

B-32



STATE OF NEW JERSEY

In the Matter of Job Banding for	:	FINAL ADMINISTRATIVE ACTION
Software Development Specialist 1	:	OF THE
and 2, and Network Administrator 1	:	CIVIL SERVICE COMMISSION
and 2, Office of Information	:	
Technology	:	
	:	
CSC Docket No. 2016-561	:	Job Banding Request
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ISSUED: **JUL 31 2015** (CSM)

The Division of Agency Services (Agency Services) requests that the Software Development Specialist 1, Software Development Specialist 2, Network Administrator 1, and Network Administrator 2 titles be approved for job banding in the Office of Information Technology in accordance with *N.J.A.C.* 4A:3-3.2A(b).

By way of background, *In the Matter of Job Banding for Human Resource Consultant, Personnel and Labor Analyst, State Budget Specialist, and Test Development Specialist Title Series* (CSC, decided May 16, 2012), the Civil Service Commission (Commission) established a job banding pilot program for titles utilized exclusively by the Commission and the Department of the Treasury to facilitate advancement appointments of qualified employees to the next higher title level within a job band when a vacancy occurs. The pilot program, which ran from July 1, 2012 to June 30, 2013, is similar to the system that has been successfully used in the Judiciary for nearly 15 years.¹ As a result of the success of the Judiciary job banding model and the pilot program in the Executive Branch, the Commission promulgated rules to implement job banding procedures, where deemed appropriate, for titles utilized in State service. In adopting these rules, the Commission emphasized that the determination regarding the appropriateness of placing certain titles or title series in bands would be done on a case-by-case basis and proceed slowly and carefully. *See* 46 *N.J.R.* 1342. Therefore, in reviewing titles and title series in State service to determine whether they are appropriate for job

¹ The Classification and Compensation System for a Unified Judiciary, as approved by the Commissioner of Personnel Janice Mitchell Mintz, June 30 1998.

banding, *N.J.A.C. 4A:3-3.2A(b)1* specifically requires that the determination be guided by whether a movement from one position to a higher level position may be achieved based on an evaluation of relative knowledge, skills and abilities (KSAs) without resorting to competitive examination procedures, while still satisfying the Constitutional and statutory mandate for merit and fitness in selection and appointments.

In the present matter, Agency Services requests that the Software Development Specialist 1, Software Development Specialist 2, Network Administrator 1, and Network Administrator 2 titles for positions only utilized in the Office of Information Technology be banded. Agency Services explains that the Office of Information Technology submitted a proposal to implement job banding for the above noted titles in order to streamline the appointment process with a more finely calibrated system which considers competencies and job performance. In its proposal, the Office of Information Technology indicated that in 2014, 281 employees participated in a voluntary, anonymous organizational climate survey. Significantly, more than half of the survey participants "strongly disagreed" or "disagreed" with the survey statement, "Civil Service rules and regulations are fair and relevant to OIT." A follow question asked, "What would you change about Civil Service rules and regulations to make them fairer and/or more relevant to OIT?" The Office of Information Technology states that the overwhelming majority of the 109 free-responses indicated:

[N]egative opinions of traditional Civil Service examination and selection procedures, with numerous suggestions calling for a more performance-based approach to selection.

With the results of this survey, as well as issues identified in a comprehensive administrative analysis and succession planning report, the Office of Information Technology developed a job banding proposal for the subject titles that ties advancement to relevant demonstrated skill and competencies. Accordingly, it proposed modified job specifications for the subject titles that include band summaries, definitions, tasks associated with each band level, competencies associated with each band level and minimum requirements.

In support of its request, Agency Services states that it has evaluated the relative KSAs as set forth in the job specifications and has determined that movement to a higher level within the band can be accomplished outside of competitive examination procedures while satisfying the mandate that appointments and promotions be based on merit and fitness. In this regard, its review of the job specifications for the varying levels within the series demonstrates that the key differences between each level relate to the complexity of work performed and the level of supervision received by the incumbent. Moreover, while written examinations may be useful to assess basic skills, such tests are less

effective at measuring the attributes and behaviors that are indicative of an employee's ability to perform more complex work under less supervision. Agency Services maintains that a direct assessment of these qualities via an evaluation of the employee's attainment of predetermined competencies and job performance is a better predictor of future performance and ability to function at a higher level within this title series. Those employees who attain the requisite predetermined competencies can then compete for higher level positions within the band when vacancies occur. Thus, the Constitutional and statutory requirement to determine relative merit and fitness for advancement, via competition, if practicable, is satisfied by job banding as it is based on the attainment of competencies and performance in the workplace. In this regard, Agency Services states that in accordance with *N.J.A.C. 4A:3-3.2A(b)* and *N.J.A.C. 4A:3-3.2A(d)3*, the Office of Information Technology's proposed competencies and advancement appointment selection process have been submitted to the Chairperson for review and approval. Therefore, given that this request is in substantial compliance with *N.J.A.C. 4A:3-3.2A(b)*, Agency Services recommends approval.

