



B-22

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Thomas McCarthy,
Department of Environmental
Protection

Classification Appeal

CSC Docket No. 2015-2107

ISSUED: **JUN 23 2015** (HS)

Thomas McCarthy appeals the attached decision of the Division of Agency Services (Agency Services), which found that his position with the Department of Environmental Protection (DEP) is properly classified as a Contract Administrator 2. He seeks a Contract Administrator 3 job classification in this proceeding.

The appellant received a regular appointment to the title of Contract Administrator 2 on January 20, 2005. In June 2014, the appellant requested a classification review of his position located in Project Development, Coordination and Policy, Municipal Finance Construction Element, Division of Water Quality, Water Resource Management, DEP.¹ Agency Services received the request and performed a review of the appellant's Position Classification Questionnaire (PCQ). In its decision, Agency Services indicated that the appellant was supervised by Scott Shymon, Section Chief, Environmental Protection, and did not have any direct supervisory responsibility, as he did not complete employee performance evaluations. Agency Services' review found that the appellant: reviewed requests for grant modifications, prepared grant amendments and made recommendations regarding approval; reviewed, processed and recorded payment requisitions and grant documents; prepared reports and summaries regarding grant status; conducted grant close-out activities which included final payments, re-budgeting

¹ The appellant submits that his work unit is actually called the "Policy, Program Development and Administration Section," rather than "Project Development, Coordination and Policy." However, included in the record is a document labeled "OFFICAL DEP ORGANIZATIONAL CHART," dated April 15, 2014, which refers to the unit as "Project Development, Coordination and Policy."

and grant decreases as necessary; conducted program audits; provided technical expertise required for the completion of loan exhibits; and inputted grant data which included technical and financial information gathered during consultations. Agency Services also noted that the appellant's position may perform lead worker duties such as assigning and reviewing the work of other employees and providing information to supervisory staff on the progress of other employees. Based on the foregoing, Agency Services found that the appellant's assigned duties and responsibilities were commensurate with the title of Contract Administrator 2, the title he currently holds.

On appeal, the appellant presents several arguments that his position carries the requisite direct supervisory responsibility warranting a Contract Administrator 3 classification of his position. Initially, the appellant points to his most recent Performance Assessment Review (PAR), which states that one of his major goals is to take part in the supervision and training of lower level staff by assigning work; providing instruction on policies and procedures and guidance; responding to inquiries; and supervising and checking assigned work for accuracy and completeness. The appellant also points to his PCQ, which noted that he worked independently; assisted and participated in the training of lower level personnel; regularly supervised other employees; reviewed the completed work of employees supervised; spent approximately 20% of his time directly supervising other employees; and supervised J.H., Contract Administrator 2, for several years and provided "evaluations" to the Section Chief as requested. The appellant argues that although he does not prepare and sign PARs, this should not control the classification determination. In this regard, he argues that even though all of the employees in his unit are in the same "P," or professional, bargaining unit, he acts as a *de facto* supervisor. He further avers that preparing and signing an employee's PAR requires an insignificant amount of time and effort compared to the time and effort expended in directly supervising work, and therefore, Agency Services' decision was only a matter of semantics. In addition, the appellant posits that DEP policy contemplates "dual supervision" for situations where an employee receives work from more than one supervisor. In such situations, the policy recommends that one supervisor take the lead and coordinate work assignments; however, only one supervisor is to prepare and sign the PAR. The appellant claims that he was in precisely such a "dual supervision" situation with respect to J.H., whose PAR was prepared by Mr. Shymon. Furthermore, the appellant contends that the position of K.P., Contract Administrator 3, was reclassified based on supervisory experience that was identical to the appellant's. Finally, the appellant states that he applied for a promotional examination for the title of Contract Administrator 3 and is currently on the eligible list.² He notes that the experience requirement for

² Agency records indicate that the appellant applied for, and was admitted to, the promotional examination for Contract Administrator 3 (PS7765G), which had a closing date of May 21, 2013. The resulting eligible list promulgated July 18, 2013 and expires July 17, 2016. There are currently two active eligibles, including the appellant, on that list.

Contract Administrator 3, per the job specification, includes one year of supervisory experience including preparation of employee evaluations of staff. The appellant argues that since he was admitted to that examination and his education and experience was reviewed therein, this agency has already concluded that he was doing supervisory work, and therefore, the classification determination was in error. In support, the appellant submits letters of support from Eugene Chebra, Manager 3 Environmental Protection Technical/Scientific/Engineering, and Mr. Shymon; his PCQ; his PARs dated May 15, 2014 and May 21, 2013, respectively; e-mail correspondence with this agency; and excerpts from the DEP's "Performance Assessment Review (PAR) Handbook."

