

DFS AGENCY-WIDE LABOR MANAGEMENT MEETING

June 11, 2024

MINUTES

Introductions

Attendance (both virtual and in-person):

Fletcher Barnes	April Lambert
Geffrey Chan	Ojarikre (CJ) McDavis
Riccardo Cruz	Sally O'Connor
Hesham El-Meligy	Chelsea Propati
Yiem Fong Chiu	Sinoj Vithayathil
Audry Hall	Jeffree Wallace
Dorothy Hernandez	Jenny Wan
Tamatha (Tammy) Jerome	Darleen Williams
Meghan Keegan	William (Bill) Woods

1. Approval and Discussion of Labor/Management Minutes

New Business Old Business

Minutes from meeting on March 12, 2024, were sent out May 2024. Some minor updates have since been made and will be sent to Management.

Management Response:

Management will stop review until updated minutes have been provided.

2. Staffing and Vacancies

New Business Old Business

A. During the March 12, 2024, L/M meeting, Management provided the following staffing numbers and Labor is requesting any updates on them.

March 12, 2024: DFS has 1303 employees (1291 FTE), inc. 79 CSEA, 937 PEF, and 287 M/C. Among those are 258 Non-Competitive; 900 Competitive; 141 Exempt; 3 Labor class; 1 Unclassified.

Management Response:

Management provided the following staffing numbers and requests update as of the Pay Period ending May 29, 2024:

DFS currently has 1308 employees, 1304 Full-Time* & 4 Part-Time
80 CSCA, 942 PEF & 286 M/C
881 Competitive Class
277 Non-Competitive
146 Exempt Employees
3 Labor Class
1 Unclassified Service (the superintendent)

*If an individual is on medical leave, they are not included in FTE count.

Staffing and Vacancies Continued...

- B. As discussed during the March 12, 2024, L/M meeting, Labor is requesting a copy of the most updated report(s)/list(s) of PS&T employees. The information requested includes the full names, titles, salary grades, status (FTE, PT, hourly, etc.), divisions, and stations. If possible, seating assignments or at least the floor where the employee reports to is also requested.

Management Response:

It is the agencies right to hire as needed. On Monday, June 10, 2024, DFS posted vacancies: 25-30 personnel, 7 posted as repositions.

All DFS appointments go through a review process internally prior to an external process. Management will not provide any additional details on their hiring procedures.

Action Item:

Move this agenda item up to the Executive LM Council Meeting as management refuses to provide further information.

Follow-Up Questions & Discussion:

Clarification: PEF is neither asking management to explain their hiring practice nor questioning the Agencies right to hire and fill positions.

Noting the increase in non-competitive employees, PEF is asking for a list of which positions are being filled using non-exempt titles. (i.e. is increase due to hiring additional employees? Were people prompted to leave competitive lines for non-competitive ones?).

Additionally, for health and fire safety reasons, PEF is requesting a list of employees stationed on each floor in each building. The list will be used to confirm DFS information matches PEF, and then, as a tool to properly communicate with members when necessary. This list does not need to include employee bargaining units.

Management Response to Follow-Up:

Management will not provide a seating assignment per floor as it can change at any time and would not include whether the individual listed was an in office or field employee.

The space where a person is sitting is tied to their business unit, but their desk may change. DFS does not have a system right now that allows for reporting of each employee's immediate desk/work location. IT is working on creating a new system that could report this information; but it is currently a manual project completed as one-offs when management is informed of a location change.

The Business Unit Lists will give PEF what they need in seating assignments, both Upstate & Downstate including Buffalo and Garden City.

Action Item:

The information on the Business Unit Lists has not been updated to reflect recent staffing changes or retired members. PEF is requesting Management provide an up-to-date list identifying who the Wardens, Deputies and Searchers are, and what floors they're stationed.

Staffing and Vacancies Continued...

C. During the last L/M meeting on March 12, 2024, Management stated that the ***rehiring of retirees*** is to ***fill knowledge gaps and/or provide training/succession planning.***

- With the above in mind, and with the existence of the current Civil Service promotional lists for FSE2/3/4 and FSM1, and the fact that many of the rehires are filling positions that performs job duties of the captioned titles, what is Management's plan regarding training (if needed) and promoting individuals from the captioned lists?
- How many rehires are currently at DFS, divided by title, salary grade, and division?

Management Response:

The rehiring of retirees has “nothing to do with the standard recruitment and promotion process”. They are hired into temporary hourly positions and are not considered annual or salary employees. Retirees who have been re-hired are subject to an annual salary cap of \$30,000; unless they are 65 years old or, turning 65 within one calendar year.

These re-hired retirees are to provide knowledge, training, and assistance while management works through succession to fill hiring gaps. The re-hired retirees may also assist in exams and training of lower-level individuals.

To date (June 11, 2024), 11 individuals previously retired from examiner lines have been re-hired into temporary, hourly FSE lines. The lines these positions are temporarily filling are ones that do not coincide with Civil Service Promotional lines. DFS is lacking actuaries, both the Banking and Insurance departments filled some of these knowledge/experience-based positions with retirees.

