

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



**FY 2024 Performance Budget  
Congressional Budget Submission**

**March 2023**

## Table of Contents

<b>I.</b>	<b>Overview .....</b>	<b>2</b>
<b>II.</b>	<b>Summary of Program Changes .....</b>	<b>7</b>
<b>III.</b>	<b>Appropriations Language and Analysis of Appropriation Language ....</b>	<b>7</b>
<b>IV.</b>	<b>Program Activity Justification.....</b>	<b>8</b>
	A. Program Description .....	8
	B. Performance Tables .....	16
	C. Performance, Resources, and Strategies .....	18
<b>V.</b>	<b>Program Increases by Item .....</b>	<b>21</b>
	A. Backlog Reduction Initiative .....	21
	B. Legal Representation .....	27
<b>VI.</b>	<b>Program Offsets by Item (N/A)</b>	
<b>VII.</b>	<b>Exhibits .....</b>	<b>30</b>
	A. Organizational Chart	
	B. Summary of Requirements	
	B. Summary of Requirements by Decision Unit	
	C. FY 2024 Program Increases/Offsets by Decision Unit	
	D. Resources by Department of Justice Strategic Goal and Objective	
	E. Justifications for Technical and Base Adjustments	
	F. Crosswalk of 2022 Availability	
	G. Crosswalk of 2023 Availability	
	H. Summary of Reimbursable Resources	
	I. Detail of Permanent Positions by Category	
	J. Financial Analysis of Program Changes	
	K. Summary of Requirements by Object Class	
	L. Status of Congressionally Requested Studies, Reports, and Evaluations	

## **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 \$1,455,316,000 for Fiscal Year (FY) 2024. This funding request supports the addition of 965 new permanent positions, and the ability to sustain 3,802 full-time equivalents (FTEs). This request includes a \$4,000,000 transfer from the Department of Homeland Security's (DHS) Immigration Examination Fee Account.

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 individual from a foreign country (a 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 nearly 1.8 million pending caseload by 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 FY 2024 budget request includes a program increase to support its Backlog Reduction Initiative. This initiative will greatly improve adjudicatory capacity and address EOIR's additional legal staffing infrastructure need, which will help remedy the existing pending caseload backlog. The Backlog Reduction Initiative request in total adds 150 new immigration judges (IJs), critical legal support staff and 948 FTE. Additionally, EOIR's budget request includes a \$150.0 million program increase for a grant program to support legal representation.

## **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 functions provide centralized operational, policy, and administrative support to EOIR immigration proceedings and programs conducted throughout the United States.

### **EOIR's FY 2024 Budget Strategy**

EOIR's program increase of \$517.1 million is essential to advance initiatives that fulfill Presidential and Attorney General strategic and priority goals to administer an equitable and efficient immigration court system, expand equal access to justice, and execute EOIR's mission.<sup>1</sup>

### **The Growing Caseload**

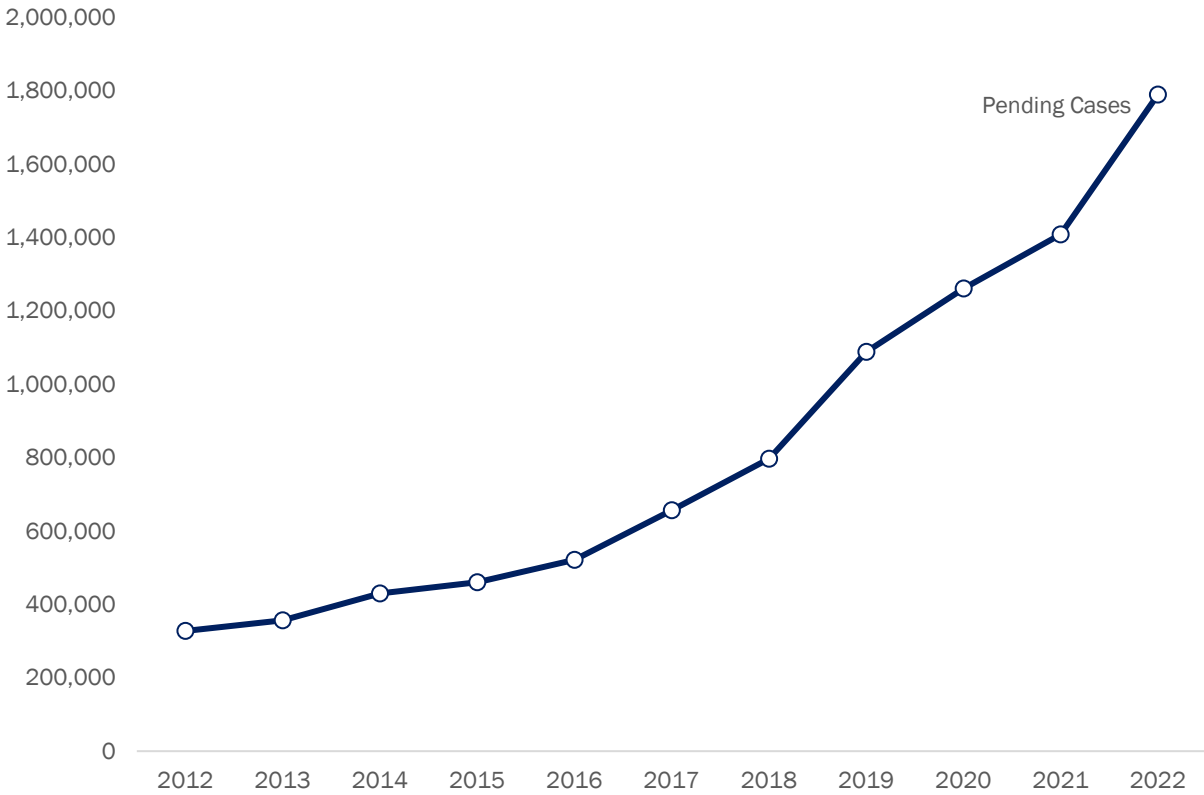
EOIR continues to face both internal and external challenges to increasing adjudicative and case processing capacity needed to help reduce the pending caseload. Over the years, several outside factors have contributed to record growth in both the number of pending immigration cases and the time required 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. While increased staffing of IJs will significantly 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. Improvements in legal staffing infrastructure, technological capabilities, customer service, and respondent access will help address the caseload by creating efficiencies throughout the processing of immigration cases.

