



**STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT**

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
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May 1, 2014

TO: Yoko Kuramoto-Eidsmoe, Union Representative
Professional & Technical Employees (PTE) Local 17

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Adam Worden v. Washington State Department of Transportation (WSDOT)
Allocation Review Request ALLO-13-039

On February 6, 2014, I conducted a Director's review conference regarding the allocation of Adam Worden's position. You and Mr. Worden were both present for the Director's review conference, and Mr. Worden's wife, Cindy Worden, observed the conference. Jennifer Wagner, Human Resources Consultant, represented Washington State Department of Transportation (WSDOT).

Director's Determination

This position review was based on the work performed for the six-month period prior to July 31, 2012, the date Mr. Worden submitted his request for a position review to WSDOT's Human Resources (HR) Office. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of Mr. Worden's assigned duties and responsibilities, I conclude his position should be reallocated to the Transportation Engineer 2 (TE 2) classification.

Background

Mr. Worden's position is assigned to the Olympic Region in the Tacoma Project Engineering Office. He reports to Office Engineer Gayle Lyon (Transportation Engineer 3). Ms. Lyon reports to Assistant Project Engineer Ricky Bhalla (Washington Management Service (WMS) Band 2) who reports to Project Engineer Mary Lou Nebergall (WMS Band 3) (Exhibit A-14).

At the time relevant to this review, Mr. Worden's position served as the Primary Change Order Writer (working title) for the Tacoma Project Engineering Office. Mr. Worden began writing change orders in 2010. He briefly worked in the field conducting field work inspections and then

returned to the office in October 2011 to write change orders, which he had been assigned to do at the time of his request for a position review in July 2012 (Exhibit B-9).

On July 31, 2012, Mr. Worden completed the Employee Portion of the Position Review Request (PRR) form asking that his Transportation Technician 3 (TT 3) position be reallocated to the Transportation Engineer 2 (TE 2) classification. On November 14, 2012, Ms. Wagner met with Mr. Worden to conduct a desk audit of his position (Exhibit B-9). During the Director's review conference, Ms. Wagner indicated that she also spoke with Project Engineer Mary Lou Nebergall and Assistant Project Engineer Ricky Bhalla by telephone but did not speak with Mr. Worden's supervisor, Office Engineer Gayle Lyon (TE 3).

On May 14, 2013, Ms. Wagner denied Mr. Worden's request for reallocation. Mr. Wagner concluded the duties described in the submitted position description did not meet the level of independent engineering work required of the Transportation Engineer 2 (TE 2) classification (Exhibit B-1).

On May 21, 2013, State Human Resources (SHR) received Mr. Worden's request for a Director's review of WSDOT's allocation determination (Exhibit A-1).

Summary of Mr. Worden's Perspective

Mr. Worden asserts his position is considered the primary change order writer for the Tacoma Project Engineering Office. Mr. Worden contends that writing change orders involves working with multiple documents and researching and preparing documentation for change orders, preparing change orders, drafting justification letters and developing Independent Engineers Estimates (IEEs) when not provided by the Field Engineer. Mr. Worden contends a change is usually prompted by an email with minimal information that his position then independently investigates, researches, and gathers the correct information to write the change order. He further contends his position requires an understanding of engineering specifications to write change orders. Mr. Worden also states his position oversees the preparation of final records and "as-built" plans as well as processing all types of contractor submittals and drawings.

Further, Mr. Worden indicates that he trains and directs the work of other technicians assisting with change order duties and that he reviews and verifies contractor payments entered into the CCIS system (Capital Computer Information System), which is the way the agency makes payments to contractors. Mr. Worden contends positions that write change orders in WSDOT are typically allocated to the TE 2 class and that the TT 3 class does not reference the work of a change order writer. Instead, Mr. Worden contends the majority of his duties and primary responsibilities to research and prepare documentation for change orders, prepare change order checklists and draft justification letters are specifically identified in the TE 2 classification, and he contends his position should be reallocated to the TE 2 class as a result. (Exhibits A-3 and A-26).

