

U.S. Office of Personnel Management
Division for Human Capital Leadership & Merit System Accountability
Classification Appeals Program

Philadelphia Field Services Group
600 Arch Street, Room 3400
Philadelphia, PA 19106-1596

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

Appellants: [appellant's name]

Agency classification: Supervisory Contract Specialist
GS-1102-14

Organization: Division of [name]
[name] Group
Office of [name]
Centers for Medicare and Medicaid
Services
Department of Health and Human
Services
[location]

OPM decision: Supervisory Contract Specialist
GS-1102-14

OPM decision number: C-1102-14-01

/s/ Robert D. Hendler

Robert D. Hendler
Classification Appeals Officer

September 12, 2003

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:

[appellant's name]
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Introduction

On June 2, 2003, the Philadelphia Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. Her position is currently classified as Supervisory Contract Specialist, GS-1102-14. The appellant believes that the position should be reclassified to the GS-15 grade level. We received the agency appeal administrative report on June 26. The position is in the Division of [name] ([acronym]), [name] Group ([acronym]), Office of [name], Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, [location]. We have accepted and decided her appeal under section 5112 of title 5, United States Code (U.S.C.).

General issues

In her May 29, 2003, appeal to OPM, filed subsequent to her receiving the April 17, 2003, CMS appeal decision, the appellant compares her demands of supervising positions in the GS-1101 and GS-1102 occupational series with other division heads in the [acronym] that only supervise GS-1102 work. The appellant states that when she first joined the contracting staff, the supervisor of the GS-1101 grants management team, with no other responsibilities, was a GS-14. She also comments on the classification reviews of her position conducted by her agency.

By law, we must classify positions solely by comparing their current duties and responsibilities to OPM PCS's and guidelines (5 U.S.C. 5106, 5107, and 5112). Other methods or factors of evaluation are not authorized for use in determining the classification of a position, such as comparison to positions that may or may not have been properly classified. Because our decision sets aside all previous agency decisions, the appellant's concerns regarding her agency's classification review process are not germane to this decision.

The appellant's rationale largely relies on the description of work in her position description (PD) of record ([number]). A PD is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign work. A position is the duties and responsibilities that make up the work performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities assigned by management and performed by the employee. An OPM appeal decision grades a real operating position, and not simply the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant.

Implicit in the appellant's rationale is a concern that her position is classified inconsistently with other positions. 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 insuring that its positions are classified consistently with OPM appeal decisions. If the appellant believes that her position is classified inconsistently with others, she may pursue this matter by writing to her agency headquarters human resources office. In so doing, she should specify the precise organizational location, series, title, grade, duties, and responsibilities of the positions in question. The agency should explain to her the differences between her position and the others, or grade those positions in accordance with this appeal decision.

Position information

The appellant manages and directs the Division of [acronym] which is one of six divisions in the AGG. Her division awards and administers contracts and grants for research, actuarial support, demonstration projects, cooperative agreements, grant programs for Historically Black Colleges/Universities, Hispanics, and State Health Insurance Assistance Program grants. Contract technical requirements flow from the CMS line program organizational needs of such components as the Office of Research, Development, and Information (ORDI), the Center for Medicaid and State Operations (CMSO), and the Center for Beneficiary Choices (CBC). Contract and grants requirements may be driven by congressional appropriations that require specific CMS initiatives.

Her authorized staff of 11 employees consists of 2 Contract Specialists, GS-1102-13, 4 Contract Specialists, GS-1102-12 (full performance level), 1 Grants Management Specialist, GS-1101-13, 3 Grants Management Specialists, GS-1101-12, and 1 GS-7 support position. One of the two GS-1102-13 positions is delegated contracting officer authority to review and award the contracts and contract modifications developed and prepared by other staff members. The Grants Management Specialist, GS-1101-13, position performs similar work review. The other GS-1102-13 position handles the highest dollar value and most complex contracts. The appellant reviews contracts justifications for other than full and open competitive acquisitions.

The appellant and her immediate supervisor, [name], Director, [acronym], certified that the PD of record is accurate. We conducted a telephone audit with the appellant on September 2, 2003, and a telephone interview with her immediate supervisor on September 5, 2003. In deciding this appeal, we fully considered the audit and interview findings and all information of record furnished by the appellant and her agency, including her official PD which we incorporate by reference into this decision.

Series, title and guide determination

The agency has classified this position in the Contract Specialist Series, GS-1102, with the title Supervisory Contract Specialist, and graded it by application of the General Schedule Supervisory Guide (GSSG), with which the appellant agrees. We concur with these determinations.

Grade determination

The GSSG uses a point-factor evaluation method that assesses six factors common to all supervisory positions. To grade a position, each factor is evaluated by comparing the position to the factor level definitions for that factor and crediting the points designated for the highest factor level, which is met, in accordance with the instructions specified for the factor being evaluated. The GSSG is a threshold PCS. A defined level must be fully met before it can be credited. The total points accumulated under all factors are then converted to a grade using the point to grade conversion chart in the GSSG.

The appellant believes that her position should be credited at Levels 1-5, 3-3b, raises questions about the crediting of Level 4A-3, but agrees with her agency's crediting of Levels 2-2, 4B-3,

5-8, and 6-5b. After careful review of the record, we concur with the crediting of Levels 2-2, 4B-3, and 5-8 and 6-5b. Our analysis of the remaining factors follows.

Factor 1, Program scope and effect

This factor addresses the general complexity, breadth, and impact of the program areas and work directed, including the organizational and geographic coverage. It also assesses the impact of the work both within and outside the immediate organization. To credit a particular factor level, the criteria for both scope and effect must be met.

Subfactor 1a: Scope

Scope addresses the general complexity and breadth of (1) the program or program segment directed and (2) the work directed, the products produced, or the services delivered. The geographic and organizational coverage of the program or program segment within the agency structure is to be addressed under Scope. In evaluating the population affected under this factor, we may only consider the total population serviced directly and significantly by a program. We cannot count the total population in the geographic area potentially covered by a program. Scope also considers how the activities directed relate to the agency's mission and to outside entities, and the complexity and intensity of the services provided.

The appellant says that Level 1-5 should be credited because she is responsible for overseeing the solicitation of all research contracts and grants for the agency (CMS); providing leadership and direction to the contracts and grants management staffs for projects associated with major research and demonstrations; and having unlimited signatory authority for contracts and grants in which her decisions directly impact CMS's research contracts and grants programs nationwide.

The levels of this factor describe two situations: agency line programs, e.g., providing services to the public; and support programs, e.g., providing administrative or other complex support services within an agency. For threshold PCS's, each successively higher factor level description represents additional demands beyond those expressed at the next lower level. The appellant's position falls under the second situation since her organization performs administrative support functions; i.e., it provides acquisition and grants management services to such CMS line program components as ORDI, CMSO, and CBC.

Level 1-4 is the highest level in the PCS that addresses internally oriented administrative programs. At Level 1-4, the position directs a segment of a professional, highly technical, or complex administrative program which involves the development of major aspects of key agency scientific, medical, legal, administrative, regulatory, policy development or comparable, highly technical programs; or that includes highly technical operations at the Government's largest, most complex industrial installations. Illustrative of internally directed administrative functions at Level 1-4 is directing **all** budget, management analysis, or personnel activities conducted throughout, or covering the operations of, the agency's headquarters or most of its field establishment.

This contrasts with Level 1-3, where the supervisor directs a program segment that performs technical, administrative, protective, investigative, or professional work. The program segment

and work directed typically have coverage, which encompasses a major metropolitan area, a State, or a small region of several States; or when most of an area's taxpayers or businesses are covered, coverage comparable to a small city. This level also covers providing complex administrative or technical or professional services directly affecting a large or complex multi-mission military installation. Large is defined as covering a serviced population of 4,000 or more personnel with one or a few major missions and a variety of serviced technical functions. Multi-mission is defined as an installation or group of several activities directly supported by the position under evaluation that have more complex and demanding missions than a large activity but whose population does not fully meet the 4,000 personnel threshold. Illustrative of administrative work at this level is directing **all** personnel, budget, or similar services for a bureau or major military command headquarters; a large or complex multi-mission military installation, an organization of similar magnitude, or a group of organizations which, as a whole, are comparable.

The record shows that although CMS meets the definition of agency for purposes of applying the GSSG, it has an employee population of approximately 4,800 with over 3,500 located at its headquarters or elsewhere in Maryland. CMS functions primarily as a policy development and program oversight organization in where services to the public are provided preponderantly by contractors or other third parties, e.g., contractors who process Medicare claims for services delivered by health care providers. Given the size of the internal population serviced and CMS's reliance on accomplishing its mission through third parties, it is reasonable to conclude that the AGG program, as a whole, meets the intent of Level 1-4, i.e., directing an agency wide acquisition and grants program for the headquarters and its field establishment. Because the appellant directs a segment of the AGG program, her position fails to fully meet Level 1-4 and, therefore, must be credited at Level 1-3. Since the position fails to meet Level 1-4 we may not consider or address the criteria at Level 1-5.

