

SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL UNDER THE PAPERWORK REDUCTION ACT AND 5 CFR 1320

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection:

Pursuant to 5 U.S.C. § 2303, and its implementing regulations at 28 C.F.R. pt. 27, the Department of Justice (DOJ) Office of Attorney Recruitment and Management (OARM) has the delegated authority to adjudicate claims of whistleblower reprisal by former and current employees of, and applicants for employment with, the Federal Bureau of Investigation (FBI). Individuals who wish to file a claim of whistleblower reprisal may file a complaint, called a "Request for Corrective Action (RCA)," with OARM. OARM created an optional RCA form for individuals who wish to file an FBI whistleblower complaint with OARM, which is available on OARM's public website at: <https://www.justice.gov/oarm/page/file/934161/download>. The form collects information that is relevant and necessary for OARM's determine whether it has jurisdiction over a claim. The form may be printed and filled out manually and sent to OARM via mail or fax; alternatively, the form may be completed online and submitted to OARM electronically via the Internet. The number of RCAs received by OARM varies from year to year; however, the vast majority of RCA submissions are received from current FBI employees.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Via the optional RCA form, individuals voluntarily provide information about their employment status with the FBI, their personal contact information, the alleged whistleblowing disclosure(s), the alleged retaliatory actions by the FBI (or an employee of another DOJ component), the exhaustion of their administrative remedies, and information regarding any designated representative. The forms are screened only by a limited number of OARM staff, as related to their role in assisting the Director of OARM with adjudicating FBI whistleblower reprisal claims brought under 28 C.F.R. pt. 27.

Under 28 C.F.R. pt. 27, individuals must file an RCA with OARM in order to have OARM review their FBI whistleblower reprisal case. The RCA form on OARM's public website increases transparency of the claims process, allows individuals to more easily discern what information is required in order for OARM's review, and simplifies the process for filing an RCA. The information requested on the RCA form is relevant and necessary to OARM's adjudication under 28 C.F.R. pt. 27.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

The RCA form is available on OARM's public website in form-fillable PDF format, which may be digitally signed and submitted over the Internet (<https://www.justice.gov/oarm/page/file/934161/download>). Individuals may also print and fill out the form manually and submit it to OARM via mail or fax.

4. Describe efforts to identify duplication.

There is no evidence of duplication of this information.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

There is no impact on small businesses or other entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The RCA form is available at any time on OARM's public website for any individual who wishes to file an FBI whistleblower reprisal complaint with OARM. The form is made available to increase transparency of the claims process and to enable FBI whistleblowers to more easily file claims of reprisal with the adjudicating office (OARM). Removing the form from OARM's website may make filing a complaint more burdensome for the respondent in terms of identification and submission of the information required by OARM to assess its jurisdiction over the claims. The amount and type of information specifically requested on the RCA form is relevant and necessary for OARM's adjudication of the respondents' claims under 28 C.F.R. pt. 27, and cannot be reduced.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances identified that apply to this collection. The RCA form is available at all times publicly on OARM's website, for any individual who wishes to use it to file an RCA with OARM. The purpose of the form is to increase transparency of the claims process and enable FBI whistleblowers to more easily file claims of reprisal with the adjudicating office (OARM).

8. Provide a copy of the agency's notice in the Federal Register. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside DOJ to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure or reporting format (if any), and on the data elements to be recorded or disclosed.

[Provide copy of FR notice, and summary public comments here, once received:]

There have been no efforts to consult with persons outside of DOJ to obtain their views on the data, frequency of collection, clarity of instructions and recordkeeping, or reporting format, or on the data elements to be recorded or disclosed. The FBI whistleblower retaliation protections are unique to DOJ, and the form is submitted voluntarily by respondents, with information that is relevant and necessary only to OARM's adjudication of the respondent's claims. Consultation has been made with the DOJ Office of Privacy and Civil Liberties about the clarity of instructions, disclosure and reporting format (regarding the Privacy Act (e)(3) notice, and with DOJ Justice Management Division, Office of Records Management and Policy, on the data to be retained.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift is provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Complainants are advised that the submission of information on the RCA form is entirely voluntary and that the information provided is maintained in the JMD-023, FBI Whistleblower Case File system of records, 70 Fed. Reg. 53,253 (Sept. 7, 2005), as amended 72 Fed. Reg. 3410 (Jan. 25, 2007), 72 Fed. Reg. 15,906 (Apr. 3, 2007), and 72 Fed. Reg. 30,631 (June 1, 2007). Respondents are also notified that information supplied on the RCA form may be disclosed by DOJ in accordance with the Privacy Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why DOJ considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The RCA form does not pose questions of a sensitive nature, and the form makes clear that submission of the information is entirely voluntary.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Consultation with a sample fewer than 10 potential respondents is desirable.