At the end of FY 2022, there were approximately 1.8 million active cases pending in immigration courts nationwide, by far the largest ever pending caseload before the agency, continuing the sixteenth consecutive year of increased pending caseloads. In FY 2022, DHS filed just over 706,000 NTAs, a tremendous increase from the just over 244,000 NTAs filed in FY 2021. And already through the first quarter of FY 2023 just over 184,000 NTAs have been filed which puts EOIR is on track to match or exceed FY 2022 filing heights. (See the following charts regarding immigration court caseload and completions.)

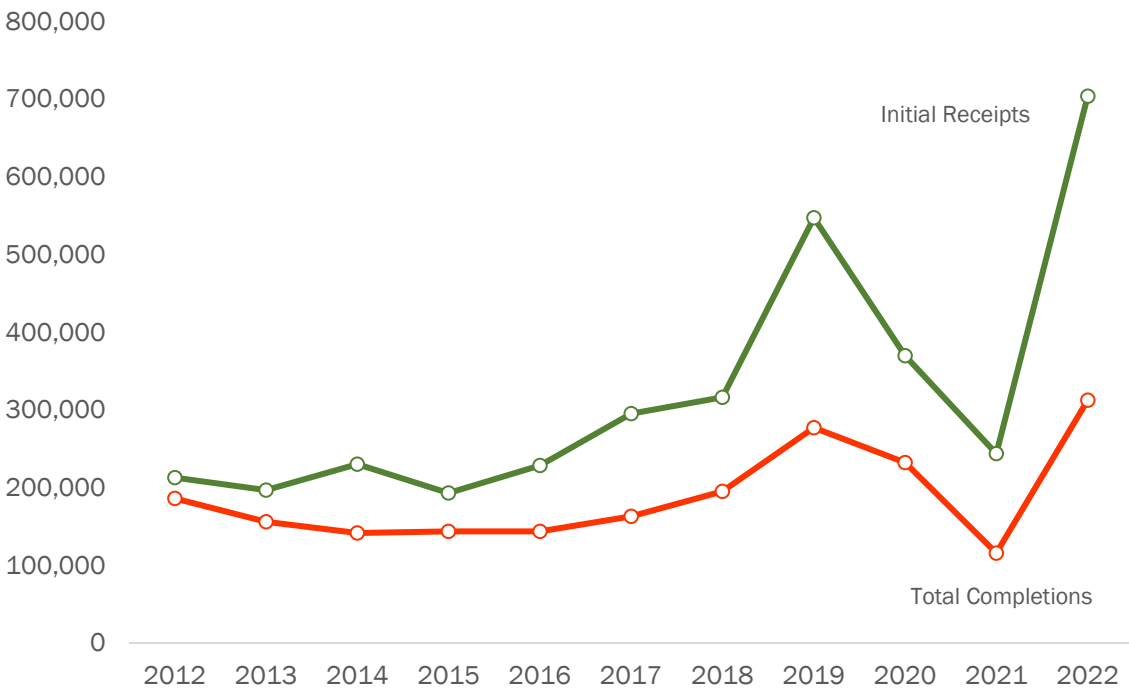
---

<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."

Office of the Chief Immigration Judge  
 Historic Caseload FY 2012 through FY 2022

