BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

RICHARD CAMERON, et. al. Appellants, vs. DEPARTMENT OF TRANSPORTATION, Respondent	)))))))))	CASE NOS. ALLO-17-019, ALLO-17-020 AND ALLO-17-022 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came before the Personnel Resources Board, VICKY BOWDISH, Vice-Chair and SUSAN MILLER (by phone), Member, for a hearing on Appellant's exceptions to the director's determination dated August 16, 2017. The hearing was held on January 11, 2018, Room 110 Capitol Court, 1110 Capitol Way, in Olympia, Washington.

Appearances. Appellants Richard Cameron, Todd Kramer and Janine Stephens were present and represented by Sara Lorenzini of the Teamsters Local 117 (Teamsters), who was present at the hearing. Respondent Department of Transportation (DOT) was present and represented by Debra Meyers, Human Resource Consultant (HRC), DOT, Kyle Caufman, Kurt Williams and David M. Jones, DOT.

Background. On approximately January 13, 2017, Appellants' positions were reallocated downward to Transportation Engineer (TE) 3. The allocation was a result of a statewide reorganization within DOT of the Fabrication Inspection offices. In addition to statewide reorganization, DOT also added a new requirement for positions allocated to the TE 4 classification. The new requirement meant incumbents allocated to TE 4 Inspector positions within Fabrication Inspection offices must possess a certification as a Certified Welding Inspector (CWI) from the American Welding Society (AWS). DOT funded the attendance of the Appellants at one

of the AWS CWI seminars at the State Materials Laboratory and in addition, funded the examination. The Appellants attended the funded AWS CWI seminars and subsequently took the certification examination. Each of the Appellants failed to meet the requirement to become AWS CWI certified and therefore were reallocated downward to TE 3 effective January 16, 2017.

On February 1, 2017, Office of Financial Management, State Human Resources (OFM-SHR) received a Request for Director's Review.

The director's review specialist conducted a review of Appellants' positions based on written documentation. By letter dated August 16, 2017, the director's review specialist determined the most appropriate allocation for Appellants' positions is the Transportation Engineer 3 classification.

On September 8, 12 and 13, 2017, respectively, Appellants filed timely exceptions to the director's determination. In their exceptions, Appellants outlined their job duties and requirements have not changed since the CWI certification requirement and the director review specialist did not give appropriate weight to their job duties not changing. They further outlined that other than the AWS CWI certification requirement, only their reporting structure had changed.

As summarized by the director's designee, Appellants' positions are located in the Construction Materials and Fabrication Units within DOT. Appellants positions inspect steel highway bridges, bridge bearings, steel pedestrian bridges, structural steel for State Ferry system, piling, sign structures, sign brackets, signal bridges, signal and luminaire standards, bridge rail, hand rail, field welded structural steel, field welded reinforcing steel, sand blast and coating operations including liquid coatings, powder coatings, and galvanizing. Appellants also inspect all types of structures including shop fabricated prestressed concrete structures, precast concrete "Three Sided Structures," precast concrete structural earth walls, noise barrier walls, bridge deck panels, pier

caps, retaining walls, etc. The Appellants' positions also perform sampling, testing and inspections of fabricated products and evaluate the quality of materials.

Summary of Appellant's Arguments. Appellants disagree with the director's review specialist and believes their positions should be allocated to TE 4. Appellants argue their duties have not changed and because of the uniqueness of the Construction Materials and Fabrication Units within DOT, it is unrealistic for their units to have the same organizational structure as other engineering shops within DOT. Appellants further contend that outside of a few words on their updated position descriptions and their reporting requirements, they continue to make important independent decisions and further stated DOT's need for future growth is not allocating criteria.

Summary of Respondent's Arguments. Respondent agrees with the director's review specialist that the duties of Appellant's position do not exceed the level and intent of the TE 3 classification. Respondent contends the duties performed by the Appellants do not require the AWS CWI certification, but the TE 4 positions do. Respondent further argues that the engineering contracts entered into by DOT require that a CWI inspects all materials because of the high stakes nature of the work being performed and potential for loss of life should there be an issue with a weld. Respondent stated the TE 4 positions have statewide responsibility, while the TE 3 positions have limited scope within their own unit.

Primary Issue. Whether the director's determination should be affirmed and whether Appellants should remain allocated to the Transportation Engineer 3 classification.

