

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

State of Illinois, Department of Central Management Services,)	
)	
Petitioner)	
)	
and)	Case No. S-DE-14-116
)	
American Federation of State, County and Municipal Employees, Council 31,)	
)	
Labor Organization-Objector)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

Section 6.1 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), allows the Governor to designate certain employment positions with the State of Illinois as excluded from collective bargaining rights which might otherwise be available to State employees under Section 6 of the Act. This case involves such a designation made by the Illinois Department of Central Management Services (CMS) on behalf of the Governor of the State of Illinois. On December 23, 2013, Administrative Law Judge (ALJ) Sarah R. Kerley issued a Recommended Decision and Order (RDO) in Case No. S-DE-14-116, finding that a set of such designations made by CMS pursuant to Section 6.1, was properly made.

CMS’s petition originally designated 68 positions, but CMS subsequently withdrew from the designation positions held by Pamela Jefferies and Richard Green. All of the positions were within the Department of Central Management Services, and all were designated pursuant to Section 6.1(b)(5) of the Act. Section 6.1(b)(5) allows designation of positions which “authorize an employee in that position to have significant and independent discretionary authority as an

employee.” Section 6.1(c) defines that phrase in a manner that includes a managerial-like component and a supervisor-like component:

For the purposes of this Section, a person has significant and independent discretionary authority as an employee if he or she (i) is engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency or (ii) qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.¹

Several employees holding positions designated for exclusion filed timely objections to the petition pursuant to Section 1300.60 of the rules promulgated by the Board to effectuate Section 6.1 of the Act, 80 Ill. Admin. Code Part 1300. After obtaining an extension of time that more than doubled the normal 10-day time frame for filing objections and nearly halved the 60-day statutory period for the Board to make a final determination, the American Federation of State, County and Municipal Employees, Council 31, (AFSCME) failed to meet the extended deadline. On the day of the deadline, the day before the Thanksgiving holiday and weekend,

¹ These components of Section 6.1(c) differ from the pre-existing definitions of “managerial employee” and “supervisor” already contained in the Act. At the time Section 6.1 was added to the Act, Section 3(j) of the Act provided:

“Managerial employee” means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of management policies and practices.

In the portion most generally applicable, Section 3(r) provided:

“Supervisor” is an employee whose principal work is substantially different from that of his or her subordinates and who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising that authority, State supervisors notwithstanding.

AFSCME attempted to email its objections to the email address established by the Board for filing purposes, but it mistyped the address and it received notice of non-delivery that day. However, because it was the day before a four-day holiday weekend, AFSCME's law offices closed early that day and no one noticed the notice of non-delivery until the following Monday. On Monday, AFSCME moved for yet another extension of time. This time the Board's General Counsel declined to grant that request because Board rules require that motions for extension of time need to be filed in advance of the applicable deadline. 80 Ill. Admin. Code §1300.90(e); see also 80 Ill. Admin. Code 1200.30(d). He instead construed the motion as a request for a variance from the Board's rules under 80 Ill. Admin. Code §1300.150 and referred it to the ALJ for a recommendation. The ALJ found the criteria for granting a variance existed and recommends we allow the untimely filing. Upon our review of the matter, we agree with her assessment and grant a variance with respect to AFSCME's initially tendered objections.

Following AFSCME's initial motion for a post-deadline filing, AFSCME filed four additional motions seeking either to add to its previously tendered objections or to file new, separate objections. We agree with the ALJ's recommended finding that variances are not warranted under these circumstances, and note that in none of these instances was there even an attempt to make a timely filing of the objections. AFSCME's requests for additional variances are denied. We similarly agree with the ALJ's rejection of untimely objections submitted without motion by two individual employees.

After CMS withdrew from the petition designations for the positions held by Pamela Jefferies and Richard Green, the ALJ concluded there were no issues of fact or law warranting a hearing. Upon consideration of the filed objections, she determined that designation of the remaining positions comported with the requirements of the Act. AFSCME filed timely

exceptions to the ALJ's RDO pursuant to Section 1300.130 of the Board's rules, 80 Ill. Admin. Code §1300.130, and individual employee Eric Dailey did as well. Based on our review of these exceptions, the record, and the Recommended Decision and Order, we reject the exceptions and adopt the Recommended Decision and Order. For the reasons articulated in that document, we find the designation comports with the requirements of Section 6.1, and we direct the Executive Director to issue a certification consistent with our finding.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett
John J. Hartnett, Chairman

/s/ Paul S. Besson
Paul S. Besson, Member

/s/ James Q. Brennwald
James Q. Brennwald, Member

/s/ Michael G. Coli
Michael G. Coli, Member

/s/ Albert Washington
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on January 3, 2014; written decision issued at Springfield, Illinois, January 7, 2014.²

² Due to severe weather, the Governor closed all but essential State services on January 6, 2014.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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State of Illinois, Department of Central Management Services,)	
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Employer,)	
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and)	Case No. S-DE-14-116
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American Federation of State, County and Municipal Employees, Council 31,)	
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Labor Organization-Objector.)	

**ADMINISTRATIVE LAW JUDGE’S
RECOMMENDED DECISION AND ORDER**

Section 6.1 of the Illinois Public Labor Relations Act, 5 ILCS 315/6.1 (2012) (Act) *added by* Public Act 97-1172 (effective April 5, 2013), allows the Governor of the State of Illinois to designate certain public employment positions with the State of Illinois as excluded from collective bargaining rights which might otherwise be granted under the Illinois Public Labor Relations Act. There are three broad categories of positions which may be so designated: (1) positions which were first certified to be in a bargaining unit by the Illinois Labor Relations Board (Board) on or after December 2, 2008; (2) positions which were the subject of a petition for such certification pending on April 5, 2013, (the effective date of Public Act 97-1172); or (3) positions which have never been certified to have been in a collective bargaining unit. Only 3,580 of such positions may be so designated by the Governor, and, of those, only 1,900 positions which have already been certified to be in a collective bargaining unit.

Moreover, to properly qualify for designation, the employment position must meet one or more of the following five requirements:

- (1) it must authorize an employee in the position to act as a legislative liaison;
- (2) it must have a title of or authorize a person who holds the position to exercise substantially similar duties as a Senior Public Service Administrator, Public Information Officer, or Chief Information Officer, or as an agency General Counsel, Chief of Staff, Executive Director, Deputy Director, Chief Fiscal

Officer, or Human Resources Director;

- (3) it must be designated by the employer as exempt from the requirements arising out of the settlement of Rutan v. Republican Party of Illinois, 479 U.S. 62 (1990), and be completely exempt from jurisdiction B of the Personnel Code, 20 ILCS 415/8b through 8b.20 (2012), *see* 20 ILCS 415/4 through 4d (2012);
- (4) it must be a term appointed position pursuant to Section 8b.18 or 8b.19 of the Personnel Code, 20 ILCS 415/8b.18, 8b.19 (2012); or
- (5) it must authorize an employee in that position to have “significant and independent discretionary authority as an employee” by which the Act means the employee is either
 - (i) engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency; or
 - (ii) qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act, 29 U.S.C. 152(11), or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

Section 6.1(d) creates a presumption that any such designation made by the Governor was properly made. It also requires the Illinois Labor Relations Board to determine, in a manner consistent with due process, whether the designation comports with the requirements of Section 6.1, and to do so within 60 days.¹

As noted, Public Act 97-1172 and Section 6.1 of the Illinois Public Labor Relations Act became effective on April 5, 2013, and allow the Governor 365 days from that date to make such designations. The Board promulgated rules to effectuate Section 6.1, which became effective on August 23, 2013, 37 Ill. Reg. 14,066 (September 6, 2013). These rules are contained in Part 1300 of the Board’s Rules and Regulations, 80 Ill. Admin. Code Part 1300.

¹ Public Act 98-100, which became effective July 19, 2013, added subsections (e) and (f) to Section 6.1 which shield certain specified positions from such Gubernatorial designations, but none of those positions are at issue here.

On November 7, 2013, the Illinois Department of Central Management Services (CMS), on behalf of the Governor, filed the above-captioned designation petition pursuant to Section 6.1(b)(5) of the Act and Section 1300.50 of the Board's Rules.² The following 68 positions at the Illinois Department of Central Management Services are at issue in this designation petition:

Title	Position Number	Working Title	Incumbent
PSA, Option 1	37015-37-21-420-00-01	TRAEX Testing Section Supervisor	Melissa Riggins
PSA, Option 1	37015-37-21-100-00-01	Spfld Assessment Ctr Mgr	Wendy Butler
PSA, Option 1	37015-37-21-500-00-01	Chicago Assessment Ctr Mgr	Herbert Johnson
PSA, Option 1	37015-37-24-200-10-01	Transactions & Records Supervisor	vacant
PSA, Option 1	37015-37-23-000-10-01	Classification Specialist	Mark Magill
PSA, Option 1	37015-37-23-200-30-01	Class Studies Manager	vacant
PSA, Option 1	37015-37-23-200-20-01	Agency Classification Services Manager	Michael Quinlan
PSA, Option 1	37015-37-23-100-01-01	Test Development Section Manager	Karen Siciliano
PSA, Option 1	37015-37-23-010-10-01	Interview & Selection Manager	Randall Gibson
PSA, Option 1	37015-37-23-000-01-01	Confidential Assistant to Division Manager	Jill Swartz
PSA, Option 1	37015-37-22-110-01-01	Veterans Outreach Program Mgr	Kenneth (Mac) McKelvey
PSA, Option 1	37015-37-21-000-10-01	E & C Admin Support & Operations Manager	vacant
PSA, Option 1	37015-37-23-300-01-02	Compensation Specialist	vacant
HR Specialist	19693-37-20-000-21-01	Advanced Specialist in Deputy Director's Office	Nancy Pedrucci
PSA, Option 1	37015-37-41-810-01-01	Vendor Payment Coordinator	Donald Lynch
PSA, Option 1	37015-37-41-100-10-01	Research Management/Systems Administrator	Mary Przada
PSA, Option 1	37015-37-34-000-09-01	Contract Administrator	Kimberly Benson
PSA, Option 1	37015-37-31-220-00-01	Medicare Coordinator of Benefits Unit Manager	Lesley Booth
PSA, Option 1	37015-37-34-000-01-01	Contract Administrator	Jan Bryan
PSA, Option 1	37015-37-34-000-02-01	Contract Administrator	David Dailey
PSA, Option 1	37015-37-34-000-06-01	Senior Benefits Analyst	Teresa Flesch

² The petition was re-served on November 8 and 12, 2013, due to problems with attachments.

