

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: Contract Specialist
GS-1102-12

Organization: Corporate Support Financial Team
Technical Assessment Group
Defense Contract Management
[contractor name]
Defense Contract Management District
East
Defense Contract Management Agency
Department of Defense
[location]

OPM decision: Contract Specialist
GS-1102-12

OPM decision number: C-1102-12-04

/s/ Robert D. Hendler

Robert D. Hendler
Classification Appeals Officer

July 7, 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 March 14, 2003, the Philadelphia Oversight Division, now the Philadelphia Field Services Group, of the U.S. Office of Personnel Management (OPM) accepted a position classification appeal from [appellant's name]. His position is currently classified as Contract Specialist, GS-1102-12. He believes that it should be classified as GS-1102-13. We received the agency administrative report on April 10, 2003. The appellant works in the Corporate Support Financial Team, Technical Assessment Group (TAG), Defense Contract Management [contractor name], Defense Contract Management District East (DCMDE), Defense Contract Management Agency (DCMA), Department of Defense, [location]. We accepted and decided this appeal under section 5112(b) of title 5, United States Code (U.S.C.).

Background

On May 9, 2002, the appellant submitted a request for upgrading his position as an exception to the merit promotion process through his agency and received a denial from DCMDE Human Resources on March 11, 2003. Although the appellant agrees that his position description (PD) #[number] accurately describes his duties and responsibilities, he disagrees with the grade level assigned. He believes that his position should be credited at Levels 1-8, 2-5, 5-5, and 6-4. He states that he has sole responsibility for negotiating an annual Pricing Rate Agreement with the company with whom he is assigned which normally affects the pricing of over a billion dollars of government contracts annually. He also cited two sections in the Defense Contract Management Agency's official policy manual (Onebook) that he indicated defines the duties of the Administrative Contracting Officer (ACO) that he currently performs. He provided examples of work products in support of his belief that his work meets this criteria.

General issues

In his appeal letter, the appellant points to his having absorbed additional work and says that his promotion would not be inconsistent with his agency's goal of more efficient use of resources. He says that there should be a correlation between grade structure and the criticality and dollar value involved in an individual's area of responsibility. He states that he has sole responsibility for negotiating an annual Forward Pricing Rate Agreement (FPRA) with [name] which affects the pricing of over a billion dollars of Government contracts. He believes that this negotiation function is the most important part of his job and is a duty of a Contract Administrator, GS-1102-13. The appellant says that his educational background and skills are equivalent to the higher graded people with whom he routinely deals. He says that his previous detail to a GS-1102-13 position shows that he has acquired the higher level of knowledge required by his position.

The appellant states that duties he performs are similar to other DCMA positions located in different contractor facilities across the country. In his appeal package, he included an example of a DCMA PD from another locations classified as Contract Specialist, GS-1102-13, and the Contract Administrator, GS-1102-13, Benchmark #02 extracted from the Contract Specialist Series, GS-1102, PCS. The appellant's grade level rationale relies on paragraphs and sentences highlighted in both of these documents.

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 other positions that may or may not be accurately described or classified correctly. The quantity of work is not germane to the position classification process. This is an issue covered by the performance management and recognition systems. The cost effectiveness of an organization's structure and using the promotion process to place employees in that structure are other issues not covered by the position classification process.

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. Classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the duties assigned by management and performed by the employee. We classify a real operating position, and not simply the PD.

The PD provided by the appellant and the Benchmark cited by him contain some duties that parallel those performed by him. However, these duties are taken out of the context of both documents since they contain other duties that are substantially different from those assigned to the appellant. For example, the GS-1102-13 Benchmark includes contracting officer authority and responsibility for all contract administration functions in a contractor or Government facility for contracts normally extending over several years that cover research, development, testing, and production of complex equipments systems, etc. Forward-pricing rate negotiation is but one aspect of that program responsibility. Forward-pricing also is one of many functions listed in the GS-1102-13 PD.

Like OPM, the appellant's agency must classify positions based on comparison to OPM PCS's and guidelines. Section 511.612 of title 5 of the CFR, requires that agencies review their own classification decisions for identical, similar, or related positions to ensure consistency with OPM certificates. Thus, the agency has the primary responsibility for ensuring that its positions are classified consistently with OPM appeal decisions. If the appellant believes that his position is classified inconsistently with others, he may pursue this matter by writing to his agency headquarters 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 two teams in the TAG at the [contractor name] Aircraft Corporation facility in Stratford, CT. The appellant's team is lead by a Contract Administrator, GS-1102-13, and consists of members in various occupational specialties including engineers, contract specialists, and industrial specialists.

