



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
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September 11, 2017

TO: Connie Goff
Rules and Appeals Program Section Chief

FROM: Christa Biasi
Director's Review Specialist

SUBJECT: Erasmus Othieno v. Department of Enterprise Services (DES)
Allocation Review Request ALLO-17-036

DIRECTOR'S DETERMINATION

This position review is based on the work performed for the six-month period prior to March 17, 2017, the date that DES Human Resources (DES HR) received Erasmus Othieno's updated Position Description Form (PDF, Exhibit B-1) from Ms. Janet Jansen, Program Manager of Engineering and Architectural Service requesting Mr. Othieno's position be reallocated from an Electrical Engineer 4 (EE 4) to Construction Project Coordinator 3 (CPC 3). As the Director's Review Specialist, I carefully considered all the exhibits. Based on my review and analysis of Mr. Othieno's assigned job duties; I conclude his position is properly allocated to a CPC 3.

BACKGROUND

On March 17, 2017, Mr. Othieno's PDF (Exhibit B-1) was received by DES HR requesting his position be reallocated to CPC 3.

By letter dated March 30, 2017, Jennifer McWaid, Human Resource Consultant, notified Mr. Othieno that his position had been reallocated to CPC 3. (Exhibit B-3)

On April 28, 2017, Office of Financial Management State Human Resources (OFM SHR) received Mr. Othieno's request for a Director's Review of DES HR's allocation determination (Exhibit A-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).

ORGANIZATIONAL STRUCTURE

Mr. Othieno's position is located within Facility Professional Services of DES and reports to Nancy Deakins, Assistant Program Manager. Ms. Deakins reports to Janet Jansen, Program Manager.

POSITION OBJECTIVE

According to the PDF (Exhibit B-1) the position purpose is stated in part as follows:

As a senior level Construction Project Coordinator 3, is the principal project manager or prime project manager and client advocate for specific state facilities or institutions with multiple buildings. This involves providing coordination of all projects and client requirements and tasks at those facilities, assisting management in developing project assignments, assisting clients in the planning and budgeting of capital projects for the biennial budget appropriation requests and being primary back up for other project managers assigned to specific projects at those facilities.

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

Additionally, this position through the practice, coaching, learning and application of Lean, is responsible to communicate and promote the agency Lean vision throughout the work unit and the agency. The position practices Lean methodology, leads by example, coaches staff, promotes a learning environment, participates in and actively supports Lean activities to deliver exceptional services and reduce the overall cost of government operations.

Duties and Responsibilities Position Description Form (PDF, Exhibit B-1)

30% Concurrently direct numerous consulting design firms in the development of complex design, construction and bidding documents for a variety of projects for various state client agencies.

Contract for professional architectural/engineering and related services for the design and construction of new state facilities and major repair or alterations to existing state facilities, or infrastructure.

30% Administer and manage construction contracts for many concurrent public works projects for various state client agencies.

Provide construction contract administration for the new construction and the repair, and alteration of existing state facilities or infrastructure: Review and approve bid documents and specifications, A/E cost estimates, change orders, contract amendments, and

related project milestones. Review and approve payment requests within seven days of receipt, working to quickly resolve any issues related to accurate and timely payment. Resolve issues related to substantial completion and closeout of capital projects, including punch list and warranty claim issues.

15% Provide technical assistance to clients during the development of their capital budget.

As the principal project manager, provide comprehensive professional project management services for capital project development, design, and construction, and energy management.

15% Perform as senior level Construction Project Coordinator assisting state agency clients in solving complex facilities issues.

Project budget preparation, scheduling, planning, and implementation of design decisions.

5% Acts as a consultant and advisor to other professionals in the office regarding planning, construction and contracting matters.

Performing peer plan reviews prior to projects being advertised for bids. Code compliance reviews. Lessons learned from similar past projects.

5% Other duties as assigned.

Support of, and attendance, leadership and participation in DES and Engineering and Architectural Services (E&AS): Lean Culture activities and assignments; other internal process improvement activities and assignments; DES and E&AS sponsored workshops, presentations, training events; and other tasks as assigned.

