



**STATE OF WASHINGTON**  
**OFFICE OF FINANCIAL MANAGEMENT**

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM  
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DATE: November 6, 2015

TO: Kristie Wilson  
Acting Rules and Appeals Manager

FROM: Lucy Macneil  
Director's Review Program Investigator

SUBJECT: Brian Watts v. Department of Transportation (WSDOT)  
Allocation Review No. ALLO-14-109

**Director's Determination**

This position review was based on the work performed for the six month period prior to July 7, 2014, the date WSDOT received a request for reallocation from Brian Watts. As the Director's Review Investigator, I carefully considered all of the documentation in the file, the exhibits and the verbal comments provided by both parties. Based on my review and analysis of Mr. Watts' assigned duties and responsibilities, I conclude his position should be allocated to the Transportation Technician 3 classification.

On July 7, 2014, WSDOT received a Position Description submitted by Mr. Watts requesting that his position be reallocated from Transportation Technician 2 (TT2) to Transportation Technician 3 (TT3).

Jennifer Wagner, WSDOT Human Resources Consultant (HRC), denied Mr. Watts' request for reallocation based on language in Article 9 of the 2013-2015 Collective Bargaining Agreement between State of Washington and Professional and Technical Employees Local 17 (CBA 13-15). (Exhibit B-1)

Mr. Watts submitted a request for review with State HR which was received on November 13, 2014. (Exhibit A-1)

I spoke with the parties on three different occasions. Present for the first review conference on July 7, 2015, were: Mr. Watts; Vince Oliveri, Professional and Technical Employees (PTE) Local 17; Jennifer Wagner WSDOT HRC; and Todd Dowler, WSDOT Labor Relations & HR Operations Manager. Mr. Oliveri, Mr. Dowler and Ms. Wagner attended the second meeting on July 21, along with Jan Smallwood, WSDOT Classification/ Compensation Manager. The third meeting was held by phone, with Mr. Oliveri, Ms. Wagner and Mr. Dowler participating in the call. They were joined by Sarah Lorenzini, PTE Representative Local 17. Kris Brophy, Director's Review Investigator, coordinated the teleconference and assisted me during the call.

### **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 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. *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994).

### **Duties and Responsibilities**

Mr. Watts is a TT2 assigned to the Northwest Region Design Build Project Construction unit. He works on I-405 and SR-167 construction projects. The majority of his work relates to Inspection and Materials. His supervisor at the time he filed his request for reallocation was Robert Van Horn, Transportation Engineer 3.

Mr. Watts defined the purpose of his position as follows. (Exhibit B-2)

Qualified to test materials, perform applicable materials testing and documentation requirements on assigned projects. Maintains and audits the Statistical Analysis of Materials (SAMS) program to support design build projects. Log and track material samples via the Materials Testing System (MATS). Interpret highway construction plans, specifications and special provisions for use in monitoring the contractor's work for one or more major aspects of the project. Track material quantities [sic] and test frequencies. Audit the contractor's material quantities and testing frequencies for conformance to the Contract.

Mr. Watts described his major duties as follows. (Exhibit B-2)

### **Key Work Activities**

70% Materials Tester: As a qualified certified Tester independently performs tests, collects samples and completes paperwork as needed for contract conformance. Makes concrete test cylinders and performs air, yield and slump tests on concrete. Performs materials tests such as asphalt compaction testing, embankment compaction testing, gradation for aggregates, making grout cubes and other test as required. Collects samples and completes paperwork for the material test performed and samples collected. Ensures equipment is calibrated. Maintains and audits the Statistical Analysis of Materials (SAMS) program to support design build projects. Log and track material samples via the Materials Testing System (MATS). Track material quantities and test frequencies. Audit the contractor's material quantities and testing frequencies for conformance to the Contract. Assist the Construction Compliance Supervisor (TE3) in the oversight of contractor performance to ensure the project is built in conformance with contract plans, specifications and contract requirements. Assists with the preparation of Materials Reports.

