

L.300, SEIU, City v. OSA, DC37, CWA,52 OCB 9 (BOC 1993) [9-93 (Amend. Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of the Petition of

LOCAL 300, SEIU, AFL-CIO,

Petitioner,

-and-

CITY OF NEW YORK,

DECISION NO. 9-93

Respondent,

-and-

ORGANIZATION OF STAFF ANALYSTS,
DISTRICT COUNCIL 37, AFSCME, and
COMMUNICATIONS WORKERS OF AMERICA,

DOCKET NO. RU-1022-88

Intervenors.

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ORDER AMENDING CERTIFICATION

On November 10, 1988, Civil Service Forum, Local 300, Service Employees International Union, AFL-CIO ("L. 300"), petitioned to add, by accretion, the new titles of Contract Specialist and Associate Contract Specialist, to Certification No. 8-85 (as amended), covering a miscellaneous unit, "including several purchasing titles."

On February 1, 1989, District Council 37, AFSCME, AFL-CIO ("DC 37"), applied to intervene herein, alleging that Certification No. 37-78 (as amended), "is the more appropriate one because employees in the new titles and in the titles already represented by DC 37 share a strong community of interest in regard to salaries and duties; especially employees whose titles of Human Resources Specialist, Senior Human Resources Specialist

and Supervising Human Resources Specialist have been changed to Contract Specialist and Associate Contract Specialist." Certification No. 37-78 (as amended) covers a "social service and related" unit consisting of nearly two hundred titles.

On February 23, 1989, Communications Workers of America ("CWA") applied to intervene herein. CWA uses language identical to that of DC 37, except that it recommends Certification No. 41-73 (as amended) as the "more appropriate one" for inclusion of the requested titles and alleges that Principal Administrative Associates have had their title changed to Contract Specialist and Associate Contract Specialist. Certification No. 41-73 (as amended) covers an "administrative and related" unit consisting of 18 titles.

In a letter dated March 7, 1989, the City's Office of Labor Relations ("City") stated that it "does not oppose the representation of the titles Contract Specialist and Associate Contract Specialist. However, in light of the interventions by DC 37 and CWA, the City will maintain a position of neutrality regarding the unit placement of these titles."

On October 3, 1989, the Organization of Staff Analysts ("OSA") applied to intervene herein, alleging that the employees in the titles at issue "share a greater community of interest with employees in the titles of Staff Analyst and Associate Staff Analyst (Certification No. 3-88) than they do with the employees in the unit requested by Local 300, SEIU, AFL-CIO, or either of

the two other intervenors, DC 37 or CWA." OSA maintains that "the work performed by employees in the titles Contract Specialist and Associate Contract Specialist is similar in nature to work performed by many persons in the title of Staff and Associate Staff Analyst ... since a considerable number of employees in [the latter] titles are involved in negotiating and monitoring contracts."

By notice of hearing dated October 11, 1989, the Board of Certification ("Board") directed that a hearing be held before a Trial Examiner to determine whether the petitioned-for titles should be added to the bargaining unit proposed by petitioner or to the bargaining units proposed by any of the intervenors, by accretion. The hearing began on December 5, 1989, and was continued on May 16, 1990 and May 29, 1990.

In a letter to the Trial Examiner, dated September 27, 1990, written on behalf of all the participating unions, DC 37 requested an adjournment of the hearing "to give the parties an opportunity to engage in settlement discussions with the City of New York." According to DC 37, under consideration by the City's Department of Personnel ("DOP") was the unions' joint proposal that DOP earmark the Contract Specialist title series to certain social services agencies (Department of Youth Services, Department of Employment and the Community Development Agency of the Human Resources Administration). Such action, DC 37 contended, would be consistent with the purpose for amending the

Classified Service of the City of New York, Competitive Class to include the Contract Specialist Occupational Group, which was to create a title series into which employees in the Human Resource Specialist title series could laterally move.

There is no dispute that development of the Contract Specialist title series began in 1987 at the instance of DC 37, which sought to provide employees in the Human Resource Specialist titles series employed by the City's social services agencies with a career ladder. Also undisputed, however, is the fact that the job specifications for the Contract Specialist title series, as originally issued by DOP, were so broadly written that various non-social services agencies used the titles for the performance of non-social services related duties. Hence, the instant representation proceeding ensued, with each union herein claiming that the titles at issue shared a community of interest with its respective unit.

On January 15, 1992, DOP issued revised job specifications for the titles Contract Specialist and Associate Contract Specialist, which now read: "This class of positions currently may be used only by the Department of Youth Services, Department of Employment and the Community Development Agency." On March 3, 1993, the City Personnel Director adopted a resolution (TC Routing No. 93/2), creating the temporary title Contracting Agent, with three assignment levels, as a "replacement for Contract Specialist (40561) and Associate Contract Specialist

(40562) for all agencies except for Community Development Agency/Human Resources Administration (CDA) (250), Department of Employment (094) and Department of Youth Services (260)." It is not disputed that employees who were in titles in agencies for which the titles were not designated subsequently have been reclassified to the appropriate titles.

By a letter dated April 5, 1993, intervenor OSA requested to withdraw from the proceeding. By letters dated April 6, 1993, petitioner L. 300 and intervenor CWA requested to withdraw from the proceeding. By a letter dated April 13, 1993, intervenor DC 37 requested that its application to intervene be converted to a petition to add, by accretion, the titles Contract Specialist and Associate Contract Specialist to Certification No. 37-78 (as amended), nunc pro tunc. Finally, by a letter dated April 15, 1993, the City stated that it does not oppose DC 37's request.

The parties hereto having agreed, and it appearing to the satisfaction of the Board that the titles of Contract Specialist and Associate Contract Specialist should be added, by accretion, to Certification No. 37-78 (as amended), covering "social service and related" titles;

NOW THEREFORE, pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

ORDERED that Certification No. 37-78 (as previously amended) be, and the same hereby is, further amended to include the titles

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of Contract Specialist and Associate Contract Specialist, subject to existing contracts, if any.

DATED: New York, New York
April 22, 1993

MALCOLM D. MacDONALD
CHAIRMAN

GEORGE NICOLAU
MEMBER

DANIEL G. COLLINS
MEMBER

The title and title code number of the employees affected by this decision are as follows:

Contract Specialist	40561
Associate Contract Specialist	40562