In order to implement banding of these titles at the Office of Information Technology only, Agency Services states that it is necessary to create an OIT-specific variant for the subject titles. Therefore, Agency Services has modified the subject job specifications so that positions only within the Office of Information Technology will be classified by the variant title. As soon as administratively feasible, the employees holding permanent status in the Software Development Specialist 1, Software Development Specialist 2, Network Administrator 1 and Network Administrator 2 titles will be cross-walked to the new OIT variant specific title codes. Finally, as there are currently 28 employees serving provisionally pending promotional examination procedures at the Office of Information Technology in the Software Development Specialist 2 title and 2 employees serving provisionally pending promotional examination procedures in the title of Network Administrator 2, Agency Services requests relaxation of *N.J.A.C. 4A:4-1.6(c)* so that these provisional appointments can be converted to interim appointments. Agency Services explains that while there is no closing or phasedown of a government operation, the fact that the Office of Information Technology's old classification and selection process for the subject titles will be phased out provides a basis to relax *N.J.A.C. 4A:4-1.6(c)*.

It is noted that the Office of Information Technology provided notice to the Communications Workers of America (CWA) in compliance with *N.J.A.C. 4A:3-3.3(f)* that it had requested a job specification modification of the subject titles. Additionally, Agency Services notified the CWA that it intended to update the job specifications for the variant specific titles requested. Finally, Agency Services provided notice to the CWA that it was requesting that the provisions of *N.J.A.C. 4A:4-1.6* be relaxed in order to permit interim appointments to the Software Development Specialist 2, OIT and Network Administrator 2, OIT titles.

N.J.A.C. 4A:3-3.2A(b) states:

The Civil Service Commission shall review titles and titles series in State service to determine whether they are appropriate for job banding.

(1) This determination shall be guided by whether a movement from one position to a higher level position may be achieved based on an evaluation of relative knowledge, skills, and abilities without resorting to competitive examination procedures, while still satisfying the State Constitutional and statutory mandate for merit and fitness in selections and appointments.

(2) The Chairperson or designee shall approve a specific number of competencies for each title level that an employee must attain to advance from a lower level title to the next higher level title.

The Office of Information Technology bases its request to band the subject titles on the inability of this agency to adequately test the KSAs required by the Software Development Specialist 1, Software Development Specialist 2, Network Administrator 1, and Network Administrator 2 titles. Indeed, the technical aspects of telecommunications, programming, networking and information titles within the State Classification Plan are so complex and/or change so rapidly that it has proven extremely difficult to develop a test to measure that technical knowledge. In fact, it is clear technology has moved ahead of the State classification plan making it difficult to maintain up-to-date job specifications for programming, networking and information technology titles. As a result, the job specifications become inadequate instruments for recruitment and announcement purposes because they are written too broadly to address the position specific needs for appointing authorities and this agency cannot react quickly enough to provide appointing authorities with lists in this highly competitive and rapidly changing market. As demonstrated below, this agency simply does not have the in-house expertise to develop tests to measure the requisite skills which make it impracticable to test programming, networking, and information technology titles.

This agency has sought alternate ways of addressing the issue over the years, including contracting the examination development function to a private firm that specialized in technology based examination development. However, this has not proven to be a solution. See *In the Matter of Software Development Specialist Promotional Examinations* (MSB, decided July 27, 2005). In *In the Matter of Joyce E. James, Software Development Specialist 2 (PS7470U)*, Office of Information

Technology (CSC, decided August 19, 2009) (rescinding the eligible list for Software Development Specialist 2 since it was unclear if all of the candidates had an equal opportunity to demonstrate their relative merit and fitness).

Further, this agency has struggled to provide the appointing authority with lists that contained enough candidates to fill all of its available positions. After conducting multiple examinations and generating multiple eligible lists for Software Development Specialist 2, each list was exhausted prior to the appointing authority filling all of its promotional positions. See *In the Matter of Irina Eychis, et al., Software Development Specialist 2 (PS7470U), Office of Information Technology* (CSC, decided March 10, 2010) (finding that although provisional appointee served in the title for almost ten years and failed the promotional examination three times, since all of the lists were exhausted and the appointing authority still had positions to fill, the long-term provisional appointment was appropriate).