Summary of WSDOT's Reasoning

WSDOT asserts the agency uses both TT 3 and TE 2 level positions to conduct change orders. WSDOT contends a TT 3 change order writer interprets contract plans and specifications, gets a general idea of the change from the change approvals and with specific guidance and direction from the Field Engineer or Office Engineer, prepares the change order text. In

contrast, WSDOT contends a TE 2 change order writer understands the contract plans and specifications and independently determines the specific changes in the contract based on the information provided in the change approvals. Further, WSDOT asserts a TE 2 change order writer independently develops an accurate engineer's estimate for the changed work including labor, equipment, material, and production rates needed to perform the changed work. WSDOT distinguishes this from a TT 3 position, stating that a TT 3 prepares independent engineer's estimates using information provided by the Field Engineer or Project Engineer. WSDOT further contends TE 2 positions independently prepare justification memos with accurate descriptions and without multiple revisions, while TT 3 positions prepare memos with specific direction and guidance from the Field Engineer or Project Engineer. In total, WSDOT contends Mr. Worden's duties and responsibilities did not meet the level of independent engineering work required of the TE 2 classification (Exhibit B-1).

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. Worden submitted his request on July 31, 2012; therefore, the time period relevant to this review is January 31, 2012 through July 31, 2012.

At the time of Mr. Worden's request for a position review, the Classified Position Description (CPD) on file from 2011 described his position's objective as requiring "the ability to serve as a change order writer. . . . requirements also include the knowledge and skills to prepare and process change orders and track their approval status . . ." (Exhibit B-5).

The 2011 CPD further described the majority of work activities (80%) assigned to Mr. Worden's position as follows:

Change Orders; Independently evaluates and processes all types of contract change orders, including the preparation of the appropriate forms, drawings, spreadsheets/cost estimates and the production of tracking reports. Insures accurate documentation of contract change orders; trains and leads staff in the preparation of contract change orders. Reviews calculations, methods of measurement and payment, the preparation of cost estimates and directs the processing of change orders.

The level of supervision provided to Mr. Worden's position was described as follows: "Little – Employee Responsible for Devising own work methods" (Exhibit B-5, page 2).

On July 27, 2012, Mr. Worden completed and signed the Employee Portion of a Position Review Request (PRR) form, which he submitted to the Olympic Region on July 31, 2012. In

his request, Mr. Worden described his position's primary task as "preparing change orders for the Tacoma Project Engineering Office" (Exhibit B-2).

During the Director's review conference, Mr. Worden explained the organizational structure of the Tacoma Engineering Office. He stated that he and his co-worker in a Transportation Engineering 2 (TE 2 - Materials Engineer) position both provide leadership to two other positions performing technical assistance as Transportation Technicians at the 2 and 3 levels (TT 2 and TT 3). All four positions report to the Transportation Engineer 3 (TE 3) serving as the Office Engineer, Gayle Lyon, Mr. Worden's direct supervisor (Exhibit A-14).

Mr. Worden stated that the two technician positions enter contractor payments into WSDOT's system (CCIS) and that he and the TE 2 position have responsibility for reviewing and verifying the payments. Mr. Worden explained that he and the TE 2 position double check the entries made by the technicians to ensure they are correct and then initial and date (approve) the payments in the system. Mr. Worden stated that his supervisor, Ms. Lyon, then reviews the report as a whole, but not single entries, before sending it to the Assistant Project Engineer and Project Engineer for final review and payment.

On the PRR, Mr. Worden describes his position's purpose as follows (Exhibit B-2):

- This position prepares the required documentation and reports for every contract assigned to the Project Office related to contractual changes and directs other personnel assigned to change order preparation [the TT 2 and 3 positions entering information into CCIS].
- Evaluates and reports contractual submittals required for each contract administered by this Project Office, reviews submittals provided by the Contractor to verify they meet the contractual obligations and filed in the appropriate locations for final records.
- Directs assigned personnel in the creation of as-built documentation, and reviews as-built and final records documentation [TT 2 and TT 3 positions].
- Assists the Office Engineer as needed.

In summary, Mr. Worden describes his position's major duties and tasks as follows:

50% Change Orders:

- Independently evaluate and process all types of contract change orders, including preparation of appropriate forms, drawings, spreadsheets/cost estimates and fund requests.
- Draft justification memorandum and prepare and evaluate status reports related to change orders.
- Direct assigned personnel in the preparation of change orders.

20% Submittals:

- Independently evaluate and review every contract assigned to this office for submittals to be provided by the Contractor to fulfill contractual obligations.

