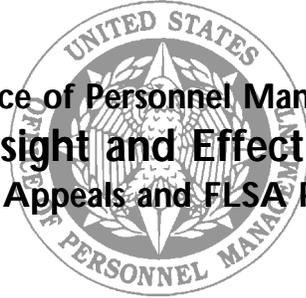


U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and FLSA Programs



Dallas Oversight Division
1100 Commerce Street, Room 4C22
Dallas, TX 75242

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

Appellant: [appellant's name]

Agency classification: Realty Specialist
GS-1170-12

Organization: [activity]
Bureau of Land Management
Department of Interior
[city, state]

OPM decision: Realty Specialist
GS-1170-12

OPM decision number: C-1170-12-02

/s/ Bonnie J. Brandon
Bonnie J. Brandon
Classification Appeals Officer

7/20/99
Date

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).

Decision sent to:

[appellant's name and address]

[servicing personnel office]

Director
National Human Resources Management Center
Bureau of Land Management
Department of the Interior
P.O. Box 25047
Denver, Colorado 80225-0047

Director of Personnel
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Introduction

On March 31, 1999, the Dallas Oversight Division of the U.S. Office of Personnel Management (OPM) accepted an appeal from [the appellant]. The appealed position is assigned to the [appellant's activity], Bureau of Land Management (BLM), Department of the Interior, [city, state]. The agency has classified the position as Realty Specialist, GS-1170-12. The appellant believes his position should be classified as Realty Specialist, GS-1170-13, and has filed an appeal with this office under the provisions of section 5112 of title 5, United States Code.

The appellant certified to the accuracy of the duties described in [the appellant's] current position description (PD), [number], dated May 7, 1999. The appellant's supervisor certified that this PD accurately reflects the duties performed by the appellant. We find this PD is adequate for position classification purposes.

In reaching our classification decision, we considered information submitted in writing by the appellant and [the appellant's] agency and information obtained by telephone from the appellant and [the appellant's] last two supervisors. As required by law, we classified the position based upon its duties, responsibilities, and qualification requirements as compared to the criteria specified in the appropriate OPM classification standards and guidelines (sections 5106, 5107, and 5112 of title 5, United States Code).

Position information

The appellant is assigned to one of the two GS-12 Realty Specialist positions in the division. The two positions are responsible for coordination and implementation of the lands and realty programs in [four states]. A summary of the appellant's major duties and responsibilities follows.

- As program leader, the appellant has responsibility for rights-of-way, including access and transportation rights-of-way and communications rights-of-way; color-of-title; easement acquisition; land acquisitions; and acquisition management programs. This work involves development of program policy, guidance, quality control, and budgetary requirements.
- The appellant participates in the preparation of the more complex land and easement acquisition cases, including condemnation proceedings.
- The appellant provides technical guidance and program review for the land and easement acquisition program. He also provides guidance, assistance, and training regarding the lands and realty and access and transportation rights-of-way programs to the division director, district managers, and other district staff.
- To help ensure achievement of land management goals, the appellant coordinates with other personnel in other resource disciplines.

The appellant's position requires detailed knowledge of real estate principles, policies, and methodologies for rights-of-way and land and easement acquisition and of land disposal practices and procedures; knowledge of the provisions of Federal and State legislation, regulations, and policies relating to rights-of-way and land and easement acquisition program requirements and activities on public lands; and the ability to analyze and resolve problems in transactions involving complex negotiations, land and easement acquisitions, land exchanges, and condemnation procedures. The work also requires knowledge of BLM's budget process and decision-making procedures, directives, and authorities.

Series, title, and standard determination

The appellant does not question the series or title of his position. We concur with the agency's determination that the duties performed by the appellant and the knowledge required for the position are covered by the GS-1170 Realty Series. This series includes positions the primary duties of which are to perform, advise on, plan, or direct one or more of the following functions: (1) acquisition of real property; (2) management of real property in (a) the administration of Federally-owned, Indian-owned, leased, or consigned space or property, or (b) preparation for disposal; or (3) disposal of real property. Work in this series requires a knowledge of real estate laws, principles, practices, and markets.

The proper title for the appealed position, according to the position classification standard for the GS-1170 series, is Realty Specialist.

Grade determination

The standard for the GS-1170 Realty Series is written in Factor Evaluation System (FES) format and uses nine grade influencing factors for determining grade level. Within each factor, there are factor level descriptions that represent the minimum or threshold for that factor. If the position exceeds one factor level but fails to meet the full intent of the next higher factor level, the lower point value must be credited. The total of the point values assigned to the nine factors is converted to a grade by use of the grade conversion table in the standard.

