

BEFORE THE PERSONNEL RESOURCES BOARD
STATE OF WASHINGTON

DEPARTMENT OF TRANSPORTATION,

Appellant,

vs.

MARK ENSLEY, JASON GREER &
STEVEN HUGHES,

Respondents.

CASE NO. R-ALLO-07-019,
R-ALLO-07-020 & R-ALLO-07-021

ORDER OF THE BOARD
FOLLOWING EXCEPTIONS TO THE
DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came on for hearing before the Personnel Resources Board, LAURA ANDERSON, Chair; MARSHA TADANO LONG, Vice Chair; and JOSEPH PINZONE, Member, on Appellant's exceptions to the Director's determination dated October 12, 2007. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on May 22, 2008. Subsequent to the hearing but prior to issuing this decision, the Board's titles changed. The signatures on this document reflect the Board's current titles.

Representation. Appellant Department of Transportation (DOT) was represented by Niki Pavlicek, Classification and Compensation Manager. Vincent Oliveri, International Federation of Professional and Technical Engineers Local 17 (IFPTE) represented Respondents Mark Ensley, Jason Greer, and Steven Hughes.

Background. Respondents were allocated to Transportation Engineer (TE) 2 positions. On June 23, 2005, Respondents Ensley, Greer, and Hughes submitted a Classification Questionnaire (CQ) requesting that their positions be reallocated to Transportation Engineer (TE) 3s. On September 21, 2006, DOT informed Respondents that their positions were properly allocated and denied their request. On October 11, 2006, Mr. Ensley and Mr. Greer requested a Director's review of

1 DOT's determination. On October 17, 2006, Mr. Hughes requested a Director's review of
2 DOT's determination.

3
4 October 2, 2007, Holly Platz, the Director's designee, conducted a review of the Respondents'
5 positions. By letter dated October 12, 2007, Ms. Platz determined that Respondents' positions
6 should be reallocated to the TE 3 classification.

7
8 On November 9, 2007, DOT filed exceptions to Ms. Platz's determination. DOT's exceptions are
9 the subject of this proceeding.

10
11 At the time of Mr. Ensley's request for reallocation, his position was located in the Environmental
12 and Engineering Programs Division Materials Laboratory. Mr. Ensley's position is the statewide
13 specialist for the Record of Material (ROM), which is used for all WSDOT. In addition, Mr. Ensley
14 advises local agencies in construction projects to ensure compliance with WSDOT and the Federal
15 Highway Administration (FHWA) stewardship agreement.

16
17 At the time of Mr. Greer's request for reallocation, his position was located in the Environmental
18 and Engineering Programs Division Materials Laboratory. He is the statewide staff specialist for
19 the Request for Approval of Materials (RAM) program. Mr. Greer's position deals with
20 acceptance issues and documentation of standard and non-standard materials used in
21 construction projects after the project has been approved.

22
23 At the time of Mr. Hughes' request for reallocation, his position was located in the Environmental
24 and Engineering Programs Division Materials Laboratory. His position is the statewide technical
25 specialist responsible for the reliability of the contents of the Qualified Product List (QPL),
26 which is used statewide by DOT and by local agencies, such as cities and counties. The QPL lists
27 products that meet DOT specifications, have undergone testing and evaluation for satisfactory
28 performance, and have been approved for use on construction projects.

1
2 **Summary of DOT's Arguments.** DOT asserts that the work performed by Respondents' positions
3 does not meet the allocating criteria of the TE 3 classification. DOT acknowledges that Respondents
4 do some higher level work, but argues that the majority of their work is accomplished by using
5 standard engineering techniques consistent with the TE 2 level. DOT contends the Director's
6 designee focused on one piece rather than the whole when considering the full definition of the class
7 specifications for the TE 2 and TE 3. DOT seeks exception based on a definition comparison of the
8 TE 2 and TE 3 specifications. DOT argues that, the main difference between the TE 2 and TE 3 is
9 that TE 3 positions perform advanced engineering work. DOT argues the Respondents do not do
10 advanced engineering. Instead, DOT asserts that the advanced engineering work required in their
11 respective positions is performed by the Subject Matter Experts (SME's). Therefore, DOT
12 contends they do not meet either the definition or the distinguishing characteristics of the TE 3
13 classification. While DOT recognizes Respondents' valuable contributions to their programs, the
14 department contends Respondents' duties are best described in the TE 2 class specification.