Relevant Classifications. TE 3; TE 4.

Definition of TE 3

Performs advance transportation engineering work under limited supervision.

Distinguishing Characteristics of TE 3

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, 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.

Definition of TE 4

As a registered professional engineer, performs professional engineering work which constitutes the practice of engineering as defined by RCW 18.43, or serves as a Technical Program Specialist.

Distinguishing Characteristics of TE 4 (in part)

As a registered professional engineer, assignments entail responsibility for functions of significant scope and complexity. Incumbents apply specialized training, broad experience, and professional judgment in analysis and decision making to resolve complex engineering problems. Work is performed independently and is reviewed for the application of sound engineering judgment. Incumbents usually exercise supervision over a unit of engineers and technicians or serve as consultants in a specialty area having significant impact. Incumbents

may be called upon regularly to act for their supervisor who is a licensed professional engineer.

Typical assignments at this level fall into one or more of the following categories:

1. While reporting to a Transportation Engineer 5, serves as Assistant Manager of a complex district engineering unit or function including supervision of at least one Transportation Engineer 3, Transportation Planning Specialist 3 or equivalent.
2. While reporting to a Transportation Engineer 5 or above, serves as a Headquarters final reviewer and design consultant in a complex technical area, which constitutes the practice of professional engineering.
3. While reporting to a Transportation Engineer 5 or above, serves as an expert in a specialized area of engineering.

Typical working titles at this level which correlate with the above categories include:

As a Technical Program Specialist, assignments entail responsibility for a highly specialized District technical program or function of medium size and scope or serving as a Headquarters statewide specialist in an area of medium size/scope/impact. This work requires a thorough knowledge of technical engineering practices and Departmental policies, procedures, and standards. Incumbents report to a Transportation Engineer 5, Transportation Technical Engineer 5, Transportation Planning Specialist 5, or above and exercise considerable independence of action in decision making and problem solving.

Typical assignments at this level fall into one of the following categories:

1. Manager of a highly specialized District technical program or function of medium size and scope.
2. Assistant Manager of a highly specialized District program or function of major size, scope and/or impact.

3. Headquarters statewide specialist/consultant/liaison in a specialized technical area of medium size/scope/impact.
4. Headquarters final reviewer of project documents.

Decision of the Board. 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).

Allocating criteria consists of primary considerations in allocating positions: a) Category concept (if one exists); b) Definition or basic function of the class; c) Distinguishing characteristics of a class; and d) Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question. Typical work is not an allocating criterion, but may be used to better understand the definition or distinguishing characteristics. (See *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008))

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). [emphasis added]

The Board carefully reviewed the documentation submitted during the director's review and considered the arguments presented by the parties at the hearing before the Board.

The TE 4 definition specifies incumbents are "… registered professional engineer, performs professional engineering work which constitutes the practice of engineering as defined by RCW 18.43, or serves as a Technical Program Specialist." The duties assigned to the Appellants do not include acting as the Technical Program Specialist. Technical Program Specialists have expertise in their field of work and are able to interpret codes to ensure the proper engineering has occurred on welded materials. Technical Program Specialists duties are performed on high risk items, must be able to meet contractual obligations, including CWI certification within their scope of responsibility and have statewide responsibility. Within DOT, TE 4s performing their duties within a Construction Materials and Fabrication Unit must possess a CWI certificate. This requirement is within the purview of DOT management in order for the agency to meet its contractual obligations.

Appellants' assigned tasks are that of the Staff Specialist which can be found in the TE 3 distinguishing characteristics, which state (in part), "…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)…" Appellants are in charge of a function area and supervise lower level staff. They are responsible for the inspection of bridges (both highway and pedestrian), structural steel for state ferries, etc. They also perform their duties under limited supervision, however, more complex duties or duties that are outside the scope of contractual obligations must go to a higher level for review.

In a hearing on exceptions, the appellant has the burden of proof (WAC 357-52-110). Appellants have not met the burden of proof.

//

//

//

//

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Appellants is denied and Appellants' positions remain allocated to Transportation Engineer 3.

DATED this _____ day of _____, 2018.

WASHINGTON PERSONNEL RESOURCES BOARD

_____

VICKY BOWDISH, Vice-Chair

_____

SUSAN MILLER, Member

WASHINGTON PERSONNEL RESOURCES BOARD
PO BOX 40911
OLYMPIA, WA 98504-0911