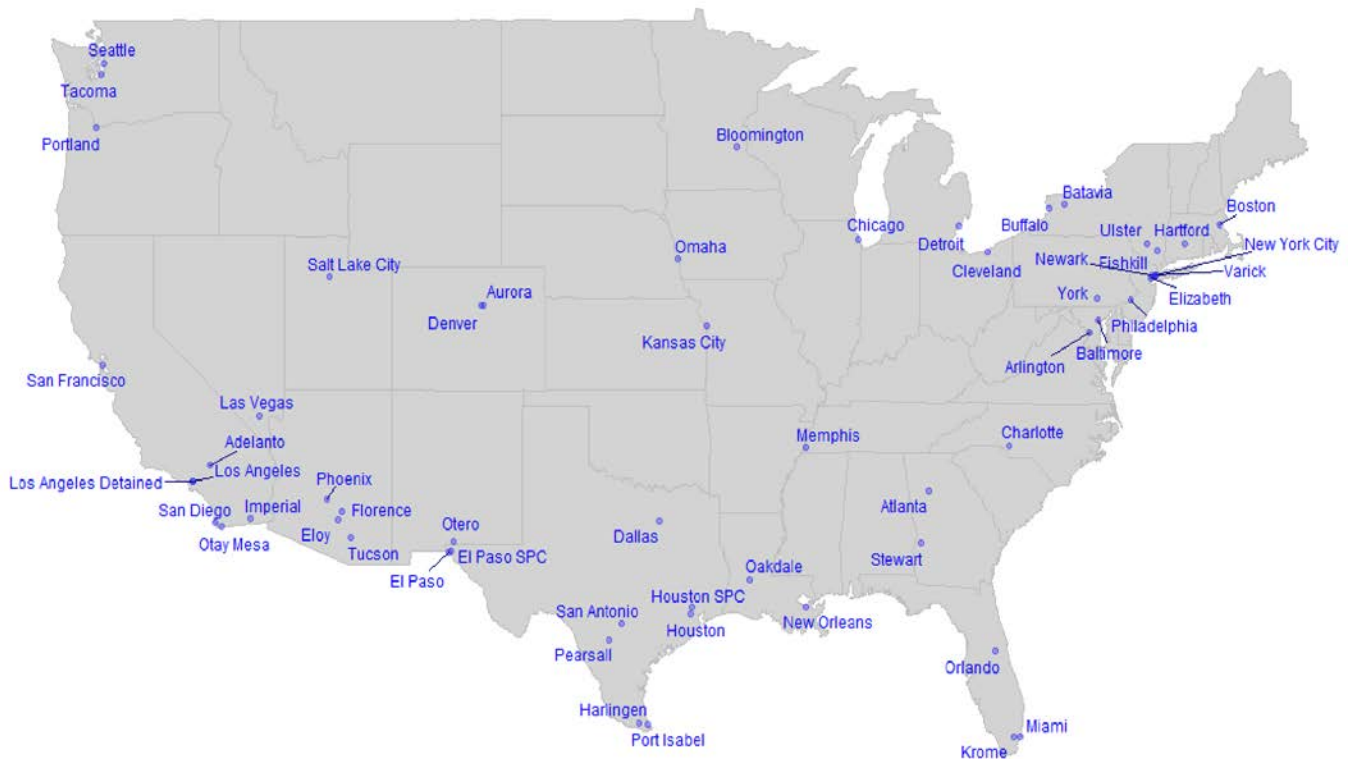
¹ Note, DHS refers to this same program as the "Institutional Hearing and Removal Program."

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 aliens; (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 his or her 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.

