

STATE OF WISCONSIN

PERSONNEL COMMISSION

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BONNIE L. MILLER,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 95-0077-PC

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ORDER

The Commission, after reviewing the Proposed Interim Decision and Order and the objections thereto, and consulting with the hearing examiner, does not adopt the Proposed Interim Decision and Order. The Commission instead issues the following Decision and Order. In reaching this decision, the Commission did not reverse or discount any credibility determination made by the hearing examiner.

This matter is before the Commission as an appeal from a decision re-locating the appellant's position to the Purchasing Agent Supervisor 2 (PAS 2) classification rather than the Purchasing Agent Supervisor 3 (PAS 3) classification, effective March 19, 1995, which was the effective date of a classification survey.

The relevant definitions from the PAS class specifications are set out below. At the commencement of the hearing, the parties agreed that some of the language at the PAS 2 and 3 levels applied, without qualification, to the appellant's responsibilities. That language is set out below in italics.

PURCHASING AGENT SUPERVISOR 2

This is responsible work supervising administrative support functions *such as the stores operation, fiscal support, and other clerical support activities at University of Wisconsin System Campuses, Health and Social Services Institutions, or other agencies with similar organizational structures.* In addition, positions

in this class function as the purchasing agent for the institution and are granted authority to perform activities *such as developing generic bid specifications* and developing, conducting, and awarding sealed bids. *These activities include developing, reviewing and approving justification for bid waivers within delegated authority; developing Requests for Authority; providing agency staff and management with training and advice regarding policies and practices; and conducting product research and effectively recommending standards for agency use. The individuals in this class are expected to function independently in their decision-making. The work is performed under general supervision.*

PURCHASING AGENT SUPERVISOR 3

This is responsible work supervising professional purchasing agents in areas such as a large department on the UW-Madison campus, e.g., the Physical Plant or the UW Hospital and Clinics central purchasing operation. Positions in this class manage the purchasing activities with responsibility for the development of internal policies and procedures and the provision of senior level purchasing services which involves the most complex commodities and services. The individuals in this class function independently and have broad latitude in the scope of their decision-making. The work is performed under general supervision.

PURCHASING AGENT SUPERVISOR 4

.... Positions allocated to this classification supervise purchasing agents and are primarily responsible for the development and coordination of internal policies and procedures.

The appellant's position description includes the following position summary:

This position supervises a "delegated purchasing area" which is responsible for procurement of all required commodity areas and contractual services for staff and users for the Kegonsa Research Campus (KRC) of the University of Wisconsin - Madison. This position oversees the procurement and inventory of \$9 million in commodities and contractual services in all commodity areas and functions under the general supervision of the Business Services Manager.

KRC is a collection of research-oriented facilities in one location. KRC is part of the UW-Madison campus, in the same way as are the "Engineering Campus" and the "Agriculture Campus." KRC includes the Physical Sciences Laboratory (PSL) which designs and constructs highly specialized, and in many cases unique scientific instruments; the Synchrotron Radiation Center

(SRC) which is a national research facility that provides a light source used for basic research; the Center for X-ray Lithography (CXrL) which is another research facility using the SRC radiation source as a mechanism for exposing silicon wafers as part of the semiconductor manufacturing process; a medical physics research group; and a boat storage facility for the UW-Madison's Limnology Department.

The administration at KRC is "shared" by the PSL and SRC and used by the other facilities, rather than maintaining separate administrative staffs for both PSL and SRC. This results in additional complexities in terms of accounting codes which must be applied by the purchasing staff. In addition, a wide variety of the funding sources also affects the complexity of those accounting codes.

The organizational charts for PSL and SRC indicate that approximately 110 persons are employed at these two facilities.

The appellant supervises two Purchasing Agents (Carmen Tortorici and Lois Fosdal)¹, one Program Assistant 1, one Stock Clerk and one Motor Vehicle Operator - Light.

The appellant's purchasing operation has been delegated the authority to make purchases in amounts up to \$10,000, without formal review and approval by UW-Madison's central purchasing operation. Purchases above that amount must be handled through central purchasing.

Many of the items to be purchased by the purchasing unit are highly complex scientific materials, components and instruments. Typically, the researcher or engineer who initiates the purchase request provides all of the very technical specifications and in less than 30% of the time may also list a possible vendor.

The appellant maintains a list of approved machine shop vendors. Before any shop can be added to this list, it is toured by a member of the PSL engineering staff or the supervisor of the PSL instrument shop.

¹At the time of the survey, Mr. Tortorici and Ms. Fosdal were both classified at the Purchasing Agent class level, as compared to the higher Purchasing Agent Objective and Senior class levels. Ms. Fosdal had been hired in late-February of 1995. She filled a vacant position which had most recently been filled on a permanent basis by an employee classed at the Purchasing Agent Objective level. KRC opted to fill the vacancy at the lowest level, but did so with the hope that the incumbent would gain expertise so as to justify classification at the Objective level. However, the Purchasing Agent series is not a progression series as defined in §ER 1.02(32), Wis. Adm. Code.

