

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

Chicago Oversight Division
230 S. Dearborn Street, DPN-30-6
Chicago, IL 60604-1687

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

Appellant: [Name]

Representative: [Name]

Agency classification: Review Appraiser
GS-1171-12

Organization: [Name] Branch
[Name] Division
U.S. Army Engineer District, [Location]
U.S. Army Corps of Engineers
[City, State]

OPM decision: Review Appraiser
GS-1171-12

OPM decision number: C-1171-12-04

/s/ (Ricardo Sims)

Ricardo Sims
Operations Supervisor

February 28, 2002

Date

As provided in section 511.612 of title 5, Code of Federal Regulations, 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*, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

Appellant:

[appellant's name and address]

[name and address of appellant's representative]

Agency:

[name and address of appellant's servicing personnel office]

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Introduction

On July 20, 2001, the Chicago Oversight Division, U.S. Office of Personnel Management, accepted an appeal for the position of Review Appraiser, GS-1171-12, located in the [Name] Branch, [Name] Division, U.S. Army Engineer District, [Location], U.S. Army Corps of Engineers (CoE), [City, State]. The appellant requested that his position be classified as Review Appraiser, GS-1171-13, based on comparisons to other positions. The agency's administrative report, providing information relevant to the appeal which we had requested on July 20, 2001, was received on September 21, with additional supplemental material being received subsequently on October 16, 2001.

The appeal was accepted and processed under section 5112(b) of title 5, United States Code. This is the final administrative decision on the classification of the position subject to discretionary review only under the limited conditions and time outlined in part 511, subpart F, of title 5, Code of Federal Regulations.

General issues

The appellant contends that the nature of his duties demand a level of knowledge of real estate appraisal and related areas concerning which his agency has not given due weight. He also asserts that the extent of the scope of independence under which he carries out his responsibilities and the extent of the impact of his position on the CoE real estate program and its clients have also been insufficiently recognized in the agency's classification of his position. If these matters were properly recognized, he believes that these facts would support a classification of GS-13.

The appellant originally pursued an internal classification appeal within the Department of Defense (DoD). The decision rendered on May 25, 2001, by DoD's appellate organization sustained the original agency classification determination of the appellant's position as Review Appraiser, GS-1171-12. In the course of reaching this decision, DoD staff made two changes in the agency's original Factor level determinations involving the appellant's position. This concerned Factors 4 and 5, dealing respectively with Complexity and Scope and Effect issues, with the former being raised in the internal appellate decision from Level 4-4 to 4-5 (the highest specified in the standard for that Factor), and the latter being lowered from Level 5-4 to 5-3.

The appellant has also sought to compare his position to allegedly similar Appraiser positions classified at the GS-13 level at other CoE installations. However, by law positions can only be classified on the basis of a comparison of their current duties and responsibilities to OPM classification standards and governing legal guidelines (reference title 5, United States Code, sections 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare his position to others as a basis for deciding his appeal.

The appellant's agency must also classify positions based on comparison to OPM standards and guidelines. We note in this connection the following statement in the letter of September 13, 2001, from [Name and title of appellant's servicing personnel officer] at the appellant's installation, to the appellant's representative:

“[C]onsistent application of classification standards is naturally a concern to the agency. If Mr. [appellant’s name] position is found by OPM to be correctly classified at the GS-12 level, we expect that the Corps of Engineers will undertake a classification consistency review of similar positions [i.e., similar in comparison with analogous positions found at other CoE installations, but which are classified at the GS-13 level] to determine if classification standards are being applied in accordance with [relevant classification] guidance, including the DoD and [projected] OPM appeal decisions.”

The appellant also cites his personal qualifications, including having passed a State Certification test and being licensed as a Certified General Appraiser and Licensed Appraiser, which qualified him to perform “any and all types of appraisals.” Requisite qualifications are considered in classifying positions. However, these are qualifications required to perform the positions’ current range of responsibilities, not qualifications that individual incumbents personally possess that may not be required to perform these assigned duties. Therefore, we cannot take into account the appellant’s personal qualifications, except insofar as they are required to perform his currently assigned duties and responsibilities. To the extent that they are needed for this purpose, we carefully considered them along with all other information furnished by the appellant and his agency. This included conducting telephone interviews with the appellant and his representative on January 29 and 30, and with his immediate supervisor on February 1, 2002.

Position information

The primary purpose of the position is to serve as Chief of the [Name] Branch. As such, he is involved in a wide range of activities related to the valuation of real estate for the [Location] Army Engineer District, and is personally responsible for the performance of the most significant and sensitive appraisals, while overseeing and reviewing appraisals conducted by his subordinate staff and contractor fee appraisers. The work includes extensive liaison with Local Sponsors and other interested parties in CoE flood control and other projects.