- Process all types of contractor provided submittals and drawings, review calculations, and prepare and evaluate status reports related to submittals.

15% As-Builts:

- Review final records and "as-builts" for completeness and accuracy for every contract assigned to this office.
- Check plan continuity, quantities, grades and alignment using mainframe and personal computer.
- Reduce contract design data into working drawings and sketches for field use.
- Direct assigned personnel in the preparation of final records and "as-builts."

10% Assistant to Office Engineer:

- Assist the Office Engineer as engineering computer systems specialist by providing ongoing support and acting as resource for engineering applications.
- Periodically oversee methods measurement and payment, field notes and records, maintenance of computerized ledger system, the preparation of estimates and contract payments [oversee work of TT 2 and TT 3 position in the office], and fill in for the Material Documentation Engineer [TE 2 position].

In a written email response on February 11, 2013, Mr. Worden's direct supervisor, Office Engineer Gayle Lyon, affirmed the majority of Mr. Worden's work activities involved writing change orders (70 – 75%) and that his position served as the primary change order writer (Exhibit B-12). The record includes an unsigned CPD date stamped July 31, 2012, in which the majority of duties closely resemble those in his position's 2011 CPD. Ms. Lyon also affirmed that the July 31, 2012 CPD accurately reflected the duties Mr. Worden performed at that time (Exhibit B-5) and his PRR (Exhibit B-2).

Specifically, the July 31, 2012 CPD identifies the majority of work (85%) as independently evaluating and processing all types of contract change orders, including the preparation of the appropriate forms, drawings, spreadsheets/cost estimates; drafting the Justification Memorandum and tracking reports; training and leading staff in the preparation of contract change orders; reviewing calculations, methods of measurement and payment; preparing cost estimates and directing the processing of change orders and electronic drawings for documentation of change orders onto Contract As-built Plans. The level of supervision required is noted as "Limited" (Exhibit B-6).

Assistant Project Engineer Ricky Bhalla disputes the description of work activities on the PRR and the July 31, 2012 CPD. In his response comments on February 4, 2013, Mr. Bhalla wrote, in part, "Adam's work requires significant oversight and Adam is not able to independently evaluate or process contract change orders and is not expected to at the Transportation Technician 3 level" (Exhibit B-11, page 1). In her comments, Project Engineer Mary Lou Nebergall described Mr. Worden's duties as tracking and processing change orders. She noted that processing change orders required "no engineering knowledge" but creating them "requires a basic understanding and ability to interpret the plans and specifications" (Exhibit B-10).

Although Mr. Bhalla and Ms. Nebergall noted that Mr. Worden's position had oversight, there is no dispute his position's primary role was to prepare change orders for the Tacoma Project

Engineering Office. Mr. Bhalla stated that “[n]o one else is currently assigned to do this work in the office” (Exhibit B-11, page 2). In addition, Ms. Lyon wrote that “Adam is our primary Change Order writer . . .” (Exhibit B-12, page 2). In reference to Mr. Worden’s duties described in the July 31, 2012 PRR and CPD, Ms. Lyon wrote the following:

At the time, the duties explained did describe Adam’s duties. Adam did independently develop the change order text, estimates and Memos and then Ricky Bhalla our TE4 and I would review them for accuracy (Exhibit B-12, page 1).

Ms. Lyon also described the process Mr. Worden followed when preparing change orders as follows:

In order to write a good clear, concise and complete change order you have to know what happened that brought about the change. This information is rarely shared with the office staff, which includes the Change Order Writer. The office receives an e-mail indicating that a change has been approved and to start writing a change order. The e-mail includes minimal information and the evolution of the change needs to [be] sought by the change order writer, Adam will begin by asking the Field Engineer what happened which brought about the change. The Field Engineer might supply an Independent Engineers Estimate (IEE) or Adam will put one together. Adam often develops the IEE from the information he is given by the Field Engineer or Project Engineer, writes the contractual language for the change order and prepares it for the Office Review. He also enters the information into CCIS, and prepares the Memorandum which goes to Headquarters by way of our Region Construction Office. These documents are reviewed by myself and the Assistant Office Engineer which is the standard process within our office (Exhibit B-12, page 2).

Ms. Lyon’s description of Mr. Worden’s duties is consistent with those he described during the Director’s review conference, which he also described in an email to HR Consultant Jennifer Wagner as part of WSDOT’s review (Exhibit B-13).

