

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Addis Abebe,**  
Petitioner,

No. CR-25-0110

Dated: June 27, 2025

v.

**State Board of Retirement,**  
Respondent.

**ORDER GRANTING SUMMARY DECISION**

Petitioner Addis Abebe appeals from a decision of the State Board of Retirement (board) denying his application to purchase retirement credit for a period of “contract” service. The board has filed a motion for summary decision, which Mr. Abebe has opposed.

The following facts either are established beyond genuine dispute or are taken as true in Mr. Abebe’s favor. *See generally* 801 C.M.R. § 1.01(7)(h); *Caitlin v. Board of Registration of Architects*, 414 Mass. 1, 5-7 (1992). During 2009-2013, Mr. Abebe worked as a “data analyst.” He was hired and paid first by Professional Staffing Group (PSG) and then by the New England Water Works Association (NEWWA). The work Mr. Abebe performed was commissioned from PSG and NEWWA by the Department of Environmental Protection (DEP). Mr. Abebe’s performance was supervised by DEP personnel.

In 2013, DEP hired Mr. Abebe into a permanent position as a “database specialist,” with substantially unchanged job duties. At the same time, Mr. Abebe established membership in the retirement system administered by the board. In 2024, he presented the board with an application to purchase retirement credit for his work with PSG and NEWWA. The board denied the application, and this appeal followed.

Creditable service for retirement purposes ordinarily covers only periods when an individual worked for Massachusetts governmental units and was a member of Massachusetts

public retirement systems. *See* G.L. c. 32, § 4(1)(a). Purchases of credit for pre-membership work are permissible under specific statutes. The one relevant here relates to “service to the commonwealth as a contract employee.” *Id.* § 4(1)(s). The Supreme Judicial Court has said that “contract employees” are individuals that “[t]he Commonwealth . . . hires . . . [on] time-limited contracts.” *Young v. Contributory Ret. Appeal Bd.*, 486 Mass. 1, 3-4 (2020).

A pertinent regulation interprets the statutory term “service . . . as a contract employee” as covering certain arrangements in which a “vendor” pays individuals to perform work that the Commonwealth has hired the vendor to accomplish. 941 C.M.R. § 2.09(3)(c). The regulation underwent a significant amendment in March 2022. The administrative case law has viewed the March 2022 text as applicable at least to applications filed after that time. *See Garg v. State Bd. of Ret.*, No. CR-22-0584, 2024 WL 4345238, at \*2 (Div. Admin. Law App. Sept. 20, 2024). Mr. Abebe, who filed his application in 2024, does not argue otherwise.

Under the updated regulation, it is not enough for Mr. Abebe to have been supervised by DEP personnel at his pre-2013 position. It also is not enough for his pre-2013 and post-2013 job duties to have been effectively identical. The “vendor” that paid Mr. Abebe also needs to have been one of two types of entities: either an entity “established and operated by [the Commonwealth]” or an entity that “functions as an instrumentality of [the Commonwealth].” 941 C.M.R. § 2.09(3)(c).

It is beyond genuine dispute that PSG and NEWWA were not qualifying vendors under § 20.09(3)(c). Uncontested evidence shows that PSG is a for-profit corporation unaffiliated with any government entity; and that NEWWA is a non-profit corporation that describes itself as “independent.” Neither entity was established or operated by the Commonwealth. Mr. Abebe also does not claim or show that PSG and NEWWA functioned as instrumentalities of the

Commonwealth, i.e., as means designed to accomplish the Commonwealth's ends. *See Rudge v. State Bd. of Ret.*, No. CR-24-0316 (Div. Admin. Law App. Feb. 28, 2025). Factors that may be considered in this context include the entities' corporate forms, their other legal formalities, the natures of their operations and finances, the measure of control exercised over them by state agents, and the essential interests they were founded to serve. *See id.* Mr. Abebe offers no evidence or argument about these factors.

In view of the foregoing, it is ORDERED that the board's motion for summary decision is ALLOWED. Summary decision is hereby entered to the effect that the board's decision is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate