March 20, 2009

To: Teresa Parsons
Director's Review Program Supervisor

FROM Meredith Huff, SPHR
Director's Review Investigator

SUBJECT: Todd Emerson v. Department of Transportation (DOT)
Allocation Review No. ALLO-08-046

Director's Review Conference
Mr. Todd Emerson requested a Director's review of his position's allocation by submitting a Director's Review Request form on July 31, 2008. On February 18, 2009, I conducted a Director's review conference by phone. Present at the review conference were Mr. Emerson, employee, and Ms. Niki Pavlicek, Classification and Compensation Manager, representing DOT.

Director's Determination
The Director's review of DOT's allocation determination of Mr. Emerson's position is complete. The review was based on written documentation, classifications and information gathered during the February 18, 2009 phone conference. As the Director's investigator, I have carefully reviewed all of the file documentation regarding Mr. Emerson's position, classifications and the information provided during the review conference. I conclude that on a best fit of the overall duties and responsibilities, Mr. Emerson's position is properly allocated to the class of Transportation Engineer 2.

Mr. Emerson expressed his concerns that similar positions to his were allocated to a higher classification. I understand Mr. Emerson's concern. However, in reviewing a position for the overall best classification, only the information regarding the assigned duties and responsibilities of the incumbent's position are considered. In this review, I have not considered the classification questionnaires that were submitted for other positions.

Background
Mr. Emerson works in the DOT Eastern Region, Design/Plans Office, and is located in Spokane. On August 9, 2007 the DOT Eastern Region Human Resources office received a Classification Questionnaire (CQ) for Mr. Emerson's position. The supervisor section of the CQ was signed by Mr. John Lacy. Mr. Emerson proposed his

position should be reallocated to the Transportation Engineer 3 classification. (Exhibit A-2) By letter dated July 16, 2008, Ms. Karen Luedeking notified Mr. Emerson that his position was properly allocated as a Transportation Engineer 2 and denied his request for reallocation to the Transportation Engineer 3. (Exhibit B-1) On July 31, 2008, Mr. Emerson requested a Director's review of DOT's determination by submitting a Director's Review Request Form. (Exhibit A-1)

Summary of Comments from Mr. Emerson

During the Director's review conference, Mr. Emerson explained that he functions as a specialist in developing and maintaining the Global Positioning System (GPS) and Continuous Operating System (CORS) used by survey crews throughout the Eastern [Washington] Region. DOT is connected to the GPS system statewide. Mr. Emerson characterized his job's major responsibility as training Eastern Region survey crews in using the GPS and CORS systems. His training duties extend to accompanying the surveyors to the field for four or five days to ensure that they understand and accurately can use the systems and equipment for surveys. Mr. Emerson noted he is the only GPS specialist in the Eastern Region and he supervises the equipment set up and use. Mr. Emerson explained he is responsible for maintaining three GPS stations: Pullman, Grouse Creek (north of Spokane) and Sprague. The system set up is continuous if on stable ground, however, some GPS antennas are mounted on buildings and concrete. Additionally, there often are problems with the internet connection cables, phone lines, and satellite reception. To resolve problems, Mr. Emerson trouble shoots all possibilities, including checking out the stations. Mr. Emerson indicated the DOT operating standards and procedures for use of GPS and CORS systems are being developed. He participates in the development process in the Eastern Region and his input has been solicited for procedures development in Western Washington regions. Mr. Emerson noted that GPS industry standards are already in place.

Mr. Emerson pointed out that he does surveys to support other offices and on special projects. He stated he assists other units, such as the Design and Right of Way Units by establishing the "control points" and "boundaries" for survey work of upcoming projects. Mr. Emerson indicated he frequently surveys the outside boundaries of a project using the GPS system and other equipment. He then uses the computer system to convert the information to software for the project. Using this software information, the construction and project offices' survey crews complete the remaining required surveys inside the established boundary survey. In addition he may do special surveys; he provided an example of surveying an accident scene for the Attorney General's Office. He noted that he often is the Survey Party Chief when doing survey work.

When it is necessary for DOT to purchase property for right of ways or other purposes in Eastern Region, Mr. Emerson uses the CAD program to create maps and calculate the areas needed. He verifies and maps the exact land parcels to be purchased. His supervisor signs off on the maps he creates.