The number of total respondents varies, but averages to approximately 10 whistleblower complaints to OARM per year. The amount of time necessary to complete the RCA form also varies depending on the complexity of the claims, but averages to approximately 3 hours. Thus, the annual hourly burden would come to approximately 30 hours. The number of respondents for individuals not employed by the FBI or DOJ is significantly lower, averaging approximately 2 per year. Thus, the annual hourly burden for submission of forms covered by the PRA is approximately 6 hours.

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no costs to the respondents because the data may be collected electronically via OARM's public website.

14. Provide estimates of annualized cost to the Federal government.

The estimated annual cost to the Federal Government for reviewing and handling the initial processing of the RCA forms is approximately \$2,229.00 (based on an average of 10 FBI whistleblower complaints per year; an average of 3 hours necessary to review and process each form; and the salary of the full-time OARM attorney responsible for handling case intake (based on an hourly rate of \$74.30 (GS-15, Step 10/Rest of U.S. locality)).

15. Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

N/A. No program changes or adjustments have taken place.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected is used internally within DOJ, as necessary for OARM to make a jurisdictional assessment over respondents' claims under 28 C.F.R. pt. 27, and will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

OARM will display the OMB number and expiration date on the instructions and electronic form.

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

OARM does not seek any exception to the certification statement identified in Item 19 of the OMB form 83-I.

19. Collections for Information Employing Statistical Methods:

This information collection does not employ statistical methods.

United States Code Annotated
Title 5. Government Organization and Employees (Refs & Annos)
Part III. Employees (Refs & Annos)
Subpart A. General Provisions
Chapter 23. Merit System Principles

5 U.S.C.A. § 2303

§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

Effective: December 16, 2016

Currentness

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to an employee in, or applicant for, a position in the Bureau as a reprisal for a disclosure of information--

(1) made--

(A) in the case of an employee, to a supervisor in the direct chain of command of the employee, up to and including the head of the employing agency;

(B) to the Inspector General;

(C) to the Office of Professional Responsibility of the Department of Justice;

(D) to the Office of Professional Responsibility of the Federal Bureau of Investigation;

(E) to the Inspection Division of the Federal Bureau of Investigation;

(F) as described in section 7211;

(G) to the Office of Special Counsel; or

(H) to an employee designated by any officer, employee, office, or division described in subparagraphs (A) through (G) for the purpose of receiving such disclosures; and

(2) which the employee or applicant reasonably believes evidences--

(A) any violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, "personnel action" means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policymaking, or policy-advocating character).

(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

(c) The President shall provide for the enforcement of this section in a manner consistent with applicable provisions of sections 1214 and 1221 of this title.

CREDIT(S)

(Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1117; amended Pub.L. 101-12, § 9(a)(1), Apr. 10, 1989, 103 Stat. 34; Pub.L. 114-302, § 2, Dec. 16, 2016, 130 Stat. 1516.)

Notes of Decisions (7)

5 U.S.C.A. § 2303, 5 USCA § 2303

Current through P.L. 115-30. Also includes P.L. 115-32 and 115-34. Title 26 current through 115-34.

Code of Federal Regulations
Title 28. Judicial Administration
Chapter I. Department of Justice
Part 27. Whistleblower Protection for Federal Bureau of Investigation Employees (Refs & Annos)
Subpart A. Protected Disclosures of Information

28 C.F.R. § 27.1

§ 27.1 Making a protected disclosure.

