

OFFICE OF PERSONNEL MANAGEMENT
ATLANTA OVERSIGHT DIVISION
ATLANTA, GEORGIA

CLASSIFICATION APPEAL DECISION

Under section 5112(b) of title 5, United States Code

Appellant: [appellant's name]

Position: Construction Representative, GS-809-9

Organization: Construction Branch
Engineering Services and Planning Division
Directorate of Public Works
Department of the Army
[agency location]

Decision: Construction Representative, GS-809-10
(Appeal partially granted)

OPM decision number: C-0809-10-01

Signature/Date: Robert P. Gill 9/27/96
Classification Appeals Officer

Number: 080910 (Replaced 080909)

Background

On May 22, 1996, the Atlanta Oversight Division, Office of Personnel Management, accepted an appeal for the position of Construction Representative, GS-809-9, Construction Branch, Engineering Services and Planning Division, Directorate of Public Works, Department of the Army, large military post]. The appellant is requesting that his position be changed to Construction Representative, GS-809-11, or Quality Assurance Evaluator, GS-1910-11.

The appeal has been 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.

Sources of Information

This appeal decision is based on information from the following sources:

1. The appellant's letter received May 22, 1996, appealing the classification of his position.
2. The agency's letter of June 14, 1996, providing position and organizational information.
3. A telephone interview with [name], the appellant's supervisor, on September 4, 1996.
5. A telephone interview with the appellant on September 4, 1996.

Position Information

The appellant is assigned to Position Number 95262. The appellant, supervisor, and agency have certified to the accuracy of the position description.

The appellant provides construction project management and quality assurance inspection for construction projects covering all engineering disciplines and construction work ranging from simple to unusually difficult and complex. The facilities under modification or construction include multi-story office buildings, satellite medical clinics, main hospital facilities, dining facilities, barracks complexes, main utility plants and other buildings with sophisticated mechanical and electrical systems and associated utility distribution systems located at [large military post] and [name] Army Airfield.

The appellant performs the full range of assigned project management and surveillance functions and supports and assists with negotiations of field changes and contract modifications and delivery orders. Contracts range from firm fixed-price to the more complex fixed-price specialized contracts, with such provisions as price redetermination, indefinite delivery and quantities, progress payments, quantity options, government-

furnished property or similar provisions, and occasional cost-reimbursement contracts. He serves as the primary point of contact with the contractor to interpret contractual obligations and to resolve engineering specification problems.

The appellant serves as construction representative for Energy Program Project contracts requiring special computerized system experience and knowledge necessary to perform diagnostics, evaluation, and computation of systems readings, temperatures, set points, and various functions for analysis of energy savings.

The appellant receives direction from the Construction Inspection Branch Chief who provides broad instructions as to the objectives of the work to be accomplished. The appellant independently plans and carries out his day-to-day activities. Completed work, written reports, and recommendations are reviewed for conformance with policy, soundness of judgment, and effectiveness in meeting requirements.

The appellant is currently responsible for performing troubleshooting, as well as maintaining and operating the base hospital Utility Control System (UCS), a computer driven energy control and monitoring system, because he is the only person trained to operate this system. These duties, however, are not a permanent part of the appellant's position. The operation and maintenance of the system will be assumed by a contractor in the near future. Duties performed on a temporary basis or in the absence of another employee are not considered in determining the grade level of a position.

The appellant believes that classification standards used to evaluate his position do not adequately address the advances in automation that are now an integral part of his work. Automation may change the way in which work is performed; however, typically the basic work processes and paramount subject matter knowledge, skills, and abilities remain substantially unchanged. The kinds of automation involved and the skills required to use them generally replace or supplement work methods and techniques previously performed through manual or machine enhanced processes. Generally, neither the purpose of the work nor the products expected of the employee change due to the availability of a computer. Even though criteria in a particular standard may not specifically address the current role automation plays in a position, the guidance in the standard is still pertinent to evaluating the factors/elements of that position. Using sound classification judgment, the purpose of the work and the qualifications required to perform the duties can be identified to determine the impact of computers on an individual occupation.