CONCLUSION

The definition section of the job specification for Contract Administrator 3 states:

Under direction of a supervisory official, oversees, reviews, and administers various State contracts and/or grants, and provides the technical expertise required for contract and/or grant preparation, fiscal administration, procurement, allocation and/or monitoring; exercises controllership, approval rights and responsibilities, and supervises activities and staff involved in the administration of statewide construction and/or professional service contracts; does other related work.

The definition section of the job specification for Contract Administrator 2 states:

Under the general supervision of a supervisory official, administers and exercises review and/or approval authority over various contracts and/or grants; provides technical assistance in contract and/or grant preparation, control, monitoring, amendment, and/or evaluation; as appropriate, exercises controllership and approval rights and responsibilities in the area of contract and/or grant administration; and/or processes contracts for multiple divisions, projects and/or programs, may be assigned to review the work of lower level contract administration and support staff; does other related duties.

In the instant matter, Agency Services found that the appellant's position was properly classified as a Contract Administrator 2. A Contract Administrator 2 may function as a lead worker. Although the appellant asserts that he performs supervisory duties, the record does not reflect that he does. The Civil Service Commission (Commission) and its predecessor, the Merit System Board, have consistently found that the essential component of supervision is the responsibility

for the administration of formal performance evaluations for subordinate staff. See *In the Matter of Harry Corey, et al.* (MSB, decided September 21, 2005). Supervisors are responsible for making available or obtaining materials, supplies, equipment, and/or plans necessary for particular tasks. They provide on-the-job training to subordinates when needed, and make employee evaluations based on their own judgment. They also have the authority to recommend hiring, firing and disciplining employees. See *In the Matter of Julie Petix* (MSB, decided January 12, 2005). However, providing training and assigning and reviewing the work of lower-level employees without the responsibility for formal employee performance evaluations would be considered lead worker duties. Incumbents in the title of Contract Administrator 2 may work as lead workers. It is emphasized that taking the lead is not considered a supervisory responsibility. In this regard, leadership roles refer to persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. See *In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). Lead worker duties are akin to those of a supervisor in many respects, absent the responsibility for formal performance evaluations that can lead to the effective hiring, firing or demotion of a subordinate. See *In the Matter of Elizabeth Dowd, et al.* (MSB, decided February 9, 2005). In the present case, the appellant does not have the responsibility of supervising staff but instead acts as a lead worker by training, advising, and assigning and reviewing work. The appellant argues that his performance of such duties should have been sufficient to find that he supervises since, in his view, preparing and signing PARs requires a comparatively insignificant amount of time and effort. However, it should be emphasized that performance evaluation authority is a reasonable standard because it is the means by which it can be demonstrated that a supervisor can exercise his or her authority to recommend hiring, firing and disciplining subordinate employees. Simply stated, the actual authority and exercise of performance evaluation of subordinate staff is what makes a supervisor a supervisor. Performance evaluation of subordinates, and its myriad of potential consequences to the organization, is the key function of a supervisor which distinguishes him or her from a "lead worker." See *In the Matter of Alexander Borovskis, et al.* (MSB, decided July 27, 2005). As such, the fact that the appellant does not prepare and sign PARs provided a substantive basis for Agency Services' decision.

The appellant also contends that his admittance to the Contract Administrator 3 (PS7765G) examination and placement on the resulting eligible list conflicts with the classification determination. However, it should be noted that an employee's qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees, are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009). Thus, the appellant's admittance to the

examination and placement on the resulting eligible list do not indicate error in Agency Services' decision.

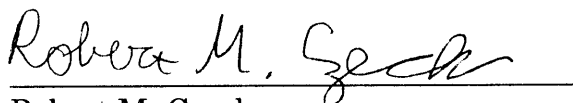
The appellant further argues that the position held by K.P. was reclassified to Contract Administrator 3 based on supervisory experience identical to his. However, it should be noted that a classification appeal cannot be based on a comparison to the duties of another position. *See In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Nevertheless, agency records indicate that the classification review of the position held by K.P. revealed that that position was responsible for evaluating staff performance by completing performance evaluations, unlike the present matter. Thus, the reclassification of K.P.'s position also does not evidence error in the classification of the appellant's position. Accordingly, a review of the entire record establishes that the appellant's position is properly classified as Contract Administrator 2.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17TH DAY OF JUNE, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
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P.O. Box 312
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Attachment

- c. **Thomas McCarthy**
Deni Gaskill
Kenneth Connolly
Joseph Gambino



CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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P. O. Box 313
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ROBERT M. CZECH
Chair/Chief Executive Officer

December 5, 2014

Mr. Thomas McCarthy
New Jersey Department of Environmental Protection
Water Resource Management
Division of Water Quality
Municipal Finance & Construction Element
401 East State Street
P.O. Box 420, Mail Code 401-02B
Trenton, New Jersey 08625

Re: Classification Appeal
Contract Administrator 2
Position #098706
CPM #06140363
Employee ID # [REDACTED]

Dear Mr. McCarthy:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. Our review involved a detailed analysis of the Position Classification Questionnaire you completed, which was reviewed and signed by Scott Shymon, Section Chief, Environmental Protection (S30).

