

**U.S. Office of Personnel Management
Office of Merit Systems Oversight and
Effectiveness
Classification Appeals and FLSA Programs**

Philadelphia Oversight Division
600 Arch Street, Room 3400
Philadelphia, PA 19106-1596

**Classification Appeal Decision
Under section 5112 of title 5, United States Code**

Appellant: [appellant's name]

Agency classification: Contract Administrator
GS-1102-12

Organization: Business Team ([acronym])
Operations Group ([acronym])
DCM [contractor name and location]
Defense Contract Management
District East
Defense Contract Management Agency
Department of Defense
[location]

OPM decision: Contract Administrator
GS-1102-12

OPM decision number: C-1102-12-02

Robert D. Hendler
Classification Appeals Officer

1/29/01

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the *Introduction to the Position Classification Standards* (PCS's), appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

PERSONAL

[appellant's name]

[contractor name and location]

[address]

[location]

Mr. Joe Cass

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Introduction

On December 11, 2000, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. His position is currently classified as a Contract Administrator, GS-1102-12. He believes the classification should be Contract Administrator, GS-1102-13. The appellant works in the Business Team ([acronym]), Operations Group ([acronym]), [contractor name and location], Defense Contract Management District (DCMD) East, Defense Contract Management Agency (DCMA), Department of Defense, [location]. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

General issues

Although the appellant agrees that his position description (PD) [PD Number] accurately describes his duties and responsibilities, he disagrees with his agency's June 23, 1999, classification of his position at the GS-12 grade level. He believes that his position should be credited at Level 1-8 (1,550 points). He states that the primary difference between Levels 1-7 and 1-8 is the administration of complex contracts covering major systems and/or extensive programs and the negotiation of major contract changes, which describes his duties and responsibilities. The appellant also cited a statement in the Defense Logistics Agency's Agency Job Guideline (AJG) G0022 that he indicated distinguishes the GS-13 grade level from the GS-12 grade level, i.e., performance of the full range of contract administration functions extending beyond the scope of individual contracts and affecting the contractor as a whole. He provided examples of work products in support of his belief that his work meets this criterion.

On August 2, 2000, the appellant submitted a classification appeal through DCMD East's Human Resources Directorate to the Civilian Personnel Management Service (CPMS), Department of Defense, requesting the grade be raised to GS-13. The appellant requested that if CPMS denied his request for upgrade, they forward his appeal to OPM. In its decision, dated November 10, 2000, CPMS denied the appellant's appeal and forwarded his appeal to this office as he had requested.

The appellant states that duties he performs are similar to and inconsistently classified with other DCMA positions located in different contractor facilities across the country. In his appeal package, he included several examples of DCMA PD's from other locations classified as Contract Administrator, GS-1102-13, that he believes reflect the same duties and responsibilities as his. The appellant says that the only difference between his PD and the others is the use of the word "mastery" in the description of Factor 1, and that the absence of that word should not represent a decrease in grade below other positions that include it.

OPM is required by law to classify positions on the basis of their duties, responsibilities, and qualification requirements by comparison to the criteria specified in the appropriate PCS or guide (5 U.S.C. 5106, 5107, and 5112). The law does not authorize use of other methods or factors of evaluation, such as comparison to AJG's or other positions that may or may not be accurately described or classified correctly.

A PD is the official record of the major duties and responsibilities assigned to a position by a responsible management official; i.e., a person with authority to assign work to a position. A **position** is the duties and responsibilities that make up the work performed by an employee. Title 5, U.S.C. 5106 prescribes the duties, responsibilities and qualifications required by those duties and responsibilities as the basis for determining the classification of a position. The *Introduction to the Position Classification Standards* (Introduction) states that "As a rule, a position is classified on the basis of the duties actually performed." Additionally, 5 CFR 511.607(a)(1), in discussing PD accuracy issues, says that OPM will decide classification appeals on the basis of the actual duties and responsibilities assigned by management **and** performed by the employee. We classify a real operating position, and not simply the PD. The Introduction recognizes that a PD must be supplemented by other information about the organization's structure, mission, and procedures for a proper classification to be made.

Like OPM, the appellant's agency must classify positions based on comparison to OPM PCS's and guidelines. Section 511.612 of 5 CFR, requires that agencies review their own classification decisions for identical, similar, or related positions to insure consistency with OPM certificates. Thus, the agency has the primary responsibility for ensuring that its positions are classified consistently with OPM appeal decisions or related positions to insure consistency with OPM certificates. If the appellant considers his position identical to, so similar to, or related to others that they warrant the same series, title, and grade as assigned his position by this decision, he may pursue this matter by writing to the cognizant agency human resources office. In so doing, he should specify the precise organizational location, series, title, grade, duties, and responsibilities of the positions in question. The agency should explain to him the differences between his position and the others, or grade those positions in accordance with this appeal decision.

