

**U.S. Office of Personnel Management
Classification Appeal Decision
Under section 5112 of title 5, United States Code**

Appellant: [Appellant]

Agency classification: Soil Conservationist
GS-457-11

Organization: [Organization]
[County] Conservation District
[Location] State Conservationist FOA 3
Natural Resources Conservation Service
U.S. Department of Agriculture
[Location]

OPM decision: Soil Conservationist
GS-457-11

OPM decision number: C-0457-11-04

//Judith A. Davis for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Merit System Audit and Compliance

12/14/2011

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), this decision constitutes a certificate which 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 (Introduction)*, appendix 4, Section G (address provided in appendix 4, section H).

As discussed in this decision, the appellant's position description (PD) is not adequate for purposes of classification since it does not accurately describe Factor 7. Since PDs must meet the standards of adequacy in the *Introduction*, the appellant's agency must revise his PD to meet the standard. The servicing human resources office must submit a compliance report containing the corrected PD. The report must be submitted to the U.S. Office of Personnel Management (OPM) office which adjudicated the appeal within 45 days of the date of this decision.

Decision sent to:

[Appellant]
[Address]
[Location]

[Name]
HR Manager (POC)
USDA, NRCS Service Center
[Address]
[Location]
[email]

Name
Classification Appeals Examiner
Human Resources Policy Division
[Address].
Washington, DC 20250

Director,
Human Resources Management Division
USDA, NRCS
14th and Independence Avenue, SW, Room 6203-S
Washington, DC 20250-1600

Introduction

On April 4, 2011, Chicago Oversight of the U.S. Office of Personnel Management (OPM) accepted a position classification appeal from [appellant]. His position is currently classified as Soil Conservationist, GS-457-11, but he believes his duties and responsibilities warrant upgrading to the GS-12 level. The appellant works as the District Conservationist at the [Location] Service Center, [Location] County Conservation District, [Location] State Conservationist Staff, Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA), in [City, State]. We received the agency administrative report on April 29, 2011, and final comments from the appellant on July 18, 2011. We accepted and decided this appeal under section 5112(b) of title 5, United States Code (U.S.C.).

Background

The appellant submitted this appeal based on the standard position description (SPD) of record (number #####). After accepting the appeal, we requested a copy of the official PD from the appellant's servicing human resources office as part of the appeal administrative report. The NRCS [Location] Human Resources Officer (HRO) provided a proposed PD for the appellant that reflects a change to Level C for Factor 7, Purpose of contacts. It was certified as current and accurate by the appellant with a statement of differences. However, no new position number has been assigned and the appellant has not been officially reassigned to the revised PD. His official PD remains as the generic SPD classified by the NRCS central office. Both the appellant and his supervisor have certified to the accuracy of the appellant's official PD (number #####), with a separate statement of differences from each. The appellant suggests changing the SPD to reflect that he "manages a variety of programs" rather than just "develops programs." The supervisor added language emphasizing "the complex land-use and topography in [location] County".

General issues

The appellant compares his duties to similar but higher graded positions in his agency consequently believing his position should be upgraded. In adjudicating this appeal, our responsibility is to make our own independent decision on the proper classification of his position. By law, we must make that decision solely by comparing the appellant's current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to OPM standards and guidelines is the exclusive method for classifying positions, we cannot compare the appellant's current duties to other positions which may or may not be classified properly as a basis for deciding his appeal.

Like OPM, the appellant's agency must classify positions based on comparison to OPM standards and guidelines. However, the agency also has primary responsibility for ensuring that its positions are classified consistently with OPM appeal decisions. If the appellant considers his position so similar to others that they all warrant the same classification, he may pursue the matter by writing to his agency's human resources headquarters. In doing so, he should specify the precise organizational location, classification, duties, and responsibilities of the positions in question. If the positions are found to be basically the same as his, the agency must correct their

classification to be consistent with this appeal decision. Otherwise, the agency should explain to him the differences between his position and the others.

The appellant mentions his position requires significantly more work than when he began with his agency. However, volume of work cannot be considered in determining the grade of a position (*The Classifier's Handbook*, Chapter 5).

Position information

The appellant reports directly to the Assistant [State] State Conservationist for Field Operations Area (FOA) 3, and serves as the District Conservationist (DC) for [Name] County, [State], managing a variety of conservation programs. NRCS, a component of USDA, carries out various major USDA conservation programs, including: conservation technical assistance through its voluntary Conservation Technical Assistance Program (CTA), the Conservation Security Program (CSP), the Environmental Quality Incentives Program (EQIP), the Livestock Assistance Program (LAP), the Conservation Stewardship Program (CStP), the Wildlife Habitat Incentive Program (WHIP), the Grassland Reserve Program (GRP), and the Conservation Reserve Program (CRP), managed by the USDA Farm Service Agency (FSA).