- 20% Inspection: Perform verification inspection tasks to ensure the project is built in conformance with contract plans, provisions, and specifications. Interprets highway construction plans, specifications and special provisions, assists with layout as required, monitors and Design-Builder's work for one or more major aspects of a project such as excavation, embankment, grading, drainage, asphalt and concrete paving, illumination, signals, signing and pavement markings. Takes measurements and calculates quantities. Completes and submits Inspector Daily Reports, force account sheets, field records, material documentation records and other required documentation.
- 5% Office: Performs a variety of construction office engineering tasks such as: checking calculations including elevations, grades, earthwork, etc., and uses computer to resolve engineering problems.
- 5% Other duties as required.

Mr. Watts believes he is working independently performing skilled technical tasks at the level of a TT3. He supplemented his Position Description with a letter detailing his work. (Exhibit B-5)

### **Supervisor's Comments**

Mr. Van Horn agreed with Mr. Watts' description of his job duties. (Exhibit B-2) Lisa Hodgson, Project Engineer for the Northwest Region, who oversees the construction unit, stated:

It is my observation and assessment that Brian Watts has performed the higher level duties at or above minimum standards and has the knowledge, skills and abilities for the higher class. (Exhibit B-5)

### **Summary of Employee's Perspective**

Mr. Watts is appealing the determination by WSDOT that he is ineligible for reallocation to TT3 because of the Developmental Advancement section of the CBA, which allows TT2's who meet specific requirements for experience, training and testing to advance to TT3. (Exhibit B-1) He believes that he has been performing the duties of a TT3 for nearly five years. (Exhibit B-5)

Mr. Oliveri, speaking on Mr. Watts' behalf, argues there are two pathways for advancement for TT2s in the CBA: Article 9, which allows advancement under specific circumstances; and Article 41.2, which allows employees to request a position review. He believes that Mr. Watts' position should be reallocated to TT3 based on the work he is performing and that WSDOT is not following the contract by denying reallocation based on Article 9.

### **Summary of WSDOT's Perspective**

Ms. Wagner did not conduct a desk audit or review the position description submitted by Mr. Watts prior to making her determination denying his request for reallocation. When I asked if WSDOT was willing to review Mr. Watts' position description or conduct desk audit to determine whether Mr. Watts was performing duties at the TT3 or the TT2 classification, Ms. Wagner declined to do so.

Ms. Wagner defended her assertion that Mr. Watts is ineligible for promotion, citing past practice going back at least to 2012. She referenced the note in the TT3 classification which states:

Note: Employees will be advanced to Transportation Technician 3 after:

- Completing three years of satisfactory service as a Transportation Technician 2; and
- Successful completion of the WSDOT's mandatory training matrix for automatic promotion to the Transportation Technician 3 class; and
- Passing a qualifying examination.

She argued that this note is part of the specification and must be considered in the allocation process.

In addition, she cited *Resaie v. WSDOT*, PRB Case No. R-ALLO-09-031 in support of her determination. Mr. Resaie's appeal to be reallocated from TT2 to TT3 was denied by the Board, because the duties he was performing did not rise to the TT3 level and he admitted that he had not completed the training matrix or passed a qualifying examination. (Exhibits A-22 & B-13)

Ms. Wagner did agree to provide me with copies of current position descriptions for TT3's which were recently filed through a competitive process. (Exhibit B-12) I considered these documents during my review.

During the September 25, 2015 meeting, Ms. Wagner and Mr. Dowler informed me that WSDOT had made a determination that Mr. Watts's duties meet the TT3 level. An email sent by Jennifer Martin, WSDOT HR to Mr. Dowler documents this determination. (Exhibit B-22)

### **Jurisdictional Question**

As noted above, Mr. Watts and his representatives argued that State HR had no jurisdiction over Mr. Watts' status. They contend that WSDOT is in violation of the CBA by refusing to conduct a position review in accordance with Article 41.2 and that the proper venue for adjudication is the grievance procedure spelled out in Article 32 of the 2013-15 CBA.

