



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

HUMAN CAPITAL OFFICE

January 28, 2013

Mr. William D. Spencer
Clerk of the Board
Merit Systems Protection Board
1615 M Street NW
Washington, DC 20419

Dear Mr. Spencer:

As stated in the Federal Register notice dated December 3, 2012, [77 Fed. Reg. 71640](#), the Merit Systems Protection Board (MSPB) requested public comments on the suggested revisions to the MSPB Appeal Form 185. A solicitation was conducted within our Labor/Employee Relations division, as well as, with our national General Legal Service (GLS) office. The following comments are provided:

General - We suggest the instructions at the beginning of the appeal form include definitions for terms that may not be familiar to employees, such as furlough and whistleblower.

Part 1 – Appellant and Agency Information

Box 4 – We suggest adding instructions for this section and revising the terms so they are more clearly described. This box asks for, "Name, address, and telephone number of the agency that took the action or made the decision you are appealing." It's not clear whether the appellant is being asked to provide the agency's name, the contact information for the immediate manager, the GLS Area Counsel as specified in the decision letter, or some other agency official. Suggestion: "Name" could be "Agency's Name". It's also unclear what the appellant should include in the "Subcomponent" field.

Boxes 5 through 8 – We recommend instructions be included guiding appellants to refer to their Standard Form-50 (SF-50), Notification of Personnel Action, (and possibly refer the appellant to the specific box on the SF-50) to know where to locate their employment status, type of appointment, etc.

Box 9 – We recommend the appellant be instructed to list details of federal service, especially prior federal service where the appeal is related to a removal during the probationary period. The appellant should be instructed to provide the name of the agency and the dates of service (appointment and separation) of each instance of federal employment.

Part 2 – Agency Personnel Action or Decision (non-retirement)

Box 15 – We recommend the type of Alternate Dispute Resolution (ADR) be specified. If they mean "MSPB" ADR, it should be so stated. The lack of specificity could be confusing to individuals who have an Equal Employment Opportunity (EEO) case and engaged in ADR through the EEO process.

Box 16 – It's our opinion that the form would be improved if there was a separate box for the details of related EEO complaints (e.g., has a formal EEO complaint been filed, etc.) and other prohibited personal practices, similar to Box 17 for grievances. Information regarding EEO complaints is important because it could impact MSPB jurisdiction. The information contained in Appendix A regarding unlawful discrimination is the information that should be required in a separate box. We also recommend that the language in Box 16 be changed to state, *"In challenging such an action, you may choose if you allege that the agency engaged in harmful procedural error, committed a prohibited personnel practice, or engaged in one or the other claims listed in Appendix A, you must include examples and not mere allegations."*

Thank you for this opportunity to provide comments. It was the unanimous opinion of all responders that the comprehensive revisions to MSPB Form 185 contain significant improvements over the prior version. The new form is a more user-friendly document and is much clearer to the person completing it. It has a clean look and the reordered sections are in a logical order. The revised layout of the form should also help to ensure more accurate and complete information and may even speed up the response time in scheduling and hearing appeals.

If you have any questions, please contact me or a member of your staff may contact Sharon Lee, Senior Human Resources Specialist, at (615) 497-6285, or by email at Sharon.M.Lee@irs.gov.

Sincerely,

Phyllis Brown
Director
Workforce Relations Division