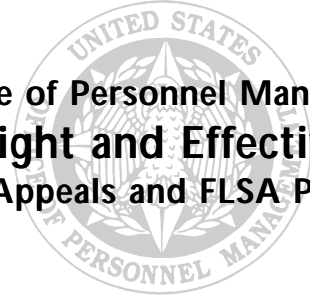


U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and FLSA Programs



Philadelphia Oversight Division
600 Arch Street, Room 3400
Philadelphia, PA 19106-1596

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

Appellant: [appellant's name]

Agency classification: Construction Representative
GS-809-9

Organization: Plans, Programs, and Design Office
Contracts and Operations Section
Civil Engineering Branch
Site Operations Division
[name] Research Site
Air Force Research Laboratory
Department of the Air Force
[location], NY

OPM decision: Construction Representative
GS-809-9

OPM decision number: C-0809-09-03

Robert D. Hendler
Classification Appeals Officer
/s/ 2/23/00

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 (PCS's), appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

PERSONAL

[name]

Air Force Research Laboratory

[name] Research Site

Civil Engineering

[acronym]

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Introduction

On October 20, 1999, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. His position is currently classified as Construction Representative, GS-809-9. However, the appellant believes the classification should be Construction Representative, GS-809-11. He works in the Plans, Programs, and Design Office, Contracts and Operations Section, Civil Engineering Branch, Site Operations Division, [name] Research Site, Air Force Research Laboratory, [name], NY. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C.).

General Issues

The appellant believes his position should be reclassified based on fully meeting both the requirements for the GS-9 grade level in the Construction Control Series, GS-809 PCS and the requirements for the GS-11 grade level in the Civil Engineering Series, GS-810 PCS, Part III, Construction. The GS-809 PCS states that the GS-810 PCS, Part III, Construction is to be used in classifying nonsupervisory construction representative positions in grades GS-9 and above. The appellant believes he meets the requirements for Level and kind of authority at Degree C (40 points) and Scope and complexity of construction operations at Level 3 (30 points), for a total of 70 points, converting to the GS-11 grade level by application of the grade-level conversion table in the GS-810 PCS, Part III.

The appellant also raised objections to comments made in responses by his agency to his previous classification appeals. Our fact finding takes previous responses to classification appeals into account only insofar as they are verifiable facts germane to this appeal. In addition, our conclusions are based solely on evaluation of those facts applied to the appropriate PCS's.

We conducted telephone audits with the appellant on January 13, January 18, and February 9, 2000. We also conducted a telephone interview with the appellant's first-level supervisor, [name], on January 21, 2000. In deciding this appeal, we fully considered the audit findings and all information of record furnished by the appellant and his agency, including his current assignment and position description (PD) of record, Air Force Standard Personnel Core Document (SPCD) number 8-42213-0. The appellant and his first-level supervisor agree that the SPCD of record adequately describes the duties and responsibilities of the appellant's construction management position at the [name] Research Site. However, the SPCD of record includes factor level descriptions taken from the Air Force SPCD for Civil Engineer, GS-11, which is inappropriate. These factor levels reflect the application of professional knowledges that are not required to perform the work assigned to and performed by the appellant. As such, they may mislead an incumbent or an evaluator into applying inappropriate PCS's to evaluate the work.

Position Information

The SPCD to which the appellant is assigned contains, in addition to general duties and responsibilities typical of Construction Representative positions, a focus on construction functions related to civil engineering. The appellant stated that he performs the entire range of construction representative duties and that the specific reference to civil engineering in his SPCD indicates that he is more likely than other construction representatives to be given assignments involving civil engineering issues or be informally asked for advice regarding civil engineering issues by them. The appellant monitors and/or manages projects for new construction, renovations, services, and improvements to real property facilities, including work on laboratories, utility systems, aircraft maintenance shops/hangars, recreation facilities, administrative offices, and dormitories. He performs pre-construction site surveys and prepares or reviews "as-built" drawings at the end of construction. The procedures typically followed by the appellant to manage his assigned projects are as follows.