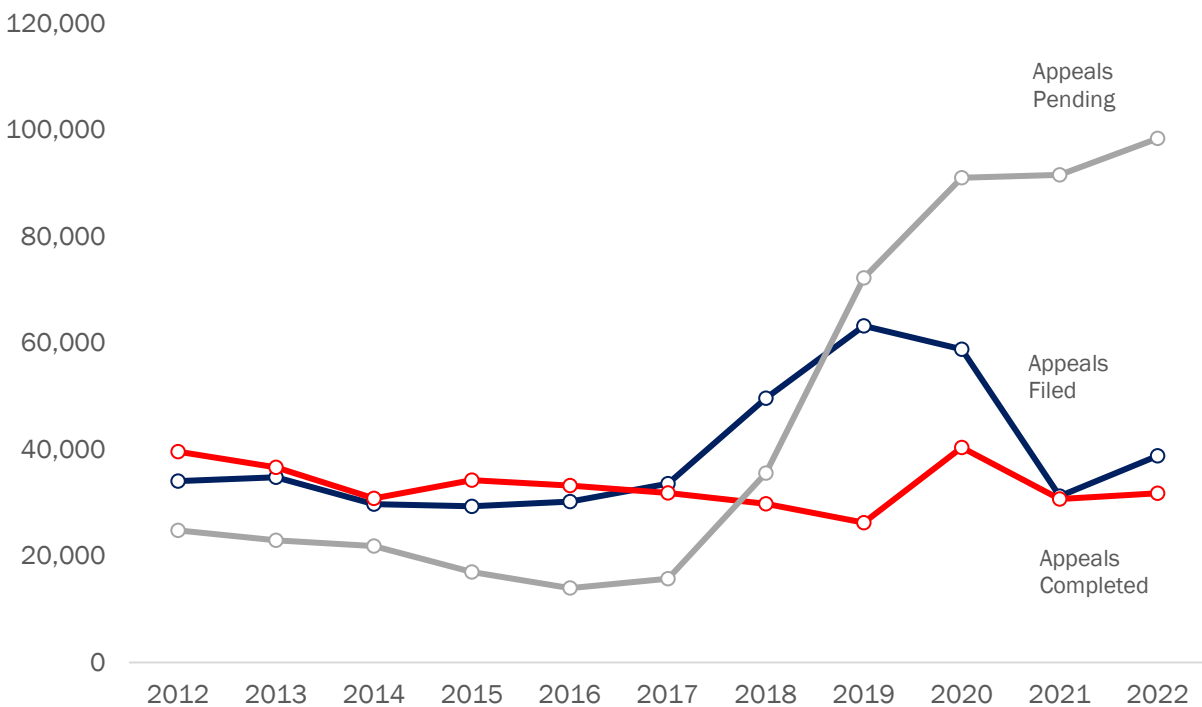


New Cases and Total Completions FY 2012 through FY 2022



Additionally, EOIR remains cognizant that the large and growing pending caseload will also affect the BIA (see chart below regarding BIA appeals). This work is shared across 23 permanent Board Members, an extremely large volume for any appellate body. In FY 2022, just under 39,000 appeals were filed, a 25% increase over FY 2021 filings, and approximately 32,000 appeals completed with the pending caseload rising to a peak of just over 98,000. Absent a significant change in the law, NTAs and the number of IJs completions will continue to escalate and the BIA will face an increase in the number of appeals filed and its pending caseload backlog will grow.

Board of Immigration Appeals FY 2012 through FY 2022



### Internal Challenges

Moving from the authorization of additional IJ positions to having those IJs in courtrooms ready to adjudicate has been 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 beginning in FY 2018. In FY 2022 EOIR hired 104 IJs, its highest annual number yet. Even with process improvements, there is an inevitable struggle between vetting for the most qualified candidates and getting them on-board as soon as possible.

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 26 IJ attrition losses annually since 2017. 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 possible.

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 the 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 existing paper records of proceedings that are sizable to store, take time and cost money to send from one location to another when a case is transferred, and reproduce when the noncitizen requests a copy of their record. EOIR has been working to address this issue, and the agency is pleased to announce that upon conclusion of calendar year 2021, the EOIR Court and Appeals System (ECAS) had been rolled out across all immigration courts nationwide and the BIA, allowing for participants in EOIR proceedings to file and review documents electronically. Although ECAS is doing much to enhance EOIR's business process going forward, it does not speak to the existing paper records. Of EOIR's nearly 1.8 million pending cases, approximately one million of them exist in whole or in part in a paper format.

In order to improve efficiency and increase flexibility to adjudicate across the agency and prepare for the future closure of the Federal Records Centers (FRC), EOIR must work towards converting paper files to electronic. It is essential EOIR moves to a wholly electronic based system rather than a hybrid paper and electronic system before the FRC facilities close and EOIR must secure its own long-term storage space for paper records.

### 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 asylum seekers from Central America, have led to a substantial increase in new case filings by DHS. In FY 2022, just over 706,000 new cases were filed, an average of over 58,000 per month, greatly exceeding the previous yearly high of just over 547,000 cases filed in FY 2019. And through the first quarter of FY 2023, EOIR has received just over 184,000 new cases, which puts the agency on track to exceed even the FY 2022 record high. The already large pending caseload has increased dramatically in this new environment, now reaching a peak of nearly 1.8 million pending cases at the end of FY 2022.

The cases generated by past and current border surges 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 and records requests. EOIR has had difficulty dealing with this increase due to a paper-based file system, obsolete processing technology, and staffing shortages.

## II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Dollars (\$000)	Page
<b>Backlog Reduction Initiative</b>	<ul style="list-style-type: none"> <li>Improving adjudicatory capacity</li> </ul>	948	948	\$367,055	21
<b>Legal Representation</b>	<ul style="list-style-type: none"> <li>Provides funding for grants to provide legal representation of certain individuals in immigration court.</li> </ul>	17	17	\$150,000	27
<b>Total</b>		<b>965</b>	<b>965</b>	<b>\$517,055</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, [\$860,000,000] \$1,455,316,000 to remain available until September 30, 2026, 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[, and of which not less than \$29,000,000 shall be available for services and activities provided by the Legal Orientation Program]: Provided, That[ not to exceed \$50,000,000 of the total amount made available under this heading shall remain available until September 30, 2027, for build-out and modifications of courtroom space], of the amounts made available under this heading, not less than \$179,000,000 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 preceding proviso shall be available for necessary administrative expenses.