Factor 1, Knowledge required by the position

This factor measures the nature and extent of information that the realty specialist must understand to do acceptable work (e.g., steps, procedures, practices, rules, and policies) and the nature and extent of the skills needed to apply those knowledges.

An employee at Level 1-7 applies knowledge of a wide range of real estate principles, concepts, and practices as well as a good understanding of the real estate market to perform work such as managing Federally-controlled or Indian-owned property when that work includes leasing or authorizing the use of unused Federal land to individuals or organizations for commercial, recreational, or various other purposes after ascertaining that the proposed use is compatible with

and/or facilitates the client agency's mission. Employees at this level may also apply an in-depth knowledge of agency and/or tribal policies and procedures, and applicable Federal statutes, to negotiate the terms and conditions of complex leases or similar types of agreements or authorizing documents for different types of properties.

Comparable to Level 1-7, the appellant's position requires detailed knowledge of the rights-of-way and land and easement acquisition programs for the [appellant's activity]; of the BLM planning system, budget process, and decision-making procedures, directives, and authorities; of interpersonal, interagency, and intergovernmental coordination and cooperation mechanisms; and of requirements of other resource activities such as recreation and wilderness management and energy minerals development. These knowledges are used to negotiate complex easement and land acquisitions and to analyze complex situations, profile concise summaries, and recommend alternatives and practical solutions. The appellant's work and knowledge required for the position parallel an illustration in the standard for acquisition work at Level 1-7 where the specialist acquires an interest (by purchase, lease, right-of-way, easement, or other agreement) in land scattered over several states for use as the right-of-way for large water projects or several smaller projects. The specialist deals with property owners who are a mixture of individual homeowners, farmers, and large agribusinesses and other corporations. There is significant opposition to the proposed project and/or reluctance to deal with the Federal Government. The illustration further explains that some acquisitions involve negotiating with or providing advice and assistance to property owners, tenants, or other affected parties concerning their entitlement as a result of being relocated. Similar to this illustration, the appellant negotiates with various property owners, some of whom may be uncooperative, in efforts to acquire, manage, or dispose of land. In summary, the knowledge required by the appellant's position fully meets Level 1-7.

At Level 1-8, the employee uses a mastery of real estate principles, policies, and methodologies in property acquisition, management, and/or disposal. Functioning as technical authorities, realty specialists at this level apply *new* theories and standards to problems not susceptible to treatment by accepted and established realty practices and procedures. They use knowledge and skills to analyze and resolve conflicts in policy and program objectives and/or problems in very complex or controversial transactions involving complex negotiations. Transactions are typically of a scope that they may require long-term, comprehensive planning; the use of teams of realty specialists to complete the project; and the approval of the head of the agency, and/or appropriate Congressional committees, or tribal councils because they exceed delegated authorities, have program-wide implications, or may represent increased risk to the Federal Government. To illustrate, a specialist at this level may acquire thousands of acres of land for a large major project. Property and mineral rights must be acquired from more than a hundred property owners, frequently located over several counties or states, most of whom are very reluctant to sell. Acquisition of the land may also include exchanges with one or more State governments. Extensive coordination is required to deal with the large number of diverse property owners over the number of years needed to complete the project, and, at times, to address complex relocation issues. This includes coordinating and interacting with other agencies, State governments, and numerous local community groups. Negotiations are very complex and require creative

approaches such as offering an additional payment based on a percentage of the fair market value of the property or allowing the owner to retain the mineral rights. In contrast, the appellant's position does not require a mastery of real estate principles, policies, and methodologies comparable to the criteria at Level 1-8. Although the appellant is the resource advisor/program leader for both rights-of-ways and acquisitions for his organization, the knowledge required to perform duties associated with this responsibility fall short of the intent of Level 1-8.

This factor is evaluated at Level 1-7 (1250 points).

Factor 2, Supervisory controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the responsibility of the employee, and the degree to which work is reviewed by the supervisor.

The appellant is supervised by the Deputy State Director of the [appellant's activity]. The appellant is a member of the self-directed work team for lands and realty. A team leader is designated to serve on a rotational basis for three months. The appellant's supervisor provides direction on the priorities, objectives, and/or deadlines for types of work to be performed. The team leader is then responsible for assigning work to the team members. The appellant is granted a wide latitude for independent judgment and is required to make decisions based on limited guidelines. [The appellant] refers significant technical or procedural problems to [the appellant's] supervisor or a higher level employee. The appellant's supervisor reviews completed work in the form of review and discussion of findings, recommendations, and policy implications.