Follow-Up Questions & Discussion:

- How are the retiree positions being offered; internally or publicly?
- Has this opportunity of re-hiring provided to all retirees?
- Is re-hiring eligibility or recruitment based on seniority?
- What is being considered when re-hiring these retirees.

Management Response to Follow-Up:

DFS provided the Business Unit with information on who retired over the past 5 years. The Business unit then assesses that information to see who could fill necessary roles and outreach to those qualified individuals.

Management is not ‘blind’ hiring anyone – retirees asked to come back have either previously held the vacant position or have proven expertise in a specialty/niche needed by the department. It is not based on Seniority, rather the individual’s familiarity with the work.

D. Labor is requesting a list of all exams, investigations, and IT roles that DFS contracted outside consultants to perform since January 1, 2023.

Management Response:

Management has nothing to provide at this meeting. We need to table the subject and will, in good faith, take this forward for discussion at agency.

Action Item:

This item will be moved to next Executive LM Meeting.

Staffing and Vacancies Continued...

- E. For the current fiscal year (state budget was approved on April 20, 2024), how many promotional positions did DFS request and were approved for? Please provide a breakdown by title and division.

Management Response:

20 Approved FSE 4's – meaning 20 competitive lines in which individuals can and will be promoted.

FSE 4's are a high position in the hierarchy; to maintain structure, DFS needed to increase what was at the top. Once people are promoted, it will create a trickle effect to the lower grade positions (i.e. FSE 3's and then FSE 2's, etc....).

- F. How often does DFS communicate to the Department of Civil Service changes in status that affect the content of the Civil Service Promotional Lists for FSE2/3/4, and FSM1?

Management Response:

Management always reaches out to HR when promoting. Every time a promotion is made, a transaction is entered to PESO (OSC payroll system), Civil Service has that information.

People do not get removed from the promotional list. A candidate's status may be changed, listed as active or inactive, but their name is not removed. If/when an individual is moved into non-competitive role, they are not removed from list.

If an employee is interested, they can put in a request with Civil Service to be activated/deactivated from list. Unless there is a catastrophic event, DFS will approve those individuals be reactivated.

Employees with additional questions are instructed to reach out to Civil Service or call HR. Literature for each resource can be found on the DFS website.

- G. The FSE2/3/4 and FSM1 lists on the Civil Service website do not include changes in status of those who were promoted through a 2-grade transfer, or to non-competitive/MC/Exempt positions, or through counteroffers. In the March 12, 2024, L/M meeting, Management stated there is no discrepancy between their own lists and those of the Department of Civil Service. Labor would like to receive the most updated information about the status of individuals on the captioned lists.

Management Response:

This has already been addressed, DFS does not maintain its own list. We do not have lists; we use Civil Service's lists. Every time someone is promoted, they're added to NYSTEP. If promoted to a non-competitive or exempt line, they are not removed from the promotions list unless they request to be removed. Even after promotion/lateral transfer, they are still eligible for promotion off that list.

Not to say civil service doesn't take their time to update status changes; DFS doesn't control the information on the list or when it's updated. DFS does not control the Civil Service exam schedule.

The current promotional list is 24 pages long. Employees cannot move on this list unless they meet qualifications for a non-competitive line and transfer to that path.

Since September 2021 DFS has promoted 40 employees from these lists. Without exams, the lists are used as transfer mechanisms. To address staffing issues, DFS stopped the practice of hiring twice a year and moved to rolling recruitment. DFS is now at a place where they are bringing in more employees, but those employees cannot be promoted until additional exams are offered.

Management requests PEF provide Civil Service Training on how to read the CS promotion lists, statuses included and how those transactions are taken from the list.

Staffing and Vacancies Continued...

Action Item:

Skip to H – PEF recognizes there is some confusion and will request President Spence have Commissioner of Civil Service clarify any of the points said by DFS Management.

H. The NY HELPS Program:

- How is Management implementing that program for current examiners and examiner trainees (SG14/16/18)? Particularly regarding the amount of time before tenure, and their eligibility for promotions and promotional exams.
- Would that program affect any other current titles/salary grades at DFS? If so, how is Management implementing the program for the titles and salary grades?

Management Response:

Trainees are only required to be a journey level for 3 months prior to examination, if offered. The program created the ability to bring in provisional work, based on education and experience; with the caveat that they would have to take the exam. NY Helps removed that requirement.

NY Helps employees are not subject to the Rule of 3. Upon completion of their 1st year, employment status changes, and they can move from a competitive line to non-competitive one. This does not affect probationary periods or trainee periods.

I. As discussed in the March 12, 2024, L/M meeting, many of the individuals promoted to non-competitive titles are performing job duties that are identical or very similar to their counterparts in the same salary grades with Civil Service titles. In addition, in many cases, employees with Civil Service titles end up training those promoted to non-competitive positions of the same salary grade.

