

October 12, 2007

RE: Mark Ensley v. Department of Transportation (DOT)  
Allocation Review No. ALLO-06-025

Dear Mr. Ensley:

The Director's review of DOT's allocation determination of your position has been completed. The review was based on written documentation and on information provided during the October 2, 2007, Director's review meeting. Present at the Director's review meeting were you; your co-workers, Steve Hughes and Jason Greer; Rob Molohon, State Materials Documentation Engineer; Tom Baker, State Materials Engineer; and Niki Pavlicek, Classification and Compensation Manager for DOT.

**Background**

You requested a reallocation of your Transportation Engineer (TE) 2 position to the Transportation Engineer (TE) 3 classification by submitting a Classification Questionnaire (CQ) to DOT's Human Resources office on June 23, 2005. By letter dated September 21, 2006, DOT determined that your position was properly allocated and denied your request. On October 11, 2006, you requested a Director's review of DOT's determination.

**Summary of Mr. Ensley's Perspective**

You argue that you function as the statewide staff specialist for the Record of Materials (ROM) program for construction items used for all DOT and local agency construction projects. You assert that you schedule work and establish deadlines for completion of ROMs and that you review ROMs before they are uploaded for use. You also review ROMs completed by others including the electrical engineer. You assert that in the performance of your duties and responsibilities, you apply a thorough knowledge of Standard Specifications, the Construction Manual, the Standard Item Table, Standard Plans, Contract Plans and DOT policies and procedures regarding materials. You argue that you make engineering judgments regarding acceptance of materials including standard and non-standard items. You contend that for standard items, acceptance is given in the Construction Manual, but for non-standard items, you read the contract, look at the plans, and determine the appropriate acceptance based on the materials and the importance of the material to the project. For non-standard items, you acknowledge that you may check with other DOT staff, such as the electrical engineer, but you

assert that ultimately, you are the person who determines acceptance of non-standard items. You argue that your position fits the TE 3 classification.

### **Summary of DOT's Reasoning**

DOT acknowledges that you do some higher level work, but argues that the majority of your work is not at the higher level. DOT argues that the majority of your work is accomplished by utilizing standard engineering techniques consistent with the TE 2 level. DOT asserts that the advanced engineering work required for ROMs is performed by the subject matter experts (SME's) with whom you consult. In DOT's allocation determination letter, DOT acknowledged that you are the liaison with local agencies but asserted that you compare submittals to a prescribed set of agency documents and if the submittals meet the criteria, you have the responsibility to accept them. DOT stated that you do not have authority to make judgments in selecting and adapting techniques to solve transportation problems as described at the TE 3 level. DOT asserts that your responsibilities and assignments fit within the TE 2 classification.

### **Director's Determination**

As the Director's designee, I carefully reviewed all of the documentation in the file and the information provided during the Director's review meeting. Based on my review of the documents, the information provided during the Director's review meeting, the available classifications, and my analysis of your assigned duties and responsibilities, I conclude that your position should be reallocated to the TE 3 classification.

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

Your position is located in the Environmental and Engineering Programs Division Materials Laboratory. Your position is the state-wide specialist for the ROM.

As described in your CQ:

75% This position serves as the statewide program specialist in the preparation of the Record of Material (R.O.M.) that is used for all W.S.D.O.T. and Local Agencies construction projects to insure compliance with W.S.D.O.T. and F.H.W.A. stewardship agreement. This position uses sound engineering judgment to determine construction materials acceptance criteria based on W.S.D.O.T. Standards. For materials not governed by existing standards and specifications, this position consults with Subject Matter Experts to determine acceptance criteria and documentation requirements. This position is responsible for statewide assistance and problem solving relating to the R.O.M., and develops, maintains, and updates the computerized R.O.M. programs and databases, and acts as liaison with Local Agencies on matters relating to the R.O.M. This position is responsible for the supervision, scheduling, and prioritizing of work with the R.O.M. program, for

training and giving direction to the R.O.M. support team which consist of HQ Materials Documentation Section staff who assists the R.O.M. Engineer during the peak months.

In summary, your position also:

20% Verifies with other staff that the ROM is kept in alignment with other documentation concerning construction materials approval and acceptance issues. Reviews and monitors the R.O.M. program; charge sheets, labor summary sheets and phone charges. Tracks the number of projects worked on and the amount charged and generates a computerized monthly billing report. Assists in performing PS&E reviews.

The definition for the TE 2 classification states: “[p]erforms transportation engineering work under general supervision.”