Map of the Immigration Courts



Non-Adjudicative Components

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

- Office of the Director – In addition to the Director, Deputy Director, and senior advisors, the Office of the Director includes the Equal Employment Opportunity Office and the Office of Legal Access Programs (OLAP). These offices provide mission support to the Office of the Director by ensuring equality and diversity in the work place and providing oversight of certain pilot programs and initiatives.
- 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 Freedom of Information Act 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, strategic planning, training, and legal updates. This new office (1) identifies, develops, drafts, standardizes, and communicates agency priorities and policies; (2) oversees and standardizes the EOIR regulatory process; (3) oversees the strategic management process; (4) conducts research, evaluation, and statistical analysis; (5) expands analytics capacity to meet the demand for advances and predictive analysis; (6) enhances data quality and governance to quickly and effectively mitigate any data quality issues in the field; and (7) coordinates all legal training and related resources.
- 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: appropriations, budget and financial management, contracts and procurement, human resources, security, space and facilities management, and logistics.
- Office of Information Technology (OIT) is 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. The EOIR Court and Appeals Systems (ECAS) program has been established to modernize these systems and reduce maintenance costs through phased elimination of paper filings and processing and retaining all records and documents in electronic form. OIT has also improved EOIR's IT security posture by leveraging staff resources and refining internal change management processes, positioning EOIR as one of the Department's cybersecurity leaders.

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 a Notice to Appear (NTA) in Immigration Court under §240 of the Immigration and Nationality Act (INA) (8 U.S.C. 1229a).

Immigration judges (IJs) are responsible for conducting formal immigration court proceedings. In removal proceedings, IJs determine whether an individual from a foreign country (an alien) 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 alien inmates while they are serving sentences for criminal convictions.

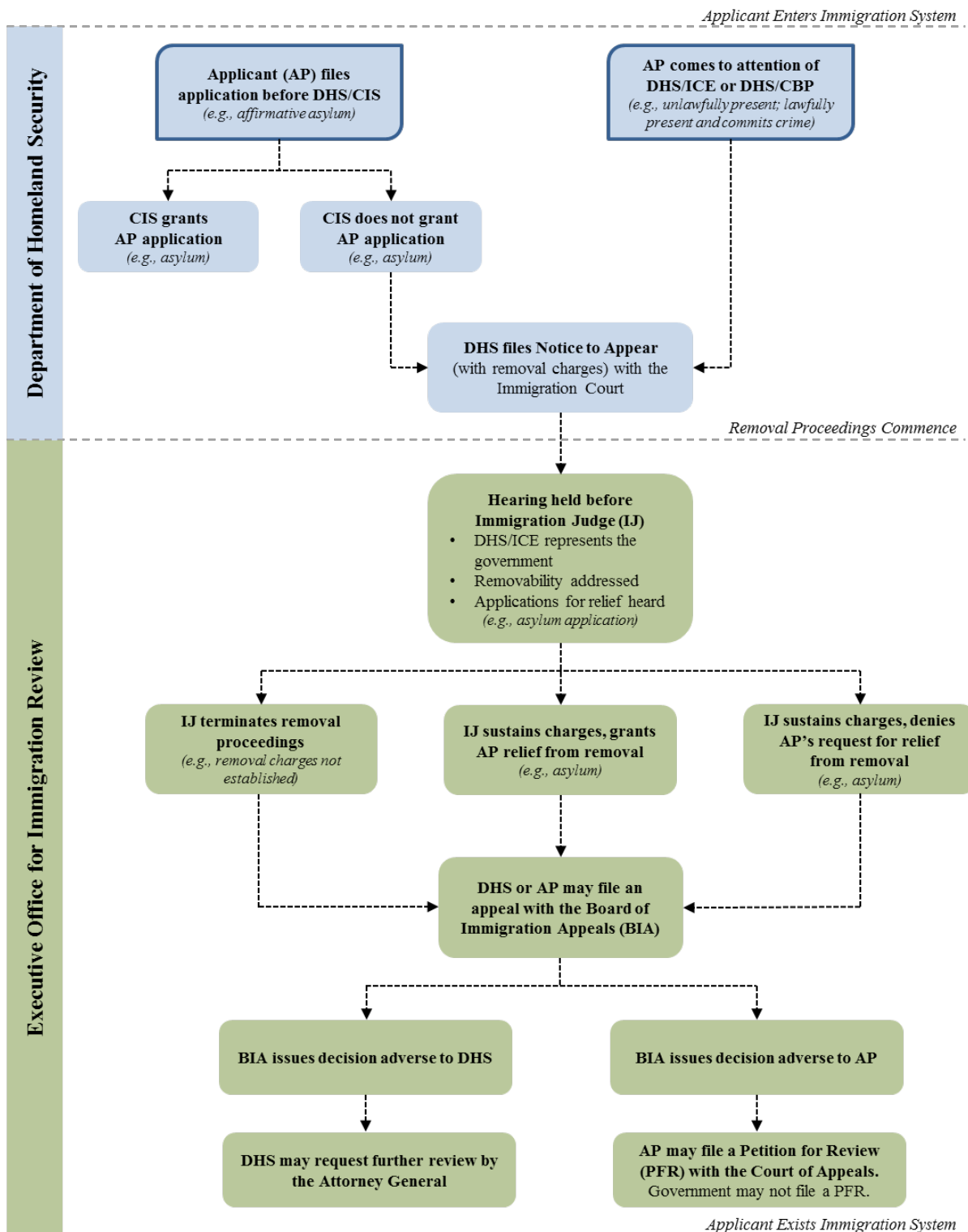
Appellate Review: In most appeals to the BIA, the process begins with filing a notice of appeal challenging an IJ decision. The appeal can be filed either by the alien or the Government (represented by DHS's ICE).