Position Information

The appellant is assigned to one of four Business Teams in the [Group acronym]. His team is located at [contractors' name]'s [agency] Electronics and Surveillance Systems facility in [location]. The [Group acronym] conducts contract administration activities to support government contracts with private industry. It consists of four multi-functional teams. Two of the teams are located at contractor facilities in other locations. Although the two at [location] are each supervised by a GS-1101-13, they are interactive and encompass various occupational specialties, including contract administrators, engineers, quality assurance specialists, and industrial specialists. While the appellant is assigned to the [acronym] Team, he functions as a team leader at various times over functional specialists on both [location] teams for various contract administration functions.

The appellant is a warranted contract administrator and is designated as the Administrative Contracting Officer (ACO) for all [system name] weapons system contracting actions for [contractor's name] [agency] Electronics Surveillance, [location]. He administers existing contracts, negotiates contract changes, determines allowed costs, makes payment decisions, approves master subcontracting plans, consents to subcontracts, and conducts postaward conferences.

To help decide this appeal, we conducted an on-site audit on January 5, 2001, with the appellant and interviewed his immediate supervisor, [name]. In reaching our decision, we reviewed the audit findings and all information of record furnished by the appellant and his agency, including his official PD. Our audit confirmed that the PD of record contains the major duties and responsibilities of the appellant's position and we incorporate it by reference into this decision.

Series, title, and standard determination

The agency has placed the appellant's position in the Contract Specialist Series, GS-1102, which is covered by a published PCS, and titled it Contract Administrator. The appellant has not disagreed. Based on our audit and review of the record, we concur.

Grade Determination

The GS-1102 PCS is written in the Factor Evaluation System (FES) format. Positions graded under the FES format are compared to nine factors. Levels are assigned for each factor and the points associated with the assigned levels are totaled and converted to a grade level. Under the FES, factor level descriptions mark the minimum characteristics needed to receive credit for the described level. If a position fails to meet the criteria in a factor level description in any significant aspect, the next lower level and its lower point value must be assigned unless an equally important aspect that meets a higher level balances the deficiency. The position may exceed those criteria in some aspects and still not be credited at a higher level.

The agency appeal decision represents the official agency classification of the position. The appellant did not take issue with his agency's crediting of Levels 2-4, 3-4, 4-5, 5-4, 6-3, 7-3, 8-1 and 9-1 and we concur. Our evaluation of his position, therefore, focuses on Factor 1.

Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information or facts required to do acceptable work and the nature and extent of skill necessary to apply this knowledge. To be used as a basis for selecting a level under this factor, the knowledge must be required and applied. The PCS assesses knowledge in terms of two elements: (a) contract methods and types in performing various contracting functions; and (b) business and industry practices and market conditions applicable to contract requirements to evaluate contractor responsiveness and responsibility. To credit a particular level, both elements must be fully met in all significant aspects intended by the PCS.

As at Level 1-8 (1,550 points), the appellant's work requires a mastery of procurement principles and technical or program requirements to plan and manage or make decisions or recommendations that significantly affect the content, interpretation, or development of complex, long-range, or interrelated agency acquisition management policies or programs. Illustrative of such work is applying knowledge of contract administration sufficient to monitor systems contracts that extend over several years and cover research, development, testing, and/or production of complex equipment systems.

With respect to his knowledge of contract methods and types, the appellant's duties are similar to those described in Benchmark 13-02, which credits Level 1-8. He has contracting officer authority for contract administration functions at a contractor facility for major, coordinated weapons system and subsystem contracts. The [name] system involves a continuous acquisition cycle encompassing research and development, testing and evaluation, production, and logistics support phases. Conditions such as identification of new threats and the rapid advances in commercial technology result in continuous system evolution in all four phases simultaneously. The appellant administers fixed-priced incentive contracts of high dollar value. Contracts in place at any given time may include technical instruction contracts to conduct initial studies, baseline development contracts to write software to operate the weapons system, production contracts to buy system hardware, blanket ordering agreements for retrofit kits for existing hardware spares, systems development site agreements for initial testing, and contracts for installation and testing systems on ships. Production contracts typically span five years for contract changes but may extend well beyond that for closeout due to open items. The appellant functions as a team leader over multi-functional experts in negotiating all contract modifications and settlements, such as major contract change orders (including engineering change proposals), special agreements, settlement of claims, and cost overrun proposals.

In order for Level 1-8 to be credited, however, the second part must also be fully met. In addition to the contracting knowledge, this level also requires familiarity with business strategy and program or technical requirements sufficient to perform or direct in-depth evaluations of the financial and technical capabilities or the performance of the contractor. In contrast, Level 1-7 (1,250 points) requires familiarity with business practices and market conditions applicable to program and technical requirements sufficient to evaluate bid responsiveness, contractor responsibility, and/or contractor performance.

