

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

State of Illinois, Department of	)	
Central Management Services	)	
(Department of Employment Security),	)	
	)	
Petitioner	)	
	)	
and	)	Case No. S-DE-14-241
	)	
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 under Section 6 of the Act. This case involves such designations made on the Governor’s behalf by the Illinois Department of Central Management Services (CMS). On April 9, 2014, Administrative Law Judge (ALJ) Michelle Owen issued a Recommended Decision and Order (RDO) in this case, finding that the designations were properly made. We agree.

CMS petitioned to designate for exclusion three positions at the Illinois Department of Employment Security classified as a Public Service Administrator Option 2C<sup>1</sup> with the working titles of Covered Employment and Wages Program Manager, Current Employment Statistics Manager, and Occupational & Wage Statistics Program Manager. They were designated for

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<sup>1</sup> CMS regulations classify Public Service Administrator positions as Option 2C if they involve work as an economist. 80 Ill. Admin. Code 310.50.

exclusion pursuant to Section 6.1(b)(5) of the Act, which allows designation of positions with “significant and independent discretionary authority.”<sup>2</sup>

The American Federation of State, County and Municipal Employees, Council 31 (AFSCME) filed objections to the petition pursuant to Section 1300.60 of the Board’s rules for implementing Section 6.1 of the Act, 80 Ill. Admin. Code §1300.60. The objections raised constitutional and other generally applicable objections, as well as objections specific to the two positions at issue that were not vacant. The ALJ declined to address the constitutional objections, rejected the other generally applicable objections, and with respect to the position-specific objections found that both positions met the supervisory component of a Section 6.1(b)(5) designation as set out in Section 6.1(c)(ii) 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. Based on our review of the exceptions, the record, and the RDO, we reject the exceptions, adopt the RDO, and find that the designations comport with the requirements of Section 6.1. We direct the Executive Director to issue a certification consistent with that finding.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

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

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<sup>2</sup> This phrase is defined by Section 6.1(c) of the Act:

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.

/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 held in Chicago, Illinois, on May 13, 2014;  
written decision issued at Springfield, Illinois, May 20, 2014.

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

State of Illinois, Department of Central	)	
Management Services (Department of	)	
Employment Security),	)	
	)	
Employer	)	
	)	Case No. S-DE-14-241
and	)	
	)	
American Federation of State, County	)	
and Municipal Employees, Council 31,	)	
	)	
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) *added by* Public Act 97-1172 (eff. 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 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 be properly designated, the position must fit one of the following five categories:

- 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.<sup>1</sup>

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. 14,070 (Sept. 6, 2013). These rules are contained in Part 1300 of the Board’s Rules and Regulations, 80 Ill. Admin. Code Part 1300.

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<sup>1</sup> 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 in this case.

## **I. PETITION**

On March 21, 2014, the Illinois Department of Central Management Services (CMS), on behalf of the Governor, filed the above-captioned designation petition pursuant to Section 6.1 of the Act and Section 1300.50 of the Board's Rules. The petition designates three Public Service Administrator (PSA), Option 2C positions at the Department of Employment Security (IDES) for exclusion from the self-organization and collective bargaining provisions of Section 6 of the Act. The petition indicates that the positions qualify for designation under Section 6.1(b)(5). The petition indicates that the positions were certified on November 18, 2009, in Case Nos. S-RC-07-048 and S-RC-08-074.

In support of its petition, CMS provided position descriptions (CMS-104s) for the positions and affidavits from individuals who supervise the listed positions. CMS also provided documentation identifying the position number, title, name of incumbent, bargaining unit, certification date and case number, statutory category that serves as the basis for the exemption, and a list of the job duties that support the presumption that the positions are supervisory and/or managerial.

## **II. OBJECTIONS**

On April 2, 2014, the American Federation of State, County and Municipal Employees, Council 31 (AFSCME) filed timely objections to the exclusion of all three positions. In support of its objections, AFSCME provided information forms completed by Waleed Almousa and Joseph Malcolm.