Issue:

You are appealing the current classification of your position, (098706) Contract Administrator 2 (51252, P26). You contend that the title Contract Administrator 3 (51250, R29) more accurately classifies the current duties and responsibilities assigned to your position.

Organization:

The position is located in Project Development, Coordination, and Policy, Municipal Finance Construction Element, Division of Water Quality, Water Resource Management, Department of Environmental Protection. You are supervised by Scott

Shymon, Section Chief, Environmental Protection (S30) and you have no direct supervisory responsibility.

Finding of Fact:

The primary responsibilities of the position include, but are not limited to, the following:

- Reviews requests for grant modifications, prepares grant amendments, and makes recommendations regarding approval.
- Reviews, processes, and records payment requisitions and grant documents.
- Prepares reports and summaries regarding grant status.
- Conducts grant close-out activities which include final payments, re-budgeting, and grant decreases as necessary.
- Conducts program audits and may also assist the Office of Audit with the resolution of findings.
- Provides technical expertise required for the completion of loan exhibits.
- Inputs grant data which includes technical and financial information gathered during consultations.

Review and Analysis:

The duties and responsibilities of the position were compared to those described within the class specification for Contract Administrator 2 and Contract Administrator 3.

The definition section of the specification for the title, Contract Administrator 2 (P26, 51252), states:

“Under the general supervision of a supervisory official, administers and exercises review and/or approval authority over various contracts and/or grants; provides technical assistance in contract and/or grant preparation, control, monitoring, amendment, and/or evaluation; as appropriate, exercises controllership and approval rights and responsibilities in the area of contract and/or grant administration; and/or processes contracts for multiple divisions, projects and/or programs, may be assigned to review the work of lower level contract administration and support staff; does other related duties.”

A Contract Administrator 2 develops and/or administers contracts for the provision of services. Incumbents in this position may exercise review and approval authority over purchase of proposals and contract/grant modifications. A Contract Administrator 2 provides technical assistance in the areas of proposal/contract preparation review and approval control, and contract/grant monitoring, modification, amendment, and closeout. A Contract Administrator 2 may review the work of lower level staff.

The definition section of the specification for the title, Contract Administrator 3 (R29, 51250), states:

"Under direction of a supervisory official oversees, reviews, and administers various state contracts and/or grants, and provides the technical expertise required for contract and/or grant preparation, fiscal administration, procurement, allocation, and/or monitoring; exercises controllership, approval rights and responsibilities, and supervises activities and staff involved in the administration of statewide construction and/or professional service contracts; does other related work."

A Contract Administrator 3 supervises and administers the development of contracts for the provision of services, conducts the solicitation or Request for Purchase (RFP) bidding process, conducts on-site audits, and provides consultation and expertise to using agency management. Incumbents in this title supervise the development of procedure manuals and policy transmittals of financial and administrative contracting guidelines in accordance with applicable laws and regulations. Incumbents in this title supervise the resolution of problematic audit findings. In addition, the Contract Administrator 3 supervises staff involved in the administration of contracts. Supervision includes conducting performance evaluations of subordinate staff.

Your position serves as a grant and loan administrator. In this capacity, you review and evaluate grant proposals and loan applications and recommend necessary modifications or approvals. Your position develops and utilizes a standardized system to review, process, and record payment requisitions. Your position records detailed data from all vendor invoices. Your position prepares reports and summaries regarding grant status. Your position conducts program audits.

While your position may assign and review work of lower level staff, your position does not complete employee performance evaluations. Therefore, Contract Administrator 3 is an inappropriate classification for the functions of this position. A Contract Administrator 2 may function as a lead worker which includes assigning and reviewing work of other employees, and providing information to supervisory staff on the progress of other employees.

Your duties fall within the scope of a Contract Administrator 2.

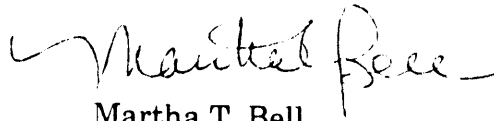
Determination:

By copy of this letter, the Appointing Authority is advised that your position is properly classified as Contract Administrator 2 (P26, 51252).

The class specification for Contract Administrator 2 title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Martha T. Bell
Human Resource Consultant 5
Classification and Personnel Management

MTB/rdd
C: Robin Liebiskind
Joseph Siracusa
CPM #06140363