



Privacy Impact Assessment

MSPB Reasonable Accommodations System

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Contact

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Abstract

The U.S. Merit Systems Protection Board (MSPB) is implementing a limited system to collect, maintain, and use information concerning applicants for employment and employees who request or receive reasonable accommodations or other appropriate modifications from MSPB for medical or religious reasons. MSPB is publishing this Privacy Impact Assessment (PIA) because personally identifiable information (PII) is collected, used, and maintained by the agency through its implementation of the limited Reasonable Accommodations System (RAS).

Overview

MSPB is creating a RAS to encompass the lifecycle of all reasonable accommodation requests at MSPB. The purpose of this system of the records is to allow MSPB to collect, maintain, and use records on applicants for employment and employees who request or receive reasonable accommodations or other appropriate modifications from MSPB for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests MSPB-wide to comply with applicable requirements in law, regulation, and policy, and to maintain the confidentiality of the information provided in support of the accommodation.

To support this effort, MSPB applicants and employees who are requesting reasonable accommodations will provide information and documentation to their supervisors and/or MSPB's Director of the Office of Equal Employment Opportunity (EEO). The records will be maintained in an access-restricted network drive, accessible only by the EEO Director. In certain circumstances, other MSPB employees may have limited access where there is a need-to-know to perform their duties, such as a supervisor or an Office Director.

The RAS will contain PII submitted by the individual when seeking a reasonable accommodation. Additionally, the RAS also will contain PII required to make the determination whether to grant the request and to implement an approved accommodation. For a full list of PII maintained in this system, please refer to MSPB's System of Records Notice (SORN), MSPB-3 Reasonable Accommodations SORN, 86 Fed. Reg. 73001 (Dec. 23, 2021).

Section 1.0 Authorities and Other Requirements

1.1 What specific legal authorities and/or agreements permit and define the collection of information by the project in question?

The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 C.F.R. 1605 (Guidelines on Discrimination Because of Religion); 29 C.F.R. 1614 (Federal Sector Equal Employment Opportunity); 29 C.F.R. 1630 (Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act); Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of

Reasonable Accommodation (July 26, 2000); and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

1.2 What Privacy Act System of Records Notice(s) (SORN) applies to the information?

MSPB maintains these reasonable accommodations records under MSPB-3 Reasonable Accommodations SORN, 86 Fed. Reg. 73001 (Dec. 23, 2021).

1.3 Has a system security plan been completed for the information system(s) supporting the project?

Authorized by MSPB's Office of Information Resources Management, the agency's General Support System (GSS) is secured in accordance with NIST 800-53 rev 4 requirements and had a conditional authority to operate or ATO effective October 1, 2019, which was renewed September 30, 2020. Although the system has not completed a full evaluation, it is audited for Federal Information Security Management Act or FISMA controls every year. MSPB's GSS is authorized at the Fair Information Processing Standards or FIPS 199 Moderate Impact level.

1.4 Does a records retention schedule approved by the National Archives and Records Administration exist?

The records maintained in this system of records are subject to the [National Archives and Records Administration's \(NARA\) General Records Schedule \(GRS\) 2.3 \(Employee Relations Records\), Item 20 \(Reasonable accommodation case files\)](#). NARA GRS 2.3, Item 20, instructs disposition three years after employee separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if required for business use.

1.5 If the information is covered by the Paperwork Reduction Act (PRA), provide the OMB Control number and the agency number for the collection. If there are multiple forms, include a list in an appendix.

While the PRA does not apply to the collection of information from MSPB employees, the PRA does apply to prospective MSPB employees (applicants). Additionally, the PRA applies to non-MSPB employees providing information in support of a request for a reasonable accommodation for medical or religious reasons. A PRA Information Collection Request (ICR) package for reasonable accommodation requests is currently under agency review and pending submission to Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs for PRA clearance and to obtain an OMB control number for this collection.

