

March 7, 2008

TO: Daniel Sweaney

FROM: Holly Platz, Legal Affairs Division

SUBJECT: Daniel Sweaney v. Western Washington University
Allocation Review No. ALLO-07-048

The Director's review of Western Washington University's (WWU) allocation determination of your position has been completed. The review was based on written documentation.

Background

On December 7, 2006, you requested reallocation of your Construction Program Manager 2 position to the Construction Program Manager 3 classification. WWU conducted a review of your position. By report dated June 4, 2007, WWU determined that your position was properly allocated. On June 22, 2007, you filed a request for a Director's review of WWU's decision. In your Director's review request form you asked that your position be reallocated to either the Senior Cost Engineer or the Construction Project Manager 4 classification.

Summary of Mr. Sweaney's Perspective

You argue that approximately 50% of your time is spent performing project management duties that fall outside of your current classification. You listed these duties on page 3 of your Position Questionnaire (PQ). You indicate that these duties were assigned to you by your supervisor and that your supervisor has monitored and guided your work closely as you have taken on your new responsibilities. You assert that due to a reorganization, the Facilities Management Construction Manager position was not refilled; rather those duties were distributed to you and two other individuals. You explain that of the three positions absorbing these duties, your position is the lowest paid. You contend that the duties distributed to you constitute higher level work and warrant reallocation of your position.

Summary of WWU's reasoning

WWU argues that positions allocated to the Construction Project Manager (CPM) 3 classification perform highly complex work under the scope of capital projects. WWU acknowledges that the CPM 3 level involves developing complete cost estimates but asserts that

developing cost estimates at this level also includes cost analysis for forecasting budgets, facilities planning and bid comparisons for construction of real property. WWU asserts that your position does not provide this level of analysis or forecasting. WWU explains that "Project Manager" is a term used to describe the work of various staff in Facilities positions, especially in Planning, Design and Construction Administration, which is outside of your department. WWU further explains that staff often works together in coordinating projects and areas of responsibilities, that staff responsibilities and the size of projects varies, and that your PQ documents the responsibilities and size of the projects assigned to your position. WWU argues that it is not uncommon to reassigned duties that may have been performed by a higher level position and that a reassignment of duties may result in work crossing into higher or lower classes. However, WWU contends that the proper classification of a position is determined based on the majority of the current duties assigned to the position in comparison to the classifications available at the time of the review. WWU argues that at the time of your review request, your position fit within the CPM 2 level and therefore, your position is properly allocated.

Director's Determination

As the Director's designee, I carefully reviewed all of the documentation in the file including the duties and responsibilities described in your PQ, your supervisor's response to your request for review, and the supporting statements you provided. Based on my review of the documents, the available classifications, and my analysis of your assigned duties and responsibilities, I conclude that your position is correctly allocated to the Construction Project Manager 2 classification.

Rationale for Determination

In your supporting statements filed on February 20, 2008, you indicate that you wish to explore appeal possibilities outlined WAC 357-10-020. If your position is not covered by a Collective Bargaining Agreement, an appeal under this rule must be filed within thirty days of adoption of the classification plan. The CPM class series was adopted effective January 1, 2006 and revised effective July 1, 2007. Therefore, an appeal under this rule appears to be untimely. Furthermore, an appeal of WAC 357-10-020 is outside of the scope of a position review request.

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).

It is undisputed that due to the reorganization and redistribution of work, the volume of your work has increased. In addition, your supervisor acknowledges that you have taken on additional duties. However, as stated above, neither the volume of work performed nor the expertise with which that work is performed is the basis for allocating a position.

In your position review request filed with WWU, you requested reallocation to the Construction Program Manager 3 classification. When you filed your request for a Director's review of WWU's

decision, you asked to be reallocated to the Senior Cost Engineer classification or to the Construction Program Manager 4 classification. When you requested the review of your position, the Senior Cost Engineer class was a general government classification and was not available for use by institutions of higher education. Therefore, reallocation of your position to the Senior Cost Engineer classification is not appropriate.

The Personnel Resources Board has provided guidance regarding the appropriate classifications to consider during Director's reviews. The Board directed that an allocation review must be based on consideration of the relevant classifications that were in effect on the date that the appellant requested the position review. The Board has also stated that consideration must be given to all relevant classifications regardless of whether they were requested by the appellant or considered by the employer. See Boekhoff v. Bellevue Community College, PRB Case No. R-ALLO-07-002 (2007).

At the time of your position review request, the relevant classifications were the CPM 2, 3, and 4. Therefore, I considered each of these classifications even though WWU did not include discussion of the CPM 4 level in their review report. Subsequent to your request for review, the class titles for the CPM series were changed and the definitions for CPM 3 and 4 were revised. Consistent with the Board's direction, subsequent changes to classifications are not appropriate for consideration because those changes were not in effect at the time of your position review request.

In the documents included with your review request, you indicate that the salary of the CPM 2 classification does not adequately compensate you for the level of work you perform. However, salary inequity is not an allocation criterion and should not be considered when determining the appropriate allocation of a position. See Sorensen v Depts. Of Social and Health Services and Personnel, PAB Case No. A94-020 (1995).

