**BEFORE THE PERSONNEL RESOURCES BOARD**

**STATE OF WASHINGTON**

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| PAUL BURBAGE,<br>Appellant,<br>vs.<br><br>DEPARTMENT OF LABOR AND INDUSTRIES,<br>Respondent. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | CASE No. R-ALLO-17-017<br><br>ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR |

**Hearing on Exceptions.** This appeal came before the Personnel Resources Board, VICKY BOWDISH, Vice Chair; and SUSAN MILLER, Member, for a hearing on Appellant's exceptions to the director's determination dated August 8, 2017. The hearing was held on November 1, 2017.

**Appearances.** Appellant Paul Burbage was present and was represented by Sherri-Ann Burke, Labor Advocate with the Washington Federation of State Employees. Respondent Department of Labor and Industries (L&I) was represented by Vicky Kamin, Human Resource Manager.

**Background.** Appellant requested reallocation of his Facilities Planner 2 (FP 2) position to the Facilities Senior Planner (FSP) classification by submitting a Position Review Request to L&I's Human Resource Division on July 14, 2015. By letter dated September 28, 2016, L&I determined that Appellant's position should remain allocated to the FP 2 classification.

On October 27, 2016, Appellant filed a request for a director's review of L&I's determination. By letter dated August 8, 2017, the director's designee determined that Appellant's position was properly allocated to the FP 2 classification.

On September 7, 2017, Appellant filed timely exceptions to the director's determination asserting his position should be reallocated to the FSP level. Appellant's exceptions are the subject of this proceeding.

Appellant works in the Facility Administrative Services Unit within L&I and reports to Reuben Amamilo, Facilities Program Manager. The primary purpose of his position is to serve as a project leader in the implementation of facilities planning within his assigned regions and areas of responsibility. As described in his Position Description (PD) that accompanied his Position Review Request (PRR), Appellant's duties consist of:

- 60% Act as project leader in complex lease, design and/or construction projects.
- 25% Perform space planning, design and project management.
- 10% HEAT program and Lean Project.
- 5% Other duties.

Appellant's PD date stamped at L&I HR on July 15, 2015, states, in part:

> The Facilities Planner 2 serves as the agency representative communicating with OFM and the Department of Enterprise Services regarding lease execution for field offices and modification of space in leased buildings. This position manages the work resulting from the inter-agency agreement with DES Real Estate Services.

**Summary of Appellant's Arguments.**

Appellant takes exception to the Director's Review and believes his position should be allocated to FSP. Appellant argues that if consideration was given to his full scope of work, his duties and responsibilities would match the class specification for the FSP. Appellant asserts that although DES is the point of contact and writes and manages the contracts, he manages the day-to-day details.

As stated in Appellant's Request for a Director's Review, Appellant contends the difference between the FSP and the FS 2 is that the FSP leads projects and the FP 2 assists with projects. As examples of the leadership aspect of Appellant's duties and responsibilities, Appellant states he not only serves as a consultant when working with DES, but also serves as the project manager,

construction manager and consulting services manager. Appellant argues that part of managing contracts includes working with building owners, consulting services and DES Real Estate Services. Appellant maintains he assists DES in supplying updated information concerning lease renewals, including space utilization documents and deferred maintenance lists in partnership with regional managers and DES.

Appellant asserts the class specification for the FSP was written in 1976 and therefore fails to acknowledge the relatively recent changes in the contracts process incurred by DES. Appellant maintains that since DES acquired contract work, agencies have been tasked with contract management and environmental compliance, consistent with the FSP job class. Appellant further maintains that although DES handles master contracts, they delegate other contracts to agencies.

**Summary of Respondent's Arguments.**

Respondent acknowledges the fine work and dedication of Appellant's twenty-five years of service at L&I, however believes the class specifications for FSP do not line up with the duties and responsibilities assigned Appellant. Respondent asserts the Facilities Program Manager, not Appellant, has delegated authority for budgetary matters and signatures on matters of significance. Respondent further asserts Appellant's scope of work lacks the strategic emphasis typical of a management position.