PSA, Option 1	37015-37-31-200-00-01	Program Services Section Manager	Brett Gerger
PSA, Option 1	37015-37-34-000-11-01	Contract Administrator/ Legislative Liaison	A. Edwin Hartman
PSA, Option 1	37015-37-34-000-07-01	Contract Administrator	Earl Henderson
PSA, Option 1	37015-37-34-000-10-01	Senior Benefits Analyst	Pamela Jefferies
PSA, Option 1	37015-37-31-000-03-01	Manager, Flexible Spending Unit	Pamela Kogler
PSA, Option 1	37015-37-31-320-01-01	Premium Collections Unit Manager	Keri Krager
PSA, Option 1	37015-37-34-000-05-01	Senior Benefits Analyst	Michelle Larson
PSA, Option 1	37015-37-31-210-00-01	Supervisor, Member Services	Lois Jeannine Miller
PSA, Option 1	37015-37-34-000-04-01	Senior Benefits Analyst	Christopher Owsley
PSA, Option 1	37015-37-32-420-01-01	Workers Comp. Mgr, Northern Dist.	Douglas Cunningham
PSA, Option 1	37015-37-32-440-01-01	Workers Comp. Mgr, Southern Dist.	Susan LeMasters
PSA, Option 1	37015-37-33-100-00-01	Operations Manager	Jason Musgrave
PSA, Option 1	37015-37-66-310-70-01	Facility Manager	David Baptist
PSA, Option 1	37015-37-66-250-00-01	Facility Manager	Greg Bucholz
PSA, Option 1	37015-37-66-220-10-02	Facility Manager	Cedric Collins
PSA, Option 1	37015-37-66-230-00-01	Facility Manager	Frank Davis
PSA, Option 1	37015-37-66-310-40-01	Facility Manager	David Fasig
PSA, Option 1	37015-37-66-240-00-01	Facility Manager	Michael Ferega
PSA, Option 1	37015-37-66-360-00-01	Facility Manager	Brent Finley
PSA, Option 1	37015-37-66-210-00-01	Facility Manager	Nicholas Fountas
PSA, Option 1	37015-37-66-220-20-01	Facility Manager	Jennifer Haley Perrin
PSA, Option 1	37015-37-66-310-60-01	Facility Manager	Richard Tate
PSA, Option 1	37015-37-66-320-00-01	Facility Manager	Vince Veseling
PSA, Option 1	37015-37-60-100-20-11	Facility Manager	Timothy Blackorby
PSA, Option 1	37015-37-66-341-00-01	Facility Manager	Pete Walker
PSA, Option 2	37015-37-60-210-20-01	Fiscal Contract and Obligation Manager	Kevin Sperling
PSA, Option 1	37015-37-62-300-03-01	CMS Transactions/ Leasing staff	James Adams
PSA, Option 1	37015-37-62-300-05-01	CMS Transactions/ Leasing staff	Richard Green
PSA, Option 1	37015-37-62-300-01-01	CMS Transactions/ Leasing staff	James Kolaz

PSA, Option 1	37015-37-62-300-06-01	CMS Transactions/ Leasing staff	Jeffrey Miller
PSA, Option 1	37015-37-01-210-00-01	Assistant Division of Vehicles Manager	Barb Bonansinga
PSA, Option 1	37015-37-01-230-00-01	Central & Southern Regional Manager	Marvin Eversgerd
PSA, Option 1	37015-37-01-240-00-01	Northern Regional Manager	Vic Samaan
PSA, Option 1	37015-37-01-110-00-01	Mail & Messenger Supervisor	John Gallagher
PSA, Option 8L	37015-37-70-200-11-01	Personnel Counsel	Vacant
PSA, Option 1	37015-37-70-000-01-01	Staff Assistant	Cassie Dierkes
PSA, Option 8L	37015-37-70-700-11-02	Procurement Counsel	Elizabeth Kee
PSA, Option 8L	37015-37-70-800-11-03	Facilities Support Counsel	Rupal Mehta
PSA, Option 8L	37015-37-70-700-11-01	Procurement Counsel	Ngozi Okorafor
PSA, Option 1	37015-37-00-000-01-02	EEO/AA Officer	Fred Stewart
PSA, Option 2	37015-37-50-200-01-01	Senior Financial & Accounting Analyst	Tamara Compton
PSA, Option 2	37015-37-03-000-10-01	Audit Supervisor	Amy Walter
PSA, Option 9b	37015-37-03-000-30-02	IT Audit Manager	Vacant
PSA, Option 1	37015-37-80-400-10-01	Operations Manager Media Services	Vacant
PSA, Option 2	37015-37-80-000-10-01	Fiscal Manager	Vacant
PSA, Option SS1	37015-37-04-000-30-01	Certification Manager	Carlos Gutierrez
PSA, Option 1	37015-37-04-000-20-01	Compliance & Monitoring Manager	Harry Reinhard

In support of its petition, CMS filed position descriptions (CMS-104s) for each position, affidavits from individuals who supervise the listed positions, and a summary spreadsheet. The spreadsheet indicates that the PSA, Option 1 positions at issue were certified on January 20, 2010, the PSA, Option 2 positions at issue were certified on November 18, 2009, and the PSA Option 8L positions at issue were certified on August 13, 2010.³

American Federation of State, County and Municipal Employees, Council 31 (AFSCME) and a number of individuals filed objections to the designation pursuant to Section 1300.60(a)(3) of the Board's Rules. The position-specific objections were raised relating to the following 23 positions:

PSA, Option 1	37015-37-34-000-09-01	Contract Administrator	Kimberly Benson
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³ The initial spreadsheet contained incorrect dates, but was corrected pursuant to the undersigned's November 20, 2013, Order.

PSA, Option 1	37015-37-34-000-01-01	Contract Administrator	Jan Bryan
PSA, Option 1	37015-37-34-000-02-01	Contract Administrator	David Dailey
PSA, Option 1	37015-37-34-000-06-01	Senior Benefits Analyst	Teresa Flesch
PSA, Option 1	37015-37-34-000-11-01	Contract Administrator/ Legislative Liaison	A. Edwin Hartman
PSA, Option 1	37015-37-34-000-10-01	Senior Benefits Analyst	Pamela Jefferies
PSA, Option 1	37015-37-31-320-01-01	Premium Collections Unit Manager	Keri Krager
PSA, Option 1	37015-37-34-000-05-01	Senior Benefits Analyst	Michelle Larson
PSA, Option 1	37015-37-34-000-04-01	Senior Benefits Analyst	Christopher Owsley
PSA, Option 1	37015-37-66-250-00-01	Facility Manager	Greg Bucholz
PSA, Option 1	37015-37-66-240-00-01	Facility Manager	Michael Ferega
PSA, Option 1	37015-37-66-360-00-01	Facility Manager	Brent Finley
PSA, Option 1	37015-37-66-320-00-01	Facility Manager	Vince Veseling
PSA, Option 1	37015-37-60-100-20-11	Facility Manager	Timothy Blackorby
PSA, Option 1	37015-37-62-300-05-01	CMS Transactions/ Leasing staff	Richard Green
PSA, Option 1	37015-37-62-300-01-01	CMS Transactions/ Leasing staff	James Kolaz
PSA, Option 1	37015-37-62-300-06-01	CMS Transactions/ Leasing staff	Jeffrey Miller
PSA, Option 1	37015-37-70-000-01-01	Staff Assistant	Cassie Dierkes
PSA, Option 8L	37015-37-70-800-11-03	Facilities Support Counsel	Rupal Mehta
PSA, Option 8L	37015-37-70-700-11-01	Procurement Counsel	Ngozi Okorafor
PSA, Option 2	37015-37-03-000-10-01	Audit Supervisor	Amy Walter
PSA, Option SS1	37015-37-04-000-30-01	Certification Manager	Carlos Gutierrez
PSA, Option 1	37015-37-04-000-20-01	Compliance & Monitoring Manager	Harry Reinhard

On December 6, 2013, CMS sought leave to withdraw the petition as it related to the designation of the positions held by Pamela Jefferies and Richard Green. The request was granted on December 9, 2013. Therefore, this recommended decision and order will address only the remaining 66 positions, 21 of which were the subject of position-specific objections.

I have reviewed and considered the designation petition, the documents accompanying the designation petition, the objections raised by AFSCME, the objections raised by individual employees, and the documents submitted in support of the objections. I find that the objections fail to raise an issue of law or fact that might overcome the presumption that the designation is proper such that a hearing would be necessary. Moreover, after consideration of the information

before me, I find that the designation was properly submitted and that it is consistent with the requirements of Section 6.1 of the Act. Accordingly, I recommend that the Executive Director certify the designation of the 66 positions at issue in this matter and, to the extent necessary, amend any applicable certifications of exclusive representatives to eliminate any existing inclusion of these positions within any collective bargaining unit.

I. REQUESTS FOR VARIANCES AND UNTIMELY SUBMISSIONS

The petition in this case was originally served on November 7, 2013, but, due to problems with the attachments, was served again on November 8 and 12, 2013. These filing issues resulted in objectors being allowed 14 days (until November 22, 2013) to file objections, four more days than contemplated by Rule. 80 Ill. Adm. Code 1300.60(a)(3). On November 13, 2013, AFSCME sought a further extension, up to and including November 27, 2013, in which to file objections. CMS did not object to the request, and General Counsel Jerald Post granted the extension.