Subfactor 1b: Effect

Effect addresses the impact of programs, products, or correctly performed work both within and outside the agency.

The appellant's rationale is that Level 1-5 should be credited because her decisions directly impact CMS's research contracts and grants programs nationwide.

At Level 1-4, the work impacts an agency's headquarters operations, several bureau wide programs, or most of the agency's field establishment; or facilitates the agency's accomplishment of its primary mission or programs of national significance; or impacts large segments of the Nation's population or segments of one or a few large industries; or receives frequent or continuing congressional or media attention. Illustrative of internal support services at Level 1-4 is directing **all** budget, management analysis, or personnel activities conducted throughout, or covering the operations of, the agency's headquarters or most of its field establishment that directly and materially shape or improve the structure, effectiveness, efficiency, or productivity of major portions of the agency's missions, multi region programs, headquarters wide operations, or projects of national interest.

In contrast, at Level 1-3, support activities, functions, or services directly and significantly affect a wide range of agency activities, the work of other agencies, the operations of outside

interests, or the general public. With regard to large, complex, multi-mission field organizations, the work directly and substantially impacts the provision of essential support operations to numerous, varied, and complex technical, professional, and administrative functions.

For the reasons discussed previously, it is reasonable to conclude that the AGG program, as a whole, meets the intent of Level 1-4, i.e., directing an agency wide acquisition and grants program for a headquarters and field covering both the headquarters and its field establishment in which the work directed materially shapes or improves the structure, effectiveness, or productivity of major portions of the agency's primary mission, multi-region programs, headquarters wide operations, or projects of national interest. The range of agency level national programs and projects supported by AGG, as discussed previously, meets the impact of Level 1-4. Because the appellant directs a segment of the AGG program, her position fails to fully meet Level 1-4 and, therefore, must be credited at Level 1-3. Since the position fails to meet Level 1-4 we may not consider or address the criteria at Level 1-5.

Level 1-3 is credited for both *Scope* and *Effect* (550 points).

Factor 3, Supervisory and managerial authority exercised

This factor covers the delegated supervisory and managerial authorities which are exercised on a recurring basis. To be credited with a level under this factor, a position must meet the authorities and responsibilities to the extent described for the specific level.

The record shows that the agency has credited Level 3-2c. The appellant agrees that her position fully meets Level 3-2c, but believes that her position meets Level 3-3b.

In order to fully meet Factor Level 3-3, a position must meet the conditions described in paragraphs a or b, under this factor level.

Under Level 3-3a, the incumbent of a position must exercise the delegated managerial authority to set long-range work plans with goals and objectives; assure implementation of the plans by subordinate organizational units; determine which objectives require additional emphasis; and determine solutions to and resolve issues created by budget and staff requirements, including contracting out. In contrast, the appellant serves as a first-level supervisor whose organization does not involve the degree of delegated managerial authority or involve subordinate organizational units or subordinate supervisors as is envisioned of an organizational setting at Level 3-3a. Therefore, her position is not credited with Level 3-3a.

At Level 3-3b, a supervisor must exercise all or nearly all of the supervisory responsibilities and authorities described at Level 3-2c, plus at least 8 of the 15 responsibilities listed under Level 3-3b. The agency credited the appellant's position with responsibilities 2, 4, 7, 9, 14, and 15. In her appeal letter, the appellant provided a rationale for crediting responsibilities 2, 5 (misidentified as 4), 7, 9, 10, 13, 14, and 15. Her rationale for responsibility 5 is for dealing with contractor problems. Implicit in her appeal rationale is that the GS-13 contracting officer and GS-13 senior grants management specialist function as team leaders within the meaning of the GSSG. Based on our review of the appeal record, we agree that the position fully meets

Level 3-2c and is credited properly with responsibilities 2, 7, and 14. Our analysis of the remaining responsibilities follows.

Responsibilities 1, 5, 6, and 8 are intended to credit only supervisors who direct two or more subordinate supervisors, team leaders or comparable personnel. To support these designations, these subordinate personnel must spend 25 percent or more of their time on supervisory, lead or comparable functions. These responsibilities may only be credited in situations where the subordinate organization is so large and its work so complex that it requires managing through these types of subordinate positions. The reference to contractors for these responsibilities pertains to positions that use contractors to perform the work of their organization, e.g., engineering organizations that use contractors to perform engineering design work. The appellant's interactions with contractors performing work for CMS's line program components are not considered under this responsibility or this factor of the GSSG.