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.

B. EOIR Metrics Tables

(Tables begin next page)

EOIR Metrics Tables

Decision Unit: Executive Office for Immigration Review											
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2017		FY 2017		FY 2018		Current Services Adjustments and FY 2019 Program Changes		FY 2019 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		1,847	440,000	1,591	440,000	1,847	437,012	497	126,395	2,344	563,407
TYPE	PERFORMANCE	FY 2017		FY 2017		FY 2018		Current Services Adjustments and FY 2019 Program Changes		FY 2019 Request	
Program Activity	Adjudicate Immigration Cases¹	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		1,847	440,000	1,591	440,000	1,847	437,012	497	126,395	2,344	563,407
		Office of the Chief Immigration Judge									
Measure	Total Initial Case Completions	228,247		187,226		237,434		-		217,000	
Measure	Clearance Rate	N/A		N/A		100%		-		100%	
Measure	Institutional Hearing Program (IHP) Cases Completed Before Release	85%		79%		85%		-		85%	

Measure	Detained² Cases Completed within 60 days	80%	63%	80%	-	80%
Board of Immigration Appeals						
Measure	Appellate Case Completions	36,120	31,820	40,740	-	40,740
Measure	Detained Appellate Case Completions	8,235	8,185	9,289	-	9,289
Measure	Detained Case Appeals Completed within 150 days	90%	94%	90%	-	90%
Office of the Chief Administrative Hearings Officer						
Measure	274A Cases Completed Within 430 Days	N/A	N/A	90%	-	90%
Measure	274B Cases Completed Within 500 Days	N/A	N/A	90%	-	90%
Measure	274C Cases Completed Within 750 Days	N/A	N/A	90%	-	90%

Definition: The Executive Office for Immigration Review (EOIR) has identified two types of immigration court cases (Institutional Hearing Program (IHP) and detained cases) and one type of Board of Immigration Appeals (BIA) case (detained appeals) as case types for performance measurement. The IHP is a collaborative effort between EOIR, the DHS and various Federal, state, and local corrections agencies. The IHP permits immigration judges to hold removal hearings while an alien is completing his or her criminal sentence.

Data Validation, Verification, and Limitations: 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 office 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

¹A case before the immigration courts is a proceeding that begins when DHS files a charging document. Before the Board of Immigration Appeals, a case is an appeal from an immigration judge decision, an appeal from certain DHS decisions, and motions to reopen, reconsider, or reinstate proceedings. This does not include 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 Board of Immigration Appeals.