At Level 2-4, the supervisor sets the overall objectives and resources available. The employee and supervisor, in consultation, develop the deadlines, projects, agencies, or geographic area for which the employee will be responsible. The employee plans and carries out assignments; resolves conflicts that arise; coordinates the work with others; and interprets policy on own initiative in terms of established objectives. The employee keeps the supervisor informed of progress and potentially controversial matters, such as strong Congressional or tribal interest in a project or potential condemnation of property. Overall, the supervisor reviews the work for feasibility, compatibility with other realty or land use projects, and effectiveness in meeting realty program or agency goals and requirements. Similar to Level 2-4, the appellant coordinates work efforts with outside parties and carries out successive steps to complete project requirements and objectives. Like employees at this level, the appellant exercises initiative in developing his own techniques and methods within established guidelines to resolve problems and deviations. [The appellant] refers problems that do not have clear precedents to higher grade employees or the Deputy State Director for resolution. As at Level 2-4, the appellant's completed work is reviewed for feasibility, compatibility with other realty or land use projects, and effectiveness in meeting realty program and/or agency goals and requirements. Supervisory controls for the appellant's position fully meet Level 2-4.

The appellant's agency credited his position at Level 2-5 where supervision reflects administrative direction with full technical authority delegated to the employee. This level of authority is accompanied by responsibility for a significant program or function where assignments are made in terms of *broadly* defined missions or functions. Although the appellant has significant technical responsibility for the areas of rights-of-way and land and easement acquisitions, [the appellant's] supervisor exercises substantial program control and is ultimately responsible for providing leadership and guidance for policy development. Supervisory controls for the appellant's position fall short of the intent of Level 2-5.

This factor is evaluated at Level 2-4 (450 points).

Factor 3, Guidelines

This factor covers the nature of guidelines and the judgment needed to apply them.

At Level 3-4, guidelines typically include agency policies and precedents, accepted real estate principles and practices, and laws that provide a general outline of the concepts, methods, legal requirements, and goals of real estate programs. The employee uses initiative and ingenuity to deviate from accepted real estate practices; to reconcile or balance conflicting uses of land; or to comply with various regulatory requirements. The employee devises innovative approaches to negotiating compensation or other terms of contracts, leases, and agreements for complex and unique properties or right-of-way. Like employees at Level 3-4, the appellant exercises extensive judgment and ingenuity in the interpretation and application of program related laws and regulations for rights-of-way and acquisition programs. The appellant maintains a broad understanding and expertise in applying guidelines that include BLM manuals, regulations, laws, and handbooks. When the appellant encounters situations for which guidelines or precedents are unclear or not completely appropriate, [the appellant] resolves them based on experience or refers them to his supervisor or higher grade employees. Guidelines used by the appellant and the judgment needed to apply them are characteristic of Level 3-4.

At Level 3-5, guidelines are broad, nonspecific policies and basic legislation requiring *extensive* employee interpretation, judgment, and ingenuity. Employees at this level are frequently recognized as authorities in one or more specific areas of realty work, and they use a high degree of originality and discretion in area such as evaluating realty programs and procedures for needed changes or interpreting and adapting agency objectives into specific procedures, plans, or programs. Unlike Level 3-5, the appellant's guidelines are more specific and do not require extensive interpretation of basic legislation. Consequently, the guidelines used by the appellant do not meet the intent of Level 3-5.

This factor is evaluated at Level 3-4 (450 points).

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

At Level 4-4, the work involves the use of many different and unrelated realty processes and methods in the acquisition, management, or disposal of a wide variety of properties with unusual combinations of diverse characteristics. Assignments may require negotiations in sensitive or unpredictable situations with reluctant or uncooperative property owners and Federal, State, and local officials. Employees use originality in planning the scope and direction of realty projects or identifying problems. Employees plan transactions and projects which typically involve in-depth analysis and evaluation of unique and often conflicting combinations of characteristics, issues, and alternatives to determine the applicability of established realty practices and methods.

The complexity of the appellant's position fully meets and does not exceed Level 4-4. The appellant is responsible for a [multistate] right-of-way and land acquisition program and must often work with highly technical and complex management problems. Tasks vary on a case-by-case basis, and each requires a different approach depending on the circumstance. The appellant interacts and coordinates with other Federal and State agencies, Hispanic communities, and Native American groups and Indian tribes. The appellant's interactions are sometimes sensitive and unpredictable because of the diversity of the community and the different missions and goals of the landowners involved. The appellant meets with user group representatives and their counselors to negotiate issues and foster statewide agreements on behalf of BLM.