AFSCME generally objects to the petition arguing that Section 6.1 of the Act violates due process, the separation of powers doctrine of the Illinois Constitution, equal protection under Article I, Section 2 of the Illinois Constitution and the Fifth and Fourteenth Amendments of the United States Constitution, and the prohibition against impairment of contracts of the Illinois Constitution.

AFSCME next objects to the petition arguing that the designated positions are not managerial under decisions of the National Labor Relations Board, and courts interpreting the same. AFSCME further objects to the use of position descriptions to support the petition and to the allocation of the burden of proof. AFSCME asserts that the evidence submitted by CMS in the form of a position description, organizational chart, and affidavit merely acknowledges the

positions’ potential responsibilities. Likewise, AFSCME argues that CMS has failed to provide specific evidence that the positions at issue have actual authority to perform the listed job duties. As such, AFSCME argues that the employees in the positions at issue were never informed of their significant and independent discretionary authority to perform supervisory or managerial functions and CMS has not met its burden of demonstrating that the positions possess the requisite significant and independent discretionary authority. In addition, AFSCME argues that the positions at issue are professional and not managerial. AFSCME also maintains that to the extent the affidavit states an employee at issue effectuates policies or is authorized to effectuate policy, and the position description does not define a policy, there can be no showing that the employee is managerial, and the burden is on CMS to show why different duties should not apply to others holding the same title. Therefore, AFSCME maintains that the positions at issue are neither supervisory nor managerial within the meaning of Section 6.1 of the Act. AFSCME also specifically objects to the positions held by Waleed Almousa and Joseph Malcom. AFSCME provided written statements as evidence in support of the conclusion that the positions at issue are not managerial or supervisory within the meaning of the Act.

Based on my review of the designation, the documents submitted as part of the designation, the objections, and the documents and arguments submitted in support of those objections, I have determined that AFSCME has failed to raise an issue that would require a hearing. I find the designation to have been properly submitted and consistent with the requirements of Section 6.1 of the Act and consequently I recommend that the Executive Director certify the designation of the positions at issue in this matter as set out below and, to the extent necessary, amend any applicable certifications of exclusive representatives to eliminate the existing inclusion of the position within any collective bargaining unit.

<b>Position Number</b>	<b>Incumbent</b>	<b>Working Title</b>
37015-44-14-100-00-01	Waleed Almousa	Covered Employment & Wages Program Manager
37015-44-14-200-00-01	Joseph Malcolm	Current Employment Statistics Manager
37015-44-14-310-00-01	Vacant	Occupational & Wage Statistics Program Manager

### **III. DISCUSSION**

#### **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 violated provisions of the United States and Illinois constitutions." State of Ill., Dep't of Cent. Mgmt. Servs., 30 PERI ¶ 80 (IL LRB-SP 2013), 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.") Thus, AFSCME's constitutional arguments are not addressed in this decision.

#### **B. Non-Constitutional General Objections**

AFSCME objects that the positions at issue are not those of managers within the definition used by the National Labor Relations Board. However, the Board has specifically rejected AFSCME's argument that the Board should look first to NLRB precedent in interpreting Section 6.1(c)(i). State of Ill., Dep't of Cent. Mgmt. Servs. (Dep't of Commerce and Econ. Opportunity), 30 PERI ¶ 86 (IL LRB-SP 2013) ("To the extent precedent is relevant to interpretation of Section 6.1(c)(i), we look first to precedent established by Illinois courts, this Board, and where relevant the Illinois Educational Labor Relations Board, then to federal precedent interpreting similarly worded provisions of the NLRA.")

AFSCME's remaining general objections are without merit and do not raise issues of fact or law that might rebut the presumption that the designations have been properly made. First, the Board has previously rejected AFSCME's objections concerning the statutorily-mandated presumption, the burden of proof, and the manner in which ALJs have applied them. State of Ill., Dep't of Cent. Mgmt. Servs., 30 PERI ¶ 80 ("Submission of position descriptions that are consistent with the designation made, combined with the presumption of appropriateness, and in the absence of any contrary evidence from objectors like AFSCME that might demonstrate that the designation is inappropriate, leads to the conclusion that the designation comports with the requirements of Section 6.1.") AFSCME's arguments regarding the use of position descriptions, organizational charts, and affidavits to support the petition; the burden of proof; and CMS' failure to provide specific evidence that the positions at issue have actual authority to perform

the listed job duties must be rejected because these arguments ignore the presumption and misallocate the burden, which is on AFSCME, not CMS.

The Board has also rejected AFSCME's objections relating to the distinction between managerial and professional status. Dep't of Commerce & Econ. Opportunity, 30 PERI ¶ 86. The terms managerial and professional are not mutually exclusive and "there certainly is no exception for professional employees in the language of Section 3(c)(i) [sic]." Id. Accordingly, the Board has held that a position may be appropriately designated for exclusion if it meets one of the two alternative tests set out in Section 6.1(c)(i), regardless of whether the position is also professional, and even if the position fails to meet the definition of a managerial employee in Section 3(j) of the Act. Id.

In sum, AFSCME's general objections do not raise issues of fact or law that might rebut the presumption that the designations were properly made.

### **C. Designation under Section 6.1(b)(5)**

A position is properly designatable under Section 6.1(b)(5) if it authorizes an employee in that position to have "significant and independent discretionary authority as an employee." The Act provides two tests in Section 6.1(c)(i) and one test in Section 6.1(c)(ii) by which a person can be found to have "significant and independent discretionary authority."

The test under Section 6.1(c)(ii) provides that an employee has "significant and independent discretionary authority" if he or she qualifies as a "supervisor" within the meaning of the National Labor Relations Act. The NLRA defines a supervisor as "any individual having 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. Section 152(11). Thus, employees are supervisors if (1) they hold the authority to engage in any of the 12 listed supervisory functions, (2) their exercise of that 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 Ill., Dep't of Cent. Mgmt. Servs. (Dep't of Public Health), 30 PERI ¶ 149 (IL LRB-SP 2013), citing NLRB v. Kentucky River Cmty. Care, Inc., 532 U.S. 706, 713 (2001), and Oakwood Healthcare,

Inc., 348 NLRB 686, 687 (2006). Unlike the definition of supervisor in Section 3(r) of the Act, Section 6.1(c)(ii) does not require that the individuals devote a preponderance of their employment to exercising their supervisory authority.

A position has the responsibility to direct if the position holder has subordinates, decides what jobs his or her subordinates should perform next, and who should perform those tasks. Oakwood Healthcare, 348 NLRB at 691-92. The position holder must also be accountable for his or her subordinates' work and must carry out such direction with independent judgment. Id. 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.

#### 1. Waleed Almousa

Almousa is the Covered Employment & Wages Program Manager for the Economic Information & Analysis Unit. His position description states that she plans, organizes, controls, and evaluates staff activities involving employer data to obtain information on employment wages and tax contributions by industry and geography; establishes program priorities; interprets policy and procedures and directs the flow of work to complete performance requirements; trains staff in the implementation of editing and coding Unemployment Insurance account data in order to provide the employment and wage data that serve as the benchmark for all other statistics; serves as working supervisor for Covered Employment & Wages staff; plans, assigns, evaluates, and reviews work; provides guidance and training to assigned staff; counsels staff regarding work performance; reassigns staff to meet day-to-day operating needs; establishes annual goals and objectives; approves time off; prepares and signs performance evaluations; develops staff training in economic analysis, statistical procedures, and coding; approves statistical methodologies used in conducting the program; ensures that the Annual Refiling Survey and the Multiple Worksite Report Surveys are completed on time and incorporated into the database; implements new or revised statistical reporting and research programs, coding systems, or

special statistical projects; assists in the introduction of revised agency-wide statistical processing systems; directs the maintenance and updating of PC and mainframe databases; directs methodology revision when required by program changes or enhancement to PC or mainframe applications; consults with Information Services Bureau and Economic Information & Analysis staff regarding system problems, especially integrating the mainframe and PC data processing systems; resolves problems and/or enhancements to the existing system; establishes, revises, and maintains the methodology used for collecting, processing, organizing, and analyzing statistical and economic data on employment, payrolls, and economic activity characteristics of all Unemployment Insurance covered private employers and government agencies; develops and revises the methods used for the summarizing, reporting, presenting, and publication of data, coordinating, where necessary with officials of other divisions and the U.S. Bureau of Labor Statistics (BLS) in establishing and maintaining effective and efficient overall procedures and operations; represents the agency in delivering presentations to various governmental, educational, business, and civic audiences; extends and participates in BLS conferences related to Covered Employment & Wages; and serves as statewide resource in the use and analysis of covered employment and wage estimates. Almousa has seven subordinates who perform multiple tasks including editing and filing.