### Analysis of Appropriations Language

EOIR is requesting a change of its appropriation from an annual funding account to a three-year funding account. This will enable EOIR to significantly grow its staffing level to meet annual incoming caseload demands and begin to reduce the case backlog in a meaningful way. EOIR requires funding flexibility, which this change would create. With this added flexibility, EOIR would be able to begin working on the expansion of new courts and the hiring of IJs and



associated staff without the risk of lapsing funds since it's a two-year process to build and occupy a new court. Further, without additional space, EOIR is limited with the number of staff it can on-board in the first year, creating lapse funding while courts and hiring are pending. A multi-year appropriation ensures the baseline staffing and adjudicatory costs are available once space is ready to on-board. In addition, this also ensures EOIR has the sustainment or second-year costs in its base, which will lead to better planning and expediting of staffing, to help reduce the case backlogs. It will also eliminate funding uncertainties. By converting from an annual to a three-year funding account, EOIR can manage and plan execution of its appropriation in a manner that will maximize spending, hiring, and space readiness, allowing EOIR to bring on new IJs and support staff more quickly, in larger quantities and across fiscal years.

#### IV. Program Activity Justification

<i>Executive Office for Immigration Review</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2022 Enacted	3,785	2,415	\$760,000
2023 Enacted	4,195	2,632	\$860,000
Adjustments to Base and Technical Adjustments	-	205	\$78,261
2024 Current Services	4,195	2,837	\$938,261
2024 Program Increases	965	965	\$517,055
2024 Request	5,160	3,802	\$1,455,316
<b>Total Change 2023-2024</b>	<b>965</b>	<b>1,170</b>	<b>\$595,316</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>
2022 Enacted	39	39	\$98,180
2023 Enacted	46	44	\$110,135
Adjustments to Base and Technical Adjustments	-	2	\$57,544
2024 Current Services	46	46	\$167,679
2024 Program Increases	-	-	-
2024 Request	46	46	\$57,544
<b>Total Change 2023-2024</b>	<b>-</b>	<b>2</b>	<b>\$57,544</b>

#### 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 hearings, 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, and/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 their 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 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 which the courts have characterized as uniquely complex. A challenge for the BIA is to

---

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

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 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 as well as the Judicial Conduct and Professionalism Unit.

- 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 projects and issues, including communications, training, and legal updates. This office (1) 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 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). Other types of proceedings before the immigration courts include bond hearings or fear reviews, which do not begin with an NTA, but are adjudicated by IJs.

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).

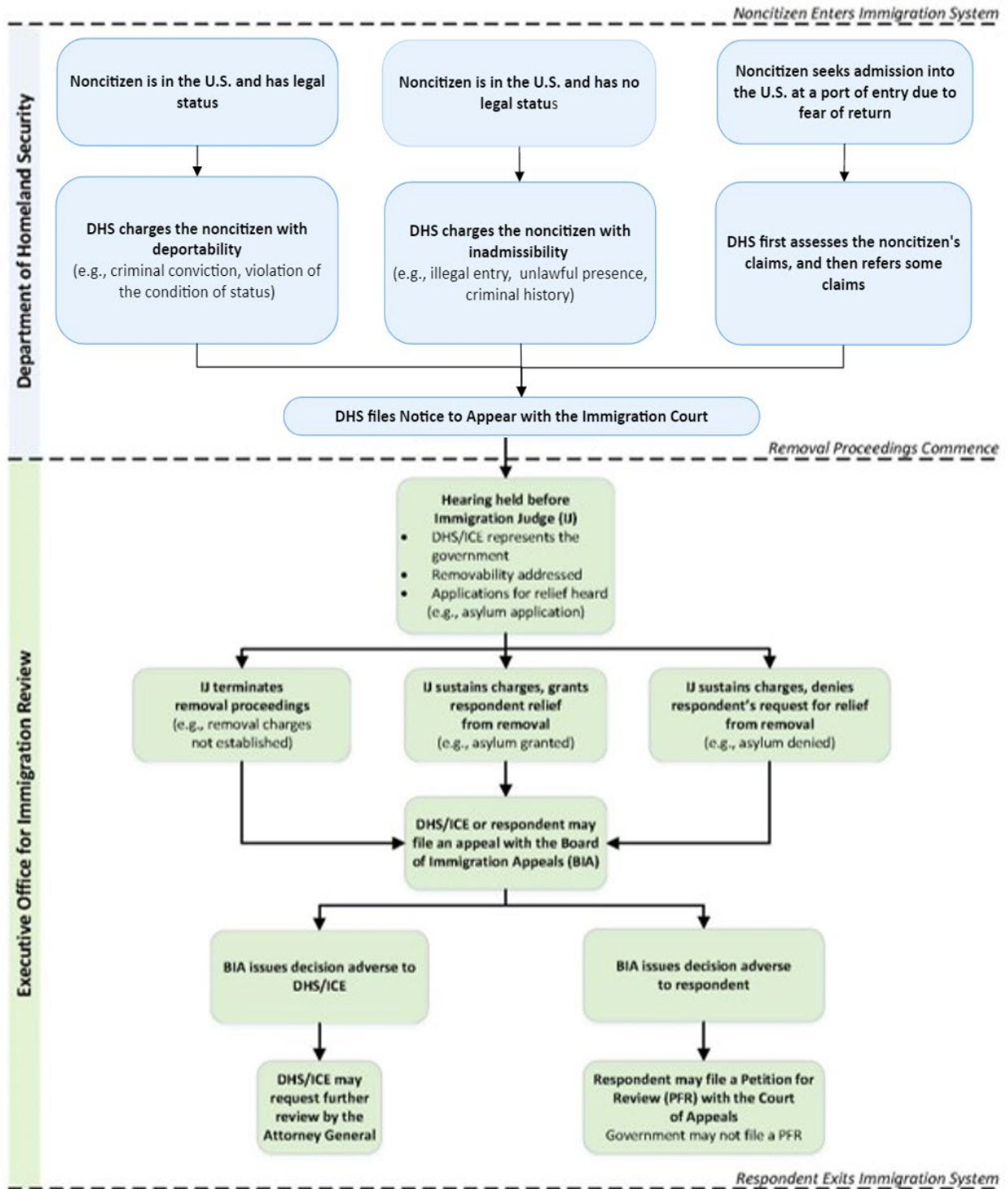
When an appeal is filed by either party, the BIA acknowledges receipt of the appeal, transcribes the proceedings (where appropriate), and sets a briefing schedule to allow both parties to present their arguments. Once briefing concludes, the appeal is adjudicated by a panel of one, three, or all Board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