Effective: January 9, 2008

Currentness

(a) When an employee of, or applicant for employment with, the Federal Bureau of Investigation (FBI) (FBI employee) makes a disclosure of information to the Department of Justice's (Department's) Office of Professional Responsibility (OPR), the Department's Office of Inspector General (OIG), the FBI Office of Professional Responsibility (FBI OPR), the FBI Inspection Division (FBI-INS) Internal Investigations Section (collectively, Receiving Offices), the Attorney General, the Deputy Attorney General, the Director of the FBI, the Deputy Director of the FBI, or to the highest ranking official in any FBI field office, the disclosure will be a "protected disclosure" if the person making it reasonably believes that it evidences:

(1) A violation of any law, rule or regulation; or

(2) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(b) Any office or official (other than the OIG or OPR) receiving a protected disclosure shall promptly report such disclosure to the OIG or OPR for investigation. The OIG and OPR shall proceed in accordance with procedures establishing their respective jurisdiction. The OIG or OPR may refer such allegations to FBI-INS Internal Investigations Section for investigation unless the Deputy Attorney General determines that such referral shall not be made.

Credits

[Order No. 2492-2001, 66 FR 37904, July 20, 2001; Order No. 2926-2008, 73 FR 1495, Jan. 9, 2008]

SOURCE: Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515-519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978; 3 CFR p. 284 (1997).

Notes of Decisions (1)

Current through May 25, 2017; 82 FR 24079.

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Code of Federal Regulations
Title 28. Judicial Administration
Chapter I. Department of Justice
Part 27. Whistleblower Protection for Federal Bureau of Investigation Employees (Refs & Annos)
Subpart A. Protected Disclosures of Information

28 C.F.R. § 27.2

§ 27.2 Prohibition against reprisal for making a protected disclosure.

Currentness

(a) Any employee of the FBI, or of any other component of the Department, who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, a personnel action, as defined below, with respect to any FBI employee as a reprisal for a protected disclosure.

(b) Personnel action means any action described in clauses (i) through (xi) of 5 U.S.C. 2302(a)(2)(A) taken with respect to an FBI employee other than one in a position which the Attorney General has designated in advance of encumbrance as being a position of a confidential, policy-determining, policy-making, or policy-advocating character.

SOURCE: Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515-519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978; 3 CFR p. 284 (1997).

Current through May 25, 2017; 82 FR 24079.

Code of Federal Regulations
Title 28. Judicial Administration
Chapter I. Department of Justice
Part 27. Whistleblower Protection for Federal Bureau of Investigation Employees (Refs & Annos)
Subpart B. Investigating Reprisal Allegations and Ordering Corrective Action

28 C.F.R. § 27.3

§ 27.3 Investigations: The Department of Justice's Office of
Professional Responsibility and Office of the Inspector General.

Currentness

(a)(1) An FBI employee who believes that another employee of the FBI, or of any other Departmental component, has taken or has failed to take a personnel action as a reprisal for a protected disclosure (reprisal), may report the alleged reprisal to either the Department's OPR or the Department's OIG (collectively, Investigative Offices). The report of an alleged reprisal must be made in writing.

(2) For purposes of this subpart, references to the FBI include any other Departmental component in which the person or persons accused of the reprisal were employed at the time of the alleged reprisal.

(b) The Investigative Office that receives the report of an alleged reprisal shall consult with the other Investigative Office to determine which office is more suited, under the circumstances, to conduct an investigation into the allegation. The Attorney General retains final authority to designate or redesignate the Investigative Office that will conduct an investigation.

(c) Within 15 calendar days of the date the allegation of reprisal is first received by an Investigative Office, the office that will conduct the investigation (Conducting Office) shall provide written notice to the person who made the allegation (Complainant) indicating—

(1) That the allegation has been received; and

(2) The name of a person within the Conducting Office who will serve as a contact with the Complainant.

(d) The Conducting Office shall investigate any allegation of reprisal to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has been or will be taken.

(e) Within 90 calendar days of providing the notice required in paragraph (c) of this section, and at least every 60 calendar days thereafter (or at any other time if the Conducting Office deems appropriate), the Conducting Office shall notify the Complainant of the status of the investigation.

(f) The Conducting Office shall determine whether there are reasonable grounds to believe that there has been or will be a reprisal for a protected disclosure. The Conducting Office shall make this determination within 240 calendar days of receiving the allegation of reprisal unless the Complainant agrees to an extension.

(g) If the Conducting Office decides to terminate an investigation, it shall provide, no later than 10 business days before providing the written statement required by paragraph (h) of this section, a written status report to the Complainant containing the factual findings and conclusions justifying the termination of the investigation. The Complainant may submit written comments on such report to the Conducting Office. The Conducting Office shall not be required to provide a subsequent written status report after submission of such comments.