The appellant leads a team which provides technical assistance to landowners, farmers, farming groups, and various government agencies. His primary responsibility is to represent the NRCS in [Name] County working with technical service providers in the development, application, and maintenance of soil and water conservation plans to implement various USDA Farm Bill programs under the Food Security Act of 2008, as amended. The major purpose of his position is to assist the [Name] Soil and Water Conservation District (SWCD) in developing work plans, providing technical guidance to achieve an integrated system of sound land-use and conservation treatment in harmony with the capability and needs of the land and land owner. He collects data necessary for the further development of technical guides and promotes a coordinated approach to the identification and solution of the modification of practices and procedures, when necessary. The appellant maintains an information program to keep the community informed of the changing needs and progress in soil conservation. He assists landowners in applying for participation and funding in the various programs. He works with the FSA and Rural Development components of USDA in administering their programs, and coordinates activities with the Army Corps of Engineers (ACE) and the [State] Department of Natural Resources ([state]DNR), as needed.

The appellant spends about 15 percent of his time administratively and technically supervising a Soil Conservationist, GS-457-9, and Soil Conservationist Technician, GS-458-6. He also handles liaison duties for assigning work to two other office staff consisting of a state technician, and a state secretary.

In reaching our classification decision, we have carefully reviewed all information provided by the appellant and his agency, including his official PD which we find sufficient for classification purposes, other than for Factor 7, and incorporate by reference into this decision. In addition, to help decide the appeal we conducted separate telephone interviews with the appellant and his immediate supervisor.

Series, title, and standard determination

The agency has classified the appellant's position in the Soil Conservation Series, GS-457, titling it Soil Conservationist, and the appellant does not disagree. We concur with the agency's selection of title and series. Positions in the GS-457 series are graded by application of Part II of the Job Family Standard (JFS) for Professional Work in the Natural Resources Management and Biological Sciences Group, 0400. Our application of the grading criteria in the 0400 JFS to the appellant's position follows.

As previously discussed, the appellant provides technical and administrative supervision to two employees. However, since only duties that occupy at least 25 percent of an employee's time can affect the grade of a position (*Introduction*, section III.J), that function the position does not meet the coverage requirements for supervisory titling and application of the grading criteria in the General Schedule Supervisory Guide (GSSG). Therefore, we will not evaluate the appellant's supervisory duties in this decision.

Grade determination

Part II of the 0400 JFS is written in the Factor Evaluation System (FES) format. Under the FES, positions are evaluated by comparing the duties, responsibilities, and qualifications required with nine factors common to non-supervisory positions. A point value is assigned to each factor in accordance with the factor level descriptions. For each factor, the full intent of the level must be met to credit the points for that 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 unless the deficiency is balanced by an equally important aspect that meets a higher level. Conversely, the position may exceed those criteria in some aspects and still not be credited at a higher level. The total points assigned for the nine factors are converted to a grade by reference to the grade conversion table in the JFS.

The agency credited the position with Levels 1-7, 2-4, 3-3, 4-4, 5-3, 6-3, 7-B, 8-2, and 9-2. The appellant agrees with the factor levels assigned by the agency for Factors 1, 2, 4, 6, 8, and 9, but believes the position should be credited with Levels 3-4, 5-4 and 7-C. After a careful analysis of the record, we concur with the factor levels assigned by the agency for the six factors not in question, and therefore have addressed below only the three factors in dispute.

Factor 3, Guidelines

This factor covers the nature of guidelines and the judgment employees need to apply them. The availability of specific, applicable guidelines may vary with individual assignments; thus, the judgment employees use similarly varies with the assignment. The existence of detailed plans and other instructions may make innovation in planning and conducting work unnecessary or undesirable. However, in the absence of guidance provided by prior agency experience with the task at hand or when objectives are broadly stated, the employee may use considerable judgment in developing an approach or planning the work.

At Level 3-3, the employee uses a wide variety of reference materials and manuals; however, they are not always directly applicable to the work or have gaps in specificity, but available precedents outline existing approaches to more general problems or issues. The employee uses judgment in selecting, interpreting, and applying available guidelines for adaptation to specific problems or issues.

