

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

Appellants: [Appellant]
[Appellant]
[Appellant]
[Appellant]

Agency classification: Loan Specialist (General)
GS-1165-9

Organization: [Name/Location]
[Organization]
Rural Development
U.S. Department of Agriculture

OPM decision: Loan Specialist (General)
GS-1165-9

OPM decision number: C-1165-09-02

Judith A. Davis for

Ana A. Mazzi
Deputy Associate Director
Merit System Audit and Compliance

7/29/2011

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), this decision constitutes a classification 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 5 CFR 511.605, 511.613, and 511.614, as cited in the *Introduction to the Position Classification Standards (Introduction)*, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

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Introduction

On July 21, 2010, Atlanta Oversight of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], [Appellant], and [Appellant] and [Appellant]. On April 26, 2011, it was transferred to Philadelphia Oversight for adjudication. We subsequently cancelled [Appellant] and [Appellant] appeals, because they retired on August 2, 2010, and June 3, 2011, respectively, and under controlling law and regulation, no longer have standing to continue this appeal since they no longer occupy the position in question. The appellants occupy identical additional positions which are currently classified as Loan Specialist (General), GS-1165-9. While we initially accepted the appeal as a group appeal because the appellants were all assigned to the same position description (PD), we subsequently learned they were assigned to 11 geographically separate offices, reported to 3 different supervisors and, in some cases, performed different duties. Therefore, we are issuing separate decisions, as appropriate, to account for these differences. This decision addresses the appeal for [Appellant], who is located in the [Name], [Organization/Location], Rural Development (RD), U.S. Department of Agriculture (USDA); [Appellant], who is located in the [Name] Office; [Appellant], who is located in the [Name/Location] Sub Office; and [Appellant], who is located in the [Name/Location] Office, all of which are subordinate to the [Name/Location] Area Office. While the appellants are geographically separated, they share the same supervisor, are assigned to the same PD, and perform identical duties. The appellants believe their position should be upgraded to the GS-12 grade level, as they believe they have greater responsibility than the GS-12 Loan Specialists, due to their approval authority for certain types of loans. We received the complete agency administrative report (AAR) on August 6, 2010, and have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

To help decide the appeal, we conducted telephonic interviews with the appellants, their supervisor, and another Area Director in Virginia, who assisted with the development of this PD, on May 24, 2011, May 23, 2011, and June 1, 2011, respectively. In reaching our classification decision, we have carefully considered all of the information obtained from the interviews, as well as all other information of record provided by the appellants and their agency.

General Issues

In their appeal to OPM, the appellants raised several issues they believe should be considered in determining the classification of their position, our responses to which follow:

Inaccurate PD

In their May 19, 2010 classification appeal request letter, the appellants stated their position should be classified at the GS-12 grade level because they believes their work is almost identical to that of the GS-1165-12 Loan Specialists employed by RD throughout the state of Virginia.

The appellants are assigned to position description (PD) #[Number]. The appellants' supervisor has certified the accuracy of this PD. The appellants included a signed statement dated July 30,

2010, in the AAR certifying the accuracy of this PD, but stated in the interview their PD was not accurate because it marginalized their work by not acknowledging that they work unsupervised and does not fully address the servicing, environmental analysis, and financial calculations involved in examining loan applications. They recommended the inclusion of specific duties in their PD in order to more accurately reflect the responsibilities of their position. In addition, they stated their work was further complicated since the [Organization/Name/Location] Office reorganized from a three-tier to a two-tier delivery system in 2007. This new business plan removed the supervisory responsibility of the GS-12 Loan Specialists and mandated that all programs be marketed and offered by Loan Specialists in the field to extend coverage of all rural programs offered by the agency.

A PD must contain descriptive information about the major duties and responsibilities assigned to the position which, when supplemented by other information about the organization's structure, mission, and procedures, can be classified by one knowledgeable of the occupational field involved and the application of pertinent position classification standards, principles, and practices. It is not meant to be a task list of every function performed. After careful review, we find the appellants' current PD meets the standards of PD adequacy for classification purposes as discussed in section III.E of the *Introduction* and we incorporate it by reference into our decision.