CMS contends that Almousa is authorized to be engaged in executive and management functions and charged with the effectuation of management policies and practices or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy IDES. CMS asserts that Almousa is authorized to implement IDES policies in managing the Covered Employment & Wages Program; coordinating the development and production of employment, wages, and tax contribution data originating from IDES Unemployment Insurance accounts; and overseeing subordinate staff. CMS also contends that Almousa is authorized to, in the interest of IDES, among other things, assign and review work, responsibly direct, counsel staff regarding work performance, take corrective action, monitor work flow, evaluate subordinates' work performance, and reassign staff to meet day to day operating needs.

Almousa contends that he has no authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees. He admits that he assigns work to

employees. He also admits that he directs employees by assigning tasks and reviewing their work. Almousa maintains that he does not write policies or recommend the adoption of policies, plays no role in the budget process, has no authority to decide how policies or legislation will be implemented, and does not recommend any actions that control or implement legislation that affects the agency or agency policies. Further, he contends that policies are established by the Bureau of Labor Statistics and the Economic Information & Analysis Manager.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). Almousa admits that he has the authority to assign work and direct employees. He does not maintain that his authority to assign and direct does not require the use of independent judgment. Further, AFSCME provides no evidence to show that his authority to assign and direct does not require the use of independent judgment. In addition, Almousa does not assert and AFSCME provides no evidence to show that there would not be a prospect of adverse consequences for Almousa if he did not assign and direct his subordinates' work or take corrective action where necessary. Thus, the designation of his position is proper.<sup>2</sup>

## 2. Joseph Malcolm

Malcolm is the Current Employment Statistics Manager for the Economic Information & Analysis Unit. His position description states that he plans, organizes, controls, and evaluates staff activities involving accurate and timely preparation of current non-agricultural employment, hours, and earnings estimates for Illinois and its Metropolitan Statistical Areas; establishes program priorities; interprets policy and procedures and directs the flow of work to complete performance requirements; trains staff in the implementation of estimations and statistical operations and analysis of statistical procedures; plans, assigns, reviews, and evaluates the work of subordinate staff comparing results achieved with established goals and objectives; prepares and signs performance evaluations; hears first level grievances and effectively implements disciplinary action; conducts meetings to keep staff abreast of changes in policy, procedures, and program operations; discusses problem areas and coordinates the implementation of connection measures; directs the preparation of grant applications for funding of special research studies such as the Small Domain Model and County Estimation; reviews for approval, the design and

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<sup>2</sup> CMS also asserts that Almousa's position is properly designable under Section 6.1(c)(i). Since Almousa's position qualifies for exclusion under Section 6.1(c)(ii), it is unnecessary to determine whether the position also qualifies for exclusion under Section 6.1(c)(i).

formulation of automated systems programming and data processing systems specifications and documentation; confers and interacts with the management of the Regional Bureau of Labor Statistics (BLS) Employment & Training Administration, the Governor's Office, and Human Development agencies; provides information and advice to staff regarding economic assumptions for Illinois and its Metropolitan Statistical Areas; consults with the Information Services Division and BLS staff regarding systems' problems, especially regarding the drawing of the survey sample and integrating the mainframe and PC data processing systems; resolves problems and/or enhancements to existing systems; serves as statewide resource in the use and analysis of Current Employment Statistics; prepares and delivers presentations to various governmental, educational, business, and civic audiences; attends and participates in BLS-Current Employment Statistics conferences; and acts as agency representative in local, national, and regional training and research conferences, explaining agency policy and procedures. Malcom has one subordinate, a Public Service Administrator.