The appellant’s responsibilities include supervising a staff of up to five to seven subordinates. At the time of our telephone interview with the appellant and his representative, he oversaw the work of a staff of three, but was due to have another employee added to his span of control shortly.

Series, title, and standard determination

The appellant does not contest the agency’s series or title determination. The agency placed the position in the Appraising Series, GS-1171, the current standard for which was issued in November 1992, and we agree with that determination. Work in that series covers positions that involve supervising or performing duties in appraising and reviewing other staff’s appraisals of real or personal property or property interests. *Review Appraiser* is the authorized title in the GS-1171 series for all nonsupervisory positions in this series primarily responsible for reviewing staff and fee appraisal reports. Although, as indicated above, the appellant exercises supervision over a subordinate staff, this normally comprises no more than 10 percent of his time when all subordinate positions are functioning at their full performance level. This does not meet the threshold of 25 percent required for application of the General Schedule Supervisory Guide to

his position, nor does it meet the threshold for the qualifier “Supervisory” to be added to his position title.

Grade determination

The GS-1171 standard is written in the Factor Evaluation System (FES) format. Under the FES methodology, positions are placed in grades on the basis of their duties, responsibilities, and the qualifications required as evaluated in terms of nine factors common to nonsupervisory General Schedule positions.

A point value is assigned to each factor based on a comparison of the position's duties with the factor-level descriptions in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails in any significant aspect to meet a particular factor-level description in the standard, the point value for the next lower factor level **must** be assigned, unless the deficiency is balanced by an equally important aspect which meets a higher level. The total points assigned are converted to a grade level determination by means of the points-to-grade conversion table in the standard.

The appellant disagrees with the agency's evaluation of his position under Factors 1, 2, and 5 (i.e., Knowledge Required by the Position, Supervisory Controls, and, Scope and Effect) in their application of their level assignment criteria to his position. Initially, the Factors in contention were 1, 2, and 4 (the latter dealing with the factor level for Complexity), but in the course of our telephone interviews with him and his representative, this was clarified. We have reviewed the agency determination for the remaining Factors (i.e., 3, 4, and 6 through 9) and also concur with their level determinations. Therefore, our evaluation will address only those three Factors concerning which the appellant disagrees with the agency's Factor level determinations.

Factor 1, Knowledge Required by the Position

This Factor identifies the nature and extent of appraisal concepts, practices, principles, and methodologies the employee must know to do acceptable work, and the nature and extent of skills required to apply these knowledges. The agency credited Level 1-7. The appellant believes that this does not adequately recognize the knowledge demands in his position, in effect requesting that Level 1-8 should be credited.

At Level 1-7, employees use knowledge of a wide range of appraisal concepts, principles, and practices to appraise and/or review the appraisals of properties with complex characteristics and to analyze complicated valuation problems. This may include resolving value problems for properties with limited comparable sales, multiple or questionable ownerships, numerous encumbrances (e.g., easements and rights of way that conflict with the proposed uses), various possible highest and best uses that may be entirely different than the current use, unusual physical constraints, sensitive environmental concerns, partial takings whose use will have a negative impact on the remainder of the property, and other equivalent characteristics. This knowledge is used to devise strategies and plans for resolving property value problems; modify, adapt, or depart from established appraisal techniques and procedures; or assess, select, and make use of appraisal precedents.

Employees use data gathering skill and ingenuity to locate information that is not readily available. They use appraising knowledge and skill to analyze and interpret the effects of unstable social, economic, and political trends on property uses and values (e.g., changing market conditions, zoning problems, and conflicting public and private interests). They also use knowledge of advanced financing techniques and complicated tax, real estate, and environmental laws and regulations to determine their effect on property values.

At Level 1-8, employees apply a mastery of appraisal concepts, principles, and methodologies. They function as technical authorities applying new theories and standards to appraisal problems or assignments:

- not susceptible to treatment by accepted and established appraisal procedures;
- for which no accepted or established appraisal procedures exist; or
- where conflicts exist between policy and program objectives.

For example, employees use their knowledge and technical expertise to:

- appraise and/or review the appraisals of a broad range of properties with extremely complex characteristics similar to those of a military base or a large forest with a variety of diverse, and often conflicting, recreational, mining, timber, commercial, industrial, or residential uses;
- appraise and/or review the appraisals of properties that may involve controversial condemnations or whose values have significant impact on the economy of a community or budget of an agency; and typically involve intense public, or congressional scrutiny;
- review and analyze very complex appraisal reports for the impact of recommendations and estimated values on agency policies, goals, and objectives; or
- evaluate the impact of new or modified appraisal, real estate, tax, and environmental legislation on current and projected appraisal standards and programs and prepare important policy changes based on impact.