At Level 3-4, the employee uses guidelines and precedents that are very general regarding agency policy statements and objectives. Guidelines specific to assignments are often scarce, not applicable, or have gaps in specificity that require considerable interpretation and/or adaptation for application to issues and problems. The employee uses judgment, initiative, and resourcefulness in deviating from established methods to: deal with specific issues or problems; research trends and patterns; propose new policies and practices; develop new methods and criteria; and/or modify, adapt, and/or refine broader guidelines to resolve specific complex and/or intricate issues and problems.

The appellant believes his work meets Level 3-4 and states he is often expected to address resource management concerns in the [Name] County area without guidance. He says he must also frequently deal with contested and difficult questions and situations where precedent material does not exist. For example, the agency regularly announces new farming initiatives and schedules sign-up dates before proper guidance or implementing regulations are issued. He says at sign ups, he must rely on his years of experience concerning the needs of the community in devising or explaining how each new initiative will work. For example, during the 2010 EQIP sign-up for two initiatives, one for organic farmers, and the other of the community supported agriculture (CSA) cropland producers, he says he was required to fit both proposals into NRCS program requirements and practice specifications, and because he fully understood the difference in farmers' objectives, he was able to set contracts for both sides; organic and CSA producers. However, we find this does not exceed Level 3-3, as the judgment used in handling this situation, and in filling in the gaps of specificity, is comparable to that described at Level 3-3.

The appellant says he experienced the same type of problem last year in applying NRCS policies under the Emergency Watershed Protection Program (EWPP), which NRCS operates with states and local agencies to carry out works of improvement for soil conservation and for other purposes including flood prevention; conservation, development, utilization and disposal of water; and conservation and proper utilization of land. NRCS uses watershed prioritization to determine specific areas eligible for accepting CSP applications. The appellant believes this meets Level 3-4, because during this process to prioritize problems, he was required to answer client questions based on past experience prior to receiving any guidance from the program office at his central office. However, this example also only supports Level 3-3 where the JFS describes how the employee is required to apply available guidelines for adaptation to specific problems or issues.

A third example provided by the appellant dealt with the CStP which requires expertise and experience in exercising professional judgment in using the Conservation Management Tool (CMT) to identify a need for a producer to implement a resource concern. This requires the producer to choose an enhancement or a practice activity that will help alleviate the resource concern. Since few guides are available to assist in developing such a conservation system that

will satisfy this need, the appellant must use his professional judgment in finding a precedent that can be adapted to resolve any problems in meeting the producers' needs. However, this example does not exceed Level 3-3, as the problem did not require him to deviate from accepted practice.

The appellant's work meets Level 3-3. He works within NRCS guidelines that include agency technical guides, supplemental specifications, environmental laws, and Federal program regulations. These must be adapted to specific land configurations affecting soil conservation, water quality, wetlands, trees and windbreaks, habitat, native species, and high tunnel and specialty organic farming, and pasture land, feedlots, and manure control, flood control and even energy issues, among others, as well as the needs of the customer serviced. As at Level 3-3, he uses judgment to choose, interpret, and adapt standard methods and implement procedures to meet state, county, and district requirements including rules governing the appropriate use of volunteers and partnership agency personnel in addressing community resource concerns.

The appellant's work does not meet Level 3-4. The appellant may sometimes deal with new issues such as the impact of population growth resulting in rapid change from rural to suburban land use, but the actual range of issues with which he deals does not require him to routinely deviate, refine, or extend traditional methods and practices or modify occupational methods, criteria, or policies. The conservation issues under his direct control can be resolved by applying well-established methods and techniques typical of the occupation. He also has access to information provided by the state land-grant schools, or from checking readily available agency precedents to resolve problems. Therefore, Level 3-4 is not met.

This factor is credited at Level 3-3 (275 points).

Factor 5, Scope and Effect

This factor covers the relationships between the nature of work (i.e., the purpose, breadth, and depth of the assignment), and the effect of work products or services both within and outside the organization. Effect measures whether the work output facilitates the work of others, provides timely services of a personal nature, or impacts the adequacy of research conclusions. The concept of scope alone does not provide sufficient information to properly understand and evaluate the impact of the position. The effect of the work completes the picture allowing consistent evaluations.