The appellant contends that other construction representatives working on the UCS contracts with him are graded at GS-11, and he should be classified at the same level. The Office of Personnel Management (OPM) is required by law to classify positions on the basis of their current duties, responsibilities, and qualification requirements, and by the application of standards published by OPM. Since comparison to standards, not to other positions, is the exclusive method for classifying positions, we may not consider the classification of

other positions as a basis for deciding an appeal. However, to ensure classification consistency, the agency is required to apply the rationale of this decision to identical and similar positions under its administrative control.

Standards Referenced

Construction Control Series, GS-809, February 1969.
Civil Engineering Series, GS-810, December 1964.
Quality Assurance Series, GS-1910, March 1983.

Series and Title Determination

The appellant believes his title and series should be either Construction Representative, GS-809, or Quality Assurance Evaluator, GS-1910.

The Quality Assurance Series, GS-1910, covers positions involved in planning, developing, or administering quality assurance programs supporting the development, acquisition, production, use, maintenance, storage, and supply of products required by Federal agencies. Such positions are primarily concerned with the systematic prevention of defects and nonconformances, the identification of unsatisfactory trends and conditions, and the correction of factors which may contribute to defective items. The GS-1910 standard states that positions which apply a practical knowledge of engineering methods and techniques; knowledge of construction practices, methods, techniques, costs, materials, and equipment; and the ability to read and interpret engineering and architectural plans and specifications to the onsite inspection of construction or the monitoring and control of construction operations are specifically excluded from coverage in the Quality Assurance Series and are classified in the Construction Control Series, GS-809.

The Construction Control Series includes positions which involve onsite inspection of construction or the monitoring and control of construction operations. Positions in this occupation require application of (a) practical knowledge of engineering methods and techniques; (b) knowledge of construction practices, methods, techniques, costs, materials, and equipment; and (c) ability to read and interpret engineering and architectural plans and specifications. Construction inspector positions deal primarily with the detailed, continuous, and searching review of materials, work methods, and workmanship to assure that each part of the structure is built in accordance with plans and specifications. Construction representative positions assure adequate inspection and also control or monitor the construction operations.

The appellant's position provides construction project management and quality assurance inspection for construction projects dealing with sophisticated mechanical and electrical systems for a variety of facilities. These duties are properly covered by the GS-809 series. *Construction Representative* is the title given to positions that involve monitoring and control of construction operations.

The appropriate title and series for this position is Construction Representative, GS-809.

Grade Determination

The GS-809 classification standard instructs that the grade-level criteria contained in the classification standard for the Civil Engineering Series, GS-810, Part III - Construction, are to be used in classifying nonsupervisory construction representative positions. Grade-evaluation criteria are presented under two evaluation elements: (1) level and kind of authority exercised and (2) scope and complexity of construction operations. The point values indicated for the degrees or levels under these elements are to be converted to a grade in accordance with the grade-level conversion table in the standard.

Element 1. Level and kind of authority exercised

This element is concerned with the kinds of functions performed and the relative independence and authority with which the functions are conducted. Element 1 has a range of 5 degrees depicting common levels of authority in construction project organizations. The standard defines Degrees A, C, and E and provides for the assignment of Degrees B and D when a position falls between the defined degrees.

At Degree A, the employee performs one or more of the “field” or “office” functions described below, with respect to such assignments as (1) supervision of inspection of construction operations on a shift, or (2) surveillance over limited, specialized phases of construction operations, or (3) negotiation and preparation of all contract change orders and modifications. The addition of one or more functions of the same kind (“field” or “office”) does not affect assignment to Degree A. There is normally at least one intermediate level of supervision (and sometimes more) between positions evaluated at Degree A and the position of the engineer in charge of construction on a project or in a geographic area. Employees in Degree A generally have authority to recommend only, and take no significant final actions without review or consultation. The supervisor is consulted and gives guidance on controversial issues that arise in dealing with contractors, or on actions that require changes in contract terms, agency technical standards or policies, and the like.