In addition to appeals, parties to proceedings before the Board, or the representatives, may also file motions to remand, reopen and/or reconsider, as well as other types of motions, as appropriate to the relevant facts and applicable law of each particular case.

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 2022		FY 2022		FY 2023		Current Services Adjustments and FY 2024 Program Changes		FY 2024 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
			2,633	760,000 [23,566]	2,415	760,000 [5,005]	2,632	860,000 [21,516]	1,170	595,316 [0]	3,802	1,455,316 [21,516]
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2022		FY 2022		FY 2023		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
Program Activity	APG; Strategic Objective 5.1	EOIR	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			2,633	760,000	2,415	760,000	2,632	860,000	1,170	595,316	3,802	1,455,316
<b>APG Measure/KPI</b>	5.1	Decrease median case completion time by 25% from a FY 2021 baseline of 947 days	848		1,085		710				569	
<b>APG Measure:</b>	5.1	Reduce the vacancy gap for immigration judges to 5% from a FY 2021 baseline of 12%	9%		0%		5%				5%	
<b>KPI:</b>	5.1	Average number of vacancy-days for immigration adjudicator positions	403		655		382				357	
<b>KPI:</b>	5.1	Percent of immigration judges who have received all relevant continuing legal education annually	90%		99.8%		92%				95%	
<b>KPI:</b>	5.1	Visits to the Immigration Court Online Resource (ICOR)	12,000		90,258		24,000				30,000	
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 enter 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.												

Strategic Objective	PERFORMANCE MEASURE TABLE					
	Decision Unit: Executive Office for Immigration Review					
	Performance Measures		FY 2022	FY 2022	FY 2023	FY 2024
			Target	Actual	Target	Target
5.1	Agency Priority Goals / Key Performance Indicator	Decrease median case completion time by 25% from a FY 2021 baseline of 947 days	848	1,085	710	569
5.1	Agency Priority Goals	Reduce the vacancy gap for immigration judges to 5% from a FY 2021 baseline of 12%	9%	0%	5%	5%
5.1	Key Performance Indicator	Average number of vacancy-days for immigration adjudicator positions	403	655	382	357
5.1	Key Performance Indicator	Percent of immigration judges who have received all relevant continuing legal education annually	90%	99.8%	92%	95%
5.1	Key Performance Indicator	Visits to the Immigration Court Online Resource (ICOR)	12,000	90,258	24,000	30,000

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

EOIR's adjudication functions are part of the Government's broader immigration and border control programs. The guarantee of fairness and due process, including for those noncitizens in immigration proceedings, 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 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 and New Vacancies*

EOIR's continued focus on filling existing vacancies has helped increase adjudicative capacity over the last several years, and EOIR has currently hired or has extended offers to individuals to fill authorized positions. Despite this increase in adjudicative capacity and EOIR's continued improvements to the process of hiring 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 588 at the end of the first quarter of FY 2023. New court locations have opened in each of the last five fiscal years, including most recently courts in Santa Ana, CA, and Hyattsville, MD in FY 2022. 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 assign 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 and internet-based technologies, 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. Looking forward, EOIR is using analytics to explore how VTC and other internet-based technology use could minimize the number of underutilized courtrooms or expand access beyond a traditional courtroom. Thanks to the resources provided in the FY 2023 enacted budget EOIR will implement its virtual court initiative which will be able to scale these mentioned efficiencies across the organization.

