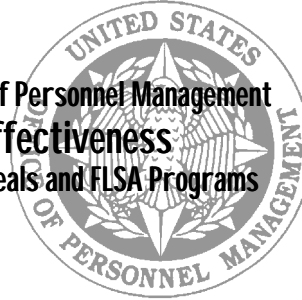


U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and FLSA Programs



Atlanta Oversight Division
75 Spring Street, SW., Room 972
Atlanta, GA 30303

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [Appellant]

Agency classification: Supervisory Customs Inspector
GS-1890-11

Organization: U.S. Customs Service
Department of the Treasury

OPM decision: Customs Inspector
GS-1890-11

OPM Decision Number: C-1890-11-01

Kathy W. Day
Classification Appeals Officer

Date 9/4/98

rd#1890111

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

Since this decision changes the title of the appealed position, it is to be effective no later than the beginning of the fourth pay period after the date of this decision, as permitted by 5 CFR 511.702. The servicing personnel office must submit a compliance report containing the corrected position description and a Standard Form 50 showing the personnel action taken. The report must be submitted within 30 days from the effective date of the personnel action.

Decision sent to:

[Appellant]

Mr. Robert M. Smith
Personnel Director
Human Resources Management
U.S. Customs Service
Gelman Building, Room 6100
1301 Constitution Avenue
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Mr. Robert Breivis
Director of Personnel Policy
U.S. Department of Treasury
Room 4164-ANX
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Introduction

On May 27, 1998, the Atlanta Oversight Division, U. S. Office of Personnel Management (OPM), accepted an appeal for the position of Supervisory Customs Inspector, GS-1890-11, [organizational location], U.S. Customs Service, Department of the Treasury, [geographical location]. The appellant is requesting that her position be changed to GS-12.

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.

General issues

The appellant believes the lines of supervision are inaccurately stated in her position description and that her full supervisory responsibilities have not been identified. She also disagrees with the determination of the level of work she supervises and believes her position description should provide a more detailed description of all of her responsibilities.

A position description is a statement of the major duties, responsibilities, and supervisory relationships of a given position and should include information about the job so that proper classification can be made when the description is supplemented by other information about the organization's structure, mission, and procedures. The position description should define clearly the major duties assigned and the nature and extent of responsibility for carrying out those duties. For a supervisory position, the description should identify the information necessary to evaluate the position by the appropriate supervisory criteria.

The appellant believes the position description should specifically address the fact that she is both responsible for and participates in port activities. The introductory paragraph of the appellant's position description states that she is responsible for all Customs related functions, and it is not necessary to restate that fact in relation to each duty. The supervisory responsibilities as written in the standard position description, however, do differ somewhat from the appellant's actual responsibilities. For example, the position description indicates in paragraph 5 that she directly supervises a medium to large staff. She supervises only two employees which is a small staff. In addition, the appellant indicates that she has authority to make final selections for vacancies, approve awards, and schedule work on an annual basis; but this is not indicated in the position description. The appellant's supervisory duties and authorities should be accurately described, as well as the amount of time spent on supervisory duties. Although the position description to which the appellant is currently assigned is a standard position description, the specifics for her particular assignment (i.e., size of staff, percentage of time supervising) impact the proper classification of her individual position and should be taken into consideration when determining whether or not it is appropriate to assign her to the standard position description.

Position information

The appellant is assigned to Position Number [#]. She functions as the Port Director responsible for implementing and personally carrying out policies and regulations regarding entry and clearance of all cargo, passengers, and carriers received at port including accepting entry documents, determining and collecting duties, and applying tariffs and other import related laws. The appellant is also responsible for the management and performance of enforcement related activities and efforts including detaining violators and/or cargo as necessary. She functions on occasion as an immigration inspector. She maintains the facility budget and is responsible for reconciling all monies collected. She provides information to trade associations and advises the importing public on Customs Service policy and procedures. The appellant's port is considered a small, low risk port. A limited number (approximately 800 last year) of primarily military passengers are handled by her port. The majority of her work involves the entry of a variety of cargo by truck, air, or barge.

The appellant functions as the first line supervisor over a small work force consisting of a Senior Customs Inspector, currently classified as GS-1890-11 but after a recent internal review, identified by the agency as properly graded at the GS-9 level, and a Customs Inspector, GS-1890-7 (with a full performance level of GS-9). Although the position description states that she spends approximately 25-30 percent of the time performing supervisory duties, the appellant indicated that only 10 percent of her time is devoted to direct technical and administrative supervision of her subordinates. The appellant indicated that she must analyze large amounts of information pertaining to new procedures, laws, product safety requirements, etc., which impact the port management/inspection work and must ensure that staff are aware of changes in requirements and procedures. This may entail adapting procedures directed at large ports for use in her small port. She must also ensure that inspectors are knowledgeable about a wide variety of situations which may or may not occur frequently, but require skill in recognizing when other agencies may have regulations that apply (e.g., Bureau of Alcohol, Tobacco, and Firearms and their restrictions on bringing certain firearms into the country) which will involve further research prior to allowing entry.

The appellant works under the administrative supervision of the Director, [Customs Management Center], who provides management's overall goals and policies. The Director is geographically remote from the appellant and may not be readily available by telephone. The appellant's decisions are considered authoritative and technically accurate and are subject to review only after the fact. She keeps the Director informed of specific situations as she deems necessary.

Series determination

The agency determined that the position is properly placed in the Customs Inspection Series, GS-1890, and the appellant agrees with that determination.