While two GS-13 subordinates have program responsibilities, the functions performed are not sufficiently large and complex to justify being classified as team leaders. The appellant's GS-12 subordinates' PDs show that they work independently. This independence is described and has been certified as current and accurate in their PDs of record (Grants Management Specialist, GS-1101-12, PD #[number], and Contract Specialist, GS-1102-12, PD #[number]) by the appellant. The incumbents of PD #[number] work under general supervision and are responsible for planning, conducting, and completing assignments independently. Completed work is usually considered technically correct and is accepted without significant change. The incumbents of PD #[number] work under general direction, keep the appellant informed of progress and potentially controversial conflicts or issues or matters which affect policy or have other far reaching implications. Completed work is reviewed for effectiveness in meeting requirements. It is inappropriate to equate administratively mandated contracting officer acquisition package and equivalent grants package review as formal team leadership within the meaning of the General Schedule (GS) classification system. Doing so would fail to recognize the team nature of the work and undermine the grade level worth of the GS-12 positions. The appellant's organization does not reflect the difficulty and complexity that would *require* using multiple team leaders or supervisors who would devote at least 25 percent of their time to full leadership responsibilities.

Responsibility 4 is credited to positions that exercise direct control over a multimillion dollar level of annual resources (in 1993 dollars). The CMS components serviced by the appellant's division exercise this control over their program funds. Because the appellant does not exercise **direct** programmatic control over major contract and grants funds, this responsibility may not be credited.

The record shows that the appellant is delegated the authority to act as the deciding for grievances. However, this responsibility has been credited under Level 3-2c, responsibility 6; i.e., hearing and resolving employee complaints and referring group grievances and more serious unresolved complaints to a higher level supervisor or manager. The size of the organization directed and the appellant's first level deciding official functions preclude responsibility 9 from being performed on a regular and recurring basis as intended by the GSSG. Because this responsibility is not fully met, it may not be credited.

The appellant states that responsibility 10 should be credited because she reviews and approves serious disciplinary actions (e.g., suspensions) involving nonsupervisory subordinates and she provided copies of actions proposed and/or taken. CMS delegations of authority show that the appellant acts as the proposing official for serious disciplinary actions, but a higher level supervisor acts as the deciding official. The work examples provided by the appellant are for reprimands and equivalent less serious actions already credited under Level 3-2c, responsibility 7. Therefore, responsibility 10 may not be credited.

The appellant states that responsibility 13 should be credited because she approves expenses comparable to within-grade increases, extensive overtime, and employee travel. She says that she has authority to approve within-grade increases, grant on-the-spot awards and time-off awards up to 8 hours. The record shows that the appellant does approve within-grade increases. Eight-hour time-off awards and \$250 on-the-spot awards are not comparable to approving extensive overtime **and** employee travel. Overtime is controlled above the division level. The appellant's staff does not routinely travel, and travel associated with training is also controlled at the division level. The appellant may only approve no-cost training. Because this responsibility is not fully met, it may not be credited to the appellant's position.

The appellant states that responsibility 15 should be credited for finding and implementing ways to eliminate or reduce significant bottlenecks and barriers to production, promote team building, or improve business practices because she must constantly reallocate resources to cover workload demands. She points to her using the employees in GS-13 positions to provide guidance and training to lower graded employees, and her continuing efforts to develop all members of her staff. The work examples provided by the appellant have already been credited under Level 3-2c, responsibility 8; i.e., finding ways to improve production or increase the quality of work directed. Using senior staff to train lower graded employees, projecting and arranging for overtime for end-of-fiscal-year closeout, and moving work within a small staff is typical of production and quality improvement actions found at Level 3-2c. The size of the organization and workload directed preclude responsibility 15 from being performed on a regular and recurring basis as intended by the GSSG, e.g., substantially changing business practices and work flow. Because this responsibility is not fully met, it may not be credited.

In summary, we have credited the position with responsibilities 2, 7, and 14. Because the position is not credited with 8 or more of the listed responsibilities, it fails to meet Level 3-3b and must be credited at Level 3-2c (450 points).

Factor 4, Personal contacts

Subfactor 4A: Nature of contacts

This subfactor covers the organizational relationships, authority or influence level, setting, and difficulty of preparation associated with making personal contacts involved in supervisory and managerial work. To be credited, the level of contacts must contribute to the successful performance of the work, be a recurring requirement, have a demonstrable impact on the difficulty and responsibility of the position, and require direct contact. The contacts for Subfactor 4A, and the purpose of contacts, credited under Subfactor 4B, must be based on the same contacts.