(h) If the Conducting Office terminates an investigation, it shall prepare and transmit to the Complainant a written statement notifying him/her of—

- (1) The termination of the investigation;
- (2) A summary of relevant facts ascertained by the Conducting Office;
- (3) The reasons for termination of the investigation; and
- (4) A response to any comments submitted under paragraph (g) of this section.

(i) Such written statement prepared pursuant to paragraph (h) of this section may not be admissible as evidence in any subsequent proceeding without the consent of the Complainant.

(j) Nothing in this part shall prohibit the Receiving Offices, in the absence of a reprisal allegation by an FBI employee under this part, from conducting an investigation, under their pre-existing jurisdiction, to determine whether a reprisal has been or will be taken.

SOURCE: Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515–519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978; 3 CFR p. 284 (1997).

Notes of Decisions (4)

Current through May 25, 2017; 82 FR 24079.

Code of Federal Regulations
Title 28. Judicial Administration
Chapter I. Department of Justice
Part 27. Whistleblower Protection for Federal Bureau of Investigation Employees (Refs & Annos)
Subpart B. Investigating Reprisal Allegations and Ordering Corrective Action

28 C.F.R. § 27.4

§ 27.4 Corrective action and other relief; Director, Office of Attorney Recruitment and Management.

Effective: January 9, 2008

Currentness

(a) If, in connection with any investigation, the Conducting Office determines that there are reasonable grounds to believe that a reprisal has been or will be taken, the Conducting Office shall report this conclusion, together with any findings and recommendations for corrective action, to the Director, Office of Attorney Recruitment and Management (the Director). If the Conducting Office's report to the Director includes a recommendation for corrective action, the Director shall provide an opportunity for comments on the report by the FBI and the Complainant. The Director, upon receipt of the Conducting Office's report, shall proceed in accordance with paragraph (e) of this section. A determination by the Conducting Office that there are reasonable grounds to believe a reprisal has been or will be taken shall not be cited or referred to in any proceeding under these regulations, without the Complainant's consent.

(b) At any time, the Conducting Office may request the Director to order a stay of any personnel action for 45 calendar days if it determines that there are reasonable grounds to believe that a reprisal has been or is to be taken. The Director shall order such stay within three business days of receiving the request for stay, unless the Director determines that, under the facts and circumstances involved, such a stay would not be appropriate. The Director may extend the period of any stay granted under this paragraph for any period that the Director considers appropriate. The Director shall allow the FBI an opportunity to comment to the Director on any proposed extension of a stay, and may request additional information as the Director deems necessary. The Director may terminate a stay at any time, except that no such termination shall occur until the Complainant and the Conducting Office shall first have had notice and an opportunity to comment.

(c)(1) The Complainant may present a request for corrective action directly to the Director within 60 calendar days of receipt of notification of termination of an investigation by the Conducting Office or at any time after 120 calendar days from the date the Complainant first notified an Investigative Office of an alleged reprisal if the Complainant has not been notified by the Conducting Office that it will seek corrective action. The Director shall notify the FBI of the receipt of the request and allow the FBI 25 calendar days to respond in writing. If the Complainant presents a request for corrective action to the Director under this paragraph, the Conducting Office may continue to seek corrective action specific to the Complainant, including the submission of a report to the Director, only with the Complainant's consent. Notwithstanding the Complainant's refusal of such consent, the Conducting Office may continue to investigate any violation of law, rule, or regulation.

(2) The Director may not direct the Conducting Office to reinstate an investigation that the Conducting Office has terminated in accordance with § 27.3(h).

(d) Where a Complainant has presented a request for corrective action to the Director under paragraph (c) of this section, the Complainant may at any time request the Director to order a stay of any personnel action allegedly taken or to be taken in reprisal for a protected disclosure. The request for a stay must be in writing, and the FBI shall have an opportunity to respond. The request shall be granted within 10 business days of the receipt of any response by the FBI if the Director determines that such a stay would be appropriate. A stay granted under this paragraph shall remain in effect for such period as the Director deems appropriate. The Director may modify or dissolve a stay under this paragraph at any time if the Director determines that such a modification or dissolution is appropriate.