Your position is located in Renovation Services for Facilities Management at WWU. On page 3 of your PQ, you provide an extensive list of the project management duties you perform that you feel do not fit within the CPM 2 level. Your supervisor agrees that your "in-house" project management duties are outside of your present classification. In summary, your supervisor describes these duties as:

- Project coordination between the shops and the client
- Monitoring material purchases
- Monitoring field construction
- Coordinating meetings
- Monitoring project costs
- Writing and submitting change orders
- Finalizing the project and confirming that the designer and client agree the project is complete
- Writing justification for project cost that go over the estimate
- Following the project in the tracking system
- Deciding when a project is complete and moved to accounting review status.

When managing in-house projects, you work with the various teams completing the project including supervisors for the craftspeople performing the work. Throughout your PQ, you indicate that you consult with your supervisor or seek his advice as needed. You indicate that you manage projects requiring 750 or more labor hours with materials costs of approximately \$15,000. You also indicate that normally, \$55,000 or less is the maximum allowed for in-house projects unless it is maintenance or an approved variance. You are the only CPM employed in Renovation Services who manages house projects. In addition, your supervisor and the scheduler also manage projects for Renovation Services. WWU has other SPM positions, but they are part of another division and are involved with monitoring the construction of new buildings or maintenance of existing buildings.

At the time of your position review request, the distinguishing characteristics of the Construction Project Manager 4 stated: "[t]his is the supervisory or expert level of the series. Supervises the work of cost estimators and/or others. Some positions serve as the chief estimator for vessel engineering, developing engineer's estimates for vessels being constructed, renovated and repaired."

Although the first sentence refers to this level as a supervisory or expert level, the remainder of the paragraph clarifies that positions at this level function primarily as supervisors. As stated in the Department of Personnel Glossary of classification terms, a supervisor is:

An employee assigned responsibility by management to participate in all of the following functions with respect to their subordinate employees: (1) selection of staff, (2) training and development, (3) planning and assignment of work, (4) evaluating performance, (5) adjusting grievances, and (6) taking corrective action. Participation in these functions must not be of a merely routine nature but requires the exercise of individual judgment.

While you coordinate project teams and oversee the project from beginning to completion, you do not have delegated supervisory responsibility for cost estimators or other subordinate staff as required for allocation to the CPM 4 classification.

At the time of your position review request, the distinguishing characteristics of the Construction Project Manager 3 stated:

This is the senior, specialist, or lead-worker level of the series. Positions at this level coordinate, direct and review the development of designs and specifications by private design firms for the construction of state buildings. Positions coordinate and direct the planning, scheduling, project and cost control of complex building construction projects. This class is distinguished from professional engineers and architects in that no registration is required.

Positions develop complete cost estimates and cost analysis required for budget forecasts, facilities planning, conceptual studies, and bid comparison of projects for design and construction of real property.

Positions at the 3 level receive limited supervision and set their own priorities. In your PQ, you indicate that your supervisor closely monitors and guides your project management work. In

addition, you indicate that you may choose the “means and methods” for accomplishing projects, but you do so after consultation with your supervisor and you seek advice from your supervisor when needed. You do not perform your project management duties under limited supervision as anticipated at the CPM 3 level.

In addition, positions at this level develop cost estimates and conduct cost analysis for budget forecasts, facilities planning, conceptual studies and bid comparisons. You develop cost estimates for assigned projects and occasionally for differing scenarios for use by others in determining how to proceed with a project. But, based on the information you provided, you do not perform cost estimates and conduct cost analysis for budget forecasts, facilities planning, conceptual studies or bid comparisons.

Furthermore, positions at the 3 level make decisions independently under broad direction and can commit the agency/institution to a course of action. Incumbents resolve complex problems or issues that occur in their work environment. Incumbents are expected to develop and innovate, and be responsible for the flow and completion of work. As stated above, your supervisor closely monitors and guides your project management work. Also as stated above, you may choose the “means and methods” for accomplishing projects, but you do so after consultation with your supervisor and you seek advice from your supervisor when needed. Your position does not exercise the level of independent decision making or complex problem resolution responsibility anticipated at the 3 level.

The distinguishing characteristics of the Construction Project Manager 2 state: “[t]his is the journey level of the series. Positions at this level coordinate the construction phase of all building and utility projects, including general, mechanical, and electrical work, from contract award through warranty. Positions act as the institution's or agency's representative and serve as the primary contract administrator for projects administered by the owner.”

Your project management duties and responsibilities fit within the distinguishing characteristics of the CPM 2 level.

The examples of work for the CPM 2 level establish the scope and level of duties typically performed at this level and further support allocation of your position to this level. While examples of work are not allocating criteria, they provide guidance on the type of work anticipated at each level of a series. The CPM 2 examples of work describe your duties and responsibilities for project management as well as preparing cost estimates. For example, you:

- Evaluate building renovation designs;
- Evaluate and direct the work of staff working on the project;
- Evaluate submittals for renovations; ensure compliance with institution design standards; approve deviations from design standards;
- Review and approve change orders;
- Prepare cost estimates relative to all facets of renovations projects.

This determination is based on the duties and responsibilities assigned to your position and documented in your PQ compared to the available classifications in effect at the time of your review request. Overall, the scope of your duties, the majority of your assignments, and your level of supervision, independence and responsibility are best described by the Contract Project Manager 2 classification. Your position is properly allocated.

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 address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

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

Enclosure: List of Exhibits