

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Patricia Lewis,

Appellant,

v.

Case No. 2015-REC-08-0139

Department of Job & Family Services,
and
Department of Administrative Services,

Appellees,

ORDER

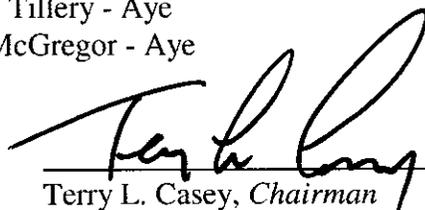
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the Ohio Department of Administrative Services' determination that Appellant's position is properly classified as Sourcing Analyst, classification number 64512, is **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.



Casey - Aye
Tillery - Aye
McGregor - Aye


Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, October 26, 2016.


Clerk

NOTE: Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD. Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

METHOD OF PAYMENT: for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE November 2, 2016. You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

If you have any questions regarding this notice, please contact the Board at 614/466-7046.

Case Number: 2015-REC-08-0139

Transcript Costs: \$84.00 Administrative Costs: \$25.00

Total Deposit Required: * \$109.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: November 10, 2016

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Patricia Lewis,

Case No. 2015-REC-08-0139

Appellant,

v.

September 28, 2016

Ohio Department of Job and Family Services,
and
Ohio Department of Administrative Services,

Appellees.

Elaine K. Stevenson
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for consideration due to Appellant Patricia A. Lewis' ("Appellant") timely filing of a notice of appeal from the reclassification of her position with the Ohio Department of Job and Family Services ("ODJFS"). In July 2015, the Ohio Department of Administrative Services ("ODAS") reclassified Appellant's position as Sourcing Analyst, pursuant to the results of a comprehensive review of the state's fiscal classifications. The State Personnel Board of Review ("Board") has jurisdiction to hear Appellant's appeal pursuant to Ohio Revised Code (O.R.C.) §§ 124.03(A) and 124.14(D).

A record hearing was held on June 14, 2016, during which testimonial and documentary evidence was presented. Appellant was present at record hearing and appeared *pro se*. Appellee, ODJFS, was present through its representative Nicole S. Moss, Senior Staff Attorney, and its management designee Nancy J. Jansco-Kocarek, HCM Manager. Also present was Jay Easterling, Deputy Director of Contracts and Acquisitions. Appellee, ODAS, was present through its designee Amber Shedd, Human Capital Management Senior Analyst.

FINDINGS OF FACT

Based upon a thorough review of the record evidence as a whole, and where relevant, credibility determinations of witness' testimony, I make the following Findings of Fact:

1. Appellant is employed by Appellee, ODJFS. Appellant held a position classified as Management Analyst Supervisor 2.

2. In 2013, ODAS conducted a review of the state's fiscal and procurement classifications (Fiscal Classification Project). The following three areas were reviewed: Accounting, Budget, and Sourcing (also known as Procurement). The review resulted in changes to the state's Class Plan.
3. In July 2015, Appellant's position was reclassified to Sourcing Analyst based upon the results of ODAS' fiscal classification review. Appellant filed an appeal of the reclassification of her position.
4. Appellant is assigned to ODJFS' Office of Contracts and Acquisitions. Appellant's direct supervisor is Meredith Stang, Sourcing Supervisor. Ms. Stang reports to Jay Easterling, Deputy Director of Contracts and Acquisitions. Ms. Stang had only been supervising Appellant for one month at the time the classification review process began. Mr. Easterling directly supervised Appellant for several months during the time the Sourcing Supervisor position was vacant. At the hearing, Mr. Easterling offered information regarding Appellant's job duties and he completed the supervisor's section of Appellant's Job Audit Questionnaire.
5. Appellant's most important and time consuming job duty is to develop timely and accurate competitive procurement solicitations of IT goods/services that convey to potential suppliers an accurate description of the goods/services needed and the necessary steps and requirements for submitting proposals or responses. All of Appellant's job duties are related to the procurement of IT good/services.
6. Appellant spends the majority of her work time responding to requests from ODJFS IT network supervisors and infrastructure specialists to order software, hardware, services, and maintenance. Appellant does not evaluate what is needed by the IT requestor or make any determinations regarding the optimal software and hardware requirements. Instead, Appellant serves as the point of contact for the ODAS IT Analyst by gathering the contractor requirements. Specifically, Appellant compares new hardware requests to the state's established minimum standards for Central Processing Units (CPU) to ensure compliance with those standards. Appellant determines whether the request can be procured from the ODAS State Term Schedule (STS) or other authorized contract and whether the prices on the quote match the STS price lists. Appellant selects the type of solicitation that best suits the particular need, such as a Request for Proposal (RFL) or a Request for Letterhead Bid (RLB). Appellant determines whether vendor quotes include all the items requested in the bid and whether the Controlling Board will be required and/or a release and permit is necessary. Appellant determines whether the offering could be made as a Minority Business Enterprise set aside. All of Appellant's determinations with regard to the procurement solicitations of IT goods and services are based upon established rules and procedures.