On November 20, 2013, AFSCME sought a second extension, seeking until December 7, 2013, in which to file objections. CMS opposed the motion, and citing concerns regarding the Board's ability to process the petition should it allow AFSCME 30 days in which to file objections, General Counsel Post denied the request. As such, objections to the present motion were due on or before November 27, 2013.

A. The Board should grant AFSCME's Request for a Variance to allow the filing of objections timely served on the parties on November 27, 2013.

AFSCME did not file any objection with ILRB.Filing@illinois.gov on or before November 27, 2013. On the morning of December 2, 2013, the following business day, Board staff learned that AFSCME served its objections on CMS and the affected employees and had attempted to file the objections with the Board. However, a typographical error in the ILRB filing email address led to the email message being undeliverable. The email system for AFSCME counsel generated a notice of this error at 3:17 p.m. on November 27, 2013. Because it was the day before Thanksgiving, the office had closed early. On December 2, 2013, Counsel for AFSCME sought leave to file its objections instanter, stating that, to his knowledge, all other parties had received the objections on November 27, 2013. General Counsel Post issued an Order the same day recognizing that neither Board Rule 1300.90(e) nor the Board's general rule for extension of time, allow for him to grant the motion to file objections instanter. However,

General Counsel Post indicated that he would treat the motion as seeking a variance under Board Rule 1300.150 and refer it to the ALJ for consideration. I consider it here.

Under Board Rule 1300.150, the Board may waive or suspend provisions of the Rules when it finds that “(a) the provision from which the variance is granted is not statutorily mandated; (b) no party will be injured by the granting of the variance; and (c) application of the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.” Board Rule 1300.60(a)(3) allows that an objector “shall have 10 days from the date of service of the designation to object to the designation.” This deadline can be extended by Order of the General Counsel. 80 Ill. Adm. Code 1300.90(e). I am treating AFSCME’s request as seeking the Board waive the rules requiring AFSCME to file its objections within the already extended deadline.

As cited above, the deadline is set out in the Board’s rules and is not a statutory requirement. Therefore, AFSCME’s request meets the first consideration for a variance. CMS indicated that it did not object to AFSCME’s request; therefore, I find that the second consideration is met. Finally, the Board must consider whether applying the rules related to timely filing of objections would be unreasonable or unnecessarily burdensome.

The Board’s other Rules can provide guidance regarding the reasonableness of applying the deadlines as written and extended in the present case. While the Rules do not strictly bar filings outside the deadlines established in the statutorily compressed timeframe, Rule 1300.90 sets out that requests for extensions of deadlines “will only be granted in extraordinary circumstances after consideration of its potential impact on the Board's ability to meet the time requirements of the Act” and requires the party requesting an extension to set forth in detail the grounds for the request.

I find that the Respondent has sufficiently demonstrated that an extraordinary circumstance warrants a variance. AFSCME has proven that it timely served its Objections on the parties, and that absent a typographical error in the email address, the Objections would have been timely filed with the Board. Moreover, had the error occurred on a regular business day, rather than a day the office closed early due to a holiday, it would likely have been discovered and corrected within the applicable deadline. Accordingly, I recommend that the Board grant AFSCME’s first request for a variance to allow filing its objections that were attached to the November 27, 2013, email. Because I find this variance to be warranted, I will consider herein the arguments and position-specific Objections contained in AFSCME’s objections.

B. The Board should deny AFSCME’s four additional requests for variance.

In addition to the request for a variance discussed above, in this case, AFSCME sought a variance on four additional occasions. First, on December 2, 2013, AFSCME sought a variance to “supplement” its previously provided Objections to include a challenge to the exclusion of the positions held by Eric Dailey, Christopher Owsley, and Teresa Flesch. Mr. Dailey and Mr. Owsley had previously filed timely objections on their own behalf. In its Objections, AFSCME stated that Mr. Dailey had “submitted his own Objection denying the legal and factual basis for his exclusion.” AFSCME’s Objections contained no reference to Mr. Owsley or Ms. Flesch. AFSCME’s request for a variance did not contain any explanation for the late filing.

Also on December 2, 2013, AFSCME sought another variance to allow it to specifically object to the position held by Rupal Mehta. Ms. Mehta did not object on her own behalf, and AFSCME’s Objections did not refer to Ms. Mehta or her position. AFSCME did not provide an explanation for the late filing.

On December 3, 2013, AFSCME requested “that the requested variance be granted” and that Harry Reinhard’s attached AFSCME Information Form “be taken with the previously filed Objection.” AFSCME had not previously referenced Mr. Reinhard or his position. AFSCME did not provide an explanation for the late filing.

On December 4, 2013, AFSCME “request[ed] a rule variance to allow the submission of an objection from Carlos Gutierrez” and attached Mr. Gutierrez’s AFSCME Information Form. In his email, counsel for AFSCME explained, “Mr. Gutierrez’s work assignment takes him out of the office and he did not have regular access to his business email and [sic] had just become aware of the petition seeking his removal from the bargaining unit. It is my understanding that Mr. Gutierrez has also filed his own Objection with the Board.”

I recommend that each of these requests for variance be denied, because application of the deadlines set by Rule, and already extended by General Counsel Post’s Orders, is not unreasonable.

With respect to the supplemental filing regarding Mr. Dailey, Mr. Owsley, Ms. Flesch, Ms. Mehta, and Mr. Reinhard, AFSCME provides no explanation for the late filing, and does little more than seek to include documents in the record not otherwise referenced in any argument or analysis. The lack of explanation surely does not provide the Board with sufficient information to determine that making AFSCME comply with the already-extended deadlines is

unreasonable or unnecessarily burdensome.

With respect to the objections or supplemental filings regarding Mr. Gutierrez, AFSCME provides a minimal explanation, namely that Mr. Gutierrez's "work takes him out of the office and he did not have regular access to business email." AFSCME goes on to say that Mr. Gutierrez had "just become aware" of the petition. However, AFSCME does not provide sufficient information to support a contention that Mr. Gutierrez was away from the office or otherwise lacked access to his email for the 27 days between when the petition was originally filed and when AFSCME objected on his behalf. I find that it is not unreasonable to expect an employee to check his State email account more than one time per month such that he could respond to important notifications.

Because I find that the information provided does not support granting the various requests for variances, I will not consider the information in the supplemental records in my analysis of the propriety of the designations.

C. The individual objections filed by Harry Reinhard and Carlos Gutierrez are untimely.

In addition to AFSCME's request for a variance to allow for it to object to the designation of the positions held by Harry Reinhard and Carlos Gutierrez, Mr. Reinhard and Mr. Gutierrez both filed objections on their own behalf on December 3 and 4, 2013, respectively. I find that these objections are untimely, in that they were not filed on or before the already extended deadline of November 27, 2013, and did not seek further extension.⁴ Therefore, I will not consider these objections in my analysis of the designations at issue in this case.

II. AFSCME'S OBJECTIONS

AFSCME objects to the designation in a number of ways. AFSCME included the following documents in support of its objections: the affidavit of Tracy Abman; an AFSCME Information Form completed by Kimberly Benson; an AFSCME Information Form completed by Timothy Blackorby; an AFSCME Information Form completed by Jan Bryan; an AFSCME Information Form completed by Cassie Dierkes, with attachment; an AFSCME Information Form completed by Michael Ferega, with attachments; an AFSCME Information Form completed by Brent Finley; an AFSCME Information Form completed by Richard Green, with

⁴ A further request would likely have been unsuccessful, because under Rule 1300.90(e) all requests for extensions must be made within the existing deadline.

attachments; an AFSCME Information Form completed by Pamela Jefferies; an AFSCME Information Form completed by James Kolaz, with attachments, an AFSCME Information Form completed by Keri Krager; an AFSCME Information Form completed by Michelle Larson, with attachments; an AFSCME Information Form completed by Jeffrey Miller, with attachments; an AFSCME Information Form completed by Ngozi Okafor; an AFSCME Information Form completed by Vincent Veseling; an AFSCME Information Form completed by Amy Walter; and an AFSCME Information Form completed by Greg Bucholz.

Through its written objections and documents, AFSCME makes the following arguments.

A. Constitutional Claims

AFSCME argues that Section 6.1 violates provisions of the United States and Illinois Constitutions in a number of ways. First, the designation is an improper delegation of legislative authority to the executive branch. Second, selective designation results in employees being treated unequally based on whether an individual’s position was subject to a designation petition. Third, the designation unlawfully impairs the contractual rights of individuals whose positions were subject to the provision of a collective bargaining agreement prior to the position being designated for exclusion.

AFSCME also contends that because the “employees holding the position identified by this petition are covered by a collective bargaining agreement which CMS entered into subsequent to the enactment of [Section] 6.1,” the designation of these positions “violates due process and is arbitrary and capricious.”

B. Substantive Claims

AFSCME contends that under the National Labor Relations Board (NLRB) precedent and case law interpreting the same, “any claim of supervisory or managerial status requires that *the party raising the exclusion bear the burden of proof.*”⁵ AFSCME argues that CMS seeks the exclusion of employees who are not “supervisors” or “managers” as defined by the NLRA or NLRB. AFSCME contends that CMS has presented evidence only that the “at-issue positions are *authorized* to complete such job duties,”⁶ not that the employees actually exercise that authority. Accordingly, AFSCME argues that CMS should bear the burden of proving that the designated employees exercise duties that would make them supervisory or managerial and that

⁵ Emphasis in original.

⁶ Emphasis in original.

the position exercises managerial discretion rather than just professional discretion.