Conversely, Ms. Wagner and Mr. Dowler argued that State HR has jurisdiction and must find that Mr. Watts is properly allocated to the TT2 classification because he has not successfully completed the training matrix and examination required for promotion to TT3 as noted in the class specification. They noted that, in *Rasaie*, the Personnel Appeals Board made reference to Mr. Rasaie's failure to complete the steps required for advancement to TT3 as well as determining that Mr. Rasaie was performing duties at the TT2 level:

Appellant admits that he has not completed the mandatory training matrix or passed the qualifying examination for advancement to the TT3 classification. The majority of Appellant's work entails functioning as a member of a survey team under the guidance and direction of a survey team lead. Therefore, the scope of

Appellant's work and the level of independence he exercises are described at the TT2 level. (Exhibits A22 & B13)

Regarding the question of jurisdiction, Article 41.2.C of the 2013-2015 CBA provides Mr. Watts with the right to appeal Ms. Wagner's determination:

In the event the employee disagrees with the reallocation decision of the agency, he or she may appeal the agency's decision to the Director of the Department of Personnel within thirty (30) calendar days of being provided the results of a position review or the notice of reallocation. The Director of the Department of Personnel will then make a written determination which will be provided to the employee.

Regarding the relevance of the note contained in the TT2 class specification, WAC 357-13-055 states:

Allocations or reallocations must be based upon a review and analysis of the duties and responsibilities of the position.

In addition, the Personnel Resources Board has consistently held that the allocation determination is based on the overall duties and responsibilities as documented in the classification questionnaire (or similar approved document). See *Lawrence v Dept. of Social and Health Services*, PAB No. ALLO 99-0027 (2000)

As the Director's Review Investigator, I am bound by the provisions of the Washington Administrative Code governing Director's Reviews as well as Board precedent to review the position description submitted by Mr. Watts and compare his work to the definition and distinguishing characteristics of the TT2 and TT3 classifications. I will consider the typical work statements in each specification as examples of the work envisioned in the classification. I will not consider the note regarding advancement which is contained in the TT3 classification. This is consistent with the Director's Decision in *Javaud Rasaie v. DOT ALLO-08-086*.

### **Comparison of Duties to Class Specifications**

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

### **Comparison of Duties to Transportation Technician 2**

The definition of the TT2 classification states:

This is the semi-skilled, intermediate developmental level within the Transportation Technician series.

The Distinguishing Characteristics for this class state:

In addition to basic duties, incumbents perform semi-skilled technical work and receive on-the-job instruction, classroom training and self-study courses in order to develop journey level knowledge of technical engineering principles and practices. To facilitate development, incumbents perform a variety of well-defined technical support activities in the office, laboratory and/or field. Incumbents receive instructions about the work to be done, ongoing technical guidance and their work is reviewed upon completion. Independent assignments are limited to those requiring the routine application of well established standards. As employees develop, they are expected to solve a limited range of problems by referring to prior training, manuals and procedures while moderate problems are referred to superiors. Leadership of others is limited to training of beginning technical staff. Over time, incumbents grow to independently perform a broad range of semi-skilled technical duties and, under supervision, begin to perform journey level work.

Mr. Watts is a skilled technician performing journey level Materials and Inspection work. His work exceeds the level delineated in the TT2 classification.

While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. The Typical Work of this classification relating to Materials and Inspection is identified as follows:

In addition to performing the work described at the Transportation Technician 1 level, incumbents perform the level of work described below a majority of the time. This description is not intended to be all inclusive but representative of the level of responsibility and level of difficulty of the work performed by this class.

#### Materials

- Serves as a field inspector who collects materials samples, learns to proficiently perform a variety of job-site tests, records test data and interprets test results; performs soils tests such as proctor density; performs aggregate tests such as sieve analysis, sand equivalent and moisture content, operates nuclear densometer and serves as a crushing plant inspector; performs concrete tests such as yield, slump and air entrainment, casts cylinders or beams, and learns to inspect at a concrete plant; performs asphalt mix tests such as extraction and maximum density, operates nuclear densometer and learns to inspect at an asphalt plant.
- Serves as a laboratory materials tester in a District or Headquarters quality assurance program; receives and logs in materials samples; prepares materials for testing; learns to proficiently conduct semi-skilled materials tests such as sieve analysis, sand equivalent, plasticity index, specific gravity, Los Angeles abrasion, degradation asphalt mix density, asphalt mix stability, maximum specific gravity of asphalt mix; asphalt content by extraction, penetration, viscosity, ductility and consolidation; prepares asphalt concrete mixes; performs asphalt recovery from solution; conditions moisture susceptibility asphalt concrete test specimens, prepares Portland Cement concrete mixes, makes cylinder and beam specimens; tests for slump, air content and unit weight; determines compressive, flexural and

tensile strength of concrete and tensile strength of steel; completes worksheets, control sample forms and daily reports; computes and interprets results from above tests; maintains and calibrates basic testing equipment; assists in maintenance chores and lab clean-up.