(e)(1) The Director shall determine, based upon all the evidence, whether a protected disclosure was a contributing factor in a personnel action taken or to be taken. Subject to paragraph (e)(2) of this section, if the Director determines that a protected disclosure was a contributing factor in a personnel action taken or to be taken, the Director shall order corrective action as the Director deems appropriate. The Director may conclude that the disclosure was a contributing factor in the personnel action based upon circumstantial evidence, such as evidence that the employee taking the personnel action knew of the disclosure and that the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.

(2) Corrective action may not be ordered if the FBI demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

(3) In making the determinations required under this subsection, the Director may hold a hearing at which the Complainant may present evidence in support of his or her claim, in accordance with such procedures as the Director may adopt. The Director is hereby authorized to compel the attendance and testimony of, or the production of documentary or other evidence from, any person employed by the Department if doing so appears reasonably calculated to lead to the discovery of admissible evidence, is not otherwise prohibited by law or regulation, and is not unduly burdensome. Any privilege available in judicial and administrative proceedings relating to the disclosure of documents or the giving of testimony shall be available before the Director. All assertions of such privileges shall be decided by the Director. The Director may, upon request, certify a ruling on an assertion of privilege for review by the Deputy Attorney General.

(f) If the Director orders corrective action, such corrective action may include: placing the Complainant, as nearly as possible, in the position he would have been in had the reprisal not taken place; reimbursement for attorneys fees, reasonable costs, medical costs incurred, and travel expenses; back pay and related benefits; and any other reasonable and foreseeable consequential damages.

(g) If the Director determines that there has not been a reprisal, the Director shall report this finding in writing to the complainant, the FBI, and the Conducting Office.

Credits

[Order No. 2492-2001, 66 FR 37904, July 20, 2001; Order No. 2926-2008, 73 FR 1495, Jan. 9, 2008]

SOURCE: Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, unless otherwise noted.

§ 27.4 Corrective action and other relief; Director, Office of..., 28 C.F.R. § 27.4

AUTHORITY: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515–519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978; 3 CFR p. 284 (1997).

Notes of Decisions (5)

Current through May 25, 2017; 82 FR 24079.

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Code of Federal Regulations Title 28. Judicial Administration Chapter I. Department of Justice Part 27. Whistleblower Protection for Federal Bureau of Investigation Employees (Refs & Annos) Subpart B. Investigating Reprisal Allegations and Ordering Corrective Action
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28 C.F.R. § 27.5

§ 27.5 Review.

Currentness

The Complainant or the FBI may request, within 30 calendar days of a final determination or corrective action order by the Director, review by the Deputy Attorney General of that determination or order. The Deputy Attorney General shall set aside or modify the Director's actions, findings, or conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule, or regulation having been followed; or unsupported by substantial evidence. The Deputy Attorney General has full discretion to review and modify corrective action ordered by the Director, provided, however that if the Deputy Attorney General upholds a finding that there has been a reprisal, then the Deputy Attorney general shall order appropriate corrective action.

SOURCE: Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515-519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978; 3 CFR p. 284 (1997).

Current through May 25, 2017; 82 FR 24079.

Code of Federal Regulations
Title 28. Judicial Administration
Chapter I. Department of Justice
Part 27. Whistleblower Protection for Federal Bureau of Investigation Employees (Refs & Annos)
Subpart B. Investigating Reprisal Allegations and Ordering Corrective Action

28 C.F.R. § 27.6

§ 27.6 Extensions of time.

Currentness

The Director may extend, for extenuating circumstances, any of the time limits provided in these regulations relating to proceedings before him and to requests for review by the Deputy Attorney General.

SOURCE: Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515-519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978; 3 CFR p. 284 (1997).

Current through May 25, 2017; 82 FR 24079.