Field engineering includes such duties as supervising conduct of detailed site surveys; developing or reviewing specifications for clearing of land and for building of roads and utilities, testing facilities, maintenance and storage facilities; negotiating for easements and rights of way; supervising inspection of construction operations for compliance with specifications; conferring with contractor representatives to resolve differences of opinion; and investigating the need for and preparing data for change orders.

Office engineering includes such duties as investigating and evaluating capability, methods of operation, and equipment of the low bidder on construction contracts; investigating the need for and preparing data for change orders; investigating and reporting on situations in

controversy with the contractor; reviewing the contractor's cost breakdowns, progress measurement data, reports on material and equipment used, and field inspection and survey reports; and recording changes and modifications to drawings.

Degree A is exceeded. The appellant provides construction management and quality assurance inspection for construction projects of unusual difficulty and complexity dealing with sophisticated mechanical and electrical systems for post facilities and associated utility distribution systems. He visits work sites to evaluate the contractor's compliance with applicable specifications; provides direction regarding differing site conditions, design failures and omissions; evaluates itemized progress reports; monitors fund status and recommends procurement or deobligation of funds; monitors and resolves delivery performance schedules; reads and interprets electrical and mechanical schematic drawings as well as contract specifications dealing with industrial type systems having numerous control systems, and conducts pre-bid project scoping. These duties are like those described in Degree A. However, in addition to these duties, the appellant serves as the construction representative for Energy Program Project contracts responsible for the full range of post award functions for systems upgrades and complex construction contracts, as well as coordination of design processes regarding future work. He serves as the point of contact with the contractor to resolve specification problems; makes adjustment determinations for site specific conditions; performs diagnostics, evaluation, and computation of systems readings, temperatures, set points, and various functions for energy saving analysis; and meets directly with headquarters personnel, District engineering personnel, and the Contracting Officer to analyze cost data to establish fair and reasonable negotiation objectives based on personal knowledge of contract requirements, contractor's operations, and technical evaluation of data.

According to the appellant's supervisor, the appellant is directly involved in revisions and can negotiate some points of a contract directly with the contractor. He actively participates in negotiations of settlements for changes; evaluates and recommends approval or disapproval for contract payments; evaluates and recommends assessment of damages; and provides technical support for processing disputes. The appellant's duties exceed those described in Degree A.

At Degree C, the employee is responsible for one of the major portions of construction activity on a project or in a geographical area. A "major portion" would be such work as the entire "field" or "office" engineering phase of construction activities. An employee whose job falls at this degree normally reports directly to the engineer in charge of construction either on a project or in a geographic area. The engineer in charge exercises control mainly by establishing the organizational framework and overall contractual requirements and interpretations under which work is to be accomplished. The employee's position at Degree C typically involves performance or supervision of substantially the full range of either the "field" or "office" engineering functions associated with construction operations.

The employee responsible for “field” functions has authority to: establish detailed inspection requirements, schedules and control methods; interpret contract specifications pertaining to his phase of construction and determine whether construction meets contract requirements and initiate action to withhold payment as necessary; and recommend changes in designs, specifications and schedules to accommodate conditions at the construction site.

The employee responsible for “office” functions has authority to: determine adequacy and validity of contractor’s measurement data, and amount of periodic payments due contractor; determine whether construction is progressing in accordance with contract schedule requirements and prepare technical reports setting forth progress status and action needed to correct deficiencies; and prepare contract change orders and negotiate cost of minor changes.

Degree C is not met. The appellant does not have the level of responsibility or authority described in Degree C. He is not responsible for the entire “field” or “office” engineering phase of construction activities. Final authority to establish requirements, determine whether construction is progressing in accordance with the contract, and direct the contractor to take specific actions rests at a level above the appellant’s. Degree C is not met and cannot be credited.

The appellant’s position exceeds Degree A (20 points) but does not meet Degree C (40 points); therefore, Degree B is credited for 30 points.