On a weekly basis, Mr. Emerson noted he meets with his supervisor, Mr. John Lacy. During this discussion he reports on any problem situations he is dealing with, provides

information on survey boundaries of land needed for right of ways which is “a delicate subject with high dollar costs”; and reports on any real estate issues or questions. He stated he usually receives a task list from his supervisor at this meeting.

Mr. Emerson indicated he has talked with several supervisors on the west side who indicate they believe his position should be at the TE3 level to correspond with positions on the west side. He indicated that his supervisor agrees with him. He noted he is considered a staff specialist in the complex area of GPS and CORS training, use and maintenance. He feels that his position should be reallocated to the Transportation Engineer 3.

Summary of DOT’s Comments

Ms. Pavlicek observed that there are approximately 70 GPS stations statewide; DOT sponsors about 11 of those stations. She noted that Mr. Emerson is responsible for three of the stations. Ms. Pavlicek stated, during the review conference, that in terms of the work for this position, DOT considers GPS and CORS new technology tools, but DOT does not consider their use as “advanced engineering”. The agency believes that the independence of each position is limited to the area of focus. She emphasized that Mr. Emerson does not use advanced engineering techniques to complete his work as required by the TE3.

Ms. Pavlicek reminded Mr. Emerson that comparison to other units at DOT is not an allocation factor. She indicated that although some TE3 positions may appear to be similar to Mr. Emerson’s, they do have different responsibilities than Mr. Emerson’s. She noted that she has reviewed some of those positions.

Ms. Pavlicek stated that Mr. Emerson’s supervisor indicated that the position’s duties have remained the same for the last nine years, although there have been technology changes. Ms. Pavlicek emphasized that the work specified on the classification questionnaire falls within the Transportation Engineer 2 classification. Therefore, this position remains classified at the TE2 as the best fit for Mr. Emerson’s overall duties and responsibilities.

Summary of Supervisor’s Written Comments

In the Desk Audit Notes of Comments, the immediate supervisor, John Lacy clarifies some duties listed on Mr. Emerson’s CQ. Mr. Lacy comments that Mr. Emerson does not “direct the survey crews” but rather he provides support to the survey crews in resolving problems. Mr. Lacy also verifies that his (Mr. Lacy’s) responsibility is to “manage the Region’s GPS real time network” and Mr. Emerson does the technical installation of the GPS system and assists Mr. Lacy. Mr. Lacy observed that Mr. Emerson supports and assists the PE survey crews by ensuring their equipment is serviced and up and running, rather than directing them. Mr. Lacy noted that there has been little or no change to the duties of Mr. Emerson’s position; just the technology has changed. (Exhibit B-4)

Rationale for Director's Determination
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 accomplished, 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 Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

A comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed, the level of responsibility assigned to an incumbent and the organization of the agency. However, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position. Flahaut v. Departments of Personnel and Labor & Industries, PAB No. ALLO 96-0009 (1996).

Classification Questionnaire for Mr. Emerson (Exhibit B-2)
Mr. Emerson describes his responsibilities and work time percentage as follows, in part:

35% Supports and assists the R/W [Right of Way] and Survey Manager in directing survey crews and design teams in collection and analysis of right of way control, monumentation, property boundaries and other related issues. Specializes in developing and maintaining the Global Positioning System (GPS) and Continuous Operating System (CORS) equipment and procedures used by survey crews. Develops standards for GPS RTK survey data collection. Supervise GPS activities in the region. [Underline indicates most responsible duty.]

15% Provides technical assistance in developing and maintaining the Statewide GPS Realtime Network. Supports and assists the State Central Processing Control manager and information Technology (IT) in troubleshooting technical problems. Manages the Region GPS Realtime Network.

10% Assist the Right of Way/Survey Manager in field surveys requiring boundary location. Using conventional and GPS equipment, supervises the gathering,

downloading, and editing of survey control field data for design and construction projects prepared by Right of Way Plans section and Project Engineer Offices.

15% Develop, schedule, and conduct formalized training, (field training and classroom training) for regional personnel including Survey Party Chiefs (E2), Project Leaders (E3) and other personnel desiring knowledge in current GPS and conventional surveying.