7. Appellant utilizes established procedures and templates to create RFPs and RLBs described in Finding of Fact No. 6. All RFPs and RLB's created in the Contracts and Acquisition section are reviewed by the assigned ODAS IT Analyst. Appellant is required to obtain approval from other ODJFS staff before ordering new systems. Appellant uses a preformatted compilation sheet regarding the specifics of each IT purchase request to compare the request to the state's established minimum standards list for CPU purchases. If a purchase request does not fall within the minimum state standards, Appellant must take the request to the IT staff requestor and ODAS-OIT to determine the appropriate revisions. The process continues until ODAS awards the RFP for ODJFS' Office of Information Services ("OIS"). RLBs generally follow the same process but are handled within the agency through its OIS staff, the Chief Information Officer, and procurement staff, such as Appellant.
8. Appellant enters approved requisitions in Ohio Administrative Knowledge System ("OAKS") to generate purchase orders. Once Appellant receives bids from vendors to supply the IT hardware or software, Appellant identifies and accepts the best offer and determines the award effective date. Appellant requests a Release and Permit from ODAS, if necessary, updates the purchase order in OAKS, and assigns the purchase order to the specified vendor. Appellant then distributes the purchase order to the appropriate vendor and to ODJFS OIS. Appellant also monitors vendor performance with respect to the delivery of goods.
9. Appellant assisted in developing a system that documents the workflow to purchase IT equipment ("REMEDY"). Appellant frequently serves as the point of contact for this system and explains the proper methods of operation. Appellant also updates tracking and data systems (e.g., assigned "REMEDY" status; ODJFS procurement logs; IT spreadsheets).
10. Appellant assists in budget preparation activities; establishes ODJFS bid opportunity announcements; recommends purchasing cost savings; and assists vendors to initiate STS or other ODAS-OIT agreement enrollments.
11. Appellant does not serve as an agency manager, specifically, Appellant does not act on behalf of agency nor does she formulate and responsibly direct the implementation of policy.
12. Appellant does not analyze IT services or monitor history and trends of IT purchases. Appellant does not research, evaluate, and plan a comprehensive portfolio of contracts and purchasing based on past performance, future needs, and strategic direction.

13. Appellant does not supervise employees. Appellant does not formulate agency policy.
14. Appellant does not act as a lead worker as she is not responsible for providing work direction to assigned staff. Rather, Appellant answers questions and provides guidance to staff regarding IT procurement procedures in the OAKS and REMEDY systems.

CONCLUSIONS OF LAW

Pursuant to O.R.C. § 124.03(A), the State Personnel Board of Review is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to, *inter alia*, the reclassification of an employee's position, with or without a job audit under O.R.C. § 124.14(D). O.R.C. § 124.14(D)(2) provides that the Board is to consider anew reclassifications and may order the reclassification of an employee's position to such appropriate classification as the facts and evidence warrant.

The primary criteria for the Board to consider when determining the most proper classification for a position are the relevant classification specifications, including the class concepts, the job duties outlined, and the percentages of time devoted to each job duty. The Board's decision must be consistent with the applicable classification specifications. *Klug v. Dept. of Admin. Services*, No. 87Ap-306, slip op. (Ohio Ct. App. 10th Dist., May 19, 1988). See also, *Ohio Dept. of Mental Retardation & Dev. Disability v. Ohio Dept. of Adm. Serv.* (1988), 44 Ohio App.3d 144. See also, Ohio Administrative Code Rule 124-7-03.

Ohio Administrative Code Rule 123:1-7-15 provides the class concept shall set forth the mandatory duties which must be satisfied at least twenty percent of the time, unless otherwise stated in the class concept.

In this case, ODAS determined that the Sourcing Analyst classification is the most appropriate classification for Appellant's position. Appellant asserts that her position should be reclassified as Computer Acquisition Analyst 2 because a former coworker at ODJFS, who performed the same job duties and who now is employed by the Ohio Department of Medicaid, was reclassified as a Computer Acquisitions Analyst 2.¹ Upon review of the information contained in the record and the state's Classification Plan, the following classifications were considered: Sourcing Analyst, Senior Sourcing

¹ Evidence of the disparity in the classification of co-workers is not admissible. Rather, the Board is required to compare the duties performed by the employee in question to the appropriate classification specifications and determine which classification most appropriately describes the duties performed by the employee. See O.R.C. § 124.14(D)(2) and Ohio Administrative Code Rule 124-7-03.

Analyst, Sourcing Planner, Computer Acquisition Analyst 1, and Computer Acquisition Analyst 2.