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 and by the end of calendar year 2021, ECAS had been launched nationwide across all immigration court locations and the BIA. The next important phase of this effort is to scan and appropriately prepare all of the existing paper records into an electronic format that is amenable to use with the ECAS system. With funding provided in EOIR's FY 2023 enacted budget it will ramp up its current scanning initiative as part of a multi-year phased project schedule.

### *Policy Coordination and Analysis*

In addition to process improvement, technology, and communication strategies, EOIR strategies work to ensure that short-term 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

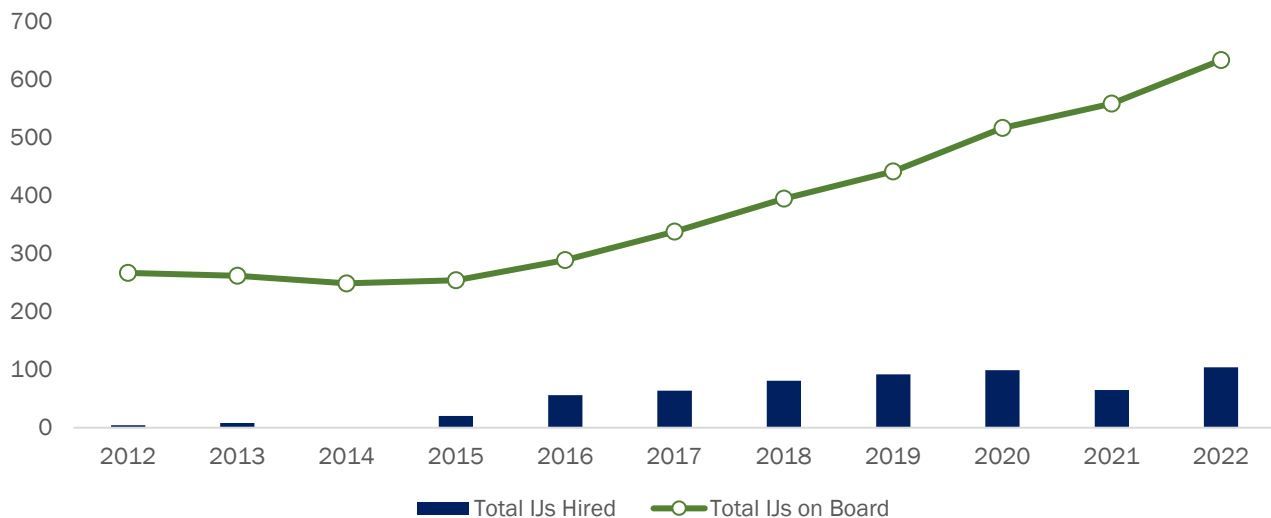
EOIR and DOJ continue to take steps to reduce the timeline to hire and on-board new IJs. The Department implemented a streamlined hiring plan in 2017 that EOIR revised and updated in 2021 and 2022. It retains the same degree of rigorous vetting as before but aims to reduce the timeline an application is pending before the agency.

Under the revised processes, hiring times have been reduced by approximately 50 percent. EOIR hired 104 IJs in FY 2022 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.

### Immigration Judge (IJ) Hiring FY 2012 through FY 2022

Fiscal Year	Total IJs Hired	Total IJs On-Board
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
2022	104	634



#### c. Priority Goals

EOIR’s mission directly aligns with the Department’s priority goal to improve in the administration of immigration courts. The efforts made by EOIR adjudicators and staff to address the agency mission to adjudicate immigration cases 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.

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

## V. Program Increases by Item

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

Program Increase: Positions 948 Agt/Atty 387 FTE 948 Dollars \$367,055,000

### Description of Item

This request provides \$367.1 million to enable EOIR to add 948 positions to address EOIR's substantial and growing backlog of pending cases.

- \$367.1 million for Improving Adjudicatory Capacity
  - \$358.6 million to hire 150 immigration judges (IJs), associated support staff, and necessary space and equipment requirements.
  - \$8.4 million to hire 48 positions, made up of 12 attorney advisors, 36 legal and professional administrative staff that are necessary to support the pre-existing adjudicatory capacity.

### Justification

The largest single issue facing the immigration courts today is the significant backlog of pending cases. At the end of FY 2022, the pending caseload stands at nearly 1.8 million cases. EOIR cannot control the cases that are brought to immigration court, but the agency can address how those cases are handled so as to ensure that each case is handled in an efficient manner without sacrificing due process or fairness for the respondents who appear before the courts. This request will support the agency's strategic focus on rapidly increasing adjudicatory capacity to meaningfully address the burgeoning pending caseload.