Equal Pay for Equal Work

In their appeal, the appellants provided salary tables as an indication the GS-1165-9 Loan Specialist salaries are not comparable with similar positions in the private sector. The classification appeal process provides for determining the proper series, title, and grade of the position under appeal. It does not extend to setting rates of Federal pay subject to the statutory provisions of chapter 53 of title 5, U.S.C. Therefore, we will not address this issue any further in this decision.

Classification Consistency

The appellants provided copies of PDs for Loan Specialist, GS-1165-12; Loan Specialist, GS-1165-11; Loan Specialist (Realty), GS-1165-11; Underwriter, GS-1101-9; and Underwriter, GS-1101-11 positions at other RD offices and other federal agencies and stated "that a wide variance in classifications and descriptions exists for the Single Family Housing Loan Specialist series". They further stated "there are Loan Specialists in the state of [Name] that are classified as GS-1165-12 Loan Specialists whose duties do not carry the same levels of complexity or responsibility as the GS-1165-9 Loan Specialists."

Many positions in the Government perform a variety of functions. Not all functions, however, will be classifiable at the same grade level. For example, many technician positions perform clerical functions classifiable at grade levels below the technician work that controls the grade level of the position. Thus, if other positions perform duties that are similar to some major functions of the appellant's position, those duties may not be the grade controlling duties of those other positions. We also note the PDs the appellants provided contain major duties materially

different from those performed by the appellants and in program situations significantly different from those found in the RD environment.

By law, we must classify positions solely by comparing their current duties and responsibilities to OPM position classification standards (PCS) and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to the standards is the exclusive method for classifying positions, we cannot compare the appellants' current duties to other positions, which may or may not be classified properly, as a basis for deciding their appeal.

Volume of Work

The appellants discussed the large amount of work they perform stating it “strongly supports the overwhelming responsibility that GS-1165-9 Loan Specialists must bear as it relates to the sum of tax dollars accounted for in the entire RD budget every year.” However, *The Classifier's Handbook (Handbook)* (Chapter 5) clearly states volume of work cannot be considered in determining the grade of the position.

Position Information

The [Organization/Name] Office provides credit and technical assistance to rural families, businesses, and communities within the state of [Location]. The Single Family Housing (SFH) and Multi-Family Housing (MFH) Programs provide access to safe, decent, and sanitary housing solutions to rural low-income [Location] residents. The SFH Program includes the Direct Single Family Housing (DSFH) and Single Family Housing Guaranteed (SFHG) Programs. The DSFH Program provides homeownership loans, home improvement and repair loans and grants, mutual self-help assistance grants and housing site loans with primary emphasis on loan making as well as providing servicing as directed by the Centralized Servicing Center (CSC). There are 26 different types of loans and grants under the DSFH umbrella. These include initial loans, subsequent loans, 502 loans to purchase a house, and 504 loans and grants to repair a house, among others. The SFHG Program fosters interest on the part of commercial lending institutions to make and service loans to eligible applicants in rural areas to purchase homes of modest cost which are guaranteed by USDA.

Within the [Location] State Office, there are four Area Offices: [Location], [Location], [Location], and [Location], with a total of eight satellite offices underneath the four Area Offices. Each Area Office is responsible for a geographic area of coverage for program delivery. The satellite offices are geographically separated from the Area Offices and further maximize delivery of all RD programs.

The appellants are assigned to the [Organization/Name/Location] Office. This office assists loan and grant applicants by explaining eligibility and other requirements for various individual and group loans and grants, providing information on other State and Federal agencies, and providing credit counseling to borrowers whose accounts are delinquent. The appellants spend the bulk of their time, nearly 100 percent by their own and their supervisor's estimation, administering and approving direct loans under the DSFH Program. The remainder of their time is spent performing outreach in the community to market RD programs; teaching home ownership

classes to perspective borrowers; and very infrequently processing guaranteed loans under the SFHG program. The appellants' SFHG program duties occupy far less than 25 percent of their time. Since only duties that occupy at least 25 percent of an employee's time can affect the grade of a position per the *Introduction*, we will not evaluate the appellants' SFHG program duties in this decision.