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**UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF ATTORNEY RECRUITMENT AND MANAGEMENT
REQUEST FOR CORRECTIVE ACTION FORM**

**INSTRUCTIONS FOR COMPLETING AND FILING
YOUR REQUEST FOR CORRECTIVE ACTION**

- GENERAL:** This form is intended to assist you in providing the Office of Attorney Recruitment and Management (OARM) with the information necessary to process your request for corrective action (RCA). This form will aid OARM in determining whether your RCA is properly before OARM, whether your request has been filed within the applicable time limits, what claims you are raising, and what relief you seek. You may use this form to file your RCA; however, you are not required to do so.
- WHERE TO FILE:** Your RCA must be filed with the Director of OARM, by mail to: U.S. Department of Justice, Office of Attorney Recruitment and Management, Liberty Square Building, 450 5th Street, N.W., Suite 10200, Washington, DC 20530-0001; by facsimile to: (202) 514-0713; or, electronically by using the "Submit" button.
- WHEN TO FILE:** You may file an RCA with the Director of OARM only after exhausting your Conducting Office remedies by first filing a complaint of whistleblower reprisal with either the Department of Justice's Office of Professional Responsibility (OPR) or the Office of Inspector General (OIG). Thereafter, your RCA must be filed within 60 calendar days of your receipt of OPR/OIG notice of termination of its investigation of your reprisal complaint; or, any time after 120 calendar days from the date you first notified OPR/OIG of an alleged reprisal, if you have not been notified that OPR/OIG will seek corrective action in your case. The date of filing is the date on which your RCA is postmarked, or, if filed by facsimile or electronically, the date on which it is received by OARM.
- HOW TO FILE:** You may file your RCA with the Director of OARM by mail, facsimile, or electronically. Please note, however, that due to security delays in mail delivery to the Department of Justice, you may wish to file your RCA by facsimile or electronically. You may use this form, and may supplement your response to any question on a separate sheet of paper. All of your submissions must be legible and on 8 ½" x 11" paper.
- You should not file classified and/or sensitive information with your RCA. However, in the event such information becomes an issue in proceedings before OARM, appropriate arrangements for the delivery, handling, and transmission of such materials must be in compliance with FBI and other applicable requirements regarding classified and/or sensitive materials.**

PART 1 - COMPLAINANT INFORMATION

Please type or print legibly.

1. Name (*last, first, middle initial*)

2. Present Address:

City, State, Zip Code:

You must notify OARM in writing of any change in your mailing address while your request for corrective action is pending.

3. Telephone Numbers (*include area code*) and E-Mail Address

Home: () Work: () FAX: () Other: ()

E-Mail Address:

You must notify OARM in writing of any change in your telephone number(s) or E-Mail address while your request for corrective action is pending.

4. FBI Employment or Application for Employment

Please indicate whether you are (or were) employed by the FBI, and, if so, please identify the title and location of your position (*including whether you are/were in a career or non-career position*):

If not currently or previously employed by the FBI, please list the title(s) and location(s) of the position(s) for which you have applied:

PART 2 - EXHAUSTION OF CONDUCTING OFFICE REMEDIES

5. Have you filed a complaint of whistleblower reprisal with OPR or OIG with respect to the same protected disclosure(s) and personnel action(s) underlying your request for corrective action?

Yes

Date reprisal complaint was filed with OPR/OIG: ____ / ____ / ____
Month Day Year

No

If "Yes," attach a copy of your reprisal complaint filed with OPR/OIG (or any other documentation establishing that you previously filed a reprisal complaint with OPR or OIG, in which you alleged the same protected disclosure(s) and personnel actions(s) underlying your request for corrective action).

If "No," your request for corrective action is not properly before OARM, and you must first file a complaint of reprisal with OPR/OIG.

6. Did you receive notice from OPR or OIG that either office terminated its investigation of your reprisal complaint?

Yes

Date you received notification of termination: ____ / ____ / ____
Month Day Year

No

If "Yes," attach a partial copy of the termination letter/report from OPR or OIG (to include only the date of the document and the statement identifying the document as a termination letter/report). Under 28 C.F.R. § 27.3(h) and (i), the termination letter/report is not admissible in OARM proceedings without your consent. OARM needs only the aforementioned relevant portions to assess the timeliness of your request for corrective action. You may redact or refrain from submitting all other portions of the letter/report.

PART 3 - REPRISAL CLAIM(S)

7. Please describe in as much detail as possible your alleged whistleblower disclosure. To the extent you allege that you made more than one disclosure, attach separate pages (or use a copy of this page and page 5) to answer questions 7-10 and 13 as to each additional disclosure.

