

November 27, 2007

RE: Richard Carlson v. Department of General Administration (GA)
Allocation Review No.ALLO-07-030

Dear Mr. Carlson:

The Director's review of GA's allocation determination of your position has been completed. The review was based on the written documentation you submitted with your April 4, 2007, request for review. GA determined that your position was properly allocated to the Contracts Specialist 1 classification. You asked for a Director's review of GA's determination. You believe that your position should be reallocated to the Contracts Specialist 2 classification.

Background

On January 4, 2007, you submitted a Position Review Request form to your supervisor. You signed the form on January 4, 2007. On February 8, 2007, your supervisor provided his comments and the form was received by GA's Human Resources Office.

Liz Maguire, Senior Human Resource Consultant for GA, reviewed your position and determined that it was properly allocated to the Contracts Specialist 1 classification. You were informed of this determination by letter dated March 13, 2007. On April 4, 2007, you requested a Director's review of GA's determination.

By letter dated October 23, 2007, Karen Wilcox, the Director's Review Coordinator, informed the parties that the review of your position would be conducted based on the documents provided by the parties. Ms. Wilcox set an exhibit deadline of November 16, 2007, for submission of additional documentation. Neither you nor GA submitted additional documentation.

Summary of Mr. Carlson's Perspective

In your April 4, 2007, letter, you argue that GA and your supervisor failed to follow the process contained in the published Department of Personnel "Guide to Completing the Department of Personnel Position Review Request" and that GA's human resource staff failed to meet the guaranteed response dates that they provided to you. You also argue that your supervisor disagreed with your Position Review Request form but failed to meet with you to discuss your request.

You contend that you are responsible for 11 contracts, two of which are Western State Contracting Alliance contracts used by numerous states and political subdivisions throughout the United States. One of the contracts you developed, awarded and implemented required the involvement of several other states and the Western State Contracting Alliance. You assert that this contract exceeds the level of statewide contract management typically performed at the Contracts Specialist 1 level. In addition, you assert that all of the contracts assigned to you exceed an annual term worth of \$100,000 and that even if your position was allocated to the Contracts Specialist 2 level, every one of your contracts would still require review and approval by your supervisor.

You contend that your January 20, 2006, Contracts Specialist 2 test score notice and your March 2006 – July 2006 Performance Development Plan establish that you are qualified for the Contracts Specialist 2 level. You believe that your assigned duties and responsibilities and your performance and experience meet the Contracts Specialist 2 classification and that your position should be reallocate.

Summary of GA's reasoning

In their letter denying your reallocation request, GA relies on the input of your supervisor. Your supervisor agrees that the duties described by Contracts Specialist 1 and 2 classifications are similar. But he indicated that at the 1 level, positions have statewide management of a group of assigned goods and services and normally have signing authority which allows for independent processing of small contracts and single purchase requisitions. Your supervisor further indicated that at the 2 level, positions make independent decisions regarding contracts and exercise signing authority of \$100,000. GA argues that your supervisor certified that you have no signing authority and you do not exercise any independent decision-making regarding awarding contracts. Therefore, because you have not been delegated these authorities, GA determined that your position does not qualify for reallocation to the Contracts Specialist 2 classification.

Director's Determination

In your request for review, you expressed frustration with the length of time involved in the review process, the lack of response from your supervisor and GA's Human Resources Office, and GA's failure to comply with Department of Personnel guidelines for processing requests for review. The procedures and timelines to which you referred are found in guidelines. They are not rules which require compliance by either party. Furthermore, your position is covered by the Collective Bargaining Agreement (CBA) between the Washington Federation of State Employees and GA. Therefore, the terms and conditions of your employment are governed by the CBA, not by the merit system rules. GA's alleged failure to comply with published Department of Personnel guidelines is not a matter subject to review through the Director's review process. (See WAC 357-49-010)

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of

the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

As the Director's designee, I carefully reviewed all of the documentation in the file including your letter requesting a review of GA's determination and your attachments to the letter. Based on my review of the documents, the available classifications, and my analysis of your assigned duties and responsibilities, I conclude that your position is properly allocated to the Contracts Specialist 1 classification.

Rationale for Determination

The definition for the Contracts Specialist 1 classification states that positions allocated to this class perform "the first level of professional contract administration work with responsibility in the administration of routine contracts, interagency agreements, leases and letters of understanding to provide or obtain services or goods for the agency."

In summary, positions at the 1 level typically develop, negotiate, and administer contracts, initiate competitive bid projects including developing specifications and terms, obtain signatures of parties to agreements or signatures of authorized agents, review performance and evaluate compliance with terms of contracts identifying areas of non-compliance requiring correction, and advise departmental divisions and staff members on procedures involved in contracting for goods or services.