- Why is Management refusing to focus on promoting individuals from the Civil Service FSE2/3/4 and FSM1 lists instead of non-competitive?
- What can individuals on these lists do to increase their chances of being promoted?
- Does Management inform prospective non-competitive employees that once the hold on their prior competitive titles end, they cannot take civil service promotional exams and would no longer have Civil Service career advancement opportunities except through non-competitive or exempt titles? How does Management inform them?

Management Response:

Managements response has not changed; management has the right to utilize all resources, which include non-competitive and exempt lines, to promote staff as needed. Looking at the candidates resume and if they have special experience relevant to the posting but are unable to be hired into the competitive line due to a lack of exam, they can establish non-competitive qualifications to promote and retain that employee. The employee would also retain their right to stay on the competitive list when a competitive line or exam does become available.

HR encourages everyone to apply for every position they are interested in and qualified for. If they have transfer rights, they have the right to apply.

If employee is unsure of their eligibility status, HR will provide them with the career mobility center contact information. They can also talk to Civil Service about their level and if they receive a canvas they are not interested in, they have the right to refuse.

DFS follows Civil Service guidelines as relates to hiring; they have to provide Rating sheets & written justifications. If people do not respond to the canvass, they will not be considered. The canvass determines who's eligible, DFS is not making up the process, they follow the CS procedure.

Staffing and Vacancies Continued...

J. It appears some divisions are getting promotions from the Civil Services promotional lists, whereas others are getting non-competitive specialist titles.

- What is the rationale for this practice?
- Why are some promotions are not announced publicly?

Management Response:

- What is the rationale for this practice?
 - It is based on the duties that are brought forward. If looking for a specialist or someone with specific experience or knowledge, that will determine which line is used.
 - Anyone who's been in a competitive round is still eligible to take exam based on competitive lines, at any time. If they previously held a position in a competitive class, they could take an exam based on that prior competitive title.
- Why are some promotions are not announced publicly?
 - Management is not required to post is they have an individual who can immediately transfer to the position. If within the Rule of 3, DFS is not required by CS Law to post the opening.
 - When jobs are posted publicly, DFS is looking to see who externally the best candidate might be.

3. Updates on the EAP position

New Business Old Business

Management Response:

There was an interview, and an offer made this week. DFS cannot yet announce, but they are hopeful the position has been accepted and filled.

4. Updates on the unified GAM

New Business Old Business

Management Response:

Just completed unified travel policy. Now focusing on time and attendance policy. The other stuff is "fairly easy", some of it decentralized because it is unit specific.

Natasha has moved on, which affected this project. Once Attendance policy is complete, they will look at AgNET policy.

It is an ongoing conversation with Executive but staffing changes haven't changed.

Follow-Up Questions & Discussion:

Is it possible the 20 FSE 4 positions be spread?

Management Response:

Consistent with hiring decisions and conversations previously had; Superintendent dictates the FSE 4 universe - including: how many positions are filled, how many vacancies are listed and based on operational need, the Superintendent will weigh in on where positions go.

"If you or anyone is questioning eligibility - question HR. They must be on appointment list for a grade 2 transfer; dependent on their history and how they were appointed to their current position." DFS follows Civil Service guidelines as relates to hiring; they must provide Rating sheets & written justifications.

5. Diversity and inclusion

New Business Old Business

- Labor would like to invite the new Chief Diversity Officer to the L/M meeting on June 11, 2024 to observe the meeting, introduce himself and his vision.
- Labor would like a copy of any diversity reports issued by or for management since January 1, 2023

Management Response:

A new Chief Diversity Officer (CDO) - started with agency a few weeks ago.

The CDO is not involved with hiring / interviewing / recruitment processes at this time. Once educated on civil service law and how it applies to competitive and non-competitive hiring, the CDO will come into place during the interview process.

Management will share CDO's card with the 3 Chair Members: Dorothy, Hesam & Jenny.

Follow-Up Questions & Discussion:

Concerns that people are being bypassed may be valid, may not be, but the concern is real and has been raised to PEF. Once the CDO has been brought up to par, can/will they try to address those concerns.

Management Response to Follow-Up:

If any employee brings a concern to management that certain actions have been taken, the employee is referred to the OER Anti-discrimination Division to file a complaint on their own behalf. PEF can do this as well, bring the complaint to OER.

Management is required to stay at arm's length – not to say they do not take members concerns seriously, but management must refer them to ADID.

Additional Action Items (Listed after LM Meeting wrapped):

Ask Commissioner from Civil Service to provide knowledge prior to next DFS LM Meeting.

Invite commissioner to next meeting. If commissioner is unavailable, another PEF representative from Civil Service should be present.

Invite the new Chief Diversity Officer to attend next LM meeting.

Review rules of LM Agreement:

- ***Importance of letting one person speak and finish prior to response from Management and/or PEF.***
- ***Before moving to the next Agenda item, Chair needs to confirm all questions and/or comments related to the topic have been expressed prior to moving on.***