The PCS's intent in differentiating the knowledge of business practices and strategies between factor levels is discernable in the benchmark descriptions. Examples credited at Level 1-7 in different benchmarks include: analysis of contractor audit and cost and pricing reports to develop negotiation strategy; industry analysis to identify technological and performance changes in items and of financial market in terms of mergers, bankruptcies, and product initial and lifetime costs; analysis of business/industry factors affecting contractor's costs using results of reviews performed by price/cost analysts, auditors, or technical specialists; and analysis of cost breakdowns and contract proposals based on knowledge of commercial subcontracting, procurement of raw materials, and costing techniques. These examples require familiarity with business practices and market conditions comparable to those that the appellant needs to evaluate the contractor's performance and negotiate prime contract change orders.

The appellant provided a number of examples of duties he performs to illustrate his need to be familiar with business and industry practices beyond the contracts he personally administers. He coordinates and participates in the review of the contractor's overall purchasing system, to ensure the corporation follows Federal Acquisition Regulation requirements in awarding subcontracts, including competition, documentation of price justifications, and compliance with Small Business and EEO requirements. During preaward surveys he provides post-performance

information to procurement contracting officers on the contractor's responsibility and responsiveness. He also makes determinations on whether corporate equipment costs are contract-related or may be for the business' general use.

Benchmarks crediting Level 1-8 include responsibilities such as negotiating overhead rate and forward pricing agreements, assuring contractor compliance with Cost Accounting Standards (CAS), and developing policies for subordinate contracting activities. These responsibilities illustrate a requirement for a much greater depth of knowledge of business and industry practices than the examples the appellant provided. The knowledge required at this level must be sufficient to perform or direct in-depth evaluations of contractor financial and technical capabilities or performance, or to develop broad contracting policies and procedures. Benchmark 13-02 provides numerous, specific examples that illustrate what the PCS envisions is involved in evaluating and monitoring a contractor's business management systems as they relate to government contract requirements. These include, for example, analysis of contractor accounting systems, methods, procedures, and practices; estimating methods; pensions; compensation plans; and similar systems. The benchmark's illustration of forward pricing rates negotiation involves analysis of such varied elements as expense pools, labor rates, business volume forecast, economic trends and business conditions, union agreements, labor market conditions, and inflation rates.

These kinds of responsibilities are vested in the Division Administrative Contracting Officer's position (PD #[number]) at [contractor name], not the appellant's position. However, the appellant maintains that while he does not negotiate forward pricing or overhead rates, he must know the basis for determining those rates to enforce them in contract modifications and to negotiate change orders. For example, negotiating general and administrative rates requires him to understand what parts of forward pricing rates were flexible, e.g., based on pending court cases. In addition, while he is not responsible for monitoring contractor compliance with CAS, reviewing overtime charges requires him to know from the CAS disclosure statement how overtime premiums are charged, i.e., to a premium account or direct to the contract. These activities also fall short of significant aspects of Level 1-8 as they do not require the appellant to conduct or direct the depth of analysis of contractor financial or technical systems the PCS contemplates. They require him to know the results of that analysis and basis for final decisions in those areas as they pertain to the contracts he administers and the changes he negotiates typical of Level 1-7.

The appellant also provided hypothetical scenarios that would require him to take actions having serious economic impact on [contractor's name]'s entire [location] business and the corporation as a whole. Examples included: determining that the corporation was going to default on its large production contract; recommending that a major contract not be awarded to the corporation; or initiating serious corrective action requests involving remedies ranging from reductions of payments or disallowance of costs to termination for default. These actions clearly would have serious impact on the contractor. Consequences of this scope are inherent in contract failures involving high dollar values. However, they also do not require the degree of knowledge of the contractor's business management systems contemplated by Level 1-8.

Therefore, because this factor does not fully meet Level 1-8, we credit this factor at Level 1-7 (1,250 points).

Summary

In summary, we have credited the position as follows:

Factor	Level	Points
1. Knowledge required by the position	1-7	1,250
2. Supervisory controls	2-4	450
3. Guidelines	3-4	450
4. Complexity	4-5	325
5. Scope and effect	5-4	225
6. Personal contacts	6-3	60
7. Purpose of contacts	7-3	120
8. Physical demands	8-1	5
9. Work environment	9-1	<u>5</u>
Total points:		2,890

A total of 2,890 points falls within the GS-12 grade level point range of 2,755-3,150 points in the PCS's Grade Conversion Table.

Decision

The position is properly classified as Contract Administrator, GS-1102-12.