The appellant is assigned to the Corporate Support Financial Team which has seven members, including the Division ACO (DACO). The appellant is the lead negotiator for the FPRA for [name]. The FPRA establishes the labor rates (overhead rates) to be used for a three year period with [contractor name]. [contractor name] submits a FPRP on a yearly basis. This proposal is the data that is relied upon to form the basis of the negotiation positions. The appellant serves as

leader of an ad hoc integrated product team in the review of this proposal with the Defense Contract Audit Agency (DCAA) auditors and DCMA technical representatives. The team is dissolved once the issues have been resolved. He analyzes and negotiates direct labor rates, overhead and repair factors, and raw material estimating while DCAA analyzes expense pools, economic conditions, business trends, market conditions, and inflation factors. The appellant performs cost and trend analyses of some major expense items such as Independent Research and Development (IR&D), indirect salaries, fringe rates, and labor efficiency variances, and provides input to DCAA during their audit. He coordinates the DCMA technical review of the IR&D projects and accompanies the engineers during their review whenever required. The appellant prepares both the Pre-negotiation Objective and Post Negotiation Memorandum.

To help decide this appeal, we conducted a telephone audit on May 7, 2003, with the appellant, telephone interviews with his immediate supervisor, [supervisor's name], on May 13 and May 16, and a telephone interview with [name], the DACO on June 19. 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 Specialist. 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 3-4, 4-5, 7-3, 8-1 and 9-1 and we concur. Our evaluation of his position, therefore, focuses on Factors 1, 2, 5, and 6.

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.

In addition to the knowledge and skill described at the lower levels, Level 1-7 requires knowledge of a wide range of contracting methods and contract types to plan and carry out

preaward and/or postaward procurement actions; or, indepth knowledge of a specialized area to analyze difficult contracting issues and identify alternative courses of action, modify standard contracting procedures and terms to satisfy specialized requirements, and solve a variety of contracting problems, including those requiring significant departures from previous approaches. This level also 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.

Illustrative of Level 1-7 work is applying knowledge of: (1) contract administration sufficient to monitor a group of contracts, such as fixed-price with redetermination provisions, cost reimbursement, or contracts with incentive provisions.; (2) contract termination procedures sufficient to review and analyze settlement proposals, audit reports, technical evaluations, and subcontractor claims; to recommend or determine allowable costs, profit to be allowed, disposal of Government property, and similar issues; and to negotiate settlements with contractors; and, (3) contract cost analysis techniques sufficient to gather and evaluate price and/or cost data for a variety of preaward and/or postaward procurement actions, such as proposals for production equipment subject to design change or changes in the manufacturing process, or proposals projecting changes in labor and material costs or technology.

As at Level 1-7, the appellant's work requires in-depth knowledge of a specialized area. The appellant analyzes difficult contracting issues related to the FPRA, identifies alternative courses of action, modifies standard contracting procedures and terms, and solves a variety of contracting problems. He evaluates contractor responsibility and performance; reviews and analyzes settlement proposals as it relates to the FPRA, audit reports and technical evaluations; and recommends or determines allowable costs and profit to be allowed. Additionally, he prepares "WRAP" rates (function of applying existing formulas to existing rates) to assist in-house negotiators and outside customers. This knowledge matches the description and illustrations given for Level 1-7.

The knowledge required in this position falls short of the requirements for Level 1-8 which requires a mastery of knowledge in order to plan and carry out long-term procurement actions; apply experimental theories and new developments to problems; develop procurement policies for use by others in the contracting field; or plan, manage, or make decisions that significantly affect the content, interpretation, or development of complex, long-range, or interrelated agency procurement policies or program.

The examples given for Level 1-8 further illustrate that the knowledge required should be of exceptional nature for monitoring systems contracts that extend over several years, and cover research, development, testing, and/or production of complex equipment systems. At this level, contracts require monitoring the performance of the prime contractor and a large number of subcontractors, negotiating forward pricing rates and claims, complex changes, and terminations or contract close out. While the appellant is the lead negotiator for the FPRA, he only monitors contracts as it relates to the rates and is not responsible for the research, development, testing, and/or production of complex equipment systems functions as illustrated in the standard. These responsibilities are vested in the DACO position (PD #[number]) at DMC [contractor name].

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. 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 work examples that 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 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 DACO's position (PD #[number]) at DMC [contractor name], not the appellant's position.