Section 2.0 Characterization of the Information

2.1 Identify the information the project collects, uses, disseminates, or maintains.

The information collected includes:

1. Requester status (applicant or former or current employee);
2. Requester name;
3. Date of request;
4. Employee's position title, grade, series, step, and agency component;
5. Position title, grade, series, step of the position, and agency component the requester is applying for (if applicable);
6. Requester's contact information (addresses, phone numbers, and email addresses);
7. Name and contact information of medical professionals or religious or spiritual advisors or institutions;
8. Description of the requester's medical condition or disability and any medical documentation provided in support of the request;
9. Requester's statement of a sincerely held religious belief and any additional information provided concerning that religious belief and the need for an accommodation to exercise that belief;
10. Description of the accommodation being requested;
11. Description of previous requests for accommodation and dispositions;
12. Documentation by an MSPB official concerning whether the disability is obvious, and the accommodation is obvious and uncomplicated, whether medical documentation is required to evaluate the request, whether research is necessary regarding possible accommodations, and any extenuating circumstances that prevent the MSPB official from meeting the relevant timeframe;
13. Whether the request for reasonable accommodation was granted or denied, and if denied the reason(s) for denial;
14. The identity of the decision-maker for the request;
15. The number of days taken to process the request;
16. The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
17. Any reports or evaluations prepared in determining whether to grant or deny the request; and
18. Any other information collected or developed in connection with the request for a reasonable accommodation.

2.2 What are the sources of the information and how is the information collected for the project?

Information is obtained from applicants for employment and employees who request and/or receive a reasonable accommodation or other modification from MSPB; directly or indirectly

from an individual's medical provider or another medical professional who evaluates the request; directly or indirectly from an individual's religious or spiritual advisors or institutions; and from management officials.

2.3 Does the project use information from commercial sources or publicly available data? If so, explain why and how this information is used.

No.

2.4 Discuss how accuracy of the data is ensured.

The data is provided by the MSPB employee or applicant. Therefore, the accuracy is ensured by collecting the information from the source, who must attest to the truthfulness of the information they provide, including any documentation.

2.5 Privacy Impact Analysis: Related to Characterization of the Information

Privacy Risk: There is a privacy risk that the system will collect and maintain more information than is relevant and necessary to accomplish the agency's mission.

Mitigation: This risk is mitigated. MSPB will only collect information to support the request for a reasonable accommodation for medical or religious reasons. Additionally, MSPB provides the statutory protections afforded under the Privacy Act, along with the privacy tenets in the Fair Information Practice Principles and strives to only collect personal information that is necessary to accomplish the purpose of this collection: to collect, maintain, and use records on applicants for employment and employees who request or receive reasonable accommodations or other appropriate modifications from MSPB for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests MSPB-wide to comply with applicable requirements in law, regulation, and policy, and to maintain the confidentiality of the information provided in support of the accommodation.

Section 3.0 Uses of the Information

3.1 Describe how and why the project uses the information.

MSPB will use the information collected to process, evaluate, and make decisions on requests for reasonable accommodation for medical or religious reasons from applicants for employment and MSPB employees. The information will also be used to track and report the processing of such requests to ensure compliance with applicable requirements in law, regulation, and policy. Finally, the information may also be used to facilitate the accommodation granted.

3.2 Does the project use technology to conduct electronic searches, queries, or analyses in an electronic database to discover or locate a predictive pattern or an anomaly? If so, state how MSPB plans to use such results.

No.

3.3 Are there other offices with assigned roles and responsibilities within the system?

No.

3.4 Privacy Impact Analysis: Related to the Uses of Information

Privacy Risk: There is a risk that information collected will be used inappropriately.

Mitigation: This risk is mitigated. MSPB has implemented several measures to ensure that the information is protected and handled in accordance with the uses described above. Authorized access to the information collected is restricted to the EEO Director. Any internal disclosures within MSPB will be on a need-to-know basis in accordance with the Privacy Act.

Section 4.0 Notice

4.1 How does the project provide individuals notice prior to the collection of information? If notice is not provided, explain why not.

The collection instruments for certain reasonable accommodation requests provide a Privacy Act Statement (5 U.S.C. § 552a(e)(3)) providing information regarding the purpose of the collection, the routine uses of the disclosure of information, and the consequences for a failure to provide the information. Additionally, MSPB has published in the Federal Register and posted on our public facing website a SORN, MSPB – 3, Reasonable Accommodations, to provide notice to individuals regarding the collection of information.