8. Date on which you made your disclosure: _____ / _____ / _____
Month Day Year

9. To whom did you make your disclosure?

Identify that individual's title **at the time you made your disclosure:**

If you made your disclosure to an office, identify the office:

10. Do you believe that you made a disclosure that evidenced any of the following?
(Please check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Any violation of any law, rule, or regulation | <input type="checkbox"/> Gross mismanagement |
| <input type="checkbox"/> Gross waste of funds | <input type="checkbox"/> Abuse of Authority |
| <input type="checkbox"/> Substantial and specific danger to public health or safety | |

PART 3 - REPRISAL CLAIM(S) (CONTINUED)

11. Identify each personnel action taken or not taken (or threatened to be taken or not taken) against you. Include the date of each action and the name and title of every FBI official responsible for the action (attach separate pages as necessary).

12. Explain why you believe the alleged personnel action was taken or not taken (or threatened to be taken or not taken) as a result of any disclosure you identified in response to question 7 (attach separate pages as necessary).

13. Did the FBI official(s) responsible for the personnel action(s) have knowledge of your alleged whistleblower disclosure?

Yes No

If "Yes," identify the date on which you believe the employee(s) learned of your disclosure: _____ / _____ / _____
Month Day Year

and explain why you believe the FBI official(s) knew of your disclosure (*attach separate pages as necessary*).

PART 4 - DESIGNATION OF REPRESENTATIVE

14. Are you designating a representative to handle your request for corrective action?

Yes No

If "Yes," complete the information below and sign.

Designation: I hereby designate _____ to serve as my representative during the course of my request for corrective action. I understand that my representative is authorized to act on my behalf. In addition, I specifically authorize my representative to settle my request for corrective action on my behalf. I understand that any limitation on this settlement authority must be filed in writing with OARM.

By designating a representative, you agree to allow OARM to give your representative all information concerning your request for corrective action. **Any changes to this designation must be sent in writing to OARM.**

Sign here to make your designation effective:

Complainant's Signature:

Date:

Representative's Address:

City, State, Zip Code:

Representative's Telephone Numbers (*include area code*) and E-Mail Address

Office: ()

FAX: ()

Other: ()

E-Mail Address:

PART 5 - RELIEF SOUGHT

15. What corrective action (relief or remedy) do you want OARM to order?

16. I certify that all of the statements made in this form and any supplements hereto are true, complete, and correct to the best of my knowledge and belief.

Complainant's Signature:

Date:

PRIVACY ACT STATEMENT This information is provided pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3); This form requests personal information that is relevant and necessary to reach a decision in your RCA. OARM collects this information to adjudicate requests for corrective action brought pursuant to the FBI whistleblower regulations, 28 C.F.R. Part 27. OARM has the authority to ask for this information pursuant to 5 U.S.C. § 301, 44 U.S.C. § 3101, and 28 C.F.R. Part 27. Because your RCA is a voluntary action, you are not required to provide any personal information in connection with it. However, your failure to supply OARM with all of the information essential to reach a decision in your case could result in the rejection of your RCA. The information you provide is maintained in the JMD-023, Federal Bureau of Investigation Whistleblower Case Files system of records, 70 Fed. Reg. 53,253 (Sept. 7, 2005), as amended 72 Fed. Reg. 3410 (Jan. 25, 2007), 72 Fed. Reg. 15,906 (Apr. 3, 2007), and 72 Fed. Reg. 30,631 (June 1, 2007). If you supply OARM with your information, your information may be disclosed by the Department of Justice in accordance with the provisions of the Privacy Act, including to contractors, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government when necessary to accomplish an agency function related to this system of records, to the National Archives and Records Administration in connection with records retention or disposition issues, or for other routine uses indicated in the JMD-023, Federal Bureau of Investigation Whistleblower Case Files system of records notice. To view the routine uses applicable to this system of records, please consult the system of records notice, as amended, at the following links:

70 Fed. Reg. 53,253 at <https://www.gpo.gov/fdsys/pkg/FR-2005-09-07/pdf/05-17700.pdf>;

72 Fed. Reg. 3410 at <https://www.gpo.gov/fdsys/pkg/FR-2007-01-25/pdf/E7-1176.pdf>;

72 Fed. Reg. 15,906 at <https://www.gpo.gov/fdsys/pkg/FR-2007-04-03/pdf/E7-6108.pdf>;

72 Fed. Reg. 30,631 at <https://www.gpo.gov/fdsys/pkg/FR-2007-06-01/pdf/E7-10523.pdf>.

Submit