In contrast, Level 1-7 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 appellant applies this level of knowledge and skill as the lead negotiator for forward pricing and overhead rates. He must be knowledgeable in business and industry practices, cost and pricing techniques, and negotiation practices. In addition, while he is not responsible for monitoring contractor compliance with CAS, he is responsible for developing and implementing all financial surveillance of [contractor name]. He completes annual financial capability surveys that include analyzing corporate balance sheets and profit and loss statements. The appellant tracks all major direct and indirect expense rates and variances on a monthly basis, and reviews billing rates quarterly. Actual expenses and rates are continuously monitored. Large differences are addressed and adjustments made to the FPRA or billing rates. The appellant also prepares business and overhead rate trend data and provides this information to Agency Headquarters. Because the position does not fully meet Level 1-8, this factor must be credited at Level 1-7 (1,250 points).

Factor 2 – Supervisory controls

This factor covers the nature and extent of direct and indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

The appellant states that Level 2-5 should be credited since he works independently, requires no direct supervision to perform a job that is critical to the agency's mission, and serves as the Team Leader in the FPRA process. Both Levels 2-4 and 2-5 describe positions of highly skilled personnel who carry out their work largely independently. At Level 2-4, the employee works within a program framework and receives project assignments. In contrast, Level 2-5 includes program authority with the employee responsible for designing the plans and strategies by which broad projects will be undertaken, including projects, studies, or other major program functions. At Level 2-4, work receives some degree of technical review for feasibility of the program approach. In contrast, review at Level 2-5 is for broader considerations such as impact on the overall program and achieving the functional program's objectives.

Decisions made by employees under administrative direction at Level 2-5 are generally afforded the full weight of agency policy once they are implemented. In contrast, the appellant implements the policies, priorities, and procedures directed by higher level officials. Unlike Level 2-5, the appellant is not delegated responsibility for major programs. The appellant does not direct or control a staff or a budget. Information provided by the appellant shows that resource priorities are set by his supervisor. The appellant then implements those decisions and continuing functions at the operating level to achieve program objectives and priorities determined at higher echelons in the agency.

Although the appellant's supervisor does not routinely provide technical guidance to the appellant, he is required to judge whether his performance meets defined goals. Technical supervision includes the responsibility of accepting or rejecting work. In the appellant's case, this includes determining how well his program efforts are meeting defined management needs. Level 2-4 recognizes that some employees are delegated significant operational authority and completed work is reviewed in terms of satisfying expected results of projects or assignments, responsiveness, and conformance with agency policy. Level 2-5 includes responsibility for dealing with particularly sensitive or controversial issues that may be reviewed by program officials at headquarters levels. Recommendations for new projects and shifts in program objectives are evaluated in terms of resources available, program goals, or agency-wide priorities. DCMA and other higher echelon organizations retain authority for dealing with any controversial or sensitive program issues, shifting program directions or objectives, and planning changes in program direction found at Level 2-5. Therefore, this factor is credited at Level 2-4 (450 points).

Factor 5 - Scope and effect

Scope and Effect covers the relationship between the nature of the work and the effect of work products or services both within and outside the organization. The nature of the work describes such end objectives as the number of contracts awarded and administered decisions and recommendations made, and policy and regulatory documents written.

Effect measures such things as whether the work output facilitates the work of others, provides timely services, affects agency programs or missions, or affects other agencies, private industry, or the general public. The concept of effect alone does not provide sufficient information to properly understand and evaluate the impact of the position. The scope of the work completes the picture, allowing consistent evaluations. Only the effect of properly performed work is to be considered.

At Level 5-4, the purpose of the work is to provide expertise as a specialist in a functional area of contracting by providing advisory, planning, or reviewing services on specific problems, projects, or programs. Assignments involving contract negotiation, award, administration, or termination frequently carry contracting officer authority within prescribed money limits for all or most contractual actions. Examples include: (1) planning, coordinating, and/or leading negotiations for a variety of complex contracts, contract modifications, or termination actions, e.g., those which accommodate possible changes in program requirements, involve subcontractors, require accounting for Government equipment, or involve consolidated requirements for several agencies or departments; (2) formulating approaches to procurement

problems or issues when the problems require extensive analysis of a variety of unusual conditions, questions, or issues; (3) establishing procedures for implementing procurement policies or regulations; (4) conducting in-depth analyses of contractors' financial and management systems and facilities for ability to perform or for compliance with Government or contractual requirements; or (5) planning and conducting program evaluations of subordinate procurement activities. Further, the work product affects a wide range of procurement activities, such as the operation of procurement programs in various offices or locations, or the accomplishment of significant procurement or technical program goals; affects the timely support of other departments or agencies; affects contractor's operations or management systems; has a significant economic impact on contractors or on their respective geographic areas; or similar impact.