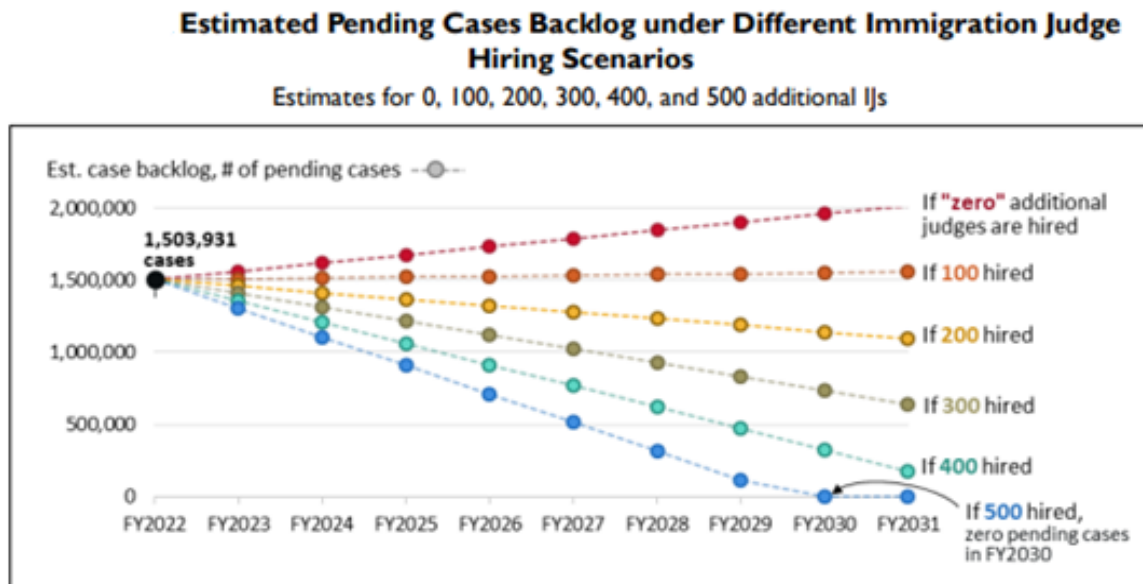
### *Programs to Improve Adjudicatory Capacity*

In April 2022, the Congressional Research Service (CRS) published a report titled "U.S. Immigration Courts and the Pending Cases Backlog"<sup>4</sup>. The report notes that case completions made by IJs have generally declined since FY 2007, suggesting that IJs have been increasingly unable to adjudicate the volume of cases received by the Department of Homeland Security. The CRS report discusses factors associated with the backlog, particularly noting that: IJ staffing, has widely been regarded as inadequate to handle the caseload despite recent significant increases in IJ numbers; the paper-based case management system led to scheduling and adjudication inefficiencies; and although the pandemic exacerbated the decline in the average number of completions per IJ, and recent increases in complex cases may have also contributed, completions per IJ were declining prior to the pandemic and influx of unaccompanied children and families. The CRS report notes that even with the recent substantial investment in IJ hiring, projections indicate that without a substantial increase in adjudicators, the

---

<sup>4</sup> <https://crsreports.congress.gov/product/pdf/R/R47077>

backlog will continue to grow. Using a base of 578 IJs, CRS estimates that an additional 400 IJs, providing a level of 978 IJs, would allow the backlog to drop to under 200,000 cases within 10 fiscal years (see chart, below).



Source: CRS analysis

To address the backlog in a significant way, EOIR is requesting an additional 150 immigration judges and support staff, which, in conjunction with EOIR’s FY 2023 enacted budget, would bring EOIR’s total authorized number of immigration judges to 884, beginning to close the gap to the 978 referenced in the CRS report. In addition to the 150 immigration judges, EOIR is also requesting the associated 750 attorneys and support staff<sup>5</sup> as well as the necessary funding for equipment and space to provide for these new employees.

A second area to improve adjudicatory capacity concerns increased staffing to improve adjudications associated with the current level of immigration judges. EOIR requests \$8.4 million to hire 12 attorney advisors and 36 legal and support staff across the organization. It is critical for EOIR to strengthen its legal staffing infrastructure to appropriate levels to ensure case processing is as efficient and effective as possible to combat the backlog. EOIR has not been able to sustain the funding required to hire the legal and support staff required per IJ. This request begins to help rebalance this inequity.

Impact on Performance

This program increase directly supports the Department Agency Priority Goal to Improve the Administration of Immigration Courts, the Department Strategic Goal to Administer a Just Court and Correctional System, and the Department Strategic Objective to Administer an Equitable and Efficient Immigration Court System as well as supporting EOIR’s overall mission. With a sustained commitment to reducing the pending case backlog through improved adjudicatory capacity, EOIR can

<sup>5</sup> The staffing model follows the same plan as previous budget submissions. Please see the EOIR [FY 2023 Congressional Budget Submission](#), page 25, for more details.

begin to meaningfully reduce the pending case backlog while also improving the efficiency and effectiveness of those in proceedings before the immigration court.



## Funding

### 1. Base Funding

FY 2022 Enacted				FY 2023 Enacted				FY 2024 Current Services			
Pos	Agt/ Atty	FTE	Amount (\$000)	Pos	Agt/ Atty	FTE	Amount (\$000)	Pos	Agt/ Atty	FTE	Amount (\$000)
3,785	1,635	2,415	760,000	4,195	1,785	2,632	860,000	4,195	1,785	2,837	938,261

### 2. Personnel Increase Cost Summary

Type of Position/Series – IJ Team	FY 2024 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Immigration Judges (0905 – IJ-1)	44,429	150	296	5	1	718	141
Attorneys (0905 – GS-12)	45,839	225	204	21	40	4,794	8,911
Legal Assistant (0986 – GS-7)	31,557	225	140	-3	4	-724	873
Professional Admin and Other Law (001-0599; 950; 1000-2299 – GS-12)	62,029	300	207	18	40	5,319	11,878
<b>Total Personnel</b>	<b>183,853</b>	<b>900</b>				<b>10,107</b>	<b>21,803</b>