#### Inspection

- Serves as an assistant inspector on highway construction to ensure projects are constructed according to plans and specifications; learns to independently inspect minor phases of construction projects such as clearing, fencing, guardrail, curb, gutter, sidewalks, median barrier, illumination, landscaping, mulching, seeding, irrigation systems, simple surface drainage, small culverts, extension of small drainage structures and slope flattening; assists in the inspection of earthwork, surfacing and paving by weighing trucks, receiving and totaling tickets, calculating yield, monitoring depth and placement, performing the field materials tests listed above, ensuring correct thickness of lifts, proper watering and rolling, performing nuclear density tests to monitor compaction of embankments, surfacing and backfill; on bituminous surface treatments, inspects rock, samples oil and tests compaction; lays out grinding and operates a profilograph; assists in the inspection of bridge deck repair by marking delimitated areas, overseeing chipping, inspecting forms and rebar; assists in inspection of bridges and structures including performing concrete tests, checking number and placement of rebar, depth and placement of concrete, dimensions and alignment of forms, checking bolt location, bearing and torque; takes measurements and calculates quantities; completes daily records, force account sheets and other documentation.

The majority of Mr. Watts' work involves materials testing and inspection. He is a certified Tester performing journey level work. The typical work statements above do not reflect Mr. Watts' level of responsibility and autonomy in his work.

### **Comparison of Duties to Transportation Technician 3 Classification**

The definition of TT3 states:

This is the skilled journey level within the Transportation Technician series.

The Distinguishing Characteristics of this classification states:

In the office, laboratory and/or field, incumbents perform skilled technical tasks in support of engineering projects and programs. Incumbents typically receive instructions about the work to be done including scheduling and priorities, but work with relative independence in selecting methods and resolving routine problems. Employees at this level are expected to exercise initiative and judgment in independently carrying out assignments according to established policies, procedures and standards. When solutions are not readily attainable, the employee refers the problem to the supervisor. Leadership responsibility is normally limited to on-the-job training of other technical staff. May act as crew

leader on specific assignments that do not require ongoing direction from a supervisor.

As noted above, Mr. Watts works independently performing journey level Materials and Inspection work. His duties are comparable to the work described in the typical work statements below.

While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. The Typical Work of this classification is identified as follows:

In addition to independently performing the work described at the Transportation Technician 1 and 2 levels, incumbents perform the level of work described below a majority of the time. This description is not intended to be all-inclusive but representative of the level of responsibility and level of difficulty of the work performed by this class.

#### Materials

- Inspects at an asphalt or concrete plant by observing batching operations, performing materials tests, collecting samples, checking plant equipment and procedures, completing paperwork; inspects a precast concrete plant by checking material source, rebar, shape and dimensions, concrete mix and placement, vibration and finished product.
- In a District or Headquarters quality assurance program, performs the full range of materials tests including complex tests such as soils consolidation, lighting distribution, direct shear and consolidated drained triaxial; operates coring machine to obtain asphalt and concrete cores for pavement studies, test correlation and final record samples, conducts tests and interprets results; at a pre-cast reinforced concrete fabrication plant, inspects steel, forms, concrete and workmanship of products such as inlet boxes, median barrier, retaining wall and noise barrier; schedules and directs work of one to three subordinates in the Headquarters liquid asphalt laboratory or the physical testing section; performs complete physical tests of Portland Cement in the cement testing laboratory.
- As a journey level Geotechnical field technician, conducts Geotechnical subsurface drilling, testing, and sampling for bridges retaining walls, soil cuts and fills, rock slopes, landslides and pit and quarries statewide; positions require a Resource Protection Well Operator License.