²Detained cases are cases involving individuals under the custodial supervision of DHS or other entities.

EOIR METRICS TABLE									
Decision Unit: Executive Office for Immigration Review									
Report and Plan Targets		FY 2013	FY 2014	FY 2015	FY 2016	FY 2017		FY 2018	FY 2019
		Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Measure	Total Initial Case Completions ¹	173,176	168,140	181,575	186,434	228,247	187,226	237,434	217,000
Measure	Clearance Rate	N/A	N/A	N/A	N/A	N/A	N/A	100%	100%
Measure	Appellate Case Completions	36,689	30,823	34,244	33,240	36,120	31,820	40,740	40,740
Measure	Detained ² Appellate Case Completions	7,446	8,138	7,810	7,309	8,235	8,185	9,289	9,289
Measure	274A Cases Completed Within 430 Days	N/A	N/A	N/A	N/A	N/A	N/A	90%	90%
Measure	274B Cases Completed Within 500 Days	NA	N/A	N/A	N/A	N/A	N/A	90%	90%
Measure	274C Cases Completed Within 750 Days	NA	N/A	N/A	N/A	N/A	N/A	90%	90%
Measure	Institutional Hearing Program (IHP) Cases Completed Before Release	88%	79%	79%	72%	85%	79%	85%	85%
Measure	Detained Cases Completed within 60 days	82%	74%	71%	67%	80%	63%	80%	80%
Measure	Detained Case Appeals Completed within 150 days	97%	93%	95%	98%	90%	94%	90%	90%

¹A case before the immigration courts is a proceeding that begins when DHS files a charging document. Before the Board of Immigration Appeals, a case is an appeal from an immigration judge decision, an appeal from certain DHS decisions, and motions to reopen, reconsider, or reinstate proceedings. This does not include 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 Board of Immigration Appeals.

²Detained cases are cases involving individuals under the custodial supervision of DHS or other entities.

Ongoing Efforts to Achieve EOIR Success

EOIR is undertaking several efforts to increase adjudicative capacity and help reduce the pending caseload. In addition to EOIR's continued focus on hiring all authorized positions to fill existing vacancies, EOIR is making ongoing efforts to maximize existing resources and eliminate agency inefficiencies. These ongoing efforts include making docket adjustments to reflect enforcement priorities, developing and implementing a workforce staffing model, leveraging existing IT systems, emphasizing policy coordination and analysis, and making the IJ hiring process more efficient.

Filling Existing Vacancies

EOIR's continued focus on filling existing vacancies has helped increase adjudicative capacity over the last several years. During FY 2017 YTD EOIR hired 64 IJs; however, due to attrition the net gain in the IJ corps was 43. 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. Additionally, EOIR detailed several immigration judges to border sites in FY 2017 as part of the execution strategy for the President's Executive Order (EO) on *Border Security and Immigration Enforcement Improvements*.⁴ 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.

Creating a Data-Driven Workforce Strategy

During FY 2017, EOIR developed and began implementing the AMICUS workforce staffing model that helps determine immigration court staffing needs for current and upcoming fiscal years. Additionally, this model enables EOIR to measure the impact of changes to operating procedures on the overall pending caseload. EOIR continues to refine AMICUS as part of an effort to be more data-informed in its staffing choices.

Leveraging Existing IT Systems

To maximize the capacity of immigration courts nationwide, EOIR has made greater use of video conferencing (VTC) systems, which enables 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. Looking forward, EOIR is exploring how VTC use could minimize the number of underutilized courtrooms. In

⁴ Executive Order No. 13767, January 25, 2017

addition, EOIR is ramping up efforts to develop and implement ECAS, an enhanced electronic case management and filing system, to help attorneys move cases and locations more efficiently.