The GS-1890 series includes positions which involve inspection work in the enforcement and administration of laws governing the importation or exportation of merchandise. The work requires knowledge of laws, regulations, policies, and procedures concerning the entry, examination,

classification, and release of merchandise; ability to obtain data about the description, characteristics, value, and country of origin of merchandise by questioning people, examining merchandise, and reviewing documents; ability to search baggage, persons, cargo, and carriers for contraband; ability to make sound decisions to admit and to hold or release merchandise; and sound judgment in detaining and apprehending persons at the point of entry who are violating customs or other laws.

We agree with the agency decision that the appellant's duties are appropriately covered by the GS-1890 series.

Title determination

Customs Inspector is the title established for positions in the GS-1890 series. Although agencies may construct titles for informal or internal purposes (e.g., Port Director), it is not permissible to use the word *Supervisory* in the official title of a position unless the position meets the minimum criteria for classification by the General Schedule Supervisory Guide (GSSG). In order for the GSSG to be used to determine the grade of the position, the supervisory duties must constitute a major duty occupying at least 25 percent of the position's time. The appellant supervises two Customs Inspectors. She indicated that she spends approximately 10 percent of her time in direct technical and administrative supervision. Since supervisory duties account for less than 25 percent of the appellant's time, the position cannot be evaluated using the GSSG, and the supervisory designation is not included in the title. The appropriate title is, therefore, *Customs Inspector*.

Standard determination

Customs Inspection Series, GS-1890, March 1973.

Grade determination

Two factors are used in the GS-1890 classification standard to determine the degree of difficulty and complexity and the level of responsibility of customs inspector positions: *Nature of assignment* and *Level of responsibility*.

Nature of assignment:

This factor deals with the nature and purpose of functions performed; the complexity and difficulty of the assignments and problems encountered; the degree of judgment; and the skills and knowledges required.

At the GS-11 level, the highest level described in the standard, customs inspectors perform a wide range of advisory, coordinating, and special investigating duties involving complex and highly sensitive inspection and control issues. These issues require expertise in a broad range of inspection, enforcement, special interrogation and inquiry, and merchandise examining functions. Inspectors responsible for overseeing inspection and control operations for cargo or baggage, or both, perform

a broad range of administrative, advisory, and coordinating duties and responsibilities. They assess the ongoing activities to ensure that the work is carried out in a timely, expeditious and appropriate manner. They plan and coordinate actions with other functional areas in applying intelligence information, resolving mutual problems, interpreting requirements, etc. They advise other customs inspectors, travelers, agents of commerce, etc., of procedures and requirements in unusual or controversial situations. They initiate remedial action to correct deficiencies. The GS-11 inspectors plan and carry out assignments, projects, studies, or investigations to explore and resolve major problems in improving operations and enforcement activities, installing new procedures, establishing evidence of irregular and fraudulent practices, and planning and participating in cooperative arrangements with other countries.

The appellant functions in a manner comparable to the GS-11 level. Similar to illustrations #1 and #2 in the standard, the appellant oversees inspection and control activities and is responsible for maintaining liaison with staff and terminal operators, carriers, shippers, and importers. Although the appellant is not routinely faced with complex and unusual situations, as Port Director, it is her responsibility to be knowledgeable and provide guidance on the current methods, procedures and policies necessary for carrying out inspections in complex, unusual, or highly sensitive situations such as boarding or entering vessels when transactions involve advance enforcement information or the presence of unresolved technical or legal matters. She initiates corrective and punitive actions for improprieties or irregularities and develops information concerning losses or apparent thefts and on all other matters that may require investigation, detention, or arrest of violators. The appellant is responsible for determinations that violations are serious or petty and assigning appropriate fines and penalties. As the Port Director, she is also ultimately responsible for dealing with difficult or hostile travelers, brokers, importers, etc., and for resolving protests/problems on the spot. She must analyze and interpret vast numbers of policies and guidelines applicable to Customs inspection work and adapt/apply these policies and regulations to the management of operations at her particular port. She is responsible for improving operations at her port and for planning, coordinating, and conducting all inspection activities.

There is no information in the appeal record to substantiate that the appellant's assignments exceed the GS-11 level as described. The GS-11 level is, therefore, credited for this factor.

Level of responsibility

GS-11 inspectors operate with a high degree of independence in identifying problems to be resolved that impede operations in the assigned areas of responsibility. They receive special assignments as a stated problem or an area for investigation and analysis for which objectives are indicated in general terms. They organize the approach and the extent of fact finding and analysis required. They apply an extensive knowledge of inspection and control programs, policies, and processes including the application of intelligence information, entry requirements, and overall tariff considerations in identifying the issues and developing solutions to problems or fully substantiating evidence for penalty actions or prosecution. GS-11 inspectors carry out assignments that require negotiation on important questions of compliance, enforcement, and operating practices with highly knowledgeable

terminal staff, importing firms, transportation companies and others in the importing and exporting business. Judgments and decisions at this level are typically accepted as complete.

The appellant meets the GS-11 level. As the Port Director, she is responsible for developing, implementing, and managing policies and regulations regarding entry and clearance of all cargo, passengers, and carriers received at port. She must resolve all technical and operational questions and is responsible for ensuring that necessary fact finding and analysis is conducted to identify issues and develop solutions to problems, or substantiate evidence for penalty actions. She must communicate with carriers, importers, brokers, the Foreign Trade Committee, terminal staff, and the public to provide advice and assistance and resolve problems. She renders decisions that are considered authoritative and technically accurate.

There is no information in the appeal record to substantiate that the appellant's assignments exceed the GS-11 level as described. The GS-11 level is, therefore, credited for this factor.

Since both *Nature of assignment* and *Level of responsibility* equate to the GS-11 level, the correct grade level for the appellant's customs inspection duties is GS-11.

Decision

The position is properly classified as *Customs Inspector, GS-1890-11*.