



November 17, 2021

The Honorable David Wallace, Co-Chairperson
The Honorable David Hillman, Co-Chairperson
Uniform Personnel Classification and
Compensation Plan Subcommittee
Joint Budget Committee
State Capitol Building, Room 315
Little Rock, Arkansas 72201

Dear Senator Wallace and Representative Hillman:

The Office of Personnel Management (OPM) submits a request from the Department of Finance and Administration (DFA) – Division of Revenue for your review.

The Department of Finance and Administration – Division of Revenue is requesting one (1) position from the OPM Surrender Pool established by Ark. Code Ann. §21-5-225(a)(1). The classification requested, along with the positions being surrendered, are listed below:

POSITIONS SURRENDERED

<u>POSITION NUMBER</u>	<u>TITLE</u>	<u>CLASS CODE</u>	<u>GRADE</u>	<u>SALARY RANGE</u>
22111788	DFA Technician	C076C	GS02	\$23,335 - \$33,835
22143106	Attorney Specialist	G047C	GS11	\$62,531 - \$90,669

CLASSIFICATION REQUESTED

<u>CLASS CODE</u>	<u>TITLE</u>	<u>GRADE</u>	<u>SALARY RANGE</u>
G004C	Managing Attorney	GS13	\$77,862 - \$112,899

JUSTIFICATION

The Department of Finance and Administration – Division of Revenue is requesting the above position to meet the needs of the agency. DFA is experiencing an increase in caseloads that include complex corporate income tax, sales tax protests, and multimillion-dollar litigation all using only internal counsel. These individuals also handle administrative protests, civil litigations, tax opinions, business closures, bankruptcies, and subpoenas, as well as write appellate briefs to the Arkansas Supreme Court, and draft and analyze proposed legislation.

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In addition to the increased caseload, the Department of Finance and Administration is also experiencing a hardship in hiring experienced attorneys due to the applicant's high salary requirements. As a result, DFA is hiring less experienced attorneys, including recent law school graduates, who require substantial training and supervision to handle the complicated subject matter.

The requested Managing Attorney position will oversee litigation and the updating of tax rules, as well as serving as a liaison to the higher courts for the department. This position will also supervise the newer and inexperienced attorneys. The estimated cost for this surrender request is \$12,857.

The Office of Personnel Management has reviewed this request and **recommends** the approval of one (1) surrender pool position listed above.

Your approval of this request is greatly appreciated.

Sincerely,



Kay Barnhill, Director
Office of Personnel Management



SECRETARY OF TRANSFORMATION & SHARED
SERVICES

11/1/2021
DATE

KB/vp:1-2



STATE OF ARKANSAS
**Department of Finance
and Administration**

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September 3, 2021



Amy Fecher, Secretary
Department of Transformation and Shared Services
501 Woodlane
Little Rock, AR 72201

Ms. Fecher,

The Department of Finance and Administration (DFA), Office of Revenue Legal Counsel (RLC), respectfully requests approval to create one new position using the title Managing Attorney, GS13, G004C, and submits 2 current positions to surrender (see attached).

The caseload in DFA-RLC has more than tripled in the last 4 years from only 262 in 2017 to almost 800 in 2020. DFA-RLC is taxed with caseloads that include complex corporate income tax and sales tax protests and multimillion-dollar litigation using only internal counsel. They also handle administrative protests, civil litigation, tax opinions, business closures, foreclosures, bankruptcies, and subpoenas, as well as writing appellate briefs to the Arkansas Supreme Court and drafting and analyzing proposed legislation.

In addition to the increased caseload, DFA-RLC is also experiencing a hardship in hiring experienced attorneys due to the applicant's high salary requirements. Because of this, DFA-RLC is hiring less experienced attorneys, including recent law school graduates. These attorneys require substantial supervision and training to be able to handle complicated tax matters.

For these reasons, DFA-RLC requests a Managing Attorney to oversee litigation and the updating of tax rules, as well as serving in a liaison capacity to the higher courts. This position will also supervise the newer and inexperienced attorneys.

DFA-RLC currently has a vacant DFA Technician, GS02, C076C, position # 2211-1788, and an Attorney Specialist, GS11, G047C, position #2214-3106 and requests to surrender these positions in exchange for a Managing Attorney, GS13, G004C.

Thank you for your consideration.