AFSCME further contends that CMS cannot prove a position is managerial where the position description identifies that the position effectuates policies but does not identify specific policies the position effectuates. Finally, AFSCME argues that CMS cannot prove that an employee is a supervisor by generalizing supervisory functions rather than demonstrating that the employee has actual authority to act or effectively recommend one of the 11 enumerated supervisory functions.

C. Position-specific Objections

AFSCME alleges that the affidavits and supporting charts are “as a general rule conclusionary and not accurate,” and proceeds to list examples of ways that it contends CMS’s submission is factually inaccurate as to the following individuals: Kimberly Benson, Timothy Blackorby, Jan Bryan, Cassie Dierkes, Michael Ferega, Brent Finley, Richard Green, Pamela Jefferies, James Kolaz, Keri Krager, Michelle Larson, Jeffrey Miller, Ngozi Okafor, Vincent Veseling, Amy Walter, and Greg Bucholz. The Objections also mentions that David (Eric) Dailey filed his own objection. AFSCME does not provide any legal analysis or otherwise state the impact that the alleged factual inaccuracies should have on the Board’s analysis of the propriety of the designations.

III. INDIVIDUAL OBJECTIONS

In addition to the objections filed by AFSCME, the following employees filed timely objections on their own behalf:⁷ Timothy Blackorby, Kimberly Benson, David (Eric) Dailey, Edwin Hartman, and Christopher Owsley.

IV. DISCUSSION AND ANALYSIS

The law creates a presumption that designations made by the Governor are properly made. In order to overcome the presumption of a properly submitted designation under Section 6.1(b)(5), the objectors would need to raise an issue of law or fact that the position does not meet either of the managerial tests set out in Section 6.1(c)(i) or the supervisory test set out in Section 6.1(c)(ii).

Neither AFSCME’s objections nor the objections filed by individuals overcome that presumption or raise a question of law or fact that requires a hearing. For the reasons stated

⁷ Employees Pamela Jefferies and Richard Green also filed Objections on their own behalf prior to the petition being withdrawn as to their position.

more fully below, I find the designations are proper.

A. Constitutional Arguments

It is beyond the Board's capacity to rule that the Illinois Public Labor Relations Act, as amended by Public Act 97-1172, either on its face or as applied, violates provisions of the United States and Illinois constitutions. State of Ill., Dep't of Cent. Mgmt. Serv., 30 PERI ¶80, Case No. S-DE-14-005 etc. (IL LRB-SP Oct. 7, 2013) appeal pending, No. 1-13-3454 (Ill. App. Ct. 1st Dist.) (*citing* Goodman v. Ward, 241 Ill. 2d 398, 411 (2011) ("Administrative agencies ... have no authority to declare statutes unconstitutional or even to question their validity. [citations omitted] When they do so, their actions are a nullity and cannot be upheld.")). Accordingly, these issues are not addressed in this decision.

B. AFSCME bears the burden of proving that a designation is improper.

AFSCME has the burden to demonstrate that the designation is not proper. The Act's provision that "any designation made by the Governor...shall be presumed to have been properly made," 5 ILCS 315/6.1(d), shifts the burden of proving that a designation is improper on the objector (here, AFSCME). In this case, CMS designated this position under Section 6.1(b)(5) which provides that the position must "authorize an employee in that position to have significant and independent discretionary authority as an employee." 5 ILCS 315/6.1(b)(5). The Act then outlines three tests to determine whether a position has "significant and independent discretionary authority as an employee," as that term is used in Section 6.1(b)(5). 5 ILCS 315/6.1(c). Thus, the burden is on the objector to demonstrate that the designation is not proper in that the employer has not conferred significant discretionary authority upon that position, as that term is defined in the Act.

With respect to the 45 positions for which AFSCME and the individual in the position have failed to provide any position-specific information or evidence, they have failed to overcome the presumption of validity. Accordingly, I find that these designations are proper and will further analyze only the positions held by Kimberly Benson, Timothy Blackorby, Jan Bryan, Greg Bucholz, David (Eric) Dailey, Cassie Dierkes, Michael Ferega, Brent Finley, Edwin Hartman, James Kolaz, Keri Krager, Michelle Larson, Jeffrey Miller, Ngozi Okafor, Christopher Owsley, Vincent Veseling, and Amy Walter.

C. Reliance on Position Descriptions Amended after April 2013 is Appropriate

Several employees objected to the Board's considering as evidence of their duties and

authority position descriptions amended after the effective date of Section 6.1. They argued that if the Board considers position descriptions amended after the law was enacted, it could enable agencies to amend the position descriptions in order for the position to meet the requirements for exclusion.

However, the timing of the amendment of position descriptions does not change the Board's analysis. Section 6.1 contemplates that the Board will consider information as of the time the petition is submitted. *See e.g.* 5 ILCS 315/6.1(b) ("name of the employee *currently* in the position"). Moreover, I find that the designation analysis should be made based on the most current and updated information and do not find anything inherently troublesome about position descriptions being amended or clarified prior to designation.

D. Tests for Designations made under Section 6.1(b)(5)

Section 6.1(b)(5) allows the Governor to designate positions that authorize an employee to have "significant and independent discretionary authority." 5 ILCS 315/6.1(b)(5). The Act goes on to provide three tests by which a person can be found to have "significant and independent discretionary authority." Section 6.1(c)(i) sets forth the first two tests, while Section 6.1(c)(ii) sets forth a third.⁸ In its petition, CMS contends that the at-issue positions confers on the position holder "significant and independent discretionary authority" as further defined by either Section 6.1(c)(i) or both Section 6.1(c)(i) and (ii).

In order to meet the burden to raise an issue that might overcome the presumption that the designation is proper, the objector must provide specific examples to negate each of the three tests set out in Section 6.1(c). If even one of the three tests is met, then the objector has not sufficiently raised an issue, and the designation is proper. Ill. Dep't Cent. Mgmt. Serv., 30 PERI ¶ 85.

Each of the three tests are discussed below.

1. The first test under 6.1(c)(i) – management and executive functions and effectuating management policies and practices

The first test under Section 6.1(c)(i) is substantively similar to the traditional test for

⁸ Section 6.1(c) reads in full as follows: For the purposes of this Section, a person has significant and independent discretionary authority as an employee if he or she (i) is engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency or (ii) qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board. 5 ILCS 315/6.1(c).

managerial exclusion articulated in Section 3(j). To illustrate, Section 6.1(c)(i) provides that a position authorizes an employee in that position with significant and independent discretionary authority if “the employee is...engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency.” 5 ILCS 315/6.1(c)(i).

Though similar to the Act’s general definition of managerial employee in Section 3(j), 5 ILCS 315/3(j), the Section 6.1(c)(i) definition is broader in that it does not include a predominance element and requires only that the employee is “charged with the effectuation” of policies not that the employee is responsible for **directing** the effectuation.⁹ An employee **directs** the effectuation of management policy when he/she oversees or coordinates policy implementation by developing the means and methods of reaching policy objectives, and by determining the extent to which the objectives will be achieved. Ill. Dep’t Cent. Mgmt. Serv. (Ill. State Police), 30 PERI ¶ 109 (IL LRB-SP 2013) (*citing* Cnty. of Cook (Oak Forest Hospital) v. Ill. Labor Rel. Bd., 351 Ill. App. 3d at 387); INA, 23 PERI ¶ 173 (IL LRB-SP 2007). However, in order to meet the first test set out in Section 6.1, a position holder need not develop the means and methods of reaching policy objections. It is sufficient that the position holder is charged with carrying out the policy in order to meet its objectives.

The Section 6.1(c)(i) test is unlike the traditional test where a position is deemed managerial only if it is charged with *directing* the effectuation of policies. Under the traditional test, for example, “where an individual merely performs duties essential to the employer's ability to accomplish its mission, that individual is not a managerial employee,” Ill. Dep’t of Cent. Mgmt. Serv. (Dep’t of Revenue), 21 PERI ¶ 205 (IL LRB SP 2005), because “he does not determine the how and to what extent policy objectives will be implemented and the authority to oversee and coordinate the same.” INA, 23 PERI ¶ 173 (*citing* City of Evanston v. Ill. Labor Rel. Bd., 227 Ill. App. 3d 955, 975 (1st Dist. 1992)). However, under Section 6.1(c)(i), a position need not determine the manner or method of implementation of management policies. Performing duties that carry out the agency or department’s mission is sufficient to satisfy the second prong of the first managerial test.

2. The second test under 6.1(c)(i) – represents management interests by taking or recommending discretionary actions

⁹ Emphasis added.

The second test under Section 6.1(c)(i) also relates to the traditional test for managerial exclusion because it reflects the manner in which the courts have expanded that test. A designation is proper under this test if the position holder “represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency.” 5 ILCS 315/6.1(c)(i). The Illinois Appellate Court has observed that the definition of a managerial employee in Section 3(j) is very similar to the definition of managerial employee in the Supreme Court’s decision in Nat’l Labor Rel. Bd. v. Yeshiva Univ. (“Yeshiva”), 444 U.S. 672 (1980). Dep’t of Cent. Mgmt. Serv./ Illinois Commerce Com’n v. Ill. Labor Rel. Bd. (“ICC”), 406 Ill. App. 766, 776 (4th Dist. 2010)(*citing* Yeshiva, 444 U.S. at 683). Further, the Court noted that the ILRB, like its federal counterpart, “incorporated ‘effective recommendations’ into its interpretation of the term ‘managerial employee.’” ICC, 406 Ill. App. at 776. Indeed, the Court emphasized that “the concept of effective recommendations...[set forth in Yeshiva] applies with equal force to the managerial exclusion under the Illinois statute.” Id.

In light of this analysis, the second test under Section 6.1(c)(i) is similar to the expanded traditional managerial test because it is virtually identical to the statement of law in Yeshiva which the Illinois Appellate Court and the Illinois Supreme Court have incorporated into the traditional managerial test. Id. (*quoting* Chief Judge of the Sixteenth Judicial Circuit v. Ill. State Labor Rel. Bd., 178 Ill. 2d 333, 339–40 (1997)).