The difficulty of this agency's ability to conduct promotional examinations for programming, networking and information technology titles was also evidenced in *In the Matter of David Baldasari, et al., Supervisor, Information Technology (PS6403U), Office of Information Technology* (CSC, decided January 19, 2011). In that matter, since Selection Services did not have a test instrument developed within one year of the November 21, 2007 closing date, the examination, as well as subsequent promotional examination for the same title that was announced in December 2009 for the same provisional appointee, was cancelled in accordance N.J.A.C. 4A:4-2.1(d).

More recently, the Commission granted Agency Services' request on behalf of the Office of Information Technology for selective certification procedures to fill positions for Software Development Specialist 2 and Software Development Specialist 3 due to the number of and varying skillsets required for each position, and the rapid evolution on information technology. The Commission agreed that it would be impractical to expect that examination content development could maintain pace with the changes that can be expected to occur within the 32 skillsets." See *In the Matter of Software Development Specialist 2 and Software Development Specialist 3* (CSC, decided June 27, 2013). However, the assembled examinations utilized in the selective certification process reinforce the fact that this agency has difficulty testing programming, networking and information technology skill sets. Indeed, the assembled examinations that ultimately resulted in selective certification tested the general rather than the disparate technical knowledge for each symbol, as the job analysis conducted during the test development process identified 32 different programming language proficiencies required by incumbents the title series. See *In the Matter of Sangeeta Akolar, et al.* (CSC decided May 15, 2013).

Clearly, the rapid changes in information technology and the Office of Information Technology's inability to make permanent promotional appointments from lists produced by this agency, in conjunction with the survey results indicating employee concern with the examination and selection methods used by this agency, are evident in the examination record. Thus, it is obvious that it is necessary to utilize another selection methodology, which is consistent with the Constitutional mandate that promotions be made on the basis of merit and fitness.

As correctly identified by Agency Services, the job specifications for the varying levels within the subject titles demonstrate that the key differences between each level relate to the complexity of work performed and the level of supervision received by the incumbent. For example, the job specification for Software Development Specialist 1 indicates that an incumbent, under close supervision and monitoring, performs analysis, maintenance, programming and support work on modules of existing systems. Conversely, an incumbent in the Software Development Specialist 2 title indicates that an incumbent, under limited supervision, performs analysis, consulting, design, programming, maintenance, and/or support work on software for State or Local government Information Technology services. Stated differently, the only real difference between these levels is the level of complexity of the work performed.

N.J.A.C. 4A:4-1.6 provides in part that:

(b) When an appointing authority makes an appointment to a specific position in State service or a specific title in local service, an interim appointment shall be made where the position/title is held by a permanent employee who:

1. Is on a leave of absence;
2. Is on indefinite suspension;
3. Has been removed or demoted for disciplinary reasons and is awaiting final administrative action by the [Commission] on appeal; or
4. Has accepted an interim appointment.

(c) An interim appointment may be made where the position/title will be abolished at a future date pursuant to a closing or phasedown of a government operation. Such an interim appointment may be made only following official notification to the [Commission] by the applicable department head, in State service, or by the appointing authority, in local service, of the closing or phasedown.

N.J.A.C. 4A:1-1.2(c) provides that the Commission may relax rules for good cause in a particular situation in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Although the employees serving provisionally, pending promotional examination procedures as Software Development Specialist 2s and Network Administrator 2s are not holding the place of permanent employees nor will the positions be abolished at a future date pursuant to a closing or phasedown of a government operation, given that the Office of Information Technology's old classification and selection process will be phased out, good cause exists to relax the provisions of *N.J.A.C.* 4A:4-1.6 and permit those appointments to be converted to interim appointments in the variant counterparts.

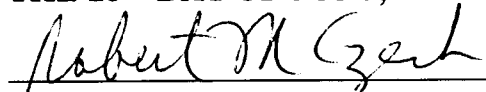
Based on the above, the Commission approves the establishment of the variant titles effective immediately and finds that the Software Development Specialist 1, OIT, Software Development Specialist 2, OIT, Network Administrator 1, OIT, and Network Administrator 2, OIT titles are appropriate for job banding. Additionally, in accordance with *N.J.A.C.* 4A:3-3.2A(b)2, the Chairperson of the Commission or designee shall review and approve the competencies to be utilized to assess an employee's eligibility for advancement. Additionally, incumbents in the non-variant titles should be cross-walked to the variant titles as soon as is administratively feasible.

ORDER

Therefore, it is ordered that this request be granted and the Software Development Specialist 1, OIT, Software Development Specialist 2, OIT, Network Administrator 1, OIT, and Network Administrator 2, OIT titles shall be assigned to job bands.

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 29TH DAY OF JULY, 2015



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Chairperson

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and
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