Level 1-7 compares favorably to the position in question. The appellant's work requires that he possess and use a variety of appraisal, economic, and legal concepts, principles and practices related to the acquisition and valuation of real estate in carrying out his flood control project-related responsibilities. He is responsible for the entire range of appraisal activities, including reviewing the valuation reports prepared by subordinates and contract fee appraisers, the latter being employed by Local Sponsors of civil works projects undertaken in cooperation with the [Location] District. This includes reviewing Local Sponsors' Land Easement Right of Way, Relocation, and Damages (LERRD) credit submissions for approval, which involves verifying that the 35 percent of costs criterion which Local Sponsors are expected to meet has been met. The appellant must be knowledgeable regarding applicable Federal and state laws (especially the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act, as amended), including as well environmental and other laws that impact the acquisition of real property involving the use of Federal funds; the rights of the property owners; valuations of

partial interests; the effect of partial acquisition on the value of remaining property; and the effect of governmental acquisition on overall property value. In this capacity, he is responsible for ensuring that all applicable Federal, state, and local appraisal requirements are met, that appraisals are correct, and that the interests of Federal taxpayers are protected. In a number of instances, real estate parcels involved in CoE projects contain structures or buildings that have historical significance and have legal protection. The appellant must be cognizant of such situations and avoid placing his agency and the Federal government in embarrassing situations.

The appellant's delegated monetary approval authority for local appraisal projects was increased (e.g., from \$150,000 to \$2,000,000 on market value parcels, etc.) subsequent to his receiving certification as a Federal General Licensed Appraiser in June 1999. In and of itself, however, possession of such certification is not indicative *per se* of duties characteristic of work above Level 1-7 expectations. The certification is held by all Chief Appraisers in the CoE's [Name] Division's six Districts, with the [Location] District being one of these.

The appellant described in detail the heavy appraisal workload associated in particular with a large scale flood control project in the [City, State] area, which is expected to extend over a multi-year period. However, the appraisal work performed either personally by the appellant or that involved in reviewing the work performed by his subordinates or fee appraisers employed by Local Sponsors, in terms of the knowledge and skill demands upon the appellant, is characteristic of those found at Level 1-7, as described above. Increased volume of work does not constitute grounds for raising assigned Factor level credit; unless the nature of the duties being performed itself meets the higher level criteria threshold, there is no basis for assigning higher level credit.

Level 1-8 is not met. The appellant's work does not require the application of new appraisal theories and standards to resolve problems. He contends that, as a technical authority for appraisal related matters and issues for the District, state, and local governmental agencies, he is involved with a variety of highly complex projects that rise to beyond Level 1-7 expectations. However, he can use existing and established procedures to resolve most issues. In addition, his assignments do not typically involve conflicts between agency policy and program objectives to the extent that project funding is threatened. Also, unlike the Level 1-8 criteria, the appellant is not responsible for evaluating the impact of legislation and preparing agency policy changes.

Level 1-7 is credited for 1250 points.

Factor 2, Supervisory Controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the extent to which completed work is reviewed. The agency credited Level 2-4. The appellant believes that this does not properly acknowledge the degree of independence and scope of discretion with which he carries out his responsibilities.

At Level 2-4, the supervisors set overall objectives and identify the resources available. Employees and supervisors, in consultation, develop the deadlines, projects, and work to be done such as ways to appraise or review the appraisals of properties with complicated or unusual characteristics. The employees plan and carry out the assignment, resolve conflicts that arise, coordinate the work with others, and interpret policy on own initiative in terms of established

objectives. The employees keep the supervisors informed of progress and potentially controversial matters.

At Level 2-5, the supervisors provide administrative direction with assignments in terms of broadly defined missions or functions. The employees plan, design, and carry out appraisal review programs, projects, and studies. They may also independently prepare extremely complex or highly controversial appraisals. Supervisors consider the work technically authoritative and normally accept results without change. They evaluate recommendations for new projects and alterations of objectives for such considerations as availability of funds and other resources, broad program goals, or national priorities. Review appraisers or supervisors review extremely complex or highly controversial appraisals for their impact on policies, conflicts with legal premises, and whether the processes used or conclusions made set precedents.

The position compares favorably to Level 2-4. The appellant works under the supervision of the Chief, [Name] Division, who assigns work in terms of broadly defined objectives and provides general administrative direction. The appellant independently plans, develops and carries out all appraisal and appraisal review duties and responsibilities within the scope of his delegated authority. He resolves conflicts between procedural and regulatory requirements or program and project objectives that may arise while carrying out assignments. The supervisor is kept informed of the progress on assignments and any significant issues that arise that could impact program or project schedules. Unusual problems involving agency policy, applicable laws and regulations, or that are of a precedent setting nature are referred to the supervisor. Completed assignments are considered technically authoritative and are normally accepted without change. The supervisor stated that he provides administrative oversight but only very rarely becomes involved with the technical aspects of the appellant's day-to-day appraisal work. However, the senior appraiser at the [Name] Division Headquarters, where the [Location] District reports, reviews all appraisal packages completed in the six Districts reporting to the [Name] Division for technical accuracy and compliance with applicable CoE policies and directives. The overall objectives and resources for the work performed are established and the appellant works within them. This level fully recognizes the appellant's independence and authority to handle unusual problems and complex assignments.