15
16 **Summary of Respondents' Argument.** Respondents argue they function as statewide staff
17 specialist for their particular areas.

18
19 **Mr. Ensley** argues that he functions as statewide staff specialist for the ROM program for
20 construction items used for all DOT and local agency construction projects. Respondent asserts
21 his position is responsible for the statewide review of materials included in construction and
22 contracts, including non-standard materials for which no statewide standard has been
23 established. Respondent argues that as the staff specialist for the ROM program, that he applies
24 specialized knowledge in the performance of his duties and responsibilities. Respondent
25 contends he is independently responsible for determining, in conjunction with the SME, the
26 criteria to apply for acceptance/documentation of non-standard materials. Respondent asserts
27 that non-standard materials require work that is more complex and takes more time to process.
28 Respondent argues that his work is at a higher level than applying established standards for

1 materials. Respondent asserts that he is responsible for devising his own work methods.
2 Respondent argues that the statewide scope of his duties and responsibilities are broader than the
3 typical duties and responsibilities described at the TE 2 level. Moreover, Respondent contends
4 that the overall level and scope of duties and responsibilities best fit within the definition and
5 distinguishing characteristics of the TE 3 classification.

6
7 **Mr. Greer** argues that he functions as the statewide staff specialist for the RAM program.
8 Respondent asserts that he performs advanced engineering to determine how materials will be
9 utilized. Respondent contends that he independently determines appropriate approval on DOT
10 standards for materials documentation submittals such as RAMs that are not approvable at the
11 project engineer's level. He is responsible for the entire RAM program that includes consulting with
12 SMEs and material lab staff to determine approval, acceptance criteria, and documentation
13 requirements for non-standard materials not governed by existing standards. Respondent argues that
14 non-standard materials require work that is more complex and take more time to process.
15 Respondent contends that this is higher-level work than applying the established standards for
16 materials. Respondent asserts that he works independently and is responsible for devising his
17 own work methods. Respondent argues that the statewide scope of his duties and responsibilities
18 are broader than the typical duties and responsibilities described at the TE 2 level. Moreover,
19 Respondent contends that the overall level and scope of duties and responsibilities best fit within
20 the definition and distinguishing characteristics of the TE 3 classification.

21
22 **Mr. Hughes** argues that he functions as the staff specialist responsible for the reliability of the
23 contents of the QPL, which is used statewide by DOT and by local agencies, such as cities and
24 counties. Respondent contends that, as the statewide staff specialist for the QPL, he applies
25 specialized knowledge in the performance of his duties and responsibilities. Respondent argues
26 that non-standard materials require work that is more complex and take more time to process.
27 This may require referral to the new products committee. Respondent argues this is a higher-
28 level work than applying the established standards for materials. Respondent asserts that he is
29

1 responsible for independently applying the standards for materials included in the QPL. He
2 asserts he is also independently responsible for determining, in conjunction with the SME, the
3 criteria to apply for acceptance and approval of non-standard and new materials. Respondent
4 argues that as the subject matter expert for the QPL, he is the first point of contact for DOT
5 engineers and field personnel, manufacturers, contractors, inspectors, consultants, and local
6 agency staff. Respondent contends that he provides direction to staff and information to local
7 agencies and trains new inspectors and engineers in the use of the QPL. Respondent argues that
8 the statewide scope of his duties and responsibilities are broader than the typical duties and
9 responsibilities described at the TE 2 level. Moreover, Respondent contends that the overall level
10 and scope of duties and responsibilities best fit within the definition and distinguishing
11 characteristics of the TE 3 classification.

12
13 **Primary Issue.** Whether the Director's determination that Respondents' positions should be
14 allocated to the Transportation Engineer 3 classification should be affirmed.

15
16 **Relevant Classifications.** Transportation Engineer 2, class code 66140, and Transportation
17 Engineer 3, class code 66160.

18
19 **Decision of the Board.** The purpose of a position review is to determine which classification best
20 describes the overall duties and responsibilities of a position. A position review is neither a
21 measurement of the volume of work performed nor an evaluation of the expertise with which that
22 work is performed. In addition, a position review is not a comparison of work performed by
23 employees in similar positions. A position review is a comparison of the duties and responsibilities
24 of a particular position to the available classification specification. This review results in a
25 determination of the class that best describes the overall duties and responsibilities of the position.
26 *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994).

1 The definition for the TE 3 classification states, “[p]erforms advance transportation engineering
2 work under limited supervision.”