#### Inspection

- Interprets highway construction plans, specifications and special provisions; performs layout as required; monitors the contractor's work for one or more major aspects of a project such as excavation, embankment, grading, drainage, asphalt and concrete paving, illumination, signals, signing and pavement markings; collects samples; measures and calculates quantities and prepares notes to support payment for activities inspected; assists in all phases of structures inspection by checking foundation excavation, pile driving, position of reinforcing

bars, field testing of concrete, making cylinders, checking placement of concrete into forms and backfill; serves as responsible inspector for smaller, less complex projects such as guardrail, median barriers, landscaping, slope flattening or bridge painting; takes measurements and calculates quantities; completes daily records, force account sheets and other documentation; trains and leads other staff.

Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. See *Dudley v. Dept. of Labor and Industries*, PRB Case No. R-ALLO-07-007 (2007).

See also *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994) cited above.

I concur with Mr. Watts and Ms. Martin that Mr. Watts' duties and responsibilities are best described by the TT3 classification. His position should be allocated to the Transportation Technician 3 classification.

### **Appeal Rights**

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

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 mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101 and the fax number is (360) 586-4694.

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

A. Brian Watts Exhibits

1. Brian Watts Request for Director's Review date stamped 11/13/14
2. Response to employer exhibit B-1, dated 1/15/15, with copies of applicable contract language
3. Letter from Douglas Brown, former supervisor, dated 12/15/14
4. Letter from Robert Van Horn, current supervisor, dated 1/14/15
5. IDR (Inspector's Daily Report) dated 8/9/07, illustrating basic TT2 testing work
6. IDR dated 4/19/12, illustrating work characteristic of TT3
7. Materials Documentation from contract #7283 – Concrete Quantities for 1 in 5 Testing
8. Materials Documentation from contract #7726 – Concrete Quantities for 1 in 5 Testing
9. Materials Documentation from contract #7726 – Compliance Review
10. Materials Documentation from contract #7726 – Aggregate Total Quantities
11. Materials Documentation from contract #8204 – Concrete Quantities for 1 in 5 Testing
12. Materials Documentation from contract #8204 – Aggregate Total Quantities
13. Materials Documentation from contract #8204 – HMA Annual Totals
14. Materials Documentation from contract #8204 – Concrete Aggregates
15. Materials Documentation from contract #8204 – Concrete Mix #1375850 Pour/Test Log
16. Email from Mr. Watts to Doug Brown dated 2/16/11, supporting Mr. Watts' specialized materials documentation knowledge
17. Transportation Technician 2 Job Specification
18. Transportation Technician 3 Job Specification
19. Brian Watts final response dated February 3, 2015
20. Transportation Technician 1 Job Specification
21. Silverdale Agreement signed August 1, 1991
22. Rasaie v. WSDOT, PRB Case No. R-ALLO-09-031
23. Miscellaneous e-mails and reports (14 documents)

B. WSDOT Exhibits

1. Allocation Decision Memo (dated 11-07-2014)
2. WSWSDOT response to Mr. Watt's request for Director's Review (dated 12-17-2014)
3. Employee Submitted Position Description – (date stamped 07-07-2014)
4. Table of Organization (dated January 2014)
5. Letter from Brian Watts to regional HR Consultant dated 07-01-2014;
6. Email exchange with regional HR office dated 12-12-2014 (gathered as follow up to support Exhibit #2)
7. WSWSDOT final response dated February 22, 2015
8. 2013-2015 CBA between Local 17 and the State of Washington (on file)
9. The Entire Agreement TA from 2004
10. WSWSDOT HRMS Data TT2-TT3 2012-2015 (spreadsheet)
11. WSWSDOT Auto Promo Appointment Letters 2012-2015 and related documents (85 pages)

12. Position Descriptions for vacant Transportation Technician 3 positions
  - a. 1/13/15
  - b. 4/15/15
  - c. 7/15/15
13. Rasaie v. WSDOT, PRB Case No. R-ALLO-09-031
14. Copy of email regarding Brian Watts – CPD Analyst dated 9/11/15

C. Class Specifications

1. Transportation Technician 2
2. Transportation Technician 3