In processing loans under the DSFH Program, the appellants first receive the completed loan application. In the [Name/Location] Office, a technician usually assists the borrowers in completing the application and assembles all the necessary paperwork, including statements of income and credit reports. Those appellants located in sub offices or satellite offices must perform this work, because they do not have technicians. The appellants then make a pre-qualification determination by determining the financial capacity of the borrower and his or her citizenship. This involves reviewing the applicant's projected income, expenses, and assets, which involves reviewing two years' worth of prior data. It can be complicated by the inclusion of temporary employment, overtime, self-employment, multiple household members' income, medical expenses, the cost of raising children, Individual Retirement Accounts, and 401k's. Upon calculating the income, the appellants compare it to the local loan limits for the applicable county. The appellants frequently use the UNIFI loan origination and underwriting system, which automatically calculates the affordability ratios and maximum loan amounts. However, the appellants assert they must perform the calculations manually before loading them into UNIFI. If the applicant does not qualify, the appellants will perform some credit counseling to explain to the applicant why he or she does not qualify. If the applicant qualifies, the appellants will issue a conditional commitment letter.

When the applicant selects a property for the loan, the appellants will perform a property assessment. This involves physically visiting the property to ensure it is "decent, safe, and sanitary." This assessment includes some additional items of note if the property is a manufactured home. The appellants will also perform an environmental analysis to determine if the property is on a flood plain, an archeological site, or a historical register; if it has a shared water well; or if the nature of the soil results in it being classified as "farm land", among many other factors. If any problems or issues arise during this analysis, the appellants need to contact and work with the appropriate agency, such as the National Conservation Resource Service or the Fish and Wildlife Service, to resolve the issue, if possible. Some issues in the environmental assessment may require the appellants conduct a Class 1 Environmental Assessment in order to demonstrate RD can make the loan without disturbing the environment. Through these processes, the appellants verify that the borrower and the property are eligible for a DSFH loan. The appellants will then order an appraisal and may order repairs as a result of the appraisal. All of these aforementioned steps are performed by the appellants as loan originators. If the appellants, acting in their capacity as loan originators, approve everything, they will recommend the loan for approval and pass it to another Loan Specialist, who will serve as the loan underwriter. The appellants may serve as both originator and underwriter at any time, but never for the same loan, as RD regulations requires separation of these duties so that two specialists review every loan.

As loan underwriters, the appellants review all the calculations and assessments performed by the loan originator. If they concur, they will approve the loan. The appellants have loan

approval authority for DSFH loans. They will then send the loan to the State Office for release of funds. In the meantime, the appellants must review some additional issues, such as whether or not the borrower is eligible for a payment subsidy or if his or her income has changed since the conditional commitment letter was issued. If the State Office has funds to cover the loan and there are no other issues with the borrower, the appellants will issue a commitment letter and direct the borrower to find an attorney or title office for closing. Once the closing is complete, the appellants will receive and review a copy of the closing documents. From there, the CSC takes over as the loan servicer. However, the CSC may request the appellants visit the borrower to deliver foreclosure notices or visit the property to inspect it. As indicated by the appellants' supervisor and their PD, they are not responsible for servicing the loan. However, they may volunteer to assist borrowers when they have questions about their loans.

The above process is modified in instances of 504 loans and grants to repair or build houses. In processing these loans and grants, the appellants not only determine if the repairs requested by the potential borrower are appropriate, but also inspect the property to determine if additional repairs are necessary in order to make the property "decent, safe, and sanitary." Once the repair list is completed, the appellants must assess the potential contractors who will be performing the work in order to determine if they meet RD requirements to do the work. Upon completion of the repairs or new construction, the appellants review the work to ensure it is adequate. In some cases, such as for new construction or repairs that affect the structure of a property or repairs that require a building permit, a county inspector will accompany the appellants to ensure the work was completed properly.

