

120 Howard Street, Room 760
San Francisco, CA 94105



**Classification Appeal Decision
Under Section 5112 of Title 5, U.S. Code**

Appellant:	[Appellant]
Position:	Forester GS-460-11
Organization:	Department of Agriculture [installation] [installation city and state]
Decision:	Forester GS-460-11
OPM decision number:	C- 0460-11-01

Signed by Denis J. Whitebook

DENIS J. WHITEBOOK
CLASSIFICATION APPEALS OFFICER

March 31, 1997

DATE

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision 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).

Introduction

On October 29, 1996, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) received a classification appeal from [appellant]. His position is currently classified as Forester GS-460-11. However, he believes his position should be graded at GS-12. He works in the [activity], U.S. Department of Agriculture, [city and state]. We have accepted and decided his appeal under 5 U.S. Code 5112.

Position Information

The appellant is the contracting officer for all timber sales on the [installation]. The volume of work is such that the appellant is required to technically direct, but not fully supervise, approximately 25 employees (contracting officer representatives, sale administrators, engineering representatives, and harvest and engineering inspectors) who perform work related to timber sales on the forest districts. The appellant performs the full range of contracting officer duties including pre-award, award, administration, termination, and contract dispute resolution. The appellant applies his knowledge as a professional forester to assure that timber sales support forest management goals. The appellant's PD and other material of record furnish much more information about his duties and responsibilities and how they are performed.

Series, Title, and Standard

The appellant is contracting officer for all timber sales on the [activity]. The work requires a professional knowledge of forestry science in order to assure that timber sales support forest management goals. We find that the appellant's position is best covered by the Forestry Series, GS-460. The appellant's position is nonsupervisory and so is properly titled Forester. The appellant's work is best evaluated by means of Part I of the standard for the Forestry Series, GS-460. Neither the agency nor the appellant disagrees with our findings for series, title, and appropriate standard.

Grade Determination

Part I of the GS-460 standard uses the Factor Evaluation System (FES), which employs nine factors. Under the FES, each factor level description in a standard describes the minimum characteristics needed to receive credit for the described level. Therefore, if a position fails to meet the criteria in a factor level description in any significant aspect, it must be credited at a lower level. Conversely,

the position may exceed those criteria in some aspects and still not be credited at a higher level. Because the factor level descriptions of the standard describe *minimum* criteria, positions assigned a certain factor level always meet or exceed the standard's criteria. Thus, it is expected that the appellant's actual duties and responsibilities will often exceed the criteria for the awarded level. The critical issue is whether the appellant's duties and responsibilities fully meet the criteria for the next higher level.

Neither the appellant nor his agency disagrees with our evaluation of factors 1, 2, 4, 6, 7, 8, and 9. We therefore discuss those factors briefly, while discussing factors 3 and 5 more thoroughly. Our evaluation with respect to the nine factors follows.

Factor 1, Knowledge Required by the Position -- Level 1-7 -- 1250 points

The appellant's work as contracting officer for all timber sales on the [activity] and his role as advisor and assistant to management on the contracting program, requires a professional knowledge of forestry science applicable to a wide range of duties in a subject matter program as described at Level 1-7. As is typical of Level 1-7, the appellant must solve problems covering diverse forestry situations and assignments. He must modify or adapt standard forestry techniques to overcome significant problems. He must have a thorough understanding of Forest Service policies. He must have well developed administrative and coordinative skills.

This factor is evaluated at Level 1-7 and 1250 points are credited.

Factor 2, Supervisory Controls -- Level 2-4 -- 450 points

As expected at Level 2-4, the appellant's supervisor sets the overall objectives and resources available. The appellant independently plans and carries out his assignment within the framework of applicable regulations and goals of the organization. Completed work is reviewed in terms of overall effectiveness and compatibility with other activities. Level 2-4 criteria are met.

This factor is evaluated at Level 2-4 and 450 points are credited.

Factor 3, Guidelines -- Level 3-3 -- 275 points

This factor covers the nature of guidelines and the judgement necessary to apply them. The agency has awarded Level 3-3. The appellant believes Level 3-4 is correct.