4.2 What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the project?

The collection is voluntary, and individuals may decline to provide information. However, failure to provide information may delay or impede the processing of a reasonable accommodation request.

4.3 Privacy Impact Analysis: Related to Notice

Privacy Risk: There is a risk that MSPB employees will not be given appropriate notice prior to the collection of their information.

Mitigation: This risk is mitigated. The collection instruments provide notice at the outset of the collection process regarding the purpose of the collection, the routine uses of the disclosure of information, and the consequences for a failure to provide the information.

Section 5.0 Data Retention by the project

The following questions are intended to outline how long the project retains the information after the initial collection.

5.1 Explain how long and for what reason the information is retained.

The information is subject to NARA GRS 2.3 (Employee Relations Records), Item 20 (Reasonable accommodation case files), and will be retained to document employee exception requests, approvals, and denials; notice of procedures for informal dispute resolution or appeal processes; forms, correspondence, and records of oral conversations; policy guidance documents; medical records; and supporting notes and documentation. NARA GRS 2.3, Item 20, instructs disposition three years after employee separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if required for business use.

5.2 Privacy Impact Analysis: Related to Retention

Privacy Risk: There is a risk that information collected by the system may be retained longer than necessary.

Mitigation: This risk is mitigated. MSPB applies a NARA-approved records retention schedule to the information collected. Once the records meet the destruction date designated in GRS 2.3, Item 20, MSPB will destroy the records by fiscal year unless there is a business need for the record.

Section 6.0 Information Sharing

6.1 Is information shared outside of MSPB as part of the normal agency operations? If so, identify the organization(s) and how the information is accessed and how it is to be used.

MSPB – 3 governs the collection of information and provides the circumstances for the sharing of the information. It is not anticipated that this information will be shared outside of MSPB as part of normal agency operations.

6.2 Describe how the external sharing noted in 6.1 is compatible with the SORN noted in 1.2.

It is not anticipated that this information will be shared outside of MSPB as part of normal agency operations.

6.3 Does the project place limitations on re-dissemination?

The location of the information collected is access-restricted. The EEO Director will inform MSPB's Chief Privacy Officer (CPO) of any requests for disclosure of the information other than to supervisors on a "need to know" basis. Once the CPO, or designated disclosure staff, determines that disclosure is appropriate under MSPB – 3, the provisions of the Privacy Act, or the Freedom of Information Act (FOIA), the EEO Director will provide the requested information to the CPO, or designated disclosure staff, to process the disclosure request. This includes releases under the routine uses of MSPB – 3, and MSPB only authorizes the disclosure of this information if the stated use is compatible with the purpose of the collection, as outlined in the applicable SORN. Records released pursuant to a FOIA request constitute public information and MSPB has no authority to limit its re-dissemination.

6.4 Describe how the project maintains a record of any disclosures outside of the Agency.

MSPB utilizes FOIAonline to track requests for all information disclosure pursuant to FOIA, the Privacy Act, the routine uses in applicable SORNs, and statutes and regulations. FOIAonline is a web-based application and assists MSPB in tracking and recording requests received for the disclosure of information. This includes requests subject to the accounting provisions of the Privacy Act. The information retained as part of this accounting requirement includes the agency or individual requesting the information, a description of the requested information, the reason for the request, the date of the request, the date of the release, the authority for the release, and the limitations and obligations on the requesting agency or individual regarding use and further dissemination.

6.5 Privacy Impact Analysis: Related to Information Sharing

Privacy Risk: There is a risk that the information will be shared outside the scope of the applicable SORN or without the proper authority or accounting.

Mitigation: This risk is mitigated. All MSPB employees are required to complete annual privacy awareness training, which informs users of their Federal information privacy obligations, including the proper handling of PII. Additionally, the location of the records is access-restricted, thus limiting the amount of personnel able to access and share the records.