The two purchasing agents and the appellant do not divide their responsibilities according to commodity areas. However, if a request is for a complex item, the request goes to the appellant who decides whether she or one of the two purchasing agents will handle it. The appellant reviews and signs all requisitions before they leave purchasing.

Discussion

The PAS classification specifications provide a framework for distinguishing among the classifications within the PAS series: PAS 2 positions supervise an administrative support function and perform the duties of a purchasing agent; PAS 3 positions supervise purchasing agents and perform the duties of a purchasing agent; and PAS 4 positions supervise purchasing agents but are primarily responsible for developing and coordinating internal policies and procedures rather than performing hands-on purchasing duties. If these were the only distinctions drawn by the classification specifications, the classification of positions within the PAS series would be relatively straightforward. However, even though these appear to be the primary distinctions among the classifications, the specifications provide additional language which renders the distinctions among the classifications less clear. As a result, the Commission relied upon not only the language of the classification specifications, but also upon a comparison of the duties and responsibilities of appellant's position with those of positions classified at the PAS 2 and PAS 3 levels in deciding this appeal.

Appellant's position supervises both administrative support positions and purchasing agent positions and does so for a relatively small unit of the UW-Madison campus. Utilizing the classification framework described above, this would satisfy elements of both the PAS 2 and PAS 3 classifications. The fact that appellant's unit's purchasing responsibilities involve a significant proportion of highly complex scientific instruments also appears consistent with certain language of the PAS 3 classification specification. It should be noted, however, that it would not be enough for appellant to show that her position meets some of the requirements for classification at the PAS 3 level. Appellant would have to show instead that the PAS 3 classification is a better fit for her position than the PAS 2 classification.

There are two components of the PAS 3 specification which appellant has failed to show that her position meets. First of all, the record does not show that the purchasing responsibilities of appellant's position are performed for a unit "such as" the UW-Madison Physical Plant or the UW Hospital and Clinics central purchasing operation. The record includes the position description (Resp.'s Exh. 5) of the PAS 3 position at UW Hospital and Clinics Purchasing occupied at the time of hearing by Brian Lester. This position functions as the immediate supervisor of four Purchasing Agent-Objective positions. The record also indicates that UW Hospital and Clinics includes approximately 2000 employees, a purchasing budget of approximately \$120 million annually, and unlimited delegation of purchasing authority. This contrasts with appellant's supervision of two Purchasing Agent positions (this is a lower classification level than Purchasing-Agent-Objective), the 110 employees of the KRC, the KRC's purchasing budget of \$9 million, and the limit of \$10,000 on the KRC's delegated purchasing authority. The record contains little information on the purchasing function at the UW-Madison Physical Plant other than its organizations structure, a limit of \$5,000 on delegated purchasing authority, and a purchasing budget in excess of \$40 million annually. This lack of information prevents a meaningful comparison between the purchasing units of KRC and the Physical Plant. The second component of the PAS 3 specification which appellant has failed to show that her position satisfies is that relating to the performance of "purchasing services which involves the most complex commodities and services." Although the record shows that a significant proportion of the commodities for which the unit appellant supervises is responsible for purchasing consists of highly complex scientific instruments, the record does not show that appellant's position is primarily responsible for serving as the purchasing agent for these "most complex commodities" but rather shows that responsibility for these commodities is shared by appellant's position and the two Purchasing Agent positions.

The Commission concludes that, since appellant's position does not meet the requirements for classification at the PAS 3 level as stated in the specification and is not comparable to the PAS 3 position offered for comparison purposes (the Lester position), it is not appropriately classified at the PAS 3 level.

The duties and responsibilities of appellant's position do satisfy the requirements stated in the PAS 2 specifications. The conclusion that


appellant's position is more appropriately classified at the PAS 2 level is reinforced by a comparison of appellant's position to the PAS 2 position offered in the record for comparison purposes, i.e., the Vera Laufenberg position at UW-Madison's State Consolidated Stores (Resp's Exh. 4). This position supervises a Purchasing Agent, a Purchasing Agent-Objective, and a Clerical Assistant; is assigned commodities which "generally" are "more complex;" and has a \$10,000 limit on delegated purchasing authority. Like appellant's position, this position apparently supervises an administrative support function as well as a purchasing function (and actually supervises a higher level of Purchasing Agent than appellant's position), has the same level of delegated purchasing authority, and is responsible for performing purchasing responsibilities in relation to commodities which are more complex; and, as a result, the Commission concludes that these positions are closely comparable for classification purposes.

Order


The action of respondent is affirmed and this appeal is dismissed.


Dated: April 4, 1996

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM:irm


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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**NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION**

Petition for Rehearing. Any person aggrieved by a final order (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has

Miller v. DER

Case No. 95-0077-PC

Page 8

been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)

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