Element 2. Scope and complexity of construction operations

Element 2 has a range of seven levels. The definitions of levels under this element encompass a number of considerations including size of projects; diversity of structures or facilities; installation of technical or specialized facilities; problems posed by the construction site; and presence of controversy or obstructive attitudes. Assignments considered in evaluating this element should cover a time period sufficient to provide a representative sampling of the level of work performed.

At Level 3, projects include several kinds of structures and facilities, construction of which would normally require 2 or 3 years to complete; however, under accelerated scheduling, work might be completed within a year. Structures contain some “custom-built” features or specialized equipment, requiring specially adapted construction methods and equipment. Some projects require close planning and coordination of construction schedules to accommodate concurrent operation and modification of connected or related facilities and systems. Operations in an area cover several kinds of facilities, some of which require extensive treatment to correct site and foundation problems, or present problems in satisfying special “user” requirements with respect to layout and installation of systems and facilities, and finishing operations.

Level 3 is met. The appellant manages several short term projects in addition to his primary projects which include: the conversion of base hospital utility systems to UCS which includes 30 systems and took approximately 5 years to complete; and the Energy Program Project which is a multi-facility project involving the conversion of numerous utility systems to a computer controlled and monitored system which links them together. It is expected that the Energy Program Project will be continuing for a number of years (approximately 9), however, this is not new construction but rather the modifying and upgrading of the systems in different facilities, many of which are basically the same. Some, such as the medical facilities, have special “user” requirements and may necessitate some custom features.

At Level 5, projects are characterized by (a) a variety of kinds of facilities and structural components, requiring about 4 years to construct; construction is likely to involve new and specialized equipment, materials and methods, and to present considerable site layout and foundation preparation problems; (b) a highly specialized facility requiring about 2 years to construct, involving extensive special-purpose technical equipment installation, and structural features requiring specially adapted construction methods and quality control techniques; or (c) a series of two or three main types of structures of facilities that require about 5 years to complete construction; such an operation is subject to considerable variation in terrain, soil, and climatic conditions, and requires dealing and coordinating with a number of contractors, different local government jurisdictions, business and civic groups, and landowners. Construction operations in an area include a variety of types of facilities, with considerable variations in climate and soil conditions. Such construction presents problems of adapting materials, construction methods and schedules to the different conditions.

Level 5 is not met. Although the overall UCS project and the Energy Program Project are long-term projects, they do not involve new construction which takes several years to complete. They involve a series of modifications and updating projects that individually take much less time to complete. While the computerized technology is specialized and new to the facilities at [large military post], the technology has, in fact, been in use in other locations for a number of years. Methods have been developed to adapt the existing equipment to accommodate the computerized system. The facilities involved in the appellant’s projects do not necessitate the specially adapted construction methods and quality control techniques required by construction projects at this level, such as would be found, for example, in a facility for studying and testing the structural behavior of materials and equipment under impact, pressure, and shocks of great magnitude where unique structural designs and materials are required. Additionally, the appellant’s projects are limited to [large military post name] and [name] Army Airfield and do not require him to coordinate and deal with different jurisdictions, landowners, and business and civic groups.

Level 3 is credited for 30 points.

Summary

ELEMENT	DEGREE/LEVEL	POINTS
Element 1. Level and kind of authority exercised	Degree B	30
Element 2. Scope and complexity of construction operations	Level 3	30
	TOTAL	60

A total of 60 points falls between the range for GS-9, 50 - 55 points, and the range for GS-11, 65-70 points, according to the Grade-Level Conversion Table in Part III of the GS-810 standard. The GS-809 standard states that ...”*positions of technicians who work with less freedom and more supervision than professional engineers performing in similar situations may be properly classified in GS-8 or GS-10. While the construction engineer standard does not provide for the use of GS-10, it does include a gap between grades GS-9 and GS-11. Construction representative positions that fall in that intermediate range should, of course, be classified to GS-10.*”

Decision

This position is properly classified as Construction Representative, GS-809-10. This decision constitutes a classification certificate issued under the authority of section 5112(b) of title 5, United States Code. This certificate is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government.