



**STATE OF WASHINGTON  
OFFICE OF FINANCIAL MANAGEMENT**

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM  
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May 18, 2015

TO: Connie Goff, PHR  
Reviews and Appeals Program Manager

FROM: Kris Brophy  
Director's Review Program Investigator

SUBJECT: Melody Stell v. Department of Transportation (DOT)  
Allocation Review Request ALLO-14-042

A consolidated Director's review has been completed regarding the allocation of the following positions:

John Huff	ALLO-14-041
Melody Stell	ALLO-14-042

**Director's Determination**

This position review was based on the work performed for the six-month period prior to September 9, 2013, the date DOT's Human Resources (HR) Office received the employee requests for position reviews. 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 the employee's duties and responsibilities, I conclude their positions are properly allocated to the Human Resource Specialist 4 (HRC 4) classification.

**Background**

The employees submitted updated Position Description forms (PDF). Ms. Stell requested reallocation to the Transportation Planning Specialist 4 (TPS 4) class (Exhibit B-3).

DOT HR conducted a position review and notified Ms. Stell on April 25, 2014 that her position was properly allocated to the HRC 4 class (Exhibit B-1).

On April 30, 2014, the employees filed an appeal with State HR.

On April 9, 2015, I conducted a review conference with the parties. Present for the conference were John Huff; Melody Stell; Gregory Bell, Manager, External Civil Rights Branch, DOT; and Jennifer Wagner, Human Resource Consultant, DOT.

Ms. Stell submitted additional exhibits following the review conference which were received on April 15, 2015. This information has been added to the record and incorporated into the file as exhibits.

### **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**

Ms. Stell is assigned to the External Civil Rights Branch of the Office of Equal Opportunity (OEO) at DOT headquarters. Ms. Stell is the Northwest Region EEO Officer. She reports to Gregory Bell, Manager, Civil Rights Branch.

Ms. Stell states in her comments that she is responsible for planning all governmental activities related to the Tribal Employment and Rights Ordinance (TERO) statewide program. As the TERO Coordinator, she has responsibility for planning and coordinating the tribal interactions with DOT-led construction projects and local agency construction projects that have Federal Highway Administration (FHWA) requirements.

Ms. Stell's duties are described in detail in the PDF submitted for reallocation (exhibit B-3). Her duties are summarized from that document as follows:

70% This position will influence external agency contracting/contract compliance policies and procedures, functioning on a statewide basis, with focused assignments in the Northwest Region (NWR). This unique position differs significantly from the other regional part-time EEO officers in that it oversees the federal and state civil rights responsibilities/duties on two separate mega-projects. This position has been identified through FHWA briefings as the WSDOT point of contact for all FHWA and OEO contract compliance responsibilities/issues and reporting.

Performs commercially useful function and equal employment opportunity reviews on both prime contractors and DBE subcontractors on construction projects throughout the state, with primary interest on the two mega projects located within the NWR. These investigations require significant research, interviewing, contracting and writing skills, and take place at jobsites and government/private offices statewide. Will perform the mandatory federal contract compliance/external civil rights portion of the pre-construction meetings and respond to all federal aid compliance matters on construction projects throughout the region. Responds to more DBE related issues than all of the other EEO officers throughout the state combined, due to the size and complexity of the projects involved.

Train management and staff on continuous basis to ensure awareness and compliance with WSDOT's external civil rights, Title VI responsibilities,

discrimination-free contracting policies and State and Federal regulations.

- 4% Provide specialized training to prime contractors and subcontractors, (both DBE and non-DBE) as requested or as deemed necessary by OEO management, to ensure awareness and compliance with WSDOT's external civil rights, Title VI responsibilities, discrimination-free contracting policies and State and Federal regulations.
- 4% Provide external civil rights expertise, DBE and EEO technical assistance and training to contracting parties throughout the State, as well as conducting extensive, complex and sensitive investigations of civil rights and contract compliance complaint investigations with outbriefings to appropriate internal/external officials regarding final investigative findings and recommendations.
- 4% Analyzes, systemic construction, consulting and contracting problems affecting DBE's. Independently provides assistance, advice and consultation on federal civil rights/contracting/DBE issues to appropriate WSDOT officials and recommend procedures for enhancing a legal, inclusive and discrimination free contracting arena.
- 4% Leads OEO's administration of the Federal Training Program and OJT Program. Interacts/works with contractors to assist in processing/approving training programs; processing Apprentice/Trainee Approval forms; perform Apprentice/Trainee interviews at project site; assist the Contractor in developing non-signatory training programs; prepare FHWA Annual Training Report and track training program accomplishments.
- 4% This position is the WSDOT OEO lead Liaison in all Tribal Employment Rights Organization (TERO) issues, straddling the delicate line between mandating and enforcing federal and state contract compliance while dealing with as many as 29 federally recognized tribal organizations, located throughout the state...
- 4% Perform Community Outreach. plan and participate in statewide Construction Career Day events with high school aged youth interested in entering the trades; King County Civil Rights Commission; attend Washington State Apprenticeship Training Council and Seattle Vocational Institute Pre-apprenticeship Advisory Boards; participating in the Regional Contracting Forum and Combined Fund Drive Activities.
- 4% General Work Functions. This will include, but not be limited to staff meetings and other reporting activities; time sheets; safety meetings, review pre-activity safety plans; read emails and WDOT web pages; performance management plan activities; personal development; formal and informal training. Review periodicals for contracting/civil rights issues.
- 2% Other duties as assigned.