The appellant meets and in one aspect exceeds the criteria of Level 3-3. For example, as is typical of Level 3-3 the appellant has available a large number and wide range of regulations, instructions, and guidance that govern the timber contracting process. Guidelines include the Code of Federal Regulations, court decisions, Board of Contract Appeals decisions, Comptroller General decisions, the Forest Service Manual, the Timber Sale Administration Handbook, the Automated Timber Sale Accounting Handbook, and the Service-wide Finance and Accounting Handbook. These guidelines

provide a complete administrative framework within which timber sales operate. However, these guidelines do not cover all situations, or envision every eventuality. As is typical of Level 3-3, the appellant must select, adapt, interpret, or generalize from these guidelines to solve the more complex problems he encounters. As is typical of Level 3-3, the appellant often departs from standardized procedures in order to complete his assignments. Finally, the appellant is responsible for determining when to seek additional guidance. Such guidance is available from legal counsel, or from subject matter experts on and off the forest. The appellant exceeds Level 3-3 criteria in that his decisions on complex issues do not set “tentative” direction for completion. The appellant’s position as contracting officer gives him full and final technical authority over timber contracting matters. His findings are definitive rather than tentative.

At Level 3-4 guidelines are often inadequate to deal with the more complex or unusual problems. Guidelines may point to conflicting decisions; recent court decisions may appear to require a technical decision at variance with existing guides; there may be relatively few precedents pertinent to the specific problem; or proven methods of treating the problem are lacking or incomplete. In addition, at Level 3-4 the forester is required to deviate from, or extend traditional forestry methods and practices, or to develop essentially new or vastly modified techniques and methods for obtaining effective results. The appellant’s position does not fully meet these Level 3-4 criteria. First, we recognize that the work is complex and controversial often having significant economic effects on the businesses that purchase timber from the forest. However, much of the appellant’s work is covered by detailed guidelines. For example, detailed guidelines exist for announcing contracting opportunities, receiving and opening bids, evaluating bids, and making awards. The most difficult aspect of the appellant’s work is adjudicating contract compliance disputes between the forest and timber purchasers. It would be difficult to establish precise and specific guidelines for settling disputes because each turns on its own unique circumstances. So the appellant is correct when he states that there are no guidelines that apply directly to the specifics of any particular dispute. However, to say that the appellant lacks guidance altogether is incorrect. The overarching issues of forest logging are well established and precedented, but contract execution often generates troublesome operational difficulties which must be resolved within the specific context of the situation on the ground. Review of the claim decisions submitted by the appellant shows that each is based on the pertinent contract provisions and specifications. The contract itself forms a detailed guideline used in the adjudication of disputes resulting from its application. The contract as a guideline is not “inadequate” but rather incomplete and so requires adaptation and interpretation by the appellant (as expected at Level 3-3). While every contract is unique in its specifics, similar situations are common. A completely new type of issue is rare. The appellant may select from a number of proven methods to deal with contract disputes. For example, he may impose penalties, modify the contract, or extend the contract provisions. Finally, we find no evidence that the appellant’s contracting work deviates from traditional practices or often represents new or vastly modified techniques and methods. The contracting methods and practices applied by the appellant are standard.

In summary, we find that in the area of contract dispute the contract itself, along with the regulations and instructions that stand behind each contract, form a guideline that while less than comprehensive, is adequate. Precedents and proven methods are available to resolve most contract disputes. Also,

the contracting methods applied are standard. The criteria of Level 3-4 are not met. When a position exceeds the criteria for one level, but does not fully meet the criteria of the next higher level, the lower level must be awarded.

This factor is evaluated at Level 3-3 and 275 points are credited.

Factor 4, Complexity -- Level 4-4 -- 225 points

As is typical of Level 4-4, the appellant's work covers a wide variety of assignments consisting of complex technical and administrative problems. The assignments typically require in-depth analysis and evaluation of alternatives. The work requires the appellant to relate new situations to precedent situations, extend or modify existing techniques, and develop compromises with standard practice.

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

Factor 5, Scope and Effect -- Level 5-3 -- 150 points

This factor covers the relationship between the nature of the work and the effect of the work products. The agency has evaluated this factor at Level 5-3. The appellant believes that Level 5-4 is correct.

As is typical of Level 5-3, the appellant's work as contracting officer for timber sales on the [activity] involves the analysis of a variety of conventional contracting problems. Also as is typical of Level 5-3, the appellant's work affects the efficient development, protection, and use of the forest's timber resource, the public's impression of the adequacy of timber management on the forest, and the economic welfare of the surrounding communities who depend on timber sales for a significant portion of their income. Level 5-3 is met.

Level 5-4 criteria are not met. Four elements are present at Level 5-4. First, at Level 5-4 the specialist develops essentially new or vastly improved techniques or solutions to specific problems. The appellant applies well known and precedented methods to resolve contracting problems. The work is complex and requires good judgement and tact to combine established methods into satisfactory solutions that address the unique problems of each case. However, the record contains no evidence that the appellant develops essentially new or vastly improved techniques to complete his assignments. The first criterion is not met.

