



OOD  
PM 25-12  
Effective: January 30, 2025

To: All of EOIR  
From: Sirce E. Owen, Acting Director  
Date: January 30, 2025

**CANCELLATION OF POLICY MEMORANDUM 21-24 AND REINSTATEMENT OF  
POLICY MEMORANDUM 21-10**

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PURPOSE:	Rescind and Cancel Policy Memorandum 21-24 and Reinstate Policy Memorandum 21-10
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	Policy Memorandum 21-24

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On June 7, 2021, EOIR issued Policy Memorandum (PM) 21-24, rescinding PM 21-10, *Fees*. The rescission was putatively done to be “consistent” with a partial injunction<sup>1</sup> granted regarding a then-recent EOIR rulemaking and a pair of Executive Orders (EOs). However, PM 21-10 itself neither set nor changed any fees and the rulemaking subsequently subject to a partial injunction was referenced only in passing in a footnote; rather, the point of PM 21-10 was to reiterate the applicable law regarding EOIR fees and EOIR’s commitment to adhering to that law. Moreover, the injunction applied only to some—but not all—of the fee increases in the rulemaking, and neither Office of Management and Budget (OMB) Circular No. A-25 Revised, nor 31 U.S.C. § 902(a)(8) was enjoined.<sup>2</sup> In short, the basis<sup>3</sup> for PM 21-24 was dubious, at best, and now that the EOs underlying PM 21-24 have been revoked, there appears to be no further reason to retain it.

Furthermore, PM 21-10 made clear that EOIR’s policy was to follow the law, namely 31 U.S.C. § 902(a)(8) and OMB Circular No. A-25 Revised, which mandate a review of EOIR fees on a

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<sup>1</sup> The partial injunction remains in effect currently, though the underlying case is on appeal. The instant PM has no bearing on, should not be construed as conflicting with, and does not alter any EOIR obligations pursuant to that injunction while it remains in effect. See PM 21-14, *Rulemakings and Federal Court Orders* (Jan. 14, 2021); accord PM 25-02, *EOIR’s Policy Values* at 4-5 (noting that “all EOIR policies are read to be congruent with applicable law, including statutes, regulations, binding case law, and any applicable court orders, and no policy should be construed as being inconsistent with any such source of law”).

<sup>2</sup> PM 21-10 was rescinded over four months after the injunction was issued, and its rescission was not required by that injunction.

<sup>3</sup> PM 21-24 was issued by an Acting Director, the validity of whose detail to that position—and, thus, the validity of actions taken during that detail—has been called into question for other reasons. See PM 25-04, *Cancellation of Policy Memorandum 21-16* at 2 n.7.

biennial basis. Consequently, its rescission left the incorrect and inappropriate impression that EOIR was not required to follow binding statutory law—*i.e.* 31 U.S.C. § 902(a)(8)—and could, in essence, pick and choose which laws it wished to follow.<sup>4</sup> That is unequivocally not the case. It is the policy of EOIR that all employees and contractors are required to follow all applicable laws, even if they personally disagree with them. To the extent PM 21-24—and any other PM or Director’s Memorandum issued between February 1, 2021, and January 20, 2025—asserted, either implicitly or explicitly, that EOIR was free to ignore relevant statutes and other laws at its discretion or whim, that was grievously inaccurate.

Accordingly, PM 21-24 is rescinded and cancelled, and PM 21-10 is reinstated.

This PM is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing herein should be construed as mandating a particular outcome in any specific case. Nothing in this PM limits an adjudicator’s independent judgment and discretion in adjudicating cases or an adjudicator’s authority under applicable law.

Please contact your supervisor if you have any questions.

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<sup>4</sup> EOIR acknowledges that it—with the tacit or express complicity of both the Department of Justice and OMB—has knowingly and willfully failed to adhere to 31 U.S.C. § 902(a)(8) and Circular No. A-25 Revised for most of the past forty years, except for the period between 2017 and 2020. However, a past practice of willfully ignoring an applicable law does not give EOIR a license to ignore any law it wishes in perpetuity.