The series purpose for the Sourcing occupation is to analyze the agency's need and plan, find, evaluate, and contract with suppliers of goods and services, and ensure supplier performance. At the lowest level, incumbents work under immediate supervision and require some knowledge of the sourcing lifecycle in order to support the agency's sourcing function by soliciting quotes, placing orders, and tracking order status. At the middle level, incumbents solicit and evaluate proposals make recommendations, and monitor supplier performance. At the higher level, incumbents research, evaluate, and plan a comprehensive portfolio of contracts. At the highest level, the incumbents supervise sourcing staff and lead systematic and continuous improvements to assure the performance of the supply base.

The class concept for the Sourcing Analyst classification states as follows:

The first full performance level class works under general supervision & requires considerable knowledge of sourcing lifecycle in order to solicit & evaluate proposals, make recommendations & monitor supplier performance for a range of routine, established, customary requirements.

The class concept for the Senior Sourcing Analyst classification states as follows:

The second full performance level class works under general supervision & requires considerable knowledge of sourcing lifecycle in order to solicit & evaluate proposals, make recommendations & monitor supplier performance where the need is not customary & the specifications must be developed where none exist.

The class concept for the Sourcing Planner classification states as follows:

The advanced level class works under direction & requires thorough knowledge of sourcing lifecycle in order to independently or as a lead worker (i.e., provide work direction & training) research, evaluate & plan a comprehensive portfolio of contracts & purchasing based on past performance, future needs & strategic direction.

The series purpose for the Computer Acquisition Analyst occupation is to ensure that state/county agencies receive the most efficient computer resources for the most cost effective price. At the lowest level, incumbents are required to have a working knowledge of computer science, agency procurement methods, and computer hardware systems in order to review and evaluate data processing hardware and software for

agencies with elementary data processing requirements, and assist higher-level acquisition analysts in determining requirements for new systems. At the higher levels, incumbents are required to have a thorough knowledge of computer science and multiple facets of computer hardware, software, and communication systems in order to lead teams of acquisition analysts in reviewing, evaluating, and approving requests for large, complex data processing equipment, software, communication, office automation systems and contract services.

The class concept for the Computer Acquisition Analyst 1 classification states as follows:

The developmental level class works under general supervision & requires working knowledge of computer science field, agency procurement methods & computer hardware systems in order to review & evaluate data processing hardware, software for agencies with elementary data processing requirements & assist higher-level acquisition analysts in determining requirements for new systems for all state agencies or county departments of job & family services, children services boards & child support enforcement agencies on multiple types of computer hardware, software & emerging technologies & in determining proper purchasing authority for each request.

The class concept for the Computer Acquisition Analyst 2 classification states as follows:

The full performance level class works under general supervision & requires considerable knowledge of multiple disciplines in computer science & computer hardware & software systems in order to review, analyze & approve requests for data processing equipment & software services from multiple state agencies or county departments of job & family services, children services boards & child support enforcement agencies.

Upon examination of the class concepts and illustrative job duties of the job classifications cited above and the evidence regarding Appellant's job duties, I find that Appellant's position is most accurately described by the Sourcing Analyst classification specification. The evidence indicates that Appellant meets the class concept for the Sourcing Analyst and performs a substantial number of the illustrative job duties set forth in this classification specification.

The evidence establishes that Appellant's most important and time consuming job duty is to respond to requests from IT network supervisors and infrastructure specialists to order software and hardware, IT services, and IT maintenance. Appellant

does not evaluate what is needed by the IT requestor or make any determinations regarding the optimal software and hardware requirements. Instead, Appellant ensures that IT requests and solicitations follow the agency's established sourcing procedures/processes, including whether the request falls within the state's minimum CPU standards; whether the request can be procured from a vendor through ODAS' State Term Schedule (STS) or other authorized contract; whether prices fall within the STS price lists; the type of solicitation that best suits the particular need, such as an RFP or RLB; whether the quote includes all the items requested in the bid; whether the Controlling Board will be required and/or a release and permit is necessary; and whether the offering could be made as a Minority Business Enterprise set aside. Appellant evaluates suppliers based on price, quality, selection, service, support, availability, reliability, reputation, history, and numerous other qualities.

With regard to RFPs, the evidence establishes that Appellant serves as a point of contact for the ODAS IT Analyst by gathering the contractor requirements. Once a vendor is selected, Appellant compiles the information to submit for a Release and Permit from ODAS-OIT. Appellant responds to any of ODAS OIT's follow-up requests. ODAS awards RFPs for ODJFS OIS. With regard to RLBs, the process is generally the same; however, the ODAS OIT Analyst is not involved. Rather, ODJFS OIS staff works with procurement staff in creating and editing the contractor opportunity documents.