SUMMARY OF MR. OTHIENO'S PERSPECTIVE

Request for a Director's Review (Exhibit A-1)

In his Request for Director's Review, Mr. Othieno provided a written statement that outlined his concerns with his reallocation. Although most of his concerns are outlined below, it is important to note that Mr. Othieno requested three remedies, two of which are outside of the Director's Review purview. However, one requested remedy has already been addressed by DES which is that Mr. Othieno not be required to serve a six-month trial service period. The other, a request for attorney's fees, is outside the scope of this review.

Mr. Othieno requested that he not be allocated downward and his position be returned to the EE 4 because there is no reduction in work in the new position. As an example, Mr. Othieno states in part:

I have been in the position of Electrical Engineer 4 for several years and have been performing the duties of this position for nearly 23 years... I received notice that my position would be downwardly reallocated to Construction Project Coordinator 3... as a practical matter, there does not appear to be a significant, if any, difference between the

PDPs/Position descriptions in the two classes. One difference I see is that the phrase Senior level electrical engineer has been replaced by the phrase Senior level construction project coordinator in one section of the document. I am confident that the scope of work and the actual duties I am assigned as Construction Manager 3 will not be different from the work I am currently performing as Electrical Engineer 4. As Electrical Engineer 4, I act as a project manager and am called principal project manager for certain projects. As Construction Project Coordinator 3, I will still be principal project manager for these same projects.

Mr. Othieno's closed his statement by stating he was hired in the electrical engineer class and sees no reason for the change. Nor has any reasoning been provided. He also questions whether or not his colleagues in the Architectural, Civil Engineering or Mechanical Engineering job classes are being reclassified.

SUMMARY OF DES'S PERSPECTIVE

Determination Letter (Exhibit B-3)

Ms. McWaid stated in her determination letter that she performed a thorough review of the PDF (Exhibit B-1), dated March 17, 2017, and determined the most appropriate allocation for Mr. Othieno's position is that of CPC 3. In her initial letter dated March 17, 2017, Ms. McWaid stated Mr. Othieno would need to complete a six-month trial service period in order to gain permanent status, however, this mistake was later corrected by a May 11, 2017, letter whereby it was stated Mr. Othieno would retain permanent status. (Exhibit B-4)

Janet Jansen, Program Manager of Engineering and Architectural Services provided Kristin Kaphan, Human Resource Consultant with a memorandum (Exhibit B-5) stating, "Engineering & Architectural Services does not utilize the separate classification of Electrical Engineer 4. This classification has not had other staff other than Erasmus Othieno under this in over four years.' She further stated she believed the work being performed by Mr. Othieno was that of CPC 3 and that Mr. Othieno had never been called upon to perform electrical design work, and rarely has he been asked to review electrical drawings.

COMPARISON OF DUTIES TO CLASS SPECIFICATIONS

I carefully reviewed the exhibits submitted by the Parties. Allocating criteria consists of the class specification's class series concept (if one exists), the definition and the distinguishing characteristics.¹ Typical work is not an allocating criterion, but may be used to better understand the definition or distinguishing characteristics.

As stated previously in *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994), "[t]he purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position... A position review is a comparison of the duties

¹ In *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the Personnel Resources Board (Board) stated that the following standards are the hierarchy 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.

and responsibilities of a particular position to the available classification specifications..." I therefore will not be addressing Mr. Othieno's request for attorney's fees

Electrical Engineer 4

Definition

Directs an Electrical Engineering Unit which is staffed by at least one senior-level registered professional engineer or performs as the senior-level Electrical Engineering specialist designing electrical systems for buildings or other transportation structures and operations or vessel marine systems and equipment for the Washington State Ferry System; or performs as a consultant on electrical systems design, and may supervise other engineers.

Construction Project Coordinator

Definition

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 and/or vessels. Positions coordinate and direct the planning, scheduling, project and cost control of complex building and/or vessel construction projects. Positions develop cost estimates and cost analysis required for budget forecasts, facilities planning, conceptual studies, and bid comparison of projects for design and construction of buildings and/or vessels.