Policy Coordination and Analysis

EOIR is currently finalizing an FY 2019 – FY 2023 Strategic Plan. In addition to process improvement, technology, and communication strategies, this plan will include strategies to ensure that short- and long-term human capital needs, particularly as they relate to the IJ hiring process and immigration court staffing requirements and resources, are met. An implementation plan will accompany the strategic plan and will define the metrics for monitoring and evaluating progress towards meeting these goals. OCIJ and BIA are also examining activities critical to case completion and the amount of time required for staff to complete these activities thoroughly. This analysis will help inform potential policy, process, or role changes to increase the number of cases adjudicated while maintaining due process.

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 is implementing a new, streamlined hiring plan announced by the Attorney General during a speech on April 11, 2017. 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. DOJ will use this revised process to increase the speed of hiring and to fill new vacancies as soon as possible.

V. Program Increases by Item

Item Name: Immigration Judges & Support
Budget Decision Unit: EOIR
Organizational Program: Immigration Adjudications
Program Increase: Positions 450 Agt/Atty 150 FTE 149 Dollars \$39,839,000

Description of Item

This increase will enable EOIR to add 75 new immigration judges and necessary support staff, bringing the current authorized number of immigration judges to 524. Each IJ is supported by: 1 attorney position, which is specifically designated as .5 full-time equivalent (FTE) for a Judicial Law Clerk (JLC), and 0.5 FTE for a BIA attorney; one legal assistant; and up to three other FTE comprised of a combination of the following positions on an as-needed basis: additional legal assistant, interpreter, and/or other EOIR mission support staff. This program increase also includes funding for the necessary corresponding courtrooms, office space, and associated expenses (e.g. furniture, equipment),

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 nearly 650,000 cases at the end of FY 2017, whereas IJ productivity has declined over that same time period. Recently, this caseload increase has been exacerbated by the increase in the number of new NTAs that DHS files before the immigration court. Over the course of FY 2017, DHS filed nearly 300,000 NTAs, representing a greater than 25 percent increase in new case receipts over FY 2016. Without corresponding increases in resources, combined with process improvements, EOIR will not be able to successfully manage the incoming caseload.

As caseload has grown, processing time has increased. Certain typically lengthy applications, like asylum, have increased. Conversely, voluntary departure, a relatively speedier process, has decreased. These findings are also supported by the 2017 GAO report *Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges*, which notes that the 23 percent increase in continuances from FY 2006 to FY 2015 has lengthened case processing time.

EOIR leveraged its new Allocation Model for Immigration Courts (AMICUS) to better quantify the likely impact of the enforcement and new case receipt trends and identified program needs. Based on DHS projections of future caseload, coupled with a comparison of EOIR's FY 2017 data to prior years, EOIR anticipates a marked increase in the number of new case receipts in the coming fiscal years, estimated to be between approximately 300,000 and 400,000 annually. With these numbers in mind and assuming no operational improvements, policy changes, or legal mandates using AMICUS and qualitative data, EOIR has determined that a total of approximately 700 IJs are required to achieve a 15 percent decrease in the pending caseload.

Impact on Performance

This program increase directly supports current EOIR strategic initiatives to increase adjudicatory capacity and case processing capacity, and EOIR’s overall mission. EOIR estimates that each IJ and support staff could help reduce the pending caseload by approximately one percentage point once it is fully staffed and operational. Due to the robust IJ hiring process and the six- to twelve-month 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. However, with a sustained commitment to increasing the number of IJs and the number of IJ support staff including JLCs, EOIR will be able to decrease the pending caseload and reduce the amount of time respondents must wait until their case is heard.