While the appellants have been trained on MFH loans in order to educate the public and lending institutions, they are not responsible for processing these loans. The GS-12 Loan Specialists are exclusively responsible for processing these loans. However, the appellants may be asked to visit the property of MFH loans, because of their close geographic location, in order to interview tenants or inspect the property at the request of the State Office or other Loan Specialists.

The appellants use various regulations, handbooks, and other resources to perform their work. While the guidelines are extensive and are specific in some areas, such as defining loan limits for each county, they are vague in others, such as defining a "modest" home. They do not cover every situation. So the appellants often have to use judgment in applying the guidelines. When the appellants encounter an unusual situation not covered by the guidelines, they will consult with other Loan Specialists, their supervisor, or the State Office. The appellants' work is rarely reviewed by their supervisor for compliance with agency policies, regulations, and procedures and is formally reviewed every three to five years under the State Internal Review process.

In addition to the above duties, two of the appellants, [Appellant] and [Appellant], serve as Team Leaders. In this capacity, they do not supervise any personnel, but they do serve as technical experts on SFH programs and provide guidance to the other appellants when they have questions. They also hold weekly meetings to discuss workload and progress in processing loans. The supervisor of all the appellants has assigned work to them via geographic areas of responsibility. However, the appellants, led by the Team Leaders, may re-distribute work amongst themselves based on fluctuating workloads.

Series, title, and standard determination

In their initial appeal to OPM, the appellants did not question the series, title of their position, or the use of the Loan Specialist Series, GS-1165, PCS to evaluate their position. However, in subsequent documentation they submitted, the appellants state “currently, our job series is classified as an 1165, however, another series such as 1101 may be more appropriate.”

The GS-1101 General Business and Industry Series covers all classes of positions the duties of which are to administer, supervise, or perform: (1) any combination of work characteristic of two or more series in this group where no one type of work is series controlling and where the combination is not specifically included in another series; or (2) other work properly classified in this group for which no other series has been provided.

The GS-1165 Loan Specialist Series includes all positions the duties of which are to direct or perform analytical and evaluative work which requires knowledge of (1) credit risk factors and lending principles involved in loans of specialized types granted, insured, or guaranteed by the Federal Government; (2) financial structures and practices of business organizations concerned with such loans; and (3) pertinent statutory, regulatory, and administrative provisions.

The appellants’ assigned duties and responsibilities, as described above, are not generalized. Rather, they are directly and completely covered by the previously described GS-1165 series definition. The appellants’ duties involve performing analytical and evaluative work which requires knowledge of credit risk factors and lending principles involved in loans of specialized types granted, insured, or guaranteed by the Federal Government. Therefore, the position is properly classified in the GS-1165 series. Since the work pertains to the risk factors and lending principles involved in loans of specialized types granted, insured, or guaranteed by the Federal Government, not exclusively by the agricultural, commercial, or realty specializations, the position is properly titled Loan Specialist (General), GS-1165.

Grade determination

The 1165 PCS is written in the narrative format. The most significant classification factors are: Nature of Loans and Nature of Supervision Received. These factors must be applied within the context of Federal loan programs discussed in the 1165 PCS. Government loan programs serve purposes such as encouraging home and farm ownership and improvement; providing assistance to businesses to purchase equipment and materials, to expand and modernize, or to use as working capital; assisting people affected by flood, drought, or other forms of distress or disaster; providing assistance to the secondary market for home mortgages; and, assisting in industrial development activities. The basic objective is to grant loans to eligible borrowers under terms and conditions that will insure minimum risk to the Government. The work entails making judgments as to whether the prospective borrower has or does not have the ability to repay the loan; and that a proposed course of action will or will not enable the borrower to repay the loan, or enable the loaner or the Government to recover the loan without loss, or with the least amount of loss. Business loans are made directly or in participation with commercial lending institutions when capital at prevailing rates is not otherwise available. Loans to Native

Americans and Native American organizations are made for any purpose that will promote their economic growth.

Nature of Loans

This factor is intended to measure the difficulty involved in (1) assessing the ability of prospective borrowers to repay loans and to comply with necessary terms, conditions and covenants governing the loan, e.g., to make tax payments and maintain adequate insurance coverage on property, or to operate under efficient financial management policies; (2) determining appropriate action necessary to resolve borrowers difficulties in meeting loan terms; and (3) developing sound courses of action in liquidating loans to insure least amount of loss to the Government or damage to the borrower.