External parties who are provided PII under a routine use are subject to Privacy Act limitations on disclosures. Any use of the records must be compatible with the purpose of the collection, as outlined in the applicable SORN. Records released pursuant to a FOIA request constitute public information and MSPB has no authority to limit its re-dissemination.

Section 7.0 Redress

7.1 What are the procedures that allow individuals to access their information?

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Merit Systems Protection Board, Office of the Clerk of the Board, 1615 M Street, NW, Washington, DC 20419. This request may also be sent to the agency by email at privacy@mspb.gov. Individuals requesting access must comply with MSPB's Privacy Act regulations regarding verification of identity and access to records (5 C.F.R. Part 1205).

7.2 What procedures are in place to allow the subject individual to correct inaccurate or erroneous information?

Individuals seeking amendment of their records in this system of records may submit a request in writing to the Merit Systems Protection Board, Office of the Clerk of the Board, 1615 M Street, NW, Washington, DC 20419. This request may also be sent to the agency by email at privacy@mspb.gov. Individuals requesting amendment must follow MSPB's Privacy Act regulations regarding verification of identity and amendment to records (5 C.F.R. Part 1205).

7.3 How does the project notify individuals about the procedures for correcting their information?

This PIA provides notice to individuals on how to correct their information. Additionally, MSPB's Privacy Act regulations (5 C.F.R. Part 1205) and SORN, MSPB – 3, Reasonable Accommodations, provide notice to the individual.

7.4 Privacy Impact Analysis: Related to Redress

Privacy Risk: There is a risk that individuals will not be able to correct inaccurate or erroneous information collected about them.

Mitigation: This risk is mitigated. The information is collected from the source, i.e., the individual. Should an individual seek amendment of any records they assert is not accurate, relevant, timely, or complete, information on how to submit an amendment request is outlined in MSPB's Privacy Act regulations (5 C.F.R. Part 1205).

Section 8.0 Auditing and Accountability

The following questions are intended to describe technical and policy-based safeguards and security measures.

8.1 How does the project ensure that the information is used in accordance with stated practices in this PIA?

Records in the system are protected from unauthorized access and misuse through various administrative, technical, and physical security measures, such as access controls, mandatory security and privacy training, encryption, multi-factor authentication, security guards, and locked offices. MSPB ensures that the practices stated in this PIA are followed by leveraging employee training, Information Technology (IT) Rules of Behavior (RoB), role-based access, and other standard operating procedures and policies. See Section 1.3 for additional security and privacy safeguards.

8.2 Describe what privacy training is provided to users either generally or specifically relevant to the project.

All MSPB users must complete privacy awareness training and information security awareness training annually, as well as read and agree to comply with MSPB's IT RoB and annually thereafter.

8.3 What procedures are in place to determine which users may access the information and how does the project determine who has access?

MSPB deploys role-based access controls and enforces a separation of duties throughout all MSPB operations to limit access to records and ensures that only MSPB employees who have an official need to know will have access to the information. The need to know is determined by the respective responsibilities of the employee and the needs of the office. MSPB employees who do not have a need to know do not have access to the Reasonable Accommodations System. The EEO Director will have primary responsibility for the management of this system and may only share information with designated personnel on a need-to-know basis. This ensures that access to the information is restricted to a limited number of MSPB personnel.

8.4 How does the project review and approve information sharing agreements, Memoranda of Understanding (MOUs), new uses of the information, new access to the system by organizations within MSPB and outside?

This Reasonable Accommodations System does not require information sharing agreements or MOUs. New uses of information are not permissible without review and authorization by MSPB stakeholders, including MSPB's CPO and Chief Information Officer, and the Office of Personnel

Management. If new uses of the information are approved, they will only be utilized once appropriate notice has been provided, including updating the PIA and, if applicable, revising applicable SORNs. Within MSPB, access to records in this Reasonable Accommodations system is determined at the agency level.

Responsible Officials

D. Fon Muttamara
Chief Privacy Officer
U.S. Merit Systems Protection Board

Approval Signature & Date

William D. Spencer
Acting Executive Director
& Senior Agency Official for Privacy
U.S. Merit Systems Protection Board