3. The third test under 6.1(c)(ii) – qualifies as a supervisor as defined by the NLRA

Under the NLRA, a supervisor is an employee who has “authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.” 29 U.S.C.A. § 152(11).

In other words, “employees are statutory supervisors if (1) they hold the authority to engage in any 1 of the 12 listed supervisory functions, (2) their ‘exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment,’ and (3) their authority is held ‘in the interest of the employer.’” NLRB v. Kentucky River Comm. Care, Inc.

(“Kentucky River”), 532 U.S. 706, 713 (2001) (*quoting* NLRB v. Health Care & Retirement Corp. of America, 511 U.S. 571, 573-574 (1994); *See also* Oakwood Healthcare, Inc. v. United Auto Automobile, Aerospace and Agricultural Implement Workers of America (“Oakwood Healthcare”), 348 NLRB 686, 687 (2006). A decision that is “dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal instructions of a higher authority, or in the provisions of a collective bargaining agreement” is not independent. Oakwood Healthcare, 348 NLRB at 689.

E. The designation of PSA Option 1 - Facility Manager positions held by Timothy Blackorby, Greg Bucholz, Michael Ferega, Brent Finley, and Vince Veseling in the Bureau of Property Management is proper.

These positions are designated under Section 6.1(b)(5), as further defined by Section 6.1(c)(i) and (ii). Therefore, if the information presented supports any one of the three tests above, the designation is proper.

These five PSA – Option 1 positions all hold the working title of Facility Manger, but they are assigned to different areas/facilities. The positions all have subordinate employees and the following duties are listed in each position description:

- “serves as the Facility manager for [various areas or facilities], and other agency facilities as necessary, managing all facility management staff and function for the facilities;”
- “oversees through subordinate staff all components of building management;”
- “[s]erves as working supervisor; assigns and reviews work; provides guidance and training to assigned staff; counsel staff regarding work performance; reassigns staff to meet day-to-day operating needs; establishes annual goals and objectives; approves time off; and prepares and signs performance evaluations.”

Each of the five Facility Mangers at issue provided additional information regarding their supervisory role. I discuss each one in turn below.

A designation on the grounds that the employee is supervisory as defined in Section 6.1(c)(ii) is appropriate where: (1) the designated employee has the authority to engage in any of the enumerated supervisory functions (hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances); (2) their exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment, and (3) their authority is held in the interest of the

employer. State of Illinois, Department of Central Management Services, (Department of Public Health), Case No. S-DE-14-111 (IL LRB-SP November 27, 2013) (citing Kentucky River, 532 U.S. at 713, and Oakwood Healthcare, 348 NLRB at 687.

A position is authorized with the responsibility to direct if the position holder has subordinates, decides what jobs his subordinates should perform next, and who should perform those tasks. Id. Moreover, the position holder must be accountable for his subordinates' work and must carry out such direction with independent judgment. Oakwood Healthcare, 348 NLRB at 691-2. In other words, "it must be shown that the employer delegated to the putative supervisor the authority to direct the work and the authority to take corrective action, if necessary," and that "there is a prospect of adverse consequences for the putative supervisor," arising from his direction of other employees. Id. In applying the second portion of the "responsibly direct" test, the statutory presumption that the designation is proper places the burden on the objector to demonstrate that there is not a prospect of adverse consequences for the position holder if he does not direct the work or does not take corrective action where necessary.

Based on the information they provided as well as the portions of their position descriptions that they did not dispute, I find that each of the five Facility Managers is appropriately designated under Section 6.1(b)(5) as further defined in Section 6.1(c)(ii).

1. Greg Bucholz – Northern Region, Rockford

Mr. Bucholz confirmed that, with the exception of any listed involvement in the annual budget, his position description was accurate. Further, in his submitted materials, he confirmed that he directly supervises five employees, and one of his subordinate employees in turn supervises eight subordinate employees. Mr. Bucholz stated that he assigns work based on the employees' job description and location, and he directs projects/tasks as necessary.

The information Mr. Bucholz submitted, including his confirmation of supervisory duties outlined in his position description, supports a designation based on his ability to responsibly direct his subordinate employees. This position is responsible for overseeing all components of building management, which it does through its subordinate employees. Mr. Bucholz confirmed that he is responsible for reviewing work, providing guidance and direction where necessary, and counseling subordinate staff regarding work performance. Further, the affidavit of Chief Operations Officer (COO) Terry Schierholz indicates that Mr. Bucholz is charged with "ensuring staff are properly providing" facility management services in conformance with the

Department's Facility Management Policies. Neither Mr. Bucholz nor AFSCME contend that he is not held accountable for performing these supervisory duties. Accordingly, I find that the designation is proper.

2. Michael Ferega – Northern Region, DesPlaines

In addition to completing the AFSCME Information Form, Mr. Ferega went through his position description line by line and provided a detailed description of where he disagreed with the duties outlined therein. With respect to his supervisory duties, Mr. Ferega identified that he directly supervises one employee, who has two subordinate employees reporting directly to him. Mr. Ferega denies that he has ever reassigned, counseled, or trained staff. However, he does not refute that he is authorized to assign work to his subordinate or to direct their work. Instead, he argues that in exercising that authority, he “makes suggestions.” Mr. Ferega states that he merely makes suggestions because his subordinate employees are members of a Teamsters bargaining unit. The information presented does not refute the assertion that Mr. Ferega's position is authorized to exercise independent authority to assign work or direct his subordinate staff. Instead, it only raises a question of whether Mr. Ferega chooses to exercise the authority granted to him or whether he uses a more passive approach and delegates the supervisory authority granted to him by his employer to his subordinate. Even if Mr. Ferega, in exercising his discretion, chooses to delegate authority to a subordinate, his position still meets the definition of supervisor. He does not contest that his position is *authorized* to perform at least two of the eleven enumerated supervisory functions, and neither Mr. Ferega nor AFSCME introduced any information or evidence to suggest that the employer has limited his discretion or independent authority to responsibly direct his subordinate staff.

Further, the affidavit of COO Schierholz indicates that Mr. Ferega is charged with “ensuring staff are properly providing” facility management services in conformance with the Department's Facility Management Policies. Neither Mr. Ferega nor AFSCME contend that he is not held accountable for performing the review and direction of subordinate staff. Accordingly, I find that the designation is proper.

3. Timothy Blackorby – Illinois State Fairgrounds, Springfield

Mr. Blackorby is charged with supervision of 12 employees. Mr. Blackorby described his duties as assigning and reviewing their work, counsels staff regarding their work performance, approving time off, preparing and signing evaluations, assigning duties to set up

and tear down for non-fair events, and making sure that in performing their work, his unit stays within the allotted budget for the fiscal year.

Mr. Blackorby confirms that he has subordinates, that he decided what jobs will be performed next, and who should perform those tasks. Mr. Blackorby gives an example of assigning duties based on the trade that is required to do the work (e.g. assigns a work order to turn on electricity to the electrician foreman); however, his direction of employees goes beyond merely assigning work. He confirmed that he reviews his subordinates' work and counsels staff on their work performance. Neither Mr. Blackorby nor AFSCME argue that in counseling employees after his review of their work, Mr. Blackorby is merely acting in a "routine or clerical" way rather than using his knowledge, experience, and judgment independently.

Finally, the affidavit of COO Schierholz indicates that Mr. Blackorby is charged with "ensuring staff are properly providing" facility management services in conformance with the Department's Facility Management Policies. Neither Mr. Blackorby nor AFSCME contend that he is not held accountable for performing these supervisory duties. Accordingly, I find that the designation is proper.

4. Vince Veseling – Central Region

Mr. Veseling confirmed that he directly supervises 12 subordinate employees, and three of those subordinates in turn directly supervise a total of seven employees. In his submission to AFSCME, Mr. Veseling went through his position description, identifying by numbered paragraph the areas to which he disagreed and answered specific questions posed by AFSCME regarding his supervision of his subordinates.

Of the supervisory duties detailed in his position description, Mr. Veseling said only that he did not cross train or reassign his employees. Moreover, he confirmed that he assigned work to his employees, noting that, in addition to determining which trade the work order calls for, he also considers the availability of staff, the priority of the request, and from whom the request was made. These duties reveal that Mr. Veseling exercises independent judgment in the direction of his subordinate employees. See Entergy Mississippi, Inc. v. IBEW Local 608 and 985, 357 NLRB No. 178 at *14 (December 30, 2011)(independent judgment in the direction of employees where supervisors "take into account various considerations to prioritize responses, determine the number and type of employees needed at each location").

Further, the affidavit of COO Schierholz indicates that Mr. Veseling is charged with

“ensuring staff are properly providing” facility management services in conformance with the Department’s Facility Management Policies. Neither Mr. Veseling nor AFSCME contend that he is not held accountable for performing these supervisory duties. Accordingly, I find that the designation is proper.

5. Brent Finley – Southern Region

Mr. Finley submitted an AFSCME Information Form, wherein he answered specific questions about his responsibilities as they relate to the three subordinate employees he directly supervises. In that response, upon which AFSCME relies for the factual assertions in its Objections, Mr. Finley confirms that he is a “working supervisor” and does not contest that his position is authorized to responsibly direct his subordinate employees. His position description contains the following duties related to directing subordinate staff, which he does not specifically challenge: reviews work, provides guidance and training to assigned staff, counsel staff regarding work performance, establishes annual goals and objectives, approve time off, and prepares and signs performance evaluations.

Moreover, the affidavit of Chief Operations Officer Terry Schierholz indicates that Mr. Finley is charged with “ensuring staff are properly providing” facility management services in conformance with the Department’s Facility Management Policies. Neither AFSCME nor Mr. Finley refute this contention. Accordingly, I find that the designation is proper.

F. The designation of PSA Option 1 - Transactions/Leasing Representative positions held by James Kolaz and Jeffrey Miller in the Bureau of Property Management is proper.