At the GS-9 grade level, employees perform financial and credit analyses of the complexity involved in examining loan applications and mortgages offered for purchase and in servicing current or delinquent loans for small (one to four family) residential dwellings; very small commercial loans for working capital; purchase of equipment and machinery; repair of a store destroyed by a hurricane; etc. The financial and credit analysis performed at this level is based on well-developed facts which are readily evaluated under the criteria established by the agency for approval or disapproval. There is little difficulty in determining the amount and stability of the present and future income of the applicant or borrower because it is based on salary, wages, or the operation of a relatively stable business and there is little difficulty in determining the financial and management ability of the applicant or borrower to repay the loan.

In contrast, GS-11 grade level assignments in the realty field are of the complexity represented by analysis of the financial capacity of mortgagors, builders or sponsors who apply for loans or for guarantee or insurance of their commitments in connection with large-scale housing transactions (large multi-family rental projects, operative-builders projects, nursing homes, and the like). In the commercial field, GS-11 employees are assigned loan actions covering varied kinds of business operations representing all types of ownership (single owner, partnerships, and corporations). The work processes of positions at this level are similar to those performed at the GS-9 level. However, in assignments typical of the GS-11 level, the determination of the financial capacity of the borrower is complicated by the fact that the income is based on the operations of business firms, sometimes with varied activities, or the rental of multi-family housing, rather than on relatively stable salaries, wages, etc. The income is, at best, an estimate based on the anticipated trend of the particular business operation, the local economy, and the management ability of the principal owners of the business or the sponsors of the multi-family dwellings or other equivalent housing project. The source of this estimate comes from an analysis of financial statements for several years, commercial credit reports, discussions with local bankers, economic and industry reports of the agency, and reports from such other agencies as the Department of Commerce, Federal Reserve Board, Federal Home Loan Bank Board, etc.

The GS-12 grade level is characterized by the requirement of broad experience and seasoned judgment in providing financial management guidance to borrowers, in ascertaining and analyzing the many and often obscure facts regarding the borrower's financial capacity, and in

evaluating the general economic and financial conditions that affect the Government's risk in granting, guaranteeing, or insuring the loan.

The appellants' work assignments primarily involve dealing with the analytical issues and circumstances of single-family loans and grants typical of the GS-9 grade level within the Government program context of the 1165 PCS. The appellants exclusively service loans for single family residential dwellings as is typical of the GS-9 grade level. The loans are based on an analysis of typical income sources, (e.g., wages, income from small businesses, child support, and social security payments), and expenses, (e.g., utility payment records, credit card accounts, bank statements), over a sufficient time period (typically two years) to determine both financial capability and eligibility. The appellants do not handle commercial loans and their only involvement in MFH loans involves visiting a property or tenants at the request of the CSC or other Loan Specialists. They do not analyze the financial capacity of mortgagors, builders, or sponsors who apply for loans or for a guarantee or insurance of their commitments in connection with large-scale house transactions (multi-family rental projects with more than four families, operative builder projects, or nursing homes) as is typical of the GS-11 grade level. Since the appellants' work does not meet the GS-11 level for this factor, there is no need to discuss in detail why their work does not meet the significantly more demanding GS-12 level.

The appellants define complexity for their work by the rigors of property and environmental assessments, which may be unpleasant due to the physical condition of the property, animals, or discontented borrowers, and the review of individual income, which may be complicated by temporary employment, overtime, self-employment, and multiple household members' income. However, the PCS defines complexity for this type of work by the type of loan serviced with small (one to four family) residential dwellings being characteristic of the GS-9 grade level and the financial and credit analysis being based on salary and wages, as opposed to the operations of business firms or the rental of multi-family housing, which is characteristic of the GS-11 grade level. The latter is, at best, an estimate based on the anticipated trend of the particular business operation, the local economy, and the management ability of the principle owners of the business or sponsors of the project. While the appellants have been trained on MFH loans in order to educate the public and lending institutions, they are not responsible for processing these loans. GS-12 Loan Specialists are exclusively responsible for processing these loans, and the appellants are responsible for processing single family housing loans, which fall under the PCS' definition of small (one to four family) residential dwellings. Additionally, the appellants perform financial and credit analysis based on salary and wages. While these analyses may be complicated by such factors as the inclusion of temporary employment, overtime, self-employment, and multiple household members' income, they do not meet the level of complexity of analysis at the GS-11 grade level. Since the PCS is the standard by which we must evaluate the appellants' work, we find their work warrants evaluation of this factor at the GS-9 grade level.

