**OCB AWARD NUMBER: 2183**

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| **SUBJECT:** | **ARB SUMMARY # 2183** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **05-00-20120601-0005-09-09** |
| **DEPARTMENT:** | **Office of Budget and Management** |
| **UNION:** | **OCSEA** |
| **ARBITRATOR:** | **Craig Allen** |
| **GRIEVANT NAME:** | **Judith Reid** |
| **MANAGEMENT ADVOCATE:** | **Tamica Gardner** |
| **UNION ADVOCATE:** | **John Gersper** |
| **ARBITRATION DATE:** | **10/26/2012** |
| **DECISION DATE:** | **11/05/2012** |
| **DECISION:** | **Granted** |
| **CONTRACT SECTIONS:** | **Article 24 - Discipline** |
| **OCB RESEARCH CODES:** | **118.01 – Discipline in General** |

**HOLDING: Grievance granted. The grievant was a voucher processor for OBM. The incident in question was the suggestion/recommendation supposedly from the grievant and another employee to lessen productivity to alter the performance metrics. The Arbitrator found that the evidence presented by Management was speculative at best and granted the grievance in its entirety**

The grievant was a 3 year employee with the Office of Budget and Management (OBM), working as a Shared Services Associate, at the time of her removal. The grievant had 2 prior disciplines on her record. The grievant was removed on May 24, 2012, for violating work rule 5-2(A) – participation in a work stoppage, strike, sit out, illegal strike, or any other activity that would interfere with the operation of a department, facility, installation or program. The grievant was charged with violating work rule 5-2(A) because of her involvement with suggesting that employees in her work area cut back on productivity. The Accounts Payable Division, where the grievant worked, was demoted to pay range 27 and offered a performance incentive with the potential to peak at the top of pay range 28. Another employee suggested a “slow down” – area wide reduction in productivity and was disciplined for it.

Management argued that the grievant suggested and attempted this work area “slow down” in productivity by discussing the issue at a team meeting. Management had one witness which denied being personally asked to slow down, but was aware of the suggestion to the top performers in division from a previous meeting.

The Union argued that a different employee suggested the “slow down”, and was promptly disciplined for it. Any further mention of decreasing productivity to skew the metrics was residual conversation regarding the employee who was disciplined. The grievant argued that all of her statements regarding the meeting conversations were about the disciplined employee and not of her own agenda. The Union also argued that removing the grievant was prejudiced due to the fact that the grievant had two disciplines on her record, neither of which was related to the current charge.

The Arbitrator found that while a conversation regarding productivity reduction took place, there is not enough evidence to suggest that the grievance was the instigator or originator of the idea nor was the grievant proven to have a motive for enacting such a plan. The Arbitrator took note of the fact that another employee, that was named by both witnesses and was disciplined by management for the incident, was the originator of the idea – and was disciplined for the action. The Arbitrator found that there was no evidence to support Management’s claim that the grievant violated work rule 5-2(A). Management’s witness did nothing to provide support to their argument. The Arbitrator granted the grievance, reinstating the grievant to her full position with full back pay.