The definition for the Contracts Specialist 2 classification states that positions allocated to this class perform "the journey level of professional contract administration with responsibility in the negotiation and preparation of complex contracts, interagency agreements, leases and letters of understanding to provide or obtain services or goods for the agency, including technical contract support activities such as contract cost/price analysis, contract compliance administration or contract property administration."

In summary, positions at this level typically arrange for or analyze proposals, negotiate with parties on terms and conditions establishing reasonable cost levels, equitable fees and profits, reporting dates and alternative proposals, obtain necessary signatures of parties to agreements, assure compliance with the terms of contracts, and resolve problems concerning the obligations of either the State or private concerns.

The 1 and 2 levels describe the same fundamental duties. However, the 2 level has a higher level of responsibility in that positions at this level are seasoned professionals in contract negotiations dealing with complex contracts and agreements and performing technical contract support activities. At the 1 level, incumbents deal with routine contracts and agreements. In addition at the 2 level, incumbents resolve problems while at the 1 level, incumbents identify problems.

I have thoroughly reviewed both the Contracts Specialist 1 and 2 classifications and I find no reference to signing authority as suggested by your supervisor. In regard to your supervisor's reference to independent decision making regarding awarding contracts, the classifications contain

no direct reference to this as an allocating criteria. Rather the Contracts Specialist 1 performs first level professional work while the 2 performs journey level professional work.

The Department of Personnel Glossary of classification terms provides guidance on professional level and journey level work. The Glossary of terms defines professional level work as:

Work (a) requires knowledge of an advanced type in a field of science or learning customarily obtained by a prolonged course of specialized instruction or study; or (b) is original and creative in character in a recognized field or artistic endeavor and the result of which depends on invention, imagination, or talent. Duties are predominately intellectual as distinguished from routine or mechanical. Discretion and independent judgment must be exercised in carrying out assignments.

The Glossary of terms defines journey level work as:

Fully competent and qualified in all aspects of a body of work and given broad/general guidance, can complete work assignments to standard under minimal supervision. Also referred to as the *working* or *fully qualified* occupational level.

Passing your test for the Contracts Specialist 2 class with a score of 100% is admirable and shows that you demonstrated the knowledge and skills needed to pass the test. However, it does not show that you are assigned or are performing the higher level work.

In his February 8, 2007 email, your supervisor indicated that you were gaining experience but he felt that you were not performing at the 2 level. Your supervisor also indicated that you "touch base at each step" in the process. In the July 2006 interim review comments on your Performance and Development Plan (PDP), your supervisor indicated that you had learned the basics of your commodity, that your development was continuing and that you were making good progress. In summary, your PDP indicated that the Key Results Expected for you between July 2006 and July 2007 were continuing to learn and understand contract administration and processes. In the Supervisor Review section of your Position Review Request form, your supervisor indicated that you work under close supervision. This information establishes that at the time of your January 8, 2007 request for review, you were functioning in a learning mode and had not yet reached the level of performing professional journey level work as required for reallocation to the Contracts Specialist 2 level.

In summary, the majority of your duties described in Position Review Request and your Position Description form indicate that at the time of your request for review, the key activities of your position were:

25% Performing market analysis and needs assessments to identify new contracting possibilities; coordinating consolidation of purchasing; developing contracts and determining appropriate courses of action; and evaluating input on contract specification development and contract award.

25% Finalizing contracts and one time purchases; selecting vendors for bid distribution; conducting pre-bid conferences; analyzing and evaluating returned bids or proposals; evaluating supplier demonstrations; rejecting bids; and executing contracts.

25% Performing ongoing contract and contractor evaluations; directing corrective actions; and composing and coordinating correspondence as appropriate.

8% Meeting with contractor and customers to resolve issues; attending or presenting at trades shows and conferences; staying current on trends; and communicating with suppliers.

5% Consulting with state customers and forecasting cost projections.

Your duties, responsibilities and level of independence fit within the Contracts Specialist 1 classification. Under direct supervision, you perform contract administration work. You develop, negotiate, and administer contracts, initiate competitive bid projects including developing specifications and terms, review contractor and vendor performance and evaluate compliance with terms of contracts identifying areas of non-compliance requiring correction, and advise customers on procedures involved in contracting for goods or services.

I realize this has been a lengthy process, and if you, your supervisor or your managers believe your duties and level of responsibility have changed or expanded, you may request a review of your current duties and responsibilities in accordance with the provisions of the CBA and GA's reallocation procedure. However, based on the duties and level of responsibilities assigned to your position in January 2007, your position is properly allocated to the Contracts Specialist 1 classification.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board by filing written exceptions to the Directors' determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the Board within thirty (30) calendar days after service of the Directors' determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Holly Platz, SPHR
Director's Review Investigator

cc: Liz Maguire, GA
Lisa Skriletz, DOP