CMS contends that Malcolm is authorized to be engaged in executive and management functions and charged with the effectuation of management policies and practices or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of IDES. CMS asserts that Malcolm implements Department policy in managing the Current Employment Statistics Program and that it involves highly technical statistical analysis of data, database management, and management of subordinate staff by oversight. CMS also contends that Malcolm is authorized to, in the interest of IDES, among other things, assign and review work, responsibly direct, counsel staff regarding work performance, take corrective action, monitor work flow, evaluate subordinates' work performance, and reassign staff to meet day to day operating needs.

Malcolm contends that he has no authority to hire, transfer, suspend, lay off, recall, promote, or discharge employees. He admits that he assigns and directs work by dividing the work between himself and his subordinate. He also admits that he rewards and disciplines his subordinate by writing his annual review and giving positive or negative marks. However, Malcolm maintains that his subordinate performs the same duties that he does, namely completing Current Employment Statistics estimates each month. Malcolm states that he is on the Current Employment Statistics policy council, where he goes over policies put forth by other

states and the Bureau of Labor Statistics. However, he asserts that he has not written any policies directly. Finally, Malcom contends that he plays no role in the budget process, has no authority to decide how policies or legislation will be implemented, and does not recommend any actions that control or implement legislation that affects IDES or IDES policy.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). Malcom admits that he has the authority to assign work and direct his subordinate. He does not maintain that his authority to assign and direct does not require the use of independent judgment. Further, AFSCME provides no evidence to show that his authority does not require independent judgment. In addition, Malcom does not assert and AFSCME provides no evidence to show that there would not be a prospect of adverse consequences for Malcom if he did not assign and direct his subordinate's work or take corrective action where necessary. Thus, the designation of his position is proper.<sup>3</sup>

CMS' designation of the positions is proper because the designations are presumed to be properly made and no specific evidence has been introduced by AFSCME or incumbent employees to suggest that the positions at issue do not have "significant and independent discretionary authority as an employee." AFSCME has not raised issues of fact for hearing simply by asserting that the position descriptions are inaccurate because AFSCME has not specifically identified any such alleged inaccuracies. State of Ill., Dep't of Cent. Mgmt. Servs. (Dep't of Revenue), 30 PERI ¶ 110 (IL LRB-SP 2013) (general statement that position description is inaccurate does not raise issues of fact for hearing). Since no evidence was provided that contradicts the positions' job duties and responsibilities, AFSCME has failed to raise an issue that overcomes the presumption that the designation of these three positions is proper. As such, there is no evidence that the positions do not have significant independent and discretionary authority when performing the tasks set forth in the position descriptions. Thus, CMS properly designated these positions.

#### **IV. CONCLUSION OF LAW**

The Governor's designation in this case was properly made.

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<sup>3</sup> CMS also asserts that Malcom's position is properly designatable under Section 6.1(c)(i). Since Malcom's position qualifies for exclusion under Section 6.1(c)(ii), it is unnecessary to determine whether the position also qualifies for exclusion under Section 6.1(c)(i).

## V. RECOMMENDED ORDER

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

<b>Position Number</b>	<b>Incumbent</b>	<b>Working Title</b>
37015-44-14-100-00-01	Waleed Almousa	Covered Employment & Wages Program Manager
37015-44-14-200-00-01	Joseph Malcolm	Current Employment Statistics Manager
37015-44-14-310-00-01	Vacant	Occupational & Wage Statistics Program Manager

## VI. EXCEPTIONS

Pursuant to Section 1300.90 and Section 1300.130 of the Board's Rules and Regulations, 80 Ill. Admin. Code Part 1300,<sup>4</sup> parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, not later than three days after service of the recommended decision and order. All exceptions shall be filed and served in accordance with Section 1300.90 of the Board's Rules. Exceptions must be filed by electronic mail sent to [ILRB.Filing@Illinois.gov](mailto:ILRB.Filing@Illinois.gov). Each party shall serve its exception on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot. A party not filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order.

**Issued at Chicago, Illinois, this 9th day of April, 2014**

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

*/s/ Michelle Owen*

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**Michelle Owen  
Administrative Law Judge**

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<sup>4</sup> Available at <http://www.state.il.us/ilrb/subsections/pdfs/Section%201300%20Illinois%20Register.pdf>