At Level 5-3, the scope of the work involves investigating, analyzing, or advising on a variety of conventional resource or refuge problems and environmental conditions in accordance with established criteria; identifying common problems involving plant and animal diseases, habitat conditions, or environmental impacts from recreational, commercial, and industrial operations; and ensuring the effective development and use of multiple-use resources areas at the local level; and/or performing the full range of routine tests, procedures, and activities; and resolving a variety of problems, questions, or conditions in accordance with established precedents. Work results affect agency credibility with internal and external customers; and adequacy, accuracy, and effectiveness of activities, such as field investigations, research studies, or laboratory services; and/or efficient utilization, development, protection, and management of natural

resources and socioeconomic well-being of lease and permit holders and other users of natural resources.

At Level 5-4, the scope of the work involves: investigating, analyzing, and evaluating problems and situations involving a wide variety of circumstances or unusual conditions; developing new or improved techniques, criteria, or alternatives to meet requirements involving specific natural resources, research problems, and issues, or agency clinical activities; and upgrading current capabilities involving natural resources or research activities; and/or assessing program effectiveness. Work results affect the: effectiveness and acceptability of agency goals, programs, and activities; continued existence of a resource or resource area in compliance with applicable legislation, regulation, and agency policy, and in the public interest; and/or agricultural, commercial, industrial, and recreational uses and conditions. It can also affect a wide range of scientific activities within the agency, if applicable, including the planning and direction of major investigatory or scientific projects.

The appellant believes the scope of his work now meets Level 5-4 due to the change in agency missions, as from prior to 1982 until the mid-1990s the agency focused strictly on soil erosion and crop management. Now, he oversees related programs for water quality, wetlands, trees and windbreaks, habitat, native species, and high tunnel and specialty organic farming, and pasture land, feedlots, and manure control, and even energy issues, among a multitude of others. He says he does not get credit for resolving the difficult issues and problems that now exist under these new initiatives. The appellant says his consulting work has expanded in a county with a majority rural area, but which has been complicated by the growing suburban interfaces with the city of [City, State], located in adjacent [Name] County. He says these changes require coordination of NCRS activities with a wider range of individual and groups and partner agencies.

Level 5-4 is not met. In fact, several examples of work submitted by the appellant intended to support the higher factor level actually illustrate the scope and effect of the work at Level 5-3. For example, NRCS administers the CSP under the Farm Security and Rural Investment Act of 2002 (FSRIA), which amended the Food Security Act of 1985. CSP is a voluntary conservation program that provides not only financial, but technical assistance, to promote the conservation and improvement of soil, water, air, energy, plant and animal life, and other conservation purposes. The appellant's support under CSP helps producers maintain conservation stewardship and implement additional conservation practices that provide added environmental enhancement, while creating powerful incentives for other producers to meet those same standards of conservation performance. However, this support is performed in accordance with established criteria as stated at Level 5-3.

In another example provided by the appellant, the [county] SWCD was concerned local landowners were not interested in using [state]DNR funds for controlled fish kills to improve in-stream fish habitat for warm water streams. This required cooperation with ACE. Through a series of local media news releases about the appellant's efforts, several landowners became interested in attempting these wildlife habitat changes. Although some of the sites involved unfamiliar practices, the appellant was able to refer to other state offices for information applicable for designing appropriate practices and selecting suitable sites locally thus ensuring

the effective development and use of multiple-use resources areas at the local level as described at Level 5-3.

The appellant's work meets Level 5-3. The appellant works as a consultant with local producers to protect the natural resources. Producers frequently ask for assistance in utilizing new farming practices, such as raising specialty crops. This usually requires him to adapt the new practices to local conditions in accordance with established precedents, sometimes through trial and error, while still protecting the resource base. For example, early on terraces were the norm; now no-till is emphasized where appropriate, and in [State] it is used with 25 percent of the corn planted and 45 percent of the beans. This example is equivalent to the scope of the work described in the JFS at Level 5-3 where the extent of the work involves advising on a variety of conventional resource or refuge problems and/or environmental conditions in accordance with established criteria.

This factor is credited at Level 5-3 (150 points).

Factors 6 and 7, Personal Contacts and Purpose of Contacts

These two factors are interdependent. The same contacts selected for crediting Factor 6 must be used to evaluate Factor 7. Personal contacts include face-to-face and telephone contacts with persons not in the supervisory chain. The nature of the discourse defines the reason for the communication and the context or environment in which the communication takes place. The levels of these factors, i.e., the factor level descriptions (FLDs) described under each factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contact takes place. Once the appropriate level for personal contacts and the corresponding level for purpose of contacts are determined, the point value for these factors are obtained from the intersection of the two levels as shown on the point assignment chart contained in the JFS.