10% Prepare and/or review Right-of-Way Plans, Monumentation Maps and Record of Surveys in accordance with the WSDOT Plans Preparation Manual. Verify parcels using title reports and computer engineering software to calculate areas as are required.

5% Provides technical guidance in computing and applying scale factors, mapping angles, coordinates and geographic positions using the Washington State Plane Coordinate System. Provides technical assistance to designers in researching, securing and interpreting information from general land office notes, survey plats, and land corner records for preparing Right of Way Plans. Develops and maintains a GIS database for current records of control monuments and bench marks.

5% Exchange survey data and maintain liaison with federal, state, and local agencies, as well as with public utilities, private engineers, and land surveyors.

Mr. John Lacey, immediate supervisor, signed the CQ confirming his agreement with the statements of work and indicating that the level of supervision he provides is *"little - employee responsible for devising own work methods."* (Exhibit B-2)

Performance evaluations are not allocating criteria. However, information on a performance evaluation may provide information of the employee's assigned work. The Employee Development and Performance Plan dated September 27, 2007, covering the period April – September 2007, indicates Mr. Emerson accomplished the following:

- "SR 21 Cougar Corner at Curlew, setting control and topographic survey ...
- SR 395 Martin Creek, drainage topographic survey for the Program Management Office;
- SR25 Northport, boundary survey at PS-W-63 quarry site for the Material Lab;
- SR395 Hastings project, field survey and Monumentation Map for Little Spokane River to MP 172;
- SR291 9-mile safety improvements, field survey for re-monumentation and prepare Record of Survey;
- SR20 boundary survey of QS-FY-156 for Materials Lab, including preparing a Record of Survey; and SR 290 at Starr Road, staking R/W along north side of highway for Traffic Office." (Exhibit C-10)

<u>Transportation Engineer 3 (TE3) (class code 530M) (Exhibit B-6)</u>
The **Definition** for the TE3 states*: "Performs advance transportation engineering work under limited supervision."*

The **Distinguishing Characteristics** for the TE3 state*: "At this level, incumbents are generally placed in charge of a major project or functional area which is characterized by supervising several support staff (staff may include or consist of contracted consultants) or serve as a staff specialist in a complex area of limited scope (this may include serving as a staff specialist consultant to Local Agencies). Incumbents are expected to possess a thorough working knowledge of agency policies, standards and procedures as well as engineering principles, methods and practices. Assignments require judgments in selecting and adapting techniques to solve transportation problems. Incumbents may represent the Department at public meetings, open houses, to local agencies, contractors, consultants, etc., for specific projects. While work is occasionally spot-checked and reviewed upon completion, incumbents are responsible for planning and carrying out projects with only minimal supervision. Staff at this level are often called on to assign, train and evaluate engineers and technicians."*

While not allocating criteria, the **Typical Work** provides further description of the work typically performed by incumbents allocated to the Transportation Engineer 3 classification. In summary, a TE3 incumbent would typically perform the breadth of work necessary to:

- *"Survey . . . Leader of a design/PS&E preparation team or traffic design/PS&E preparation team . . .the team leader also does the most complex design ...*
- *Traffic: Traffic Signals: Performs capacity analysis to determine optimum signal timing and phasing. Directs and creates base plans. ...*
- *Surveillance Control and Driver Information: Creative design of specialized systems including complex elements such as mainline conduit and communications . . . "*

Mr. Emerson is not the leader of a design/PS&E preparation team. Rather, he assists the design team and PE by providing training on the GSP and CORS systems as well as providing boundary surveys and maps. Mr. Emerson's survey work responsibilities include establishing the survey boundaries and control points for right of ways, land purchases, holdings and other projects; creating maps of land parcels for possible acquisition; and performing as survey party chief when necessary. Mr. Emerson's responsibilities do not reach the level of most complex or specialist level as required by the TE3 Distinguishing Characteristics.

The scope of Mr. Emerson's work as described in the CQ and during the review conference does not achieve the level of "*Performs advance transportation engineering work under limited supervision"* that is anticipated by the Definition of the TE3 class. Mr. Emerson's assigned work does not reach the level of creativity, the specialization or the breadth of independent responsibility expressed in the Definition, Distinguishing Characteristics and further described and supported by the Typical Work statements. Transportation Engineer 3 is not the best fit overall for Mr. Emerson's position's scope of impact and level of assigned duties and responsibilities.