In her appeal to OPM, the appellant does not specify the level that she believes is appropriate for this subfactor, but believes that her correspondence shows that she has regular contacts with the staff of senior level executive offices and top executives from a variety of other organizations. The agency appeal decision states that the appellant believes that her position meets Level 4A-4.

At Level 4A-3, frequent contacts are comparable to any of the following: (1) high ranking military or civilian managers, supervisors, and technical staff at bureau and major organization levels of the agency; with agency headquarters administrative support staff; or with comparable personnel in other Federal agencies; (2) key staff of public interest groups (usually in formal briefings) with significant political influence or media coverage; (3) journalists representing influential city or county newspapers or comparable radio or television coverage; (4) congressional committee and subcommittee staff assistants below staff director or chief counsel levels; (5) contracting officials and high level technical staff of large industrial firms; and (6) local officers of regional or national trade associations, public action groups, or professional organizations; and/or State and local government managers doing business with the agency. Contacts include those which take place in meetings and conferences and unplanned contacts for which the employee is designated as a contact point by higher management. They often require extensive preparation of briefing materials or up-to-date technical familiarity with complex subject matter.

The appellant's contacts meet Level 4A-3. As at that level, she has frequent personal contacts with contractor and grantee staff to discuss contract issues, e.g., the selection and/or approval of subcontractors, termination of subcontractors, and other contentious issues that form the basis for crediting Level 4B-3. The appellant has regular and recurring contacts with CMS technical staff and managers on program issues that require substantial preparation and up-to-date technical familiarity with complex technical issues, e.g., legislative initiatives from Congress that affect grant and contract program priorities and processes. Typical of Level 4A-3, she has regular and recurring contacts with grant applicants and recipients, contractor representatives who frequently are university officials, and similar personnel to resolve similar issues, e.g., the best way to incorporate regulatory information release requirements into research contracts, when they cannot be resolved by her subordinates.

At Level 4A-4 frequent contacts are comparable to any of the following: (1) influential individuals or organized groups from outside the employing agency, such as executive level contracting and other officials of major defense contractors or national officers of employee organizations; (2) regional or national officers or comparable representatives of trade associations, public action groups, or professional organizations of national stature; (3) key staff of congressional committees, and principal assistants to senators and representatives. For example, majority and minority staff directors, chief counsels, and directors of field operations; (4) elected or appointed representatives of State and local governments; (5) journalists of major metropolitan, regional, or national newspapers, magazines, television, or radio media; and (6) SES, flag or general officer, or Executive Level heads of bureaus and higher level organizations in other Federal agencies. Contacts may take place in meetings, conferences, briefings, speeches, presentations, or oversight hearings and may require extemporaneous response to unexpected or hostile questioning. Preparation typically includes briefing packages or similar presentation materials, requires extensive analytical input by the employee and subordinates, and/or involves the assistance of a support staff.

The appellant does not routinely have contacts with the types of individual or groups and setting found at Level 4A-4. Contact with university officials on research contract issues is not comparable to contact with executive level multi-billion dollar defense firm officials that requires the assembly of extensive briefing materials by other staff members, e.g., extensive preparation for extended multi-year major weapons system negotiations. Contacts with congressional staff and other high ranking external parties typically are informational in nature and, thus, do not coincide with the more demanding and contentious purposes credited for Level 4B-3. Contacts typical of Level 4A-4 are vested in higher level positions in CMS. The appellant's correspondence is not germane to this factor since it is not direct contact within the meaning of the GSSG; i.e., face-to-face contacts, and contacts by telephone or similar electronic media. Therefore, this subfactor must be credited at Level 4A-3 (75 points).

Summary

In summary we have evaluated the appellant's position as follows:

Factor	Level	Points
1. Program Scope and Effect	1-3	550
2. Organizational Setting	2-2	250
3. Supervisory/Managerial Authority	3-2c	450
4. Personal Contacts		
4A. Nature of Contacts	4A-3	75
4B. Purpose of Contacts	4B-3	100
5. Difficulty of Work Directed	5-8	1,030
6. Other Conditions	6-5b	<u>1,225</u>
Total		3,680

The 3,680 total points fall within the GS-14 range of 3,605-4,050 points on the Point-to-Grade conversation chart in the GSSG. Therefore, the final grade for the appellant's position is GS-14.

Decision

The position is properly classified as Supervisory Contract Specialist, GS-1102-14.