Base Funding

FY 2017 Enacted				FY 2018 Continuing Resolution				FY 2019 Current Services			
Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty*	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)
2,198	901	1,591	440,000	2,198	901	1,847	437,012	2,501	1,021	2,195	498,568

Note: This figure now includes Judicial Law Clerks

Personnel Increase Cost Summary

Type of Position/Series	Full-year Modular Cost per Position (\$000)	1 st Year Annualization	Number of Positions Requested	FY 2019 Request (\$000)	2 nd Year Annualization	FY 2020 Net Annualization (change from 2019) (\$000)
Clerical and Office Services (0300-0399)	81	27	300	7,974	16,193	8,219
Attorneys (0905)	152	50	150	7,543	15,307	7,766
Total Personnel	233	77	450	15,517	31,500	15,985

Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2019 Request (\$000)	2nd Year Annualization	FY 2020 Net Annualization (change from 2019) (\$000)
Court Buildout	202,320	75	12,595	2,578	(10,017)
Courtroom Furniture	11,130	75	417	417	0
Office Furniture	5,800	450	1,305	1,305	0
IT Equipment	15,000	450	3,375	3,375	0
Contractual Services & Supplies	various		6,630	10,863	4,233
Total Non-Personnel			24,322	18,538	(5,784)

Total Request for this Item

Total Request	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2020 Net Annualization (change from 2019) (\$000)
Current Services	2,501	1,021	2,195	186,464	312,104	498,568	
Increases	450	150	149	15,517	24,322	39,839	10,201
Grand Total	2,951	1,171	2,344	201,981	336,426	538,407	10,201

Affected Crosscuts

Immigration

Item Name: Information Technology Modernization

Budget Decision Unit: EOIR

Organizational Program: Immigration Adjudications

Program Increase: Positions N/A Agt/Atty N/A FTE N/A Dollars \$25,000,000

Description of Item

The IT modernization program increase will enable EOIR to continue making improvements in the electronic filing, case management, document management, and schedule management systems. The goal of these programs and the overall IT modernization efforts is to provide for electronic submission of all case-related information, establishment of an electronic Record of Proceedings (eROP), establishment of electronic case adjudicatory aids for IJs, improvement in case management processes and end-to-end workflow, and eventually transition to a paperless courtroom. Ultimately, such modernizations will create efficiencies that should decrease case processing time.

EOIR's electronic filing systems entail several systems and processes including document, content, and person / legal party management processes. Electronic filing helps ensure that there is an automated exchange of data and information for all of the charging documents DHS files to initiate an immigration proceeding and for all of the forms filed by legal representatives. This program increase will provide a stable foundation and infrastructure to expand upon current, insufficient electronic filing systems. EOIR is in the early stages of the eROP project and will pilot electronic records at select courts in the last quarter of FY 2018. The expectation is to expand the pilot throughout the country in FY 2019, with completion in early FY 2020.

Case management systems are EOIR's mechanisms for recording, searching, managing, and maintaining court case information. EOIR's case management system provides case management services to court managers, operations staff, courtroom staff, judicial officers, non-judicial support staff, and respondents and/or their legal representatives. Therefore, an effective case management system is essential to ensuring due process is provided to all parties while reducing case processing times. EOIR could enhance the functionality of its legacy case management system, Case Access System for EOIR (CASE). As part of the IT modernization effort, improved functionality in CASE would enable improved interoperability among databases, timely alterations to process flows or business rules, modern interfaces for system users, and enable real-time case reviewing and scheduling.

In addition to improving EOIR's case management capabilities, this program increase would also provide enhanced document management capabilities. These enhanced capabilities include additional meta-data tracking and reporting, document workflow/lifecycle management, and support for the utilization of digital signatures for all legal documents. These capabilities could provide efficiency increases throughout the documentation lifecycle by automating various document related business processes.

The IT modernization program increase also includes upgrades to schedule management systems and internal courtroom processes to support the transition to a paperless courtroom. Improvements to systems and processes include an improved ability to transfer and assign cases in bulk for new judges and judges on detail, and the ability to file electronic decisions.

Justification

EOIR is the largest hearing-based federal administrative adjudicatory body without an electronic case file system, including electronic filing of case documents and an electronic folder. Its current paper filing system is inefficient, cumbersome, and outdated. Its need to maintain large file rooms nationwide to accommodate the nearly 650,000 pending case files both takes up significant space that could otherwise be reallocated for additional personnel and creates workplace hazards associated with stacking and transporting the files. The use of paper files also adds additional time to hearings as IJs are forced to constantly flip through files to track evidence during testimony. Finally, the use of paper files impairs IJ ability to work on cases while on detail to another court and impedes efficiency and productivity.