Type of Position/Series – Legal Staffing Infrastructure	FY 2024 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Attorney (0905 - GS/12)	2,445	12	204	21	40	256	475
Legal & Kindred Grp (900-998 - GS/7)	3,095	22	140	-3	4	-71	85
Clerical and Office Services (0300-0399 - GS/12)	2,895	14	207	18	40	248	554
<b>Total Personnel</b>	<b>8,434</b>	<b>48</b>				<b>433</b>	<b>1,115</b>

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

Non-Personnel Item – Court Costs	FY 2024 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Operational Travel	516	3	150	10	-403
Communications, Utilities, and Miscellaneous Charges	2,612	17	150	52	-1,932
Guard Services – Security Work Authorizations	6,431	43	150	129	131
Furniture	4,376	29	150	88	-4,287
Network Costs	4,460	30	150	89	-3,031
Video Conferencing (VTC) Equipment	3,445	23	150	69	-2,574
Digital Audio Recording (DAR) System	4,933	33	150	99	-3,415
Printing Equipment	1,779	12	150	36	-1,108
Document Reader	319	2	150	6	-219
ECAS Scanner	523	3	150	10	-355
Guard Services Equipment (X-ray, magnetometers, etc.)	1,608	11	150	32	-1,253
Space Buildout Associated with IJ Teams	112,500	750	150	2,250	-100,980
<b>Total Non-Personnel</b>	<b>143,502</b>			<b>2,870</b>	<b>-119,425</b>

Non-Personnel Item – Adjudicatory Costs	FY 2024 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
National Qualified Representation Program (NQRP)	3,045	20	150	61	62
Interpretation	24,208	161	150	484	494
Transcription	3,273	22	150	65	67
Litigation Support	51	0.34	150	1	1
Freedom of Information Act (FOIA)	688	5	150	14	14
<b>Total Non-Personnel</b>	<b>31,265</b>			<b>625</b>	<b>638</b>

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

The future annualizations contained in the above charts reflect resources needed to reduce EOIR’s backlog of pending cases.

**5. Total Request for this Item**

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Current Services	4,195	1,785	2,837	506,344	431,917	938,261		
Increases	948	387	948	192,288	174,768	367,055	14,035	-95,869
<b>Grand Total</b>	<b>5,143</b>	<b>2,172</b>	<b>3,785</b>	<b>689,632</b>	<b>606,685</b>	<b>1,305,316</b>	<b>14,035</b>	<b>-95,869</b>

**6. Affected Crosscuts**

Immigration

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

Program Increase: Positions 17 Agt/Atty 6 FTE 17 Dollars \$150,000,000

Description of Item

This request provides \$150.0 million for EOIR's Legal Access Program. The funding will enable EOIR to increase and improve access to adjudications for certain individuals without representation.

- \$150.0 million for Legal Representation
  - \$146.1 million for grant resources supporting representation for specific categories of individuals and families in immigration proceedings before the agency.
  - \$3.9 million for 17 positions (six attorneys and 11 professional administration).

Justification

*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 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, needs, 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 fairer, and more efficient, this legal representation initiative will help to create a more level playing field, so that observers and participants in immigration court proceedings can feel confident that cases are being 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.

#### Impact on Performance

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 2022 Enacted				FY 2023 Enacted				FY 2024 Current Services			
Pos	Agt/ Atty	FTE	Amount (\$000)	Pos	Agt/ Atty	FTE	Amount (\$000)	Pos	Agt/ Atty	FTE	Amount (\$000)
<u>3,785</u>	<u>1,635</u>	<u>2,415</u>	<u>36,286</u>	<u>4,195</u>	<u>1,785</u>	<u>2,632</u>	<u>41,286</u>	<u>4,195</u>	<u>1,785</u>	<u>2,837</u>	<u>41,286</u>

### 2. Personnel Increase Cost Summary

Type of Position/Series – Legal Representation	FY 2024 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Attorney (0905 - GS/13)	1,382	6	230	27	46	165	274
Clerical and Office Services (0300-0399 - GS/13)	2,566	11	233	24	7	262	77
<b>Total Personnel</b>	<b>3,948</b>	<b>17</b>				<b>427</b>	<b>351</b>

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

Non-Personnel Item – Legal Representation	FY 2024 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Legal Representation	146,052	146,052	1	-	-
<b>Total Non-Personnel</b>	<b>146,052</b>	<b>146,052</b>		<b>-</b>	<b>-</b>

**4. Total Request for this Item**

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Current Services	4,195	1,785	2,837		41,286	41,286		
Increases	17	6	17	3,948	146,052	150,000	427	351
<b>Grand Total</b>	<b>4,212</b>	<b>1,791</b>	<b>2,854</b>	<b>3,948</b>	<b>187,338</b>	<b>191,286</b>	<b>427</b>	<b>351</b>

**5. Affected Crosscuts**

Access to Justice  
Immigration

**VI. Program Offsets by Item**

Not applicable.

**VII. Exhibits**

(Exhibits begin on the following page)