I find that Appellant fulfills the class concept for the Sourcing Analyst classification specification as the evidence discussed above shows that Appellant spends the majority of her work time responding to ODJFS IT network supervisors' and infrastructure specialists' requests for IT goods/services. Appellant develops timely and accurate procurement solicitations for those goods/services that convey to potential suppliers an accurate description of the goods/services needed and the necessary steps and requirements for submitting proposals or responses. Additionally, the evidence shows that Appellant performs a substantial number of the illustrative duties listed in the Sourcing Analyst classification specification. However, further classifications were considered to determine whether there is another job classification that provides a more accurate description of Appellant's assigned job duties.

The second classification considered was Senior Sourcing Analyst. The evidence shows that Appellant does solicit and evaluate proposals, make recommendations, and monitor supplier performance to some degree; however, the evidence also shows that Appellant's authority is limited to ensuring the sourcing process is followed. The evidence reveals that Appellant does not perform the types of job duties required of a Senior Sourcing Analyst. Specifically, Appellant does not design and coordinate supplier prequalification tools and methods. Appellant does not monitor supplier performance to develop specifications for IT equipment. Appellant does not evaluate and make recommendations concerning proposed exceptions to terms or scope and proposed improvements over what was requested by IT staff. Appellant does not establish project plan pacing and scope. Appellant does not draft complex analysis results and award recommendations with a rationale. Appellant does not handle overrun issues. As noted

above, Appellant responds to requests from IT network supervisors and infrastructure specialists to order software and hardware, services, and maintenance. Appellant does not evaluate what is needed by the IT requestor or make any determinations regarding the optimal software and hardware requirements. Therefore, the Senior Sourcing Analyst classification specification does not provide an accurate description of Appellant's job duties.

The third classification considered was Sourcing Planner. This classification is not appropriate for Appellant's position as no evidence was presented to establish that Appellant acts a lead worker to research, evaluate, and plan a comprehensive portfolio of contracts and purchasing based on past performance, future needs, and strategic direction. While Appellant provides some guidance or direction regarding the state's procurement processes and data entry in OAKS and REMEDY, Appellant's responsibility in this regard does not qualify her as a lead worker nor does it establish that she is responsible for planning a comprehensive portfolio of contracts as described by the Sourcing Planner classification.

The final classifications considered were the first two levels in the Computer Acquisition Analyst classification series. The class concept for the Computer Acquisition Analyst 1 classification requires the incumbent to review and evaluate data processing hardware and software for agencies with elementary data processing requirements and assist higher-level acquisition analysts in determining requirements for new systems. The class concept for the Computer Acquisition Analyst 2 classification requires the incumbent to review, analyze, evaluate, and approve requests for acquisition of data processing hardware, software, education, and consulting services from multiple state agencies or county departments of job and family services, children services boards and child support enforcement agencies.

The Computer Acquisition Analyst duties describe a broader scope of authority than that exercised by Appellant. While Appellant has responsibility for soliciting bids, reviewing state term contracts, and preparing documentation for controlling board actions related to the purchase of computer hardware and software for ODJFS, no evidence was presented to establish that Appellant determines requirements for new hardware, software, or communication systems or determines modifications, enhancements, or upgrades to existing software as described by the Computer Acquisition Analyst 1 and 2 classification specifications. Although Appellant is responsible for obtaining the best price for the requested goods, the IT goods/services ordered by Appellant are determined by IT staff via their requests. Therefore, Appellant's participation in the acquisition of IT goods and services is limited to the sourcing process, it does not encompass review, analysis, and approval of IT acquisitions as contemplated by the Computer Acquisition Analyst classification series.

Additionally, the record reveals that the job duties assigned to Appellant do not include the types of job duties described in the Computer Acquisition Analyst 1 or 2 classification specifications. No evidence was presented to establish that Appellant is

responsible for evaluating and suggesting new equipment or changes/upgrades to old equipment. No evidence was presented to establish that Appellant provides technical assistance for data processing projects that involve large numbers of technical variables, performs needs assessment and feasibility studies of computer operations and technical requirements, writes technical specifications for hardware, software and related good acquisitions, provides advantages/disadvantages of a large variety of data processing areas, evaluates new hardware and software, or consults with management to solve complex data processing problems. Therefore, since Appellant does not perform job duties of the scope and nature described by the Computer Acquisition Analyst 1 or 2 classifications, it would not be appropriate to reclassify Appellant's position in either of these classifications.

Therefore, because the evidence established that Appellant meets the class concept for the Sourcing Analyst classification and performs job duties that are most accurately described by this job classification, I respectfully recommend that the Ohio Department of Administrative Services' determination that Appellant's position is properly classified as Sourcing Analyst, classification number 64512, be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.


Elaine K. Stevenson
Administrative Law Judge