Second, at Level 5-4 specialists furnish advisory, planning, or review services on specific problems, programs, or functions. The appellant does furnish advisory, planning, and review services to top forest management. The second criterion is met.

Third, at Level 5-4 specialists are typically concerned with problems which occur at a number of locations within a broad geographic area, or affect the continued existence of a resource unique to a geographical area. The term "broad geographic area" is not precisely defined in the standard.

However, we have consulted each of the standard's GS-12 benchmarks that award Level 5-4. Benchmarks GS-460-12-01, GS-460-12-02, and GS-460-12-03 all apply to positions in a "second level unit." Benchmark GS-460-12-04 applies to a position with responsibility for "one or more states." Benchmark GS-460-12-05 applies to a position with responsibility for "serving a state." We conclude that "broad geographic area," as this term is used in the standard, means a second level unit or responsibility for at least a state. The appellant's position is located in a first level unit as this term is defined on page 15 of the standard. As is typical of a first level unit, the appellant is directly responsible for program execution and deals with interested parties (i.e., timber purchasers and their representatives) through direct contact. That the appellant directs the work of employees in the districts while he is assigned to the forest supervisor's office does not mean he works in a second level unit. The distinction between first and second level units is not analogous to supervisory levels. Rather, the distinction is based on the nature of the work. The appellant is the timber sales contracting officer. His signature must appear on every contract issued by the forest. While supporting work is carried out by employees in the districts, the appellant, as is typical of a first level unit, is directly responsible for program execution. Similarly, while employees in the districts have direct contact with timber purchasers, so does the appellant as evidenced by the decisions and correspondence signed by the appellant and included in the record. Direct contact with interested parties is typical of a first level unit. The appellant's work does not affect the continued existence of a resource unique to a geographical area. Finally, the appellant's area of geographic responsibility does not extend over an entire state. Thus, the third criterion is not met.

Fourth, at Level 5-4 the results of the work directly influence the effectiveness and acceptability of agency goals, programs or activities. The work of all employees ultimately influences the success an agency has in meeting its goals. However, with this criterion the standard envisions *direct* influence on the *agency's* goals. For example, an employee charged with working out new contracting guidance for timber sales throughout the Forest Service would meet the criterion. The appellant's work directly affects the timber sales program at the [activity]. The appellant's work does not directly affect Forest Service goals, programs or activities. The fourth criterion is not met.

The appellant's position meets one of the four Level 5-4 criteria. Therefore, Level 5-4 is not fully met. This factor is evaluated at Level 5-3 and 150 points are awarded.

Factor 6, Personal Contacts -- Level 6-3 -- 60 points

The appellant has regular contact with professional subject matter specialists in forestry and related disciplines both within the Forest Service and in other Federal and State agencies. The appellant also has significant contact with timber purchasers and their attorneys, logging personnel, and the general public. These contacts are equivalent to those described by the standard at Level 6-3.

This factor is evaluated at Level 6-3 and 60 points are awarded.

Factor 7, Purpose of Contacts -- Level 7-3 -- 120 points

As is typical of Level 7-3, the purpose of the appellant's contacts is to negotiate controversial issues with various parties in a way that will obtain agency objectives.

This factor is evaluated at Level 7-3 and 120 points are awarded.

Factor 8, Physical Demands -- Level 8-2 -- 20 points

As is typical of Level 8-2, the appellant's work requires regular and recurring work in a forest area where there is considerable walking, bending, or climbing, often over rough terrain.

This factor is evaluated at Level 8-2 and awarded 20 points.

Factor 9, Work Environment -- Level 9-2 -- 20 points

As is typical of Level 9-2, the appellant is exposed to moderate risks and discomforts such as adverse weather and a range of hazards inherent in the logging operation that often require the use of protective equipment.

This factor is evaluated at Level 9-2 and awarded 20 points.

Summary

We have evaluated the appellant's position as follows:

Factor	Level	Points
1. Knowledge Required by the Position	1-7	1250
2. Supervisory Controls	2-4	450
3. Guidelines	3-3	275
4. Complexity	4-4	225
5. Scope and Effect	5-3	150
6. Personal Contacts	6-3	60
7. Purpose of Contacts	7-3	120
8. Physical Demands	8-2	20
9. Work Environment	9-2	<u>20</u>
Total points:		2570

The appellant's position warrants 2570 total points. Therefore, in accordance with the grade conversion table on page 19 of the standard, his position is properly graded at GS-11.

Decision

The appellant's position is properly classified as Forester GS-460-11.