These positions are designated under Section 6.1(b)(5), as further defined by Section 6.1(c)(i). Chief Operating Officer Terry Schierholz indicated that these positions effectuate the policies of the Bureau of Property Management. Because the positions have the same responsibilities, they are discussed together.

Under Section 6.1(c)(i), a designation is proper where a position is engaged in executive and management functions of a State agency and is charged with effectuation of management policies and practices of the agency. The Board has long held that executive and management functions include “negotiating on behalf of an employer with its employees or the public.” III. Dep’t of Cent. Mgmt. Serv. (Dep’t of Revenue), 21 PERI ¶ 205. Both Mr. Kolaz and Mr. Miller confirm that they, on behalf of CMS, are responsible for negotiating leases with landlords. Both

gentlemen indicate that they receive direction prior to negotiating and that the results of the negotiation are approved before the lease is executed. Mr. Kolaz states that senior management determines whether an agency's space needs will be met by renegotiating a current lease or by putting it out to bid, wherein the final terms and conditions will be negotiated at the end of the bid process. However, the objections do not reveal that their discretion in the manner in which to negotiate with the landlord in order to meet the goals set by senior management is limited in any way. Therefore, I find that in negotiating on behalf of CMS, these positions are engaged in executive and management functions.

Accordingly, the designation is proper under the first managerial test if the positions are also charged with effectuation of management policies or recommending discretionary actions that effectively control or implement management policies. Under this test as defined in Section 6.1(c)(i), a position need not determine the manner or method of implementation of management policies. Performing duties that carry out the agency or department's mission is sufficient to satisfy the second prong of the first managerial test. Though Mr. Kolaz and Mr. Miller take issue with various sections of their position descriptions, their descriptions of their work submitted to AFSCME, as well as the areas of the position description they do not contest, make clear their duties effectuate the policies of the Bureau of Property Management.

The positions are responsible for carrying out the mission of the Bureau with respect to State leases. They "act as a liaison" between the Bureau and "property owners, landlords, and officials from assigned client service Agencies." These positions "coordinate determination of availability of excess space" by using information from other areas (e.g. Space Planning) to recommend reductions in the amount of space to be leased for client agencies. For leases to which they are assigned, they are charged with "ensur[ing] strict compliance with all State and Federal leasing laws and regulations." As Transactions Experts, these positions are responsible for "organizing, planning, control[ing] and evaluat[ing] Transactions management functions...including implementing policies for the management process of property transactions for the Region." Moreover, they implement Bureau policies in a hands-on way when they directly negotiate lease terms and resolve issues which arise in the final process of the leasing process.

At the core of the objections to the designation of these positions is that the Transactions/Leasing Representatives have no "autonomy" in performing the aforementioned

duties, because senior managers must approve their work. The Illinois appellate court has held that where employees implement management policies and practices, the fact that they “do not do so ‘independently’ is unimportant, given that the Act does not require such independence in management functions.” *See e.g. Dep’t of Cent. Mgmt. Serv. v. Ill. Labor Rel. Bd.*, 2011 IL App (4th) 090966 at ¶ 186.

Furthermore, both Mr. Kolaz and Mr. Miller identify that in the course of performing their duties they make recommendations about how to proceed to the Chief Operating Officer and/or Deputy Director. These recommendations relate to lease terms and space usage. These recommendations are presumed effective, because neither Mr. Kolaz nor Mr. Miller identify circumstances in which their superiors ever rejected their recommendations, despite the fact that AFSCME specifically solicited such information on its questionnaire.

Because these positions are engaged in executive and management functions and are charged with effectuating management policies, the designation is proper. Moreover, because the objectors have failed to refute that they represent management interests by recommending discretionary actions that effectively control or implement the policy of the Bureau of Property Management, the designation is proper.

G. The designation of PSA – Option 1/Contract Administrator positions held by Kim Benson, Jan Bryan, David (Eric) Dailey, and Edwin Hartman and PSA – Option 1/Senior Benefits Analyst positions held by Michelle Larson and Christopher Owsley in the Bureau of Benefits are proper.

The petition alleges that each of these positions is appropriately designated under Section 6.1(b)(5) as further defined by Section 6.1(c)(i). These six individuals submitted materials wherein they challenged, with varying degrees of detail and specificity, the duties of their position descriptions and provided additional details regarding their responsibilities. From my review of the materials, I have determined that the duties of these positions are similar enough¹⁰ to warrant a unified discussion of the propriety of their designation.¹¹ Based on the employees’ descriptions of their duties and the portions of the position descriptions to which they raise no

¹⁰ In his submission, Christopher Owsley identifies his title as “Senior Benefits Analyst” yet refers to himself as a “contract administrator” within the document. Ed Hartman, a Contract Administrator, states in his submission that he “had the understanding that the working title for me and similar colleagues was Senior Benefits Analyst.” The position descriptions did not contain a working title, but the Affidavits completed by Janice Bonneville contained the different working titles. Mr. Owsley and Eric Dailey are identified as having different titles, but, in various sections, describe their duties identically.

challenge, I find that the designation of these positions is proper, as the positions are authorized to engage in executive and management functions of a State agency and are charged with effectuation of management policies and practices of the agency.

The Board has found “executive and management functions” to include “negotiating on behalf of an employer with its employees or the public.” Ill. Dep’t of Cent. Mgmt. Serv. (Dep’t of Revenue), 21 PERI ¶ 205. Each of the position descriptions states that the position “[s]erves as contract administrator for [a specific program]” and, in that capacity, “negotiates, and drafts solicitation documents, contracts and amendments and evaluates the vendors’ contractual compliance on an ongoing basis.” None of the objectors refuted that their positions are authorized and responsible for performing these duties. Only Mr. Dailey specifically addressed these duties. He conceded that he has performed those duties, and that in a recent contract negotiation, decisions were deferred to him; he further noted that the Deputy General Counsel, not he, had “final authority.” The involvement of other managers in the performance of executive and management functions does not change the fact that the positions are authorized with the discretion to negotiate on behalf of the employer.

Because I find that these positions are engaged in executive and management functions, their designation is proper if they are charged with effectuating management policies and practices. With respect to each of the program areas, the assigned Contract Administrator/Senior Benefits Analyst is charged with “develop[ing] and implement[ing] related policies, programs, procedures, and initiatives” in their assigned programs/contracts. Several employees commented on this portion of their duties, and the challenges were based on an overly broad reading of these duties to refer to developing policies for State government as a whole.

Mr. Dailey and Mr. Owsley described these duties as, “[As contract administrator, my position] is charged with administrating a contract or contracts and working with the vendor in administering the contract. That involves the parties to the contract working together to determine what course of action to adopt in carrying out the details of the contract.” In their submission, Mr. Dailey and Mr. Owsley describe these duties as part of fulfilling their task of “executing [] adopted policy.” Mr. Dailey further described that the “position has some authority to work out the details in carrying out contract provisions and the policies created,” and concluded that these duties, “we might call...developing of procedures,” “hardly rise[] to the development of policy that broadly affects the function of State government.” Ms. Larson states

that she “has authority over operational issues only,”¹² and in exercising that authority she is required “to work with [her] vendor to implement policy.” Mr. Hartman also confirmed that he assists in implementing policy, and neither Ms. Benson nor Ms. Bryan refute these duties.

Because the Contract Administrator/Senior Benefits Analyst positions are engaged in executive and management functions and are charged with effectuating management policies and practices, the designation is proper.

H. The designation of the PSA-Option 2/Premium Collections Unit Manager position held by Keri Krager in the Bureau of Benefits is proper.

The documents supporting the petition indicate that Ms. Krager’s position is designated because her position is authorized to have significant and independent discretionary authority as set out in Section 6.1(c)(i). The affidavit supporting the designation, however, goes on to describe Ms. Krager’s responsibilities as a supervisor. Of course, a Section 6.1(b)(5) designation can be shown where the employee is a supervisor as defined in Section 6.1(c)(ii). I treat the failure to specify Section 6.1(c)(ii) as a scrivener’s error.¹³ Further, both AFSCME and Ms. Krager make specific references to her supervisory responsibilities.

For the reasons set out below, the designation of Ms. Krager’s position is appropriate under Section 6.1(b)(5) as further defined in Section 6.1(c)(ii); therefore, I need not address the propriety of the designation under the definitions in Section 6.1(c)(i).

1. Ms. Krager’s position qualifies as a supervisor, as that term is defined under the NLRA.

A designation on the grounds that the employee is supervisory as defined in Section 6.1(c)(ii) is appropriate where: (1) the designated employee has the authority to engage in any of the enumerated supervisory functions (hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances); (2) their exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment, and (3) their authority is held in the interest of the employer. Ill. Dep’t of Cent. Mgmt. Serv. (Dep’t of Public Health), Case No. S-DE-14-111 (IL

¹² Emphasis in Ms. Larson’s submission.

¹³ Notably, neither the Act nor the Board’s Rules require CMS to identify whether an employee’s authority to exercise significant and independent discretionary authority as defined by Section 6.1(c)(i) or by Section 6.1(c)(ii) is at issue in a designation. Therefore, in a Section 6.1(b)(5) designation, a position may be found to be properly designated if the evidence supports any one of the three tests described in section IV.D. above.

LRB-SP November 27, 2013) (*citing* Kentucky River, 532 U.S. at 713, and Oakwood Healthcare, 348 NLRB at 687.

In both her individual objection and the information she provided to AFSCME, Ms. Krager takes issue with information submitted with the petition that she supervises five positions, when she only three positions under her supervision are regularly filled. Ms. Krager also describes her supervisory duties as they relate to those three positions. According to the position description, Ms. Krager's position, among other things, "[s]erves as full line supervisor; assigns and reviews work; provides guidance and training to assigned staff; counsels staff regarding work performance including problems with productivity, quality of work and conduct; [and] reassigns staff to meet day-to-day operating needs."

Based on the information Ms. Krager provided and the portions of the position description she does not contest, I find that the position is properly designated as a supervisor, as defined in Section 6.1(c)(ii) of the Act.

The objectors have failed to demonstrate that the designation of Ms. Krager's position is improper because nothing in either AFSCME or Ms. Krager's objection contradicts CMS's contention that Ms. Krager's position is authorized to assign work to her subordinates. According to Ms. Krager's submission, she "of course" assigns work to the three employees she supervises. Ms. Krager also does not contest the portion of her position description that states that she is authorized to reassign staff to meet day-to-day operating needs. In fact, Ms. Krager confirms that she makes initial assignments and also adjusts work assignments due to absences or vacations. No evidence exists in the position description or the objections to support a claim that Ms. Krager's authority in assigning work is limited in any way or that in deciding when and how to reassign work, she is merely acting in a routine or clerical manner.

The objectors have failed to demonstrate that the designation of Ms. Krager's position is improper because nothing in either AFSCME or Ms. Krager's objection contradicts CMS's contention that Ms. Krager's position is authorized to responsibly direct her subordinates. In fact, Ms. Krager's description of her duties makes clear that she is responsible for directing her subordinate staff.

A position has responsibility to direct if the position holder has subordinates, decides what jobs his subordinates should perform next, and who should perform those tasks. Oakwood Healthcare, 348 NLRB at 691-2. It is clear from Ms. Krager's submission and the position

description that she has subordinates and that she decides who should perform what tasks, and what tasks subordinates should perform next. The position holder must also be accountable for his subordinates' work and must carry out such direction with independent judgment. Id.

In this case, the position description states that the position holds the authority to direct employees, in that it “[s]erves as full line supervisor; assigns and reviews work provides guidance and training to assigned staff; counsels staff regarding work performance including problems with productivity, quality of work and conduct ... established annual goals and objectives.”

In her submission to AFSCME, Ms. Krager went through her position description and identified areas where she disagreed with her position description. Neither AFSCME nor Ms. Krager challenged that her position is authorized to “[i]ndependently oversee[] the administration of the Unit by analyzing, designing, evaluating and implementing procedures to conduct operations and total administrative functions of the statewide program.” Moreover, no evidence exists that anyone influences her ability to use her independent judgment with respect to directing her staff’s assignments, determining the manner in which they meet deadlines, addressing problems with productivity or quality of work or that her supervisory functions are controlled by detailed instructions set forth by a higher authority or by the employer’s rules and policies. According to Ms. Krager, she is the one who “administers two programs” and, in doing so, she, not anyone else, assures “that [her] staff abide by policy,” “that work is completed in a timely manner,” and “supervises staff making sure it’s all done.”

Based on this evidence, the position holder, Ms. Krager, exercises the use of independent judgment and is accountable for her subordinates’ work because the designation is presumed proper; the position description does not expressly limit the position holder’s discretion, independent authority, or accountability; and Ms. Krager does not refute these responsibilities. Accordingly, I find that the designation of the PSA Option 1 position in which Ms. Krager is employed is proper because it is presumed to be proper and the evidence supports the designation.

I. The designation of the PSA-Option 2/Audit Supervisor position held by Amy Walter in the Division of Internal Audit is proper.

The petition alleges that each of these positions is appropriately designated under Section 6.1(b)(5) as further defined by Section 6.1(c)(i) and (ii). In its objection, which relying on the

Ms. Walter's submission of an AFSCME Information Form, AFSCME contends that various aspects of her position description are inaccurate. However, based on her written submission and the sections of her position description to which she raises no challenge, I find that Ms. Walter is Properly designated as a supervisor as that is defined under Section 6.1(c)(ii).

A designation on the grounds that the employee is supervisory as defined in Section 6.1(c)(ii) is appropriate where: (1) the designated employee has the authority to engage in any of the enumerated supervisory functions (hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances); (2) their exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment, and (3) their authority is held in the interest of the employer. Ill. Dep't of Cent. Mgmt. Serv. (Dep't of Public Health), Case No. S-DE-14-111 (IL LRB-SP November 27, 2013)(citing Kentucky River, 532 U.S. at 713, and Oakwood Healthcare, 348 NLRB at 687).

Ms. Walter alleges that various duties in her position description related to her supervision of subordinate staff (two Internal Auditor Is and a PSA-Option 2) is inaccurate. Namely, Ms. Walter states that she does not "assign audit segments to team members," as set out in paragraph #1 of her position description. Ms. Walter also addressed the supervisory duties outlined in paragraph #4 of the position description and stated that she does not do the following: "reassign[] staff to meet day-to-day operating needs," establish[] annual goals and objectives," "approve[] time off," and "prepare[] and sign[] performance evaluations." However, Ms. Walter did not dispute the other duties outlined in her responsibility as a "working supervisor," namely she "assigns and reviews work, provides guidance and training to assigned staff, and counsels staff regarding work performance." In her written submission, Ms. Walter described the duties of her subordinate employees as preparing "audit programs, audit workpapers, and audit reports for review by Audit Supervisor [Ms. Walter] and ultimately the Chief Internal Auditor."

To be considered a supervisor with "responsibility to direct," "it must be shown that the employer delegated to the putative supervisor the authority to direct the work and the authority to take corrective action, if necessary," and that "there is a prospect of adverse consequences for the putative supervisor," arising from his direction of other employees. Oakwood Healthcare, at 691-692. In its objections, AFSCME alleges that Ms. Walter directs employees by providing technical instruction to them as to the professional requirements of a correct audit. However, in

her submissions, Ms. Walter acknowledges her role in reviewing the work of her subordinates prior to submission to the Chief Internal Auditor and does not dispute that her position description authorizes her to counsel staff regarding work performance and provide training. In applying the second portion of the “responsibly direct” test under Section 6.1 of the Act, the presumption that the designation is proper places the burden on the objector to demonstrate that there is not a prospect of adverse consequences for Ms. Walter if she does not direct the work or does not take corrective action if necessary. In this case, neither Ms. Walter nor AFSCME contend that she is not held accountable for performing the supervisory duties she admits to completing.

Accordingly, I find that the designation of the PSA-Option 2 position in which Ms. Walter is employed is proper because it is presumed to be proper and the evidence supports the designation.

J. The designation of the PSA-Option 1/Staff Assistant position in Legal Services held by Cassie Dierkes is proper.

The designation of the position held by Cassie Dierkes is proper, under Section 6.1(c)(i) of the Act. In its petition for designation, CMS contends that Ms. Dierkes’s position is properly designated because she is engaged in executive and management functions and is charged with the effectuation of management policies and practices. AFSCME, relying on Ms. Dierkes’s written submission, objects to the designation, arguing that she does not perform various aspects of her position description, namely those that identify that she writes or recommends policies. However, Ms. Dierkes’s written submission and the portions of her position description to which she does not raise a challenge make clear that Ms. Dierkes’s position is appropriately designated.

“Executive and management functions” are those that specifically relate to the running of an agency including establishing policies and procedures, preparing a budget, or otherwise assuring that an agency or department runs effectively. Dep’t of Cent. Mgmt. Serv. (Pollution Control Bd.), v. Ill. Labor Rel. Bd., State Panel, 2013 IL App (4th) 110877 ¶ 25; ICC, 406 Ill. App. 3d at 774. Ms. Dierkes assures CMS Legal Services runs effectively when she performs a variety of duties designed to make CMS Legal Services run effectively. Specifically, paragraph 4 of the position description¹⁴ outlines the following duties: “Organizes, plans, executes, controls

¹⁴ Ms. Dierkes contends that the last sentence in paragraph 4 (not included in the present list) is inaccurate, but makes no challenge to the duties listed herein.

and tracks the strategic objectives of Legal Services department; implements and revises processes to reduce costs, drive efficiencies, and increase quality of outputs. Reviews, plans and tracks fiscal and budget-related issues to ensure expenditures are appropriately planned, detailed and approved to minimize total cost and increase office efficiency, productivity and quality.”

Because I find that Ms. Dierkes is engaged in executive and management functions, the designation is proper if she also is charged with effectuating management policies and practices.

The evidence reveals that Ms. Dierkes’s position is charged with effectuating management policies and practices regarding coordination of litigation efforts and legal service. Ms. Dierkes confirms these responsibilities, which are set out in her position description: “Serves as liaison between the General Counsel’s office and all Bureaus of the agency, other State Agencies, Governor’s Office and other Constitutional offices and governmental entities, and external parties, in regard to coordination of potential claims, litigation and settlements and legal consolidation.” In acting as a liaison, the position is also responsible for explaining Legal Services’ programs and providing assistance to State agencies who are served by CMS Legal Services for audit, legal, and statutory compliance.

Ms. Dierkes also effectuates management policies and practices related to the department’s legal consolidation contracts regarding on-line research and continuing legal education. In her submission to AFSCME, Ms. Dierkes indicates that she is the Project Manager for these programs. Ms. Dierkes handles this Department initiative from drafting the invitation for bid through negotiating contract terms, and she ultimately serves as a liaison for all State agencies under the agreement while working with the Vendor to resolve any problems. Paragraph 2 of the position description, to which neither AFSCME nor Ms. Dierkes object, states that the position is authorized to function *independently* as Project Manager.¹⁵ Because Ms. Dierkes is engaged in executive and management functions and is charged with effectuating management policies and practices, the designation is proper.

Moreover, the tasks described above show that Ms. Dierkes likewise “represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency.” The position description authorizes Ms. Dierkes to “make[] recommendation as appropriate and amends contracts as needed to meet the needs of State users” of the on-line research and CLE services facilitated by CMS Legal Services. Her

¹⁵ Emphasis added.

position description also authorizes her to make recommendations for the cost-effective handling of all litigation, claims, settlements and any other legal matters involving the Department. These recommendations are presumed effective, because Ms. Dierkes does not deny that she has these responsibilities or identify any circumstances in which she has made recommendations regarding these programs that have been rejected by her supervisors.

