



# U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the Clerk of the Board  
1615 M Street, NW  
Washington, DC 20419-0002

Phone: (202) 653-7200; Fax: (202) 653-7130; E-Mail: [mspb@mspb.gov](mailto:mspb@mspb.gov)

Clerk of the Board

October 24, 2012

Mr. Boris Bershteyn  
Acting Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

Dear Mr. Bershteyn,

I respectfully request the emergency reinstatement of Information Collection Request (ICR) 3124-0009, E-Appeal/US Merit Systems Protection Board Appeal Form, which expired on March 31, 2012. We request your approval on or before November 9, 2012. The reasons for this request are outlined below.

Recently, for the first time in our 33-year existence, the Merit Systems Protection Board (MSPB) revised its adjudicatory regulations. This initiative began in January 2011 with the solicitation of suggestions for revisions from MSPB staff. Subsequently, an internal MSPB working group completed an in-depth review of the regulations, considered the suggestions received from staff, and identified a number of proposed changes. In accordance with the public participation requirement in Executive Order 13563, "Improving Regulation and Regulatory Review," the Board Members then sought written input on the working group recommendations from over 30 stakeholder agencies, organizations, and individuals. Written comments were received from 15 stakeholders, who were invited to make additional comments at an in-person meeting with MSPB staff on March 6, 2012. The MSPB working group reviewed the 80 pages of written comments and the transcript of the one-hour meeting. The Notice of Proposed Rulemaking was published on June 7, 2012, and the Final Rule was published on October 12, 2012 and becomes effective on November 13, 2012. For more information on our efforts, please see <http://www.mspb.gov/regulatoryreview/index.htm>.

Regrettably, the expiration of ICR 3124-0009 was not addressed during this process, and it needs to be reinstated in order for us to implement changes to MSPB Appeal Form 185 and our electronic filing system, e-Appeal Online. Aside from the unprecedented

and extensive effort outlined above to review and amend our regulations, we are a small agency of about 220 employees nationwide which lacks staff experienced with the Paperwork Reduction Act (PRA) and ICRs. I am committed to curing that by providing requisite training to staff in my office and bringing MSPB back into compliance with the PRA and our two ICRs. As we begin that process in consultation with your staff, I request the emergency reinstatement of ICR 3124-0009 for 180 days, and we are publishing the requisite notice in the Federal Register. Prior to the expiration of that period, we will resubmit the ICR for reinstatement.

As described above, I believe we took all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. The collection of information is needed prior to the expiration of time periods established under the PRA; it is essential to the mission of MSPB; and MSPB cannot reasonably comply with the normal clearance procedures under the PRA because public harm is reasonably likely to result if normal clearance procedures are followed and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

Thank you for considering this emergency request for reinstatement of ICR 3124-0009. If you have any questions, please have your staff contact Darryl Aaron at 202-254-4478 or via email at [darryl.aaron@mspb.gov](mailto:darryl.aaron@mspb.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Spencer', with a large, stylized flourish at the end.

William D. Spencer