The Glossary of Terms found in the Department of Personnel Classification and Pay Administrative Guide defines “general supervision” as: “Recurring assignments are carried out within established guidelines without specific instructions. Deviation from normal policies, procedures and work methods requires supervisory approval, and supervisory guidance is provided in new or unusual situations. Employees work is periodically reviewed to verify compliance with policies and procedures.” Your position does not fit within the general supervision definition. You work independently and with little supervision. As stated during the Director's review meeting, your work is initiated automatically by the submission of all construction contracts. Once a contract is submitted, you are responsible for devising your own work methods for all situations. Your position does not fit within the definition of the TE 2 classification.

The distinguishing characteristics for TE 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.

You are responsible for independently dealing with acceptance issues and documentation of standard and non-standard materials included in construction contracts. You routinely work with local agencies' contracts and estimate that this constitutes 30-40 percent of your work. You stated that the local agency contracts typically include non-standard materials. You are independently responsible for determining, in conjunction with the SME, the criteria to apply for acceptance and documentation of non-standard materials. The non-standard materials require more complex work and more time for processing. This is higher level work than applying the established standards for materials. While it is difficult to place a percentage on the amount of time you spend on this higher level work, during the Director's review you explained that for a 2 week contract review containing non-standard materials, you may spend 75 percent of your time

working on the non-standard issues. The TE 2 classification does not encompass your higher level responsibilities.

The typical work statements for the TE 2 classification provide guidance on the level of work, scope of responsibility and complexity of work performed at this level. Your work occurs when to contracts are submitted to DOT for approval. Your work is not directly referenced in the typical work for this class. However, statement that best describes your work actually describes positions that review standard specifications at the district level rather than positions with statewide technical responsibilities. For example, preliminary engineering positions at this level conduct "in-depth District-level review of standard contract plans, specifications and estimates; reviews PS&E work done by consultants; coordinates review by specialists throughout the District; acts as liaison between District and Headquarters final reviewers; participates in writing specifications and special provisions; participates in preparing plans for District-level contracts." Your position has responsibility for the statewide review of materials included in construction contracts including non-standard materials for which no state-wide standards have been established. You work with SMEs to establish statewide criteria for acceptance and documentation of non-standard materials. The state-wide scope of your duties and responsibilities is broader than the typical duties and responsibilities described at the TE 2 level.

The definition for the TE 3 classification states "[p]erforms advance transportation engineering work under limited supervision."

Your position works under limited supervision. You work independently and are responsible for devising your own work methods. Your position fits within the level of supervision addressed in the definition of the TE 3 classification.

The distinguishing characteristics for TE 3 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.

The typical work statements for the TE 3 classification provide guidance on the level of work, scope of responsibility and complexity of work performed at this level. In part, the typical work encompasses positions that function as specialists or are responsible for complex technical areas or projects.

The Glossary of Terms found in the Department of Personnel Classification and Pay Administrative Guide defines the duties of a "specialist" as involving "intensive application of knowledge and skills in a specific segment of an occupational area." As the staff specialist for the ROM program, you apply specialized knowledge in the performance of your duties and responsibilities.

The Glossary of Terms found in the Department of Personnel Classification and Pay Administrative Guide defines "complex" as requiring "the use of a wide variety of rules, processes, materials, or equipment that require an application of specialized knowledge or skills. Decisions must be made independently regarding which rules, processes, materials or equipment to use in order to effectively accomplish work assignments." Your work with non-standard materials can be complex and with the evolution of water quality and environmental concerns, the complexity of your work has increased. You employ a thorough working knowledge of agency policies, standards and procedures but you rely on SMEs for their knowledge of engineering principles. You make independent judgments and decisions and resolve problems pertaining to the acceptance and documentation of non-standard materials.

In addition, you are the point of contact for DOT staff and local agencies for the ROM program. You represent DOT to local agencies and you plan and carry out your work with minimal supervision.

The distinguishing characteristics and typical work of TE 3 classification reflect your work as a specialist, the complexity of your work and the level of independent decision-making you exercise.

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 Allegrì 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.

Overall, the level and scope of your duties and responsibilities best fit the within the definition and distinguishing characteristics of the TE 3 classification. Your position should be reallocated.

### **Appeal Rights**

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board by filing written exceptions to the Directors' determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the Board within thirty (30) calendar days after service of the Directors' determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

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

Sincerely,

Holly Platz, SPHR

Director's Review Investigator

cc: Niki Pavlicek, DOT

Lisa Skriletz, DOP