Accordingly, I find that the designation of the PSA-Option 1 position in which Ms. Dierkes is employed is proper.

K. The designation of the PSA-Option 8L/Procurement Counsel (also called “Strategic Sourcing Counsel”) position held by Ngozi Okafor in Legal Services is proper.

The designation of the position held by Ngozi Okafor is proper under Section 6.1(c)(i) of the Act. In its petition for designation, CMS contends that Ms. Okafor’s position is properly designated because she represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency. AFSCME and Ms. Okafor object to the designation, because she does not have ultimate decision-making authority.

Ms. Okafor’s written submission makes clear that she represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency. Ms. Okafor says she has reviewed, revised, and updated existing “Governmental Joint Purchasing policies and procedures;” makes recommendations to amend internal and public documents; “typically make[s] recommendations for support or opposition of procurement-related legislation and/or policies as needed;” and assists in the “researching, drafting, amending, and updating State policies and legislation on behalf of CMS.” These discretionary actions/recommendations control or implement CMS policy.

Ms. Okafor states in her submission, which AFSCME incorporates in its Objections, that she does not have significant, discretionary authority because the Deputy General Counsel – Strategic Sourcing and Senior Strategic Sourcing Counsel retain final authority to approve her recommendations or implement the policies she amends. However, the recommendations are presumed effective because Ms. Okafor does not identify any circumstances in which her superiors ever rejected her recommendations, despite the fact that AFSCME specifically solicited such information from her on the questionnaire. Moreover, the Act does not require a person to

exercise exclusive authority in the effectuation of management policies.

Accordingly, I find that the designation of the PSA-Option 8L/Procurement Counsel position in which Ms. Okafor is employed is proper.

V. CONCLUSIONS OF LAW

The Governor’s designations in this case are properly made.

VI. RECOMMENDED ORDER

Unless this Recommended Decision and Order is rejected or modified by the Board, the following positions with the Illinois Department of Central Management Services are excluded from the self-organization and collective bargaining provisions of Section 6 of the Illinois Public Labor Relations Act:

<u>Title</u>	<u>Position Number</u>	<u>Working Title</u>	<u>Incumbent</u>
PSA, Option 1	37015-37-21-420-00-01	TRAEX Testing Section Supervisor	Melissa Riggins
PSA, Option 1	37015-37-21-100-00-01	Spfld Assessment Ctr Mgr	Wendy Butler
PSA, Option 1	37015-37-21-500-00-01	Chicago Assessment Ctr Mgr	Herbert Johnson
PSA, Option 1	37015-37-24-200-10-01	Transactions & Records Supervisor	vacant
PSA, Option 1	37015-37-23-000-10-01	Classification Specialist	Mark Magill
PSA, Option 1	37015-37-23-200-30-01	Class Studies Manager	vacant
PSA, Option 1	37015-37-23-200-20-01	Agency Classification Services Manager	Michael Quinlan
PSA, Option 1	37015-37-23-100-01-01	Test Development Section Manager	Karen Siciliano
PSA, Option 1	37015-37-23-010-10-01	Interview & Selection Manager	Randall Gibson
PSA, Option 1	37015-37-23-000-01-01	Confidential Assistant to Division Manager	Jill Swartz
PSA, Option 1	37015-37-22-110-01-01	Veterans Outreach Program Mgr	Kenneth (Mac) McKelvey
PSA, Option 1	37015-37-21-000-10-01	E & C Admin Support & Operations Manager	vacant
PSA, Option 1	37015-37-23-300-01-02	Compensation Specialist	vacant
HR Specialist	19693-37-20-000-21-01	Advanced Specialist in Deputy Director's Office	Nancy Pedrucci
PSA, Option 1	37015-37-41-810-01-01	Vendor Payment Coordinator	Donald Lynch
PSA, Option 1	37015-37-41-100-10-01	Research Management/Systems Administrator	Mary Przada

PSA, Option 1	37015-37-34-000-09-01	Contract Administrator	Kimberly Benson
PSA, Option 1	37015-37-31-220-00-01	Medicare Coordinator of Benefits Unit Manager	Lesley Booth
PSA, Option 1	37015-37-34-000-01-01	Contract Administrator	Jan Bryan
PSA, Option 1	37015-37-34-000-02-01	Contract Administrator	David Dailey
PSA, Option 1	37015-37-34-000-06-01	Senior Benefits Analyst	Teresa Flesch
PSA, Option 1	37015-37-31-200-00-01	Program Services Section Manager	Brett Gerger
PSA, Option 1	37015-37-34-000-11-01	Contract Administrator/ Legislative Liaison	A. Edwin Hartman
PSA, Option 1	37015-37-34-000-07-01	Contract Administrator	Earl Henderson
PSA, Option 1	37015-37-31-000-03-01	Manager, Flexible Spending Unit	Pamela Kogler
PSA, Option 1	37015-37-31-320-01-01	Premium Collections Unit Manager	Keri Krager
PSA, Option 1	37015-37-34-000-05-01	Senior Benefits Analyst	Michelle Larson
PSA, Option 1	37015-37-31-210-00-01	Supervisor, Member Services	Lois Jeannine Miller
PSA, Option 1	37015-37-34-000-04-01	Senior Benefits Analyst	Christopher Owsley
PSA, Option 1	37015-37-32-420-01-01	Workers Comp. Mgr, Northern Dist.	Douglas Cunningham
PSA, Option 1	37015-37-32-440-01-01	Workers Comp. Mgr, Southern Dist.	Susan LeMasters
PSA, Option 1	37015-37-33-100-00-01	Operations Manager	Jason Musgrave
PSA, Option 1	37015-37-66-310-70-01	Facility Manager	David Baptist
PSA, Option 1	37015-37-66-250-00-01	Facility Manager	Greg Bucholz
PSA, Option 1	37015-37-66-220-10-02	Facility Manager	Cedric Collins
PSA, Option 1	37015-37-66-230-00-01	Facility Manager	Frank Davis
PSA, Option 1	37015-37-66-310-40-01	Facility Manager	David Fasig
PSA, Option 1	37015-37-66-240-00-01	Facility Manager	Michael Ferega
PSA, Option 1	37015-37-66-360-00-01	Facility Manager	Brent Finley
PSA, Option 1	37015-37-66-210-00-01	Facility Manager	Nicholas Fountas
PSA, Option 1	37015-37-66-220-20-01	Facility Manager	Jennifer Haley Perrin
PSA, Option 1	37015-37-66-310-60-01	Facility Manager	Richard Tate
PSA, Option 1	37015-37-66-320-00-01	Facility Manager	Vince Veseling
PSA, Option 1	37015-37-60-100-20-11	Facility Manager	Timothy Blackorby
PSA, Option 1	37015-37-66-341-00-01	Facility Manager	Pete Walker
PSA, Option 2	37015-37-60-210-20-01	Fiscal Contract and Obligation Manager	Kevin Sperling

PSA, Option 1	37015-37-62-300-03-01	CMS Transactions/ Leasing staff	James Adams
PSA, Option 1	37015-37-62-300-01-01	CMS Transactions/ Leasing staff	James Kolaz
PSA, Option 1	37015-37-62-300-06-01	CMS Transactions/ Leasing staff	Jeffrey Miller
PSA, Option 1	37015-37-01-210-00-01	Assistant Division of Vehicles Manager	Barb Bonansinga
PSA, Option 1	37015-37-01-230-00-01	Central & Southern Regional Manager	Marvin Eversgerd
PSA, Option 1	37015-37-01-240-00-01	Northern Regional Manager	Vic Samaan
PSA, Option 1	37015-37-01-110-00-01	Mail & Messenger Supervisor	John Gallagher
PSA, Option 8L	37015-37-70-200-11-01	Personnel Counsel	Vacant
PSA, Option 1	37015-37-70-000-01-01	Staff Assistant	Cassie Dierkes
PSA, Option 8L	37015-37-70-700-11-02	Procurement Counsel	Elizabeth Kee
PSA, Option 8L	37015-37-70-800-11-03	Facilities Support Counsel	Rupal Mehta
PSA, Option 8L	37015-37-70-700-11-01	Procurement Counsel	Ngozi Okorafor
PSA, Option 1	37015-37-00-000-01-02	EEO/AA Officer	Fred Stewart
PSA, Option 2	37015-37-50-200-01-01	Senior Financial & Accounting Analyst	Tamara Compton
PSA, Option 2	37015-37-03-000-10-01	Audit Supervisor	Amy Walter
PSA, Option 9b	37015-37-03-000-30-02	IT Audit Manager	Vacant
PSA, Option 1	37015-37-80-400-10-01	Operations Manager Media Services	Vacant
PSA, Option 2	37015-37-80-000-10-01	Fiscal Manager	Vacant
PSA, Option SS1	37015-37-04-000-30-01	Certification Manager	Carlos Gutierrez
PSA, Option 1	37015-37-04-000-20-01	Compliance & Monitoring Manager	Harry Reinhard

VII. EXCEPTIONS

Pursuant to Sections 1300.130 and 1300.90(d)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1300,¹⁶ parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than three days after service of this recommended decision and order. Exceptions shall be filed with the Board by electronic mail at an electronic mail address designated by the Board for such purpose, ILRB.Filing@illinois.gov, and served on all other parties via electronic mail at its e-mail address as indicated on the designation form. Any exception to a ruling, finding conclusion or

¹⁶ Available at www.state.il.us/ilrb/subsections/pdfs/Section1300IllinoisRegister.pdf

recommendation that is not specifically urged shall be considered waived. A party not filing timely exceptions waives its right to object to this recommended decision and order.

Issued at Springfield, Illinois, this 23th day of December, 2013.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

Sarah R. Kerley

**Sarah Kerley
Administrative Law Judge**