Furthermore, the description of duties in Mr. Worden’s Employee Performance Review written on May 31, 2012, two months prior to his request for a position review, is consistent with the July 31, 2012 CPD, Mr. Worden’s July 31, 2012 PRR, and his and his supervisor’s comments. For example, the job expectations note Mr. Worden “is currently doing work as Change Order Writer and Submittals Reviewer, helping research payment issues, and directing and reviewing revisions to Final Records and As-builts Plans” (Exhibits A-12 and B-3, page 1).

Both Mr. Bhalla and Ms. Lyon noted that Mr. Worden’s duties were revised after July 2012. Specifically, Mr. Bhalla wrote that “Adam’s change order responsibilities were reduced in July 2012,” which included not preparing independent engineer’s estimates (IEE) (Exhibit B-11). Similarly, Ms. Lyon stated that “Adam’s duties were revised with the Position Description dated 8/22/2012, the Independent Engineers Estimate was to be developed by the Field Engineer” (Exhibit B-12, page 1). At the time relevant to this review, however, Mr. Worden had been tasked with preparing change orders based on the minimal information he received, which sometimes included IEEs but often required him to develop the IEE from the information given by the Field Engineer or Project Engineer, as noted by his supervisor (Exhibit B-12, page 2). Further, Mr. Bhalla and Ms. Lyon both indicated that he prepared the text for the change orders, and Ms. Lyon indicated that the standard process involved a higher level review by the Office and Project Engineers.

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.

The **Transportation Technician 3 (TT 3)** definition indicates that positions work at “the skilled journey level within the Transportation series.” The distinguishing characteristics state the following:

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.

The **Transportation Engineer 2** definition states that positions perform “transportation engineering work under general supervision.”

The State Human Resources (SHR) Glossary of Classification Terms defines general supervision as follows:

(1) General supervision

- Employee performs recurring assignments without daily oversight by applying established guidelines, policies, procedures, and work methods.
- Employee prioritizes day-to-day work tasks. Supervisor provides guidance and must approve deviation from established guidelines, policies, procedures, and work methods.
- Decision-making is limited in context to the completion of work tasks. Completed work is consistent with established guidelines, policies, procedures and work methods. Supervisory guidance is provided in new or unusual situations.
- Work is periodically reviewed for compliance with guidelines, policies and procedures.

The Transportation Engineer 2 (TE 2) distinguishing characteristics state the following:

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.

As the primary change order writer for the Tacoma Engineering Office, Mr. Worden independently applied standard engineering procedures and techniques to prepare change orders at the time relevant to this review. His direct supervisor indicated that he typically received an email to start writing the order working with the Field Engineer as needed to understand the reasons for the change and that Mr. Worden then independently developed the change order text, estimates and memorandums to be reviewed by higher level engineers, which she described as "the standard process" (Exhibit B-12, page 2). It is undisputed that Mr. Worden performed his duties as a change order writer the majority of the time. It is further undisputed that he also reviewed submittals and as built plans, as well as IEEs, which were subsequently removed from his duties. In total, his position fits the definition of performing transportation engineering work under general supervision, which had been assigned through general instructions and performed with limited supervision, as indicated by his supervisor.

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 TE 2 class specification notes that "[i]ncumbents typically perform the level of work described in the typical work statements a majority of the time, though the description is not intended to be all-inclusive. Under the Construction Section, the following typical work statement best aligns with Mr. Worden's primary duties:

As assistant to the Office Engineer:

- Checks plan continuity, quantities, grades and alignment using mainframe and personal computer.
- Independently evaluates and processes all types of contractor submittals and drawings.
- Monitors construction schedule and prepares reports.
- Directs the review of calculations, methods of measurement and payment, field notes and field records.
- Oversees maintenance of the computerized ledger system, the preparation of estimates and contract payments.
- Researches and prepares documentation for change orders, prepares change order checklist and funds request and drafts justification letter.
- Oversees the preparation of final records and "as-builts."