### Supervisor's Comments

Mr. Bell fully supports Ms. Stell in her reallocation request.

### Summary of Employee's Perspective

Ms. Stell's perspective is fully described in Exhibit A-2. In summary, Ms. Stell states her core job functions more closely align with the Transportation Planning Specialist series rather than the Human Resource Consultant series. Ms. Stell states there is a distinction between working in internal civil rights and external civil rights. She believes internal civil rights work performed within an organization quite often falls within the Human Resources Consultant series; however working with external civil rights programs does not.

In contrast, Ms. Stell states her work is best described as using external civil rights programs to ensure agency compliance with Title XI of the 1964 Civil Rights Act. Ms. Stell states the tasks and functions she performs apply to external customers. As the NW Region EEO Officer, she is responsible for ensuring that all NW Region construction projects meet multi-modal federal transportation agency requirements. Her duties mandate that she analyze and study transportation field data related to compliance of policies and procedures as required by multiple federal transportation agencies, which is consistent with work defined by the TPS series. She asserts her tasks regarding external civil rights reach the Transportation Planning Specialist 4 class.

For these reasons Ms. Stell asserts the Transportation Planning Specialist 4 class is the appropriate allocation for her position.

### Summary of DOT's Reasoning

DOT asserts Ms. Stell's position duties do not fall within the scope of work performed by TPS series. DOT states the scope of work Ms. Stell performs as the NW Regional EEO Officer does not fall within transportation planning work, nor does it meet any of the four allocating criteria required for allocation to that class.

DOT asserts the external civil rights work Ms. Stell performs is identified in the Human Resource Consultant class series concept through the identification of affirmative action and diversity as examples of professional human resources work. DOT states in the determination that Ms. Stell's position duties are encompassed within the HRC 4 class, which is considered the professional expert level. DOT states Ms. Stell's position requires the application of expert knowledge to make decisions on critical and complicated issues with wide or precedent setting impact, while also advising and consulting with internal and external management teams.

For these reasons DOT states Ms. Stell's position is properly allocated to the HRC 4 class.

### 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.

### Comparison of Duties to the Transportation Planning Specialist 4 (TPS 4)

The Definition for the Transportation Planning Specialist 4 states in relevant part:

As a project leader, plans and conducts advanced transportation studies or investigations which require direction of project teams charged with analyses and recommendations for one or more problem areas, involving one or more transportation modes, and usually involving more than one discipline; or performs critical program evaluations; or supervises transportation planning data collection, analysis and summarization operations.

...

The Distinguishing Characteristics for this class state:

This level develops and evaluates plans, study methodology and criteria for a variety of assigned problems and projects;

Problems, modes and disciplines are enumerated in the Transportation Planning Specialist 3 specification;

Supervises an organizational segment responsible for transportation field data collection and summarization and reduction in the office, for example, road data, traffic survey.

Critical program evaluation is defined as a highly specialized evaluation of a program – multi-model, total system impact. The evaluation requires the use of sophisticated application techniques with system-wide analysis.

...

As stated in exhibit B-1, the Transportation Planning Specialist series describes positions which perform a variety of professional level transportation planning work for specific areas dealing with transportation systems or programs, transportation problem areas, environmental aspects related to transportation issues, transportation landscape design, roadside and site aspects and transportation landscape architecture or urban & community planning. This information is used for developing policy and analytical tools, and for conducting economic data analysis.

Ms. Stell's position does not fit within the primary allocating criteria of performing professional transportation planning work as required.