Nature of Supervision Received

This factor reflects the level of responsibility carried out by the incumbents. Incumbents of positions at grades GS-9 and above generally receive little or no direct supervision during the course of their normal assignments, except for new, novel, or precedent-setting cases. In

evaluating this factor, consideration is given to the responsibility assigned to the incumbent by the supervisor and the kind and degree of supervision exercised over the work, i.e., whether cases of one or several types and levels are usually assigned; whether work is segregated with respect to problems and complexities likely to be encountered.

GS-9 employees are assigned full responsibility for performing the analyses and for making recommendations based thereon. Typically, there is no prescreening in the assignment of home loan applications, mortgage offerings, or home loan delinquent portfolios by the supervisor. Applications for commercial loans are prescreened by the supervisor or a designated representative to remove those with more difficult problems prior to assignment of cases to GS-9 loan specialists. Completed work is reviewed for compliance with agency policy, regulations, and procedures. In addition, assignments involving commercial loans are reviewed to determine whether the recommendations made are the best solution to the problem or whether other approaches may resolve the problem in a more efficient and economical manner.

In contrast, GS-11 loan specialists are expected to accomplish the normal day-to-day actions pertaining to loan examining and servicing without supervisory direction. Any actions not covered by regulations or precedents are discussed with the supervisor prior to formulation of recommendations as to approval or disapproval. Completed work is reviewed for compliance with agency policies, regulations, and procedures and to determine whether the recommendation is the best solution to the problem, or whether other approaches may be utilized to resolve the problem in a more efficient and economical manner.

The GS-12 loan specialist is expected to determine the areas and sources of information he or she will explore, and the approach he will take in obtaining needed facts about proposed loan actions, and furnishing guidance to borrowers. Although under agency delegations of authority he or she normally cannot approve or disapprove loan actions, his or her judgment concerning the technical aspects of assigned cases is accepted as authoritative.

Consistent with the GS-9 grade level, the appellants' supervisor does not prescreen the assignment of home loan applications. The appellants' work is rarely reviewed for compliance with agency policies, regulations, and procedures and they receive little or no direct supervision during the course of their normal assignments. Their work is assigned via geographic areas of responsibility, but they may decide amongst themselves or with the guidance of a Team Leader to redistribute work when necessary due to unbalanced workloads. While this freedom from supervision is comparable to the GS-11 grade level in the execution of their day-to-day work, typical of the GS-9 grade level, the appellants' work is segregated with respect to problems and complexities likely to be encountered. The current [Organization/Name/Location] State Office business plan exclusively assigns the GS-12 Loan Specialists the responsibility of processing the more complex MFH and commercial loans. In contrast, the appellants are only assigned the SFH loans. In their appeal, the appellants emphasize their loan approval authority as increasing the responsibility and complexity of the position. However, while the PCS primarily refers to Loan Specialists recommending loans for approval, it does not identify or define loan approval authority as a grade-controlling or determining activity. While the appellants' work exceeds the GS-9 grade level for a portion of this factor, it does not fully meet the intent of the next higher

grade level for this factor. Thus, according to the *Handbook*, the position may not be credited with the next higher grade level. Therefore, this factor meets the GS-9 grade level.

Both the Nature of Loans and the Nature of Supervision Received factors for the appealed position are properly evaluated at the GS-9 grade level. Therefore, the appropriate grade for the appellant's position is GS-9.

Decision

The position is properly classified as Loan Specialist (General), GS-1165-9.