Although there is disagreement about the level of oversight provided to Mr. Worden's position, the preponderance of documents support that he served as the primary change order writer and independently prepared and processed the orders, which he then received feedback about from the Project Engineers. His primary duties are specifically identified in the TE 2 job class, and his supervisor supports his statement that he was independently applying standard engineering procedures and techniques to accomplish his work. Therefore, at the time of his request on July 31, 2012, Mr. Worden was performing work consistent with the Transportation Engineer 2 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 4th floor of the Insurance Building, 302 Sid Snyder Avenue SW, Olympia, Washington. The main telephone number is (360) 902-9820, and the fax number is (360) 586-4694.

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

c: Adam Worden
Jennifer Wagner, WSDOT
Lisa Skriletz, SHR

Enclosure: List of Exhibits

ADAM WORDEN v WSDOT

ALLO-13-039

A. Adam Worden Exhibits

1. Director's Review Form received May 21, 2013 (2 pages)
2. May 14, 2013 WSDOT allocation determination letter (4 pages)
3. Adam Worden's May 15, 2013 response to allocation determination (2 pages)
4. Reasons & Justifications (3 pages)
5. Time line (2 pages)
6. Class Specification for Transportation Technician 3 538T
7. Class Specification for Transportation Engineer 1 530K
8. Class Specification for Transportation Engineer 2 530L
9. Class Specification for Transportation Engineer 3 530M
10. Position Review Request Employee Portion (4 pages)
11. General Service Classified Position Description prior to reallocation request (3 pages)
12. 2012 Employee Performance Review (5 pages)
13. General Service Classified Position Description after reallocation request (3 pages)
14. Tacoma Project Office Table of Organization (1 page)
15. Lacey Project Office Table of Organization (1 page)
16. General Service Classified Position Description CO writer for Lacey (3 pages)
17. Port Angeles Project Office Table of Organization (1 page)
18. General Service Classified Position Description Team Leader for Port Angeles (2 pages)
19. Port Orchard Project Office Table of Organization (1 page)
20. Tumwater Project Office Table of Organization (1 page)
21. General Service Classified Position Description Doc. Engineer for Tumwater (3 pages)
22. Email to Union (1 page)
23. Tacoma PEO Change Order Processing Comparison (1 page)
24. 2013 Employee Performance Review
25. Reasons for Exhibits – (3 pages)
26. Request for Reallocation – Response to HR Package (7 pages)

B. DOT Exhibits

1. Allocation Decision Memo (dated 5/14/2013);
2. Employee Submitted Position Description on State HR form – (date stamped 7/31/2012);
3. Employee Performance Review for period of 05/22/2012 to 05/31/2012 submitted by Employee – no date stamp or signatures with dates;
4. State HR tools provided with Employee's Position Description - Glossary of Classification Terms and "Calculating Percentages of Time Spent on Job Responsibilities";
5. Previous General Classified Position Description on file signed 5/25/2011;
6. Previous General Classified Position Description, unsigned, provided by Management to Employee on 7/31/2012;

7. Email from Employee to HR Consultant regarding unsigned position description, dated 8/13/2012;
8. Updated General Classified Position Description on file signed 8/22/2012;
9. Email including desk audit results dated 1/30/2012;
10. Email correspondence with Project Engineer MaryLou Nebergall dated 2/1/2013;
11. Email correspondence with Assistant Project Engineer Ricky Bhalla dated 2/4/2013;
12. Email correspondence with Employee's Supervisor Gayle Lyon dated 2/11/2013;
13. Email from Employee containing documentation of work flow, process steps dated 3/19/2013;
14. Email from Employee containing documentation of correspondence and work exchanged between Employee and management dated 3/19/2013;
15. Email from Employee containing Employee's self-generated table of current vs. past change order writing practice dated 3/20/2013;
16. Email from Assistant Project Engineer Ricky Bhalla containing multiple examples of drafted memos, change orders and justification memos exchanged with Employee dated 3/21/2013;
17. Class Specification – Transportation Technician 3
18. Class Specification – Transportation Engineer 2
19. Table of Organization dated July 2012
20. Tables of Organization provided by Employee during desk audit for four regional project offices –
 - a. Lacey Project Engineer's Office dated 9/17/2012;
 - b. Port Orchard Project Office dated 5/22/2012
 - c. Fife Project Office dated 9/2012
 - d. Tumwater Project Office dated 9/14/2012

C. Class Specifications

1. Transportation Technician 2 538S
2. Transportation Technician 3 538T
3. Transportation Engineer 1 530K
4. Transportation Engineer 2 530L
5. Transportation Engineer 3 530M