For example, Ms. Stell serves as the NW Regional EEO Officer, which includes serving as the TERO Coordinator. However, this work does not directly involve planning transportation systems or problem areas as defined within the Transportation Planning series. Rather, Ms. Stell has responsibility for ensuring that all NW Region WSDOT construction projects meet federal transportation agency equal employment requirements. Her position does not direct transportation planning studies or investigations or other transportation planning assignments within the context of the TPS 4 classification.

In addition, the scope of her work does not fall within the scope of transportation modes, identified problem areas, or transportation planning disciplines referenced in the Transportation Planning Specialist 3 class and utilized for all class levels in the series:

- Modes are rail, water, air, transit, bike and pedestrian, etc.;
- Problem areas relate to energy, land use, economic development, deregulation of services, modal system integration, environmental regulations, Endangered Species Act, transportation roadside and site aspects, etc.;
- Disciplines are environmental or urban planning, fisheries, biology, transportation, landscape architecture, engineering, economics, social sciences, etc.;

Further, her position does not meet the related allocating criteria of this class of planning and conducting advanced transportation studies or investigations and directing project teams as a project leader, or performing critical program evaluations, or supervising transportation planning data collection, analysis and summarization operations.

Ms. Stell also does not supervise or lead others, nor is she a registered landscape architect. In total, the equal employment opportunity functions performed by Ms. Stell's position does not align directly with the intent, focus or scope of transportation planning activities identified in the definition and distinguishing characteristics of this class. There is another class series which more accurately aligns with the scope of work performed by Ms. Stell in her position.

Therefore, Ms. Stell's position should not be allocated to the TPS 4 class, or other classes within the TPS series.

#### Comparison of Duties to Human Resource Consultant (HRC) series

The Class Series Concept for this series states in part:

Human resource professionals are involved in assignments that frequently crossover or merge traditional functions and specialties. Many are leading, facilitating, or coaching others regarding a wide range of organizational, leadership, and human resource issues. It is anticipated that the current trend will continue, resulting in human resource personnel continuing to assume greater responsibility in addressing organizational issues.

...

Positions in this series may require specialization in one or a limited number of human resource areas or may be assigned a wide variety of responsibilities.

Examples of professional responsibilities typically assigned include, but are not limited to: classification, compensation, recruitment, selection, affirmative action, diversity...

As stated in the class series concept, incumbents in this series frequently crossover or merge traditional human resource functions and specialties. Positions in this series may specialize in one human resource area or may be assigned a wide variety of responsibilities including affirmative action and diversity.

In addition, each class within the HRC series encompasses the duties performed at the prior class level. The distinction between classes includes the level of responsibility and extensive knowledge and expertise gained through progression in the series. The Definition for the HRC 3 class states in part:

Serves as senior level human resource consultant/advisor. Independently performs professional level human resource assignments in one or more areas of the human resource function such as classification, compensation, benefits, recruitment and selection, affirmative action and equal employment opportunity, reasonable accommodation, training, organizational development, and/or labor relations.

[Emphasis added]

Ms. Stell's position aligns the scope of work identified in the Human Resource Consultant series. She serves as the NW Regional EEO Officer for DOT. The focus of this work is to use external civil rights programs to ensure agency compliance with Title XI of the 1964 Civil Rights Act. Therefore, Ms. Stell's position falls within the scope of equal employment opportunity work performed by incumbents in the Human Resource Consultant class series. Her position should remain allocated to a class within this series.

#### Comparison of Duties to Human Resource Consultant 4 (HRC 4)

The Definition for the HRC 4 class states:

Serves as an assigned professional expert in one or more functional human resource areas; or supervises professional or other human resource staff members.

The Distinguishing Characteristics for this class state:

Professional expert or supervisory level. Assignments require application of knowledge and expertise to make decisions on complicated issues. These assignments often require proactive intervention and have wide or precedent setting impact. Provides advice and consultation to organization management, lower level professional staff, and peers. Handles or oversees the organization's most sensitive, complex, or critical human resource issues. Provides advice and guidance and/or supervises professional or other staff members.

Ms. Stell's position duties are fully consistent with these statements.

The State HR Glossary of Classification Terms defines the following:

**Expert** - Within the context of the class series, has the highest level of responsibility and extensive knowledge based on research and experience in a specific area. Resolves the most complex, critical, or precedent-setting issues that arise. Positions act as a resource and provide guidance on specialized technical issues. Although an employee may be considered by their peers as an expert or "go-to" person at any level, for purposes of allocation, the term is typically applied to an employee in a higher class level who has gained expertise through progression in the series.