At Level 5-5, the purpose of the work is to resolve critical problems, or develop new approaches for use by other contract specialists, or for use in planning, negotiating, awarding, administering, and/or settling the termination of major procurements. Recommendations or commitments are accepted as authoritative, and frequently carry contracting officer authority for transactions involving sizeable expenditures of staff, funds, and material. The work typically requires: (1) planning and negotiating procurements for long-term systems, programs, or projects (i.e., five years); (2) administering long-term contracts, with delegated final authority to obligate funds in connection with most transactions and, as required, serving as team leader over a group of specialists whose services and advice are used in order to arrive at a decision; (3) negotiating termination settlements and approving contractor's proposed settlements with subcontractors for contracts in which several years of work have been expended, or which involve extensive proposals and/or claims of prime and subcontractors and large amounts of inventory and Government property; (4) developing innovative contractual arrangements to resolve critical procurement problems and satisfy unusual procurement situations; (5) establishing and advocating positions for the region, command, administration, agency or department on major procurement issues; (6) developing procurement regulations, extending techniques, interpreting policy for use by other contracting specialists; or (7) performing comparable work.

The work product at Level 5-5 affects the work of other experts within or outside the agency, e.g., the development of guides or procedures for use by subordinate contracting activities; the operation and evaluation of subordinate contracting programs; the accomplishment of major procurements which contribute to the achievement of mission objectives; the decisions of senior procurement, technical, or program officials in terms of the authoritative procurement advice provided; the economic well-being of a large corporation or subsidiary; or the well-being of substantial numbers of people, such as those employed in a major industry, or those served by a broad social, economic, health, or environmental program.

The appellant's work includes having negotiated rates in place and to assure that the contractor conducts his business operations in accordance with all Government regulations and requirements. The appellant resolves critical problems, but does not administer long-term contracts or exercises delegated authority to obligate funds in connection with transactions. The appellant's work affects the timely support of other departments or agencies and has a significant impact on contractors or on their respective geographic areas. This compares favorably with the description for Level 5-4.

The appellant's work does not meet Level 5-5. His work products do not affect the work of other experts within or outside the agency; the operation and evaluation of subordinate contracting programs; the decisions of senior procurement, technical, or program officials; the economic well-being of substantial numbers of people, such as those employed in a major industry, or those served by a broad social, economic, health, or environmental program. As discussed previously, work of this scope and effect is assigned to positions above the appellant's in his agency. Therefore, this factor is credited at Level 5-4 (225 points).

Factor 6, Personal contacts

This factor includes face-to-face and telephone contacts and other dialogue with persons not in the supervisory chain essential for successful performance of the work and which have a demonstrable impact on the difficulty and responsibility of the work performed. It considers what is required to make the initial contact, the level of difficulty of communicating with those contacted, and the setting in which the contact takes place, e.g., the degree to which the employee and those contacted recognize their relative roles and authorities. The standard instructs that the same contacts will be evaluated for both Factor 6 and Factor 7.

At Level 6-3, the personal contacts are with specialists, managers, officials, or groups from outside the employing agency, such as contractors, auditors, attorneys, manufacturers' representatives, and representatives of universities, nonprofit organizations, State and local governments, and professional departments (e.g., other departments or activities outside the chain of command). These personal contacts occur in a moderately unstructured setting.

At Level 6-4, the personal contacts are with high-ranking officials from outside the employing agency, such as those with Congressional members, senior corporate officials, and key representatives from national and international organizations, Federal agencies, State and local government, and judicial and quasi-judicial bodies. These contacts are characterized by problems, such as the officials may be relatively inaccessible, appointment or arrangements are arranged well in advance, or each contact may be conducted under different rules.

The appellant's position meets Level 6-3. The appellant's regular and recurring contacts include the Assistant Controller for Government Accounting at [contractor name], accounting personnel, auditors and technical specialist's. The appellant's recurring work assignments involve meetings and negotiations that are held in an unstructured setting and cover a wide range of topics, with roles and authorities of the contacts developed during the course of the discussions, negotiations, or resolution of the problem. The setting, authority, and variety of the appellant's contacts are typical of Level 6-3.

The position's regular and recurring contacts fail to meet Level 6-4. The appellant does not routinely have contacts with high-ranking officials from outside DCMA. The appellant does not meet with Congressional members and Key staff, senior corporate officials, key representatives from national and international organizations, key officials from other Federal agencies such as heads of major field activities or commands, bureau-level heads or comparable personnel typical of Level 6-4. Therefore, this factor is credited at Level 6-3 (60 points).

Summary

In summary, we have credited the position as follows:

<i>Factors</i>	<i>Level</i>	<i>Points</i>
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 Specialist, GS-1102-12.