3
4 The distinguishing characteristics for TE 3 state:

5 At this level, incumbents are generally placed in charge of a major project or
6 functional area, or serve as a staff specialist in a complex area of limited scope
7 (this may include serving as a staff specialist consultant to Local Agencies).
8 Incumbents are expected to possess a thorough working knowledge of agency
9 policies, standards and procedures as well as engineering principles, methods and
10 practices. Assignments require judgments in selecting and adapting techniques to
11 solve transportation problems. Incumbents may represent the Department at
12 public meetings, open houses, to local agencies, contractors, consultants, etc., for
13 specific projects. While work is occasionally spot-checked and reviewed upon
14 completion, incumbents are responsible for planning and carrying out projects
15 with only minimal supervision. Staff at this level is often called on to assign, train
16 and evaluate engineers and technicians.

17
18 Mr. Ensley works independently and with little supervision. His work is initiated automatically
19 by the submission of all construction contracts. Once a contract is submitted, he is responsible
20 for devising his own work methods for all situations. He is independently responsible for
21 determining, in conjunction with the SME, the criteria to apply for acceptance and
22 documentation of non-standard materials. The non-standard materials require work that is more
23 complex and take more time for processing. Therefore, this is a higher-level work than applying
24 the established standards for materials.

25
26 Mr. Greer is the staff specialist and applies specialized knowledge in the RAM program. As part
27 of his CQ: 65% “independently determines appropriate approval based on WSDOT standards for
28 materials documentation submittals such as RAMs that are not approvable at the project
29

1 Engineer's level." This is advanced engineering work. Respondent works with SMEs to establish
2 statewide criteria for acceptance and documentation of non-standard materials.

3
4 Mr. Hughes is the subject matter expert for the QPL and is the first point of contact for DOT
5 engineers and field personnel, manufacturers, contractors, inspectors, consultants and local
6 agency staff; he provides direction to staff; provides information to local agencies; and trains
7 new inspectors and engineers in the use of the QPL. With the assistance of the SME, he sets the
8 QPL specifications for non-standard materials. Respondent's duties require the application of
9 specialized knowledge, the use of a variety of standards, policies and rules, including knowledge
10 of the DOT/FHWA stewardship agreement. He also makes independent decisions regarding
11 application of the standards in order to effectively accomplish his work assignments.

12
13 The TE 3 classification encompasses positions that function as staff specialists, work under
14 limited supervision, plan and carry out specialized projects, and perform advanced engineering
15 in a complex area of a limited scope. In addition, incumbents in the TE 3 level represent the
16 agency at meetings with other agencies and often assist in training other agency staff. While the
17 TE 3 does not specifically address Respondents' division, the level and scope of Respondents'
18 duties and responsibilities described by the TE 3 classification are comparable to the level and
19 scope of Respondents' duties and responsibilities. Respondents are staff specialists. They work
20 under limited supervision, are assigned to a complex area of limited scope, represent the agency
21 internally and with outside entities, and assist in training others. Therefore, on a best-fit basis,
22 Respondents' positions meet the definition and distinguishing characteristics of the TE 3
23 classification.

24
25 In *Allegri v. Washington State University*, PAB Case No. ALLO-96-0026 (1998), the Personnel
26 Appeals Board (predecessor to this Board) addressed the concept of best fit. The PAB noted that
27 while the appellant's duties and responsibilities did not encompass the full breadth of the duties
28 and responsibilities described by the classification to which his position was allocated, on a best-

1 fit basis, the classification best described the level, scope, and diversity of the overall duties and
2 responsibilities of his position.

3
4 Based on the evidence presented to the Board and to the Director's designee, Respondents are
5 responsible for complex engineering functions. They do consult in a specialized area having
6 significant statewide impact. In this case, the Transportation Engineer 3 classification best
7 encompasses the level and diversity of Respondents' assigned duties and responsibilities.

8
9 In a hearing on exceptions, the Appellant has the burden of proof. WAC 357-52-110. Appellant has
10 failed to meet its burden of proof.

11
12 **ORDER**

13 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeals on exceptions by Washington
14 State Department of Transportation is denied, and the Director's determinations dated October 12,
15 2007, is affirmed and adopted.

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18 DATED this _____ day of _____, 2008.

19
20 **WASHINGTON PERSONNEL RESOURCES BOARD**

21
22 _____
MARSHA TADANO LONG, Chair

23
24 _____
JOSEPH PINZONE, Vice Chair

25
26 _____
LAURA ANDERSON, Member