Ms. Stell serves as a professional expert. She applies expert-level knowledge and expertise to make decisions on critical and complicated issues relative to ensuring equal employment opportunity for the DOT.

For example, Ms. Stell has responsibility for working to increase employment of minorities and women on federally assisted DOT projects. Her position is responsible for overseeing federal and state civil rights responsibilities/duties on two separate mega-projects. Her position has been identified through FHWA briefings as the WSDOT point of contact for all FHWA and OEO contract compliance responsibilities/issues and reporting.

She performs commercially useful function and equal employment opportunity reviews on both prime contractors and DBE subcontractors on construction projects throughout the state, with primary interest on the two mega projects located within the NWR. She performs the mandatory federal contract compliance/external civil rights portion of the pre-construction meetings and responds to all federal aid compliance matters on construction projects throughout her assigned region.

Ms. Stell provides advice and consultation to organizational management and external stakeholders. Her duties are encompassed by the scope of work performed at this class level.

Further, allocating positions to specific classifications has been applied in numerous Board cases: Waldher; Firouzi; Makari; Korndorfer v. Department of Transportation, PRB Nos. R-ALLO-08-026; R-ALLO-09-005, R-ALLO-09-006, and R-ALLO-09-009 (2009).

In Cerna v. Employment Security Dept., PAB No. ALLO-03-0014 (2003), the Board stated that "[i]t is not intended for a more generic classification to be used to allocate a position where the duties and responsibilities of the position are more precisely described by a more specific classification." [See also Nance v. Eastern Washington University, PAB No. 3769-A2 (1995)].

Additionally, Ms. Stell's position does not specifically fall within the Program Specialist 5 class or the Program Specialist series as a whole. The HRC series specifically addresses equal employment opportunity work whereas the Program Specialist is a generic series which consolidated a number of different classes into one series. Allocation to the Program Specialist series requires an assignment of work specific to a particular program and not work that is specifically described by another class specification.

Finally, Ms. Stell's position does not meet the intent of the Management Analyst class series of providing management analysis and consultation functions as the primary focus of his position.

Positions in this series analyze management problems, research, analyze, evaluate and make recommendations to higher level management regarding various management functions and activities such as agency and/or institution reorganizations, implementing legislative directives, developing policies and procedures, developing and implementing systems, implementing long-range strategic plans, formulating goals and objectives, resolving customer complaints, and meeting customer requirements. Ms. Stell's position does not have this focus.

Therefore, because the HRC 4 class specifically encompasses the body of work performed by Ms. Stell in her position, allocating her position to this specific class must take primary consideration. In total, I concur with DOT's assessment that this class more accurately addresses the body of work under review in this appeal.

For these reasons, Ms. Stell's duties and level of responsibilities best fit within the scope, intent and level of responsibility found in the HRC 4 class. Her position should remain allocated to that class.

**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 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.

c:     Melody Stell, DOT  
       Jennifer Wagner, DOT

Enclosure: List of Exhibits

**MELLODY STELL v DOT**

**ALLO-14-042**

**A. Melody Stell Exhibits**

1. Request for Director's review
2. Written Narrative Response
3. Classified Position Description, vacant, TPS-2, position number 00042
4. Federal Programs Planner, Evan Olsen, TPS-4, position number 01407
5. Construction Analyst, Jenna M. Fettig, TPS-3, position number 00781

Exhibits submitted after the review conference:

Email from Margaret Rennie to Kris Brophy dated April 15, 2015 enclosing:

6. Document titled, "FHWA Tips on Evaluating a Commercially Useful Function"
7. Recruitment notice for Equal Opportunity Officer
8. Recruitment notice for DBE Program Manager
9. Document titled, "WSDOT Commercially Useful Function Review" for Terra Dynamics, Inc.

**B. DOT Exhibits**

1. Assessment Determination Memo
2. Request for Position Review, dated 9/9/13
3. Position Description, employee submitted, signed 9/3/13
4. Position Description on file, signed 12/4/07
5. Desk Audit Notes
6. Human Resource Consultant Assistant1, for Class Series Concept
7. Human Resource Consultant 4
8. Transportation Planning Specialist 3 for problems, modes and disciplines
9. Transportation Planning Specialist 4
10. Program Specialist 2 for Class Series Concept
11. Program Specialist 4
12. Management Analyst 1 for Class Series Concept
13. Management Analyst 4
14. Notes from SHR Input/Recommendation