Level 2-5 is not met. This level describes independent responsibility for broad programs and authoritative technical advice that may affect broad organizational policies. There is no indication that the appellant exercises this degree of discretion in performing his responsibilities. Similarly, the appellant's work rarely if ever provides any opportunity for independently arriving at decisions of a precedent-setting nature, which is a characteristic of Level 2-5 criteria.

Level 2-4 is credited for 450 points.

Factor 5, Scope and Effect

This factor covers the relationship between the nature of the work; i.e., the purpose, breadth, and depth of the assignment, and the effect of work products or services both within and outside the organization. The appellant's agency has evaluated this Factor at Level 5-3. However, the appellant believes it should be evaluated at a higher level given the significant impact of his

position on the organization in which he works and clients (including communities) reliant on the quality of his work.

At Level 5-3, the purpose of the work is to resolve a variety of conventional problems or questions through the use of well-established appraisal standards, criteria, methods, and procedures. Employees appraise properties that are clearly compatible with others in kind and value, independently review staff and fee appraisal reports, or recommend actions based on valuation studies of specific property characteristics. Completed reports and recommended appraisal valuations affect the efficient completion of real property transactions. Recommendations made also affect the adequacy of activities, e.g., real or personal property value negotiations, loan insurance issuance, or tax law application. Valuation estimates may also affect the economic well-being of property owners, lessees, or permit holders.

At Level 5-4, the work involves planning and completing complex valuation projects. Employees develop modified techniques to appraise and review the appraisals of properties with diverse or unusual characteristics. They may investigate a wide variety of problems and questions to provide guidance on specific appraisal standards, methods, and techniques, and to recommend new or modified policies. Recommendations and advice affect a range of agency activities, including the efficient completion of appraisal projects to meet program objectives. New or modified techniques used in appraisal reports and property analysis set precedents for future valuation projects. The results of the work can affect the economic well-being of the employing agency, client agencies, taxpayers, or other public jurisdictions, including wildlife refuges, national parks, or State and local governments.

At Level 5-5, the purpose of the work is to resolve critical or unusual problems for a broad range of complex appraisal projects, determine the validity and soundness of appraisal policies and programs, and develop policy guidance to improve appraisal methods for solving unusual valuation problems. The work significantly affects the use of new methods, standards, and precedents by appraisers within the agency, fee appraisers, and often appraisers in other agencies. The work also affects the economic well-being of entire communities or market areas.

The work of the position involves planning and carrying to completion complex real estate valuation projects. This requires the appellant to investigate and analyze a wide array of appraisal situations involving diverse and unusual properties, for which he is expected to craft solutions to deal with them. The appellant's recommendations affect a range of agency activities, including the efficient completion of appraisal projects supporting program objectives and the long term goals of his employing agency, while ensuring compliance with relevant legal and regulatory requirements. The outcome of his work may affect the economic health of the CoE, its client agencies, the local community affected, State and local governments, and the multi-state area served by the [Location] District.

Level 5-4 criteria compare favorably to the duties of the appellant requiring that he personally conduct or review appraisals, which often represent complex and/or unusual aspects, requiring him to develop a variety of approaches in dealing with them. The timely and accurate completion of his work affects the efficient completion of projects to meet clients' needs and can have a significant impact on the implementation of CoE programs, as well as on other Federal agencies, State and local governments affected, and the economic well-being of communities within the [Name] District.

Level 5-5 is not met. The appellant's work does not involve resolving on an ongoing basis critical or highly unusual problems for a broad range of complex appraisal projects, determining the validity and soundness of appraisal policies and programs, and the development of policy guidance to improve appraisal methods for solving unusual valuation problems. There is no indication that the appellant's work significantly affects the use of new methods, standards, and precedents by appraisers within the agency, fee appraisers, or appraisers in other agencies.

This factor is evaluated at Level 5-4, and 225 points are credited.

<i>SummaryFactor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge Required by the Position	1-7	1250 points
2. Supervisory Controls	2-4	450 points
3. Guidelines	3-4	450 points
4. Complexity	4-5	325 points
5. Scope and Effect	5-4	225 points
6. Personal Contacts and		
7. Purpose of Contacts	3c	180 points
8. Physical Demands	8-2	20 points
9. Work Environment	9-2	<u>20 points</u>
	<i>Total</i>	2920 points

A total of 2920 points falls within the range for GS-12, 2755 to 3150 points, according to the Grade Conversion Table in the standard.

Decision

The appellant's position is properly classified as Review Appraiser, GS-1171-12.