As stated in the Allocation Decision Letter, dated September 28, 2016, Respondent contends Appellant does not meet the required four of six criteria outlined in the FSP's distinguishing characteristics. In summary, Respondent asserts that inconsistent with criteria one, Appellant's role is overseeing projects for L&I, but it is DES who negotiates contracts with consulting firms. Respondent further asserts that Appellant's duties do not require him to develop space utilization standards for L&I, precluding alignment with criteria number two. Respondent contends Appellant ensures L&I abides by the State Environmental Policy Act, but it is DES who administers the act, as illustrated in criteria five. Criteria six requires that Appellant develops capitol campus master

plans. While he does provide input at meetings on various facilities issues involving all L&I owned and leased buildings, Respondent asserts Appellant is not responsible for developing these plans. In essence, Respondent contends that Appellant does not meet the required four out of six criteria listed in the distinguishing characteristics for allocation to the FSP job classification.

**Primary Issue.** Whether the director's determination that Appellant's position is properly allocated to the Facilities Planner 2 should be affirmed.

**Relevant Classifications.** Facilities Planner 2; Facilities Senior Planner.

**Decision of the Board.** The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994).

In *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the Personnel Resources Board (Board) stated that the following standards are the hierarchy of primary considerations in allocating positions:

a) Category concept (if one exists).
b) Definition or basic function of the class.
c) Distinguishing characteristics of a class.
d) Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

Typical work statements do not form the basis for allocation; rather they provide guidance and lend support to the work envisioned within a classification. Typical work statements are not allocating criteria.

The definition for the FSP class states:

> Serves in a lead capacity over three or more Facilities Planners in the formulation, development, coordination, planning, layout and control of State facilities in support of established or proposed programming; or serves as project leader in the independent formulation, planning, coordination and management of capital budget or other major State facilities projects.

The distinguishing characteristics for the FSP class states:

> A project leader Facilities Senior Planner must meet four of the following criteria:
>
> 1. Manages contracted consulting services;
> 2. Develops State-wide office space utilization standards for all State agencies;
> 3. Plans for State-wide multi-agency office space consolidation and co-location;
> 4. Coordinates capitol campus office space assignment and layout;
> 5. Administers the State Environmental Policy Act for the department;
> 6. Develops capitol campus master plan.

Since Appellant does not serve in a lead capacity over three or more Facilities Planners, the other possible option would be the second portion of the definition which states, "…or serves as project leader in the independent formulation, planning, coordination and management of capital budget or other major State facilities projects." To better understand the crux of responsibility as a project

leader, the Board looked to the distinguishing characteristics that specifically speak to the project leader portion of the definition.

Distinguishing characteristics are designed to aid in differentiating one level in a job class series from another and, in some cases, one job class series from another. The Board agrees with the Director's Review Specialist and L&I that the responsibilities of Appellant's position do not meet four of the six criteria listed in the distinguishing characteristics. The Board also finds Appellant's scope of responsibility does not rise to the level of independently formulating, planning, coordinating and managing capital budget or other major State facilities projects, as the definition of FSP indicates.

The definition for the FP 2 class states:

> Assists in all phases of planning the development, acquisition, modification, and expansion of structures and related facilities for utilization by State government.

There are no distinguishing characteristics for Facilities Planner 2.

The bulk of Appellant's job duties include:

- 60% Act as project leader in complex lease, design and/or construction projects
- 25% Perform space planning, design and project management

While Appellant leads projects and performs space planning, design and project management, it is DES that is responsible for such work as administering contracts, signing change orders, holding and signing leases and is ultimately responsible for awarding contracts and handling complaints. Additionally, Appellant's supervisor has contractual signature authority.

Appellant has significant responsibility in handling the day to day aspects of contract oversight, including planning the development, acquisition, modification, and expansion of structures and

facilities for utilization by State government. Typical work statements, used for the purpose of illustrating the definition, indicate the level of responsibility required of the FP 2, including:

- Provides facility planning and program development assistance relating to existing State facilities and studies development potentials for maximum utilization;
- In accord with present and future facilities planning, performs comprehensive research to determine the most appropriate use of existing structures and facilities; forecasts future needs and requirements;

The scope of responsibility and accountability assigned an FP 2 is consistent with the majority of work performed by Appellant and his duties do not rise to the level of Facilities Senior Planner.

We concur with the director's determination and conclude that the scope and complexity of work, level of authority and majority of overall responsibilities assigned to Appellant's position best fit the Facilities Planner 2 classification.

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

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Paul Burbage is denied and the director's determination dated August 8, 2017, is affirmed.

DATED this _____ day of _____, 2017.

WASHINGTON PERSONNEL RESOURCES BOARD

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VICKY BOWDISH, Vice Chair

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SUSAN MILLER, Member