As stated in *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the PRB set out the hierarchy for position allocations. The first allocating criteria is the Category Concept (Class Series Concept). In this matter neither classes reviewed for this matter contain a Class Series Concept. I therefore look to the definition of each class to make my determination on allocation.

The EE 4 definition is specific in that it states in part, "Directs an Electrical Engineering Unit which is staffed by at least one senior-level registered professional engineer or performs as the senior-level Electrical Engineering specialist designing electrical systems for buildings..." There is nothing to support the first statement in the definition that Mr. Othieno "directs an engineering unit that is staffed by at least one senior-level registered professional engineer." With that in mind, Mr. Othieno must meet the second part of the definition in order to be appropriately allocated to the EE 4 class. In other words, Mr. Othieno must be performing his duties as the senior-level "Electrical Engineering specialist designing electrical systems for buildings" because his duties do not encompass transportation structures and operations or vessel marine systems and equipment.

To make my determination on whether or not Mr. Othieno acts as the electrical engineer specialist designing electrical systems for buildings, I looked to both of the PDFs submitted for this review and the exhibits on file. Mr. Othieno stated in his Request for Director's Review (Exhibit A-1, page 2) he "provide[s] electrical engineering review and consultation when call upon by my colleagues [sic]." This statement alone does not rise to acting as the electrical engineer specialist designing electrical systems for buildings. Mr. Othieno is called upon to

review and consult, not design these systems. Furthermore, Mr. Othieno stated that he acts as project manager and is called principal project manager for certain projects. These statements do not meet the definition of the EE 4 class.

In addition, Mr. Othieno points to his PDF from 2014 (Exhibit A-2) as proof that he was once designated as a "senior-level Electrical Engineer." However, the statement continues by stating "this position is the principal project manager and client advocate for specific state facilities or institutions with multiple buildings." Although the wording used in a previous PDF does state Mr. Othieno is a senior-level electrical engineer and he was once classified as such, the duties outlined on the PDF do not reflect the definition of the EE 4 class. Rather, looking to CPC 3 definition which states in part, "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..." These statements reflect the duties outlined on both Mr. Othieno's PDFs.

Mr. Othieno's 2014 PDF states in part that he, "Concurrently direct numerous consulting design firms in the development of complex design, construction, and bidding documents for a variety of projects for various state client agencies" and "Administer and manage construction contracts for many concurrent public works projects for various state client agencies." Mr. Othieno's recently approved PDF uses the same language or similar language for the duties he is performing during the review period. These statements from both PDFs match the definition for CPC 3. Mr. Othieno is the senior specialist, he does coordinate, direct and review the development of designs.

The fact that DES did not change the language, if at all, on Mr. Othieno's 2014 and 2017 PDFs is not proof of a misallocation from EE 4 to CPC 3, rather it appears on its face to be a correction of a misallocation.

Based on the foregoing information and after careful review of the information contained in the file, I have determined the primary function of Mr. Othieno's position and the majority of his duties in their entirety fall within the scope and level of responsibility stated in the Definition for the CPC 3 class. Therefore, his overall level and scope of assigned duties and responsibilities are consistent with Construction Project Coordinator 3 level work.

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 PO 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: Erasmus Othieno, Appellant
Jennifer McWaid, Human Resource Consultant

Enclosure: List of Exhibits

ERASMUS OTHIENO v DES
ALLO-17-036

LIST OF EXHIBITS

A. Erasmus Othieno Exhibits

1. Date-stamped Director's review request
2. Position Description for Electrical Engineer 4, effective date 5/2/14
3. OFM Class Specification related to Electrical Engineer 4
4. Mr. Othieno's signed statement

B. DES Exhibits

1. Position Description Form August 2013
2. Organizational Chart – Facility Professional Services division
3. Reallocation notification letter March 30, 2017
4. Revised Reallocation notification letter removing trial service period May 11, 2017
5. DES rational for reallocation of Erasmus Othieno

C. Class Specifications

1. Construction Project Coordinator 3
2. Electrical Engineer 4