Factor 6, Personal Contacts

Personal contacts are with individuals or groups inside and outside the employing agency representing high levels of organizations internal and external to the Federal Government. The agency assigned Level 3 for this factor, and the appellant did not disagree. After a thorough review of the record, we concur. Therefore, our evaluation will focus on Factor 7.

Factor 7, Purpose of Contacts

Purpose of contacts is the reason for making and maintaining contacts. It reflects the level of difficulty in working with the people identified in Factor 6.

At Level B, the purpose of contacts is to plan, coordinate, or advise on work efforts, or to resolve issues or operating problems. Contacts involve influencing or persuading people who are working toward mutual goals and have cooperative attitudes. Contacts typically involve identifying options for resolving problems.

At Level C, the purpose of contacts is to influence and persuade persons or groups who may be skeptical or uncooperative. Employees must be experienced in approaching the individual or group to obtain the desired effect, such as gaining compliance with established policies or acceptance of established methods using persuasion or negotiation, or establishing rapport to gain information and acceptance.

At Level D, the purpose of contacts is to justify, defend, negotiate, or settle matters involving significant or controversial issues or programs.

The agency assigned Level B for this factor, but the appellant strongly disagrees because he says he frequently encounters resistance from uncooperative individuals, or opposition from groups with competing interests.

The appellant states he serves as the official representative of NRCS to about 27,000 people in [Name] County which includes farm operators, agricultural land owners, rural and urban residence owners, and local officials. He also notes that he works directly with district, county, and state employees and agencies, particularly with SWCDs and related organizations, to agree upon conservation goals and objectives. He says he must adapt to the needs of the community in devising or explaining how this new initiative will work. He says that he uses technical expertise and leadership skills to steer the decision-making process especially when working with individuals who are unconvinced, indecisive, or have dissimilar opinions. He says he participates in local work groups and quality assurance boards which adds to the complexity of dealing with sensitive issues and provides advice to clientele regarding a broad range of natural resource planning and application. As evidence, he referred to the [Name] SWCD conservation plan which called for the lowering of the phosphorus levels in [name] Lake to reverse the negative environmental effects which include hypoxia, the depletion of oxygen in the water, which induces reductions in specific fish and other animal populations. The appellant cites this water project as a situation where he had to convince upland landowners to make changes and spend monies for the benefit of downstream users.

In another case, the appellant says that the migration of people from congested cities to rural areas for cheaper land has caused problems between established upland landowners and the new homeowners who have built on bottom land that tends to flood. The upland owners are often reluctant to make changes or incur costs to reduce flooding. This requires the appellant to use his powers of persuasion to gain acceptance of his recommended changes to control the flooding. The appellant's supervisor confirmed the nature and purpose of the contacts described by the appellant.

The appellant's position exceeds Level B, as landowners, farmers, and land use groups are frequently at odds due to such issues as personal conflicts, competing objectives, or resource problems which requires using tact and experience to persuade one or both sides to adopt new farming practices for the general good, even when it may not be to their immediate benefit, as well as resolving or averting undesirable or controversial situations. While contacts may involve identifying options for resolving problems, many times the inherent differences in interests, or depth of opposition, requires efforts much greater than that intended at that level.

The appellant's position meets Level C, as the primary purpose of his contacts is to influence and persuade land owners and farmers, cooperatives and other farm organizations, business and consumer groups to accept and implement his findings and recommendations on farming practices and to meet frequently disparate federal, state, county, and district conservation policies and goals. He frequently must overcome initial reluctance, even opposition, by emphasizing technical advantages and gains to be accomplished through adoption of a specific conservation course of action. Regular and recurring dealings require tact and diplomacy to achieve a working consensus among parties who have dissimilar opinions. The purpose of the appellant's contacts fully meet Level 7-C.

Level 7-D is not met as the appellant is not required to justify, defend, negotiate, or settle matters involving significant or controversial issues or programs.

Level C is assigned for this factor.

Together, Factors 6 and 7 are assigned Levels 3C. Since the points assigned are actually a relationship of both Factors 6 and 7 as found in the chart within the JFS; assigning 6-3 and 7-C equates to 180 points.

Summary

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

<i>Factors</i>	<i>Level</i>	<i>Points</i>
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. & 7. Personal Contacts and Purpose of Contacts	3-C	180
8. Physical demands	8-2	20
9. Work environment	9-2	<u>20</u>
	Total Points	2570

A total of 2570 points falls within the GS-11 grade level point range of 2355-2750 points on the grade conversion table in the JFS.

Decision

The appellant's position is properly classified as Soil Conservationist, GS-457-11.