Sincerely,

Alan McVey, DFA Deputy Director and Chief of Staff
Arkansas Department of Finance and Administration

Department of Transformation and Shared Services
Office of Personnel Management
Request for Pool Position

Business Area	Department Name / Agency Name	Date
0630	DFA - Division of Revenue Legal Counsel	8/26/2021

Position(s) to be Surrendered

Position/Item Number	Classification Title	Pay Grade	Class Code
2214-3106	Attorney Specialist	GS11	G047C
2211-1788	DFA Technician	GS02	C076C

Classification(s) Requested

Classification Title	Pay Grade	Class Code
Managing Attorney	GS13	G004C

I hereby certify that:

- A. The position requested is critical to the operation of this Agency and a detailed justification for this request is attached. (Justification should be detailed and not less than one typed page in length.)
- B. Sufficient funds are available to fund this position at the requested grade.
- C. This is a full-time position that will not be used for any other purpose than that which is outlined in the attached narrative.
- D. The position to be surrendered is the highest grade position available and the loss of this position will not adversely affect the operation of this Agency.
- E. No current employee will be displaced by this action.

Amy Valentine
HR Administrator's Signature

8/26/2021
Date

Larry Walther
Department Secretary's Signature

8/26/2021
Date



STATE OF ARKANSAS
**Department of Finance
and Administration**

REVENUE LEGAL COUNSEL
P.O. Box 1272 – Room 2380
Little Rock, Arkansas 72203
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September 1, 2021

Ms. Amy Valentine
Arkansas Department of Finance and Administration
Human Resources Manager
1515 W. 7th Street
Little Rock, AR 72201

Re: Personnel Position Request – GS-13 Managing Attorney

Ms. Valentine:

The Office of Revenue Legal Counsel of the Department of Finance and Administration is requesting permission to surrender two open positions in exchange for the creation of a new GS-13 (Managing Attorney) position.

We currently have two open positions: a GS-11 (Attorney Specialist) position (2214-3106) and a GS-02 (DFA Technician) position (2211-1788). We are requesting to surrender those positions in exchange for the creation of a new GS-13 (Managing Attorney) position. This exchange would not result in an overall increase in positions or appropriation.

Our office currently has one Managing Attorney who oversees the bankruptcy office. We are in need of a Managing Attorney in our main office who can assist in the oversight of litigation and the updating of our tax rules. This position will require an attorney with a strong civil litigation background including several years of experience as a tax attorney and the ability to supervise other attorneys handling complex litigation.

Attorneys in the Office of Revenue Legal Counsel (“RLC”) are tasked with handling an increasingly heavy caseload, including complex corporate income tax and sales tax protests and multimillion-dollar litigation, all without the assistance of outside counsel. RLC Attorneys handle numerous matters including administrative protests, civil litigation, tax opinions, business closures, foreclosures, bankruptcies, subpoenas, and special projects, in addition to answering calls from taxpayers. RLC attorneys are required to balance these duties while writing appellate briefs to the Arkansas Supreme Court and drafting and analyzing proposed legislation.

The caseload of our attorneys has increased exponentially over the past several years. Specifically, the number of administrative protests filed by taxpayers has increased from 262 in calendar year 2017, to 759 in calendar year 2020. RLC has received 586 protests so far this year, putting us on track to again exceed the number of protests received during the prior year.

Ms. Amy Valentine
Re: Personnel Position Request
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While the workload has increased, our ability to fulfill open attorney positions has been impacted by the inability to hire attorneys experienced in civil litigation and state taxation. The salary requirements requested by an experienced attorney applying for a position within RLC typically have been far in excess of the midpoint for a GS-11 Attorney Specialist position. In order to fill open attorney positions, we have shifted our focus to hiring recent law school graduates or attorneys with nominal experience practicing law. These attorneys require substantial supervision and training to be able to handle complicated tax matters before they are capable of working with minimal supervision.

The Managing Attorney would supervise newer attorneys and oversee the matters assigned to them and would not be assigned cases of their own. Considering RLC's increased caseload and the shifting marketplace for attorneys, the creation of this position would put our office in a better position to meet the litigation needs of the Department and provide greater service to Arkansas taxpayers.

Most importantly, the surrender of two open positions (GS-02 and GS-11) in exchange for one GS-13 position would not result in an increase in positions or appropriation.

Please do not hesitate to let us know if we may provide any additional information.

Sincerely,


Paul M. Gehring
Assistant Commissioner of Revenue
Policy and Legal

cc: Charles S. Collins
Commissioner of Revenue