EOIR's current, legacy IT systems are limited and lack necessary functionality including the ability to search, track, and manage all data through user-friendly systems, because of EOIR's overall reliance on paper case files. Improvements to electronic filing, case management, document management, and schedule management systems will provide several benefits to EOIR and the overall immigration system including: 1) reducing paperwork and data entry requirements, 2) improving data quality, 3) increasing transparency, and 4) increasing overall efficiency and productivity which will help reduce the pending caseload.

Reducing paperwork and data entry requirements will provide significant cost and time savings for court administrators and clerks to prepare cases. Improvements to all major IT systems will improve data quality by reducing the amount of data audits necessary due to automatic IT system enforcement of standards of accuracy and completeness. In addition, data quality will improve because system standards can prevent duplicates, determine linkages between databases, and enable for data traceability across different sets of information. The IT modernization program will increase transparency by providing on-demand access to court records, enabling increasing information sharing capabilities across the Justice and Law Enforcement communities, and help drive better decision-making by providing analysis of business intelligence key performance indicators. Finally, this program increase will increase overall immigration system and case processing efficiency and productivity by shortening the time between a case is filed and a respondent's hearing occurs, standardizing processes across all courts in the system, allowing IJs more time to prepare and decide cases, making it easier for IJs to adjudicate cases, and allowing IJs to work on cases while on detail.

Impact on Performance

This program increase directly supports current EOIR strategic initiatives to increase adjudicatory capacity and case processing capacity, and EOIR's overall mission. Increasing technical capacity through these IT modernization efforts will help decrease case processing times and, as a result, help reduce the pending caseload.

Base Funding

FY 2017 Enacted				FY 2018 Continuing Resolution				FY 2019 Current Services			
Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)
-	-	-	-	-	-	-	-	-	-	-	-

Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2019 Request (\$000)	FY 2020 Net Annualization (change from 2019) (\$000)
Equipment Costs			3,200	(1,805)
Software Costs			3,000	(1,692)
Other Services			18,800	(10,603)
Total Non-Personnel			25,000	(14,100)

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2020 Net Annualization (change from 2019) (\$000)
Current Services	-	-	-	-	-	-	-
Increases	0	0	0	0	25,000	25,000	(14,100)
Grand Total	0	0	0	0	25,000	25,000	(14,100)

Affected Crosscuts

Immigration

Appendix A – Additional Information on AMICUS and Confidence in Resource Requirements

In addition to EOIR's Office of Administration and Office of Planning, Analysis, and Statistics courtroom process analysis, resource planning, and budget analysis, EOIR also relied on the Allocation Model for Immigration Court Staffing (AMICUS) tool to develop the FY 2019 budget request. EOIR developed AMICUS during FY 2016 and FY 2017 to enable OCIJ to determine the required judicial and court staffing needs to meet desired performance goals without encroaching on due process. AMICUS's development was informed by case processing data from FY 2008 through FY 2016, interviews with court personnel and external stakeholders, courtroom and hearing observations, a workforce time study, and an organization-wide workforce sentiments survey. Through AMICUS, EOIR now incorporates comprehensive data analytics into its decision-making process.

As AMICUS was created using historical data from OCIJ, it can determine staffing needs based on actual past patterns. However, should the immigration adjudication landscape undergo substantial shifts due to statutory or regulatory changes, or developments in case law due to BIA, Circuit Court, or Supreme Court rulings, revisions to the model may be required in order to ensure staffing requirements properly reflect the changed circumstances.

Uncertainty is inherent to any modeling effort such as AMICUS, especially in a dynamic operational environment such as immigration enforcement. As such, resource requirements are also subject to change. However, AMICUS provides EOIR with the most complete, data-informed understanding of staffing resource requirements to date.

VII. Exhibits