<u>Transportation Engineer 2 (TE2) (530L) (Exhibit B-5)</u>
The "**Definition** of the Transportation Engineer 2 states*: "Performs transportation engineering work under general supervision."*

The **Distinguishing Characteristics** of the Transportation Engineer 2 state*: "Work at this level is characterized by the independent application of standard engineering procedures and techniques to accomplish a wide variety of work in the office, laboratory, and/or field. Incumbents generally serve as full production staff or crew leaders. Work is assigned through general instructions and the setting of deadlines by a supervisor who engages in ongoing spot-check review, provides assistance when problems are encountered and reviews completed work. This role may include the leadership of technical support staff and entry level engineers such that incumbents are called upon to direct and train staff."*

In the DOT Eastern Region, a majority of Mr. Emerson's assigned duties are doing surveys and training other employees in how to do surveys. In doing survey work, he is often in the role of Survey Party Chief. He surveys the outer boundaries for right of ways and other projects; this allows other crews to do required surveys within the boundaries. He prepares maps using the CADS program. Mr. Emerson trains survey crews and design teams in how to do surveys using the GPS and CORS systems and equipment. He installs, maintains and resolves problems and technical issues of the GPS and CORS systems and equipment. Mr. Emerson meets weekly with his supervisor and the level of supervision his position receives, is described as "little – employee responsible for devising own work methods".

The Definition and the Distinguishing Characteristics of the Transportation Engineer 2 reflect the level of supervision received as well as the level of engineering knowledge, creativity and independence exercised by Mr. Emerson in his position. The TE2 provides the best fit overall for the majority of Mr. Emerson's position's duties and responsibilities. His position is properly allocated to the TE2 class.

Appeal Rights
RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following, in part:

> An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

cc: Todd Emerson, DOT
Niki Pavlicek, DOT
Lisa Skriletz, DOP

Enclosure: List of Exhibits

List of Exhibits

A. Filed by employee July 31, 2008:
1. Director's Review Form, dated July 28, 2008.
2. Letter of request from employee, dated July 28, 2008.
3. Transportation Engineer 2 Class spec (class code 530L)
4. Transportation Engineer 3 Class spec (class code 530M)
5. Reallocation determination letter dated July 16, 2008.
6. Classification Questionnaire (CQ), #60749 (vacant-Todd) – October 2006.
7. CQ Todd Emerson – August 2007.
8. CQ (vacant, SW Region - Vancouver) # 40616 – May 2005.
9. CQ (M. Nichols, SW Region - Vancouver) #40394 – March 2006.
10. CQ (S. Bryant, Olympic Region) #31028
11. CQ (vacant, Olympic Region) #NEW.
12. CQ (N. Francis, SW Region) #40797 – May 1999.
13. CQ (vacant, SW Region) #41102 vacant– November 2007.

B. Filed by DOT October 6, 2008:
1. A – HR allocation determination letter dated July 16, 2008.
2. B – CQ signed and dated by T. Emerson, August 8, 2007
3. C – Desk Audit Notes dated 11/29/2007 by T. Emerson
4. D – Desk Audit Notes dated 10/19/2007 by Supervisor, J. Lacy
5. E – Classification for Transportation Engineer 2 (class code 530L)
6. F - Classification for Transportation Engineer 3 (class code 530M)
7. G – Email re: comparison of alleged like positions within agency, dated 7/3/08

C. Employee Exhibits forwarded by DOT October 6, 2008:
1. Email from T. Emerson to J. Lacy 10/3/08
2. Email from B. Mumma to T. Emerson re: Survey Camp 2009
3. Acknowledgement letter from K. Wilcox DOP Director's Review
4. Exhibit list that the Director's Review provided.
5. Email from T. Emerson re: Survey position CQ's
6. Current CQ
7. Proposed CQ
8. Email exchanged
9. J. Lacy Letter to T. Emerson re: Allocation Review dated Sept. 19, 2008
10. Development and Performance Plan 9/27/2007 for T. Emerson
11. Employee Development and Performance Plan 7/7/2006
12. Design/Plans Office Org chart