The complexity of the appellant's position does not meet Level 4-5 where the employee studies realty principles, concepts, and regulations to develop new or unique approaches or methods for acquiring, managing, or disposing of property or space. Assignments for employees at this level require *significant* departures from established realty practices and procedures to reach agreement on terms of contracts, leases, or other authorizing documents or to acquire, manage, or dispose of property in a manner that is most beneficial to the Federal Government or provides the greatest public benefit. The appellant's work does not require the significant departure from established realty practices and procedures as envisioned at Level 4-5.

This factor is evaluated at Level 4-4 (225 points).

Factor 5, Scope and effect

This factor covers the relationship between the nature of the 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. To receive credit for a factor level, both the scope and effect of the work must meet the level.

The appellant's position meets Level 5-4 where the work involves planning and completing complex real estate transactions and property management activities. Employees at this level use a wide range of real estate techniques and methods to acquire, manage, or dispose of properties with diverse or unusual characteristics. They investigate and analyze a wide variety of problems and questions to arrive at solutions; provide guidance on specific real estate principles, regulations, practices, methods, and techniques; and/or recommend new or modified policies. At this level, recommendations and transactions affect a range of agency activities, including the efficient completion of acquisition or disposal projects needed to meet program objectives and long-range goals of the agency itself or client agencies, compliance with a variety of realty-related regulations, and/or the effective management and use of real property. Similarly, the appellant is responsible for oversight and coordination to ensure accurate procedures are used and compliance with appropriate laws and regulations is achieved. The appellant coordinates statewide projects and assesses overall program effectiveness. Similar to Level 5-4, the appellant's work affects a broad range of agency activities within the [multistate] region, including oil and gas and the operation of State and other Federal agencies' programs.

The scope and effect of the appellant's work does not meet Level 5-5 where the purpose of the work includes resolving critical or unusual problems for a *broad* range of complex, frequently long-term, realty projects. At this level, solutions to problems, advice, and guidance affect *agencywide* operation of major aspects of land management, right-of-way, and realty programs that support the employee's own agency mission or the missions of other agencies. The appellant's position does not affect the agencywide operation of realty programs as envisioned at Level 5-5.

Level 5-4 is assigned (225 points).

Factor 6, Personal contacts, and Factor 7, Purpose of contacts

Factor 6 addresses the regular and recurring contacts with individuals outside the supervisory chain, and Factor 7 addresses the purpose of those contacts.

The appellant has contacts with individuals both within and outside the agency, including BLM managers and specialists, interest groups, company attorneys, land owners, tax assessors, appraisers, and various local and Federal Government personnel. Such contacts are comparable to Level 3 in that contacts at this level are with individuals or groups from outside the employing agency in a moderately unstructured setting where the contacts are not routine, the purpose and extent of each is different, and they are identified and developed during the course of contact.

The appellant's agency credited his position with Level c where the purpose of the contacts is to influence, motivate, or question persons or groups to provide, accept, and abide by terms of complex contracts, leases, other authorizing documents, or agreements relating to such matters as relocation rights or use of surplus property or an offer or selling price. Similar to Level c, the purpose of the appellant's contacts is to influence, motivate, or question persons or groups to

provide, accept, and abide by terms of complex contracts, leases, other authorizing documents, or agreements relating to such matters as relocation rights, rights-of-way, an offer or selling price for land or interest in land acquisitions or for any lands and realty actions. Like employees at Level c, the appellant must have the skill to facilitate and negotiate conflicts and differences in a way that will obtain agency objectives.

We evaluate these combined factors at Level 3c and credit (180 points).

Factor 8, Physical demands

This factor covers the requirements and physical demands placed on the employee by the work assignment. This includes physical characteristics and abilities and physical exertion involved in the work.

The appealed position requires moderate physical demand and occasional stress associated with meeting tight deadlines and conflict resolutions. Much of the work includes writing, research, and oral presentations. Similar to Level 8-1, the appellant's work is mostly sedentary, although there is some walking and climbing associated with field trips and inspections.

This factor is evaluated at Level 8-1 (5 points).

Factor 9, Work environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety and occupational health regulations required.

The appellant's work is usually performed in an office setting. Similar to Level 9-1, the appellant makes occasional trips to other offices and to the field for on-site inspections and land and easement acquisitions.

This factor is evaluated at Level 9-1 (5 points).

Summary

In 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	3-4	450
4. Complexity	4-4	225
5. Scope and effect	5-4	225
6. and 7. Personal contacts and Purpose of contacts	3c	180
8. Physical demands	8-1	5
9. Work environment	9-1	5
TOTAL POINTS		2790

The appellant's position warrants 2790 total points. In accordance with the grade conversion table provided in the Guide, the position is properly graded at GS-12.

Decision

The appellant's position is properly classified as Realty Specialist, GS-1170-12.