Management decides there is a need for a project and assigns an engineer and/or a construction representative. The engineer prepares drawings, statement of work and cost estimates. The appellant reviews the engineer's work at various stages of development to make comments and suggestions regarding issues of practicality and economy. For projects not requiring the expertise of an engineer, the appellant prepares the drawings, statement of work, and cost estimates. Subsequently, he requests funds for the project from the Financial Management Office, and the Procurement Office requests the price of the project from the contractor. If the contractor's price is within the cost estimates, the contractor is approved to conduct the work; if not, the appellant and the Procurement Officer negotiate with the contractor. Once a price is agreed upon, the appellant approves or disapproves the contract progress schedule proposed by the contractor; coordinates construction schedules with using agencies; approves or disapproves material submittals; verifies work completed for periodic payments to the contractor; conducts regular site inspections to assure work conforms to the contract documents; and investigates the need for contract changes and prepares the necessary contract change orders. If a contract change order is required, the appellant writes the statement of work for the addendum, prepares a cost estimate, requests funds, and negotiates cost with the contractor. He schedules and conducts formal inspection meetings; prepares all documentation for project close-out; certifies for final payment, warranty records, and transfer of real property records; updates record drawings to show new work accomplished by the project; and serves as a point of contact for contractor warranty execution.

The appellant submitted a list of projects, including type of project, cost, completion date, and a brief description of the project itself, assigned to him from January 1998, to the present. We have incorporated that list by reference into this decision. The projects assigned to the appellant over the two-year period from January 1998, to January 2000, ranged in price from approximately \$17,000 to \$909,000. The average price of his projects was approximately \$275,000, excluding

several small re-occurring service contracts. His major projects were to replace a sanitary sewer system; alter handicap access to two buildings; renovate approximately 29,000 square feet of a laboratory building, involving asbestos removal and installation of partitions, ceilings, and light fixtures; and repair the exterior of two buildings, involving removing approximately 35,000 square feet of asbestos coated metal siding and replacing it with new metal siding.

Series, title, and standard determination

The agency has placed the appellant's position in the Construction Control Series, GS-809, and titled it Construction Representative. The appellant has not disagreed, and we concur with both the series and title determinations. The appropriate PCS's are the Construction Control Series, GS-809 PCS and, if necessary, Part III – Construction of the Civil Engineering Series, GS-810 PCS which is used to confirm that GS-809 positions meet or exceed the GS-9 grade level. The limited design and engineering requirements of the appellant's projects fall below the GS-9 grade level in the Engineering Technician Series, GS-802, and do not affect the final grade. Therefore, that PCS will not be addressed in further detail.

Grade determination

Evaluation using the GS-809 standard

The Construction Control Series, GS-809 PCS provides for grade level analysis using two factors: Assignment characteristics and Level of responsibility.

Assignment characteristics

Assignment characteristics covers the type and scope of assignments. Assignments may range from those of the trainee inspector to the journey or higher level serving on a large multi-structure project. Personal contacts are included under this factor. Personal contacts are with the construction supervisors and employees. Contacts may range from asking simple questions for information to negotiating cost of changes to the plans with contractor representatives.

At the GS-9 grade level, assignments typically involve inspection of a major segment of a difficult and complex project, such as inspecting the materials and installation, and testing of complex and sophisticated electrical or mechanical systems in a large, multi-purpose, special purpose building. Also typical of this grade level is the inspection of complicated structures involving highly complex construction problems, such as stabilizing subsoil structure or a runway for jet aircraft. Although the appellant's position is not typically called upon to handle major segments of such complex projects, it does require essentially complete responsibility for all segments of less complex projects, each component of which meets the GS-8 grade level in difficulty and complexity. The record shows that the appellant spends a sufficient portion of his time on projects providing complete coverage of multiple GS-8 grade level components to warrant considering the increased knowledge demands as compensating for the lower complexity and difficulty of the

individual segments of the projects. This justifies evaluation at the GS-9 grade level for assignment characteristics.

Level of responsibility

Level of responsibility covers controls on the work such as guidelines and supervisory controls. It covers the degree of freedom extended to the employees to exercise judgment in accepting or rejecting materials and workmanship. It also covers the degree to which the employee may commit the agency to a given course of action.

At the GS-9 grade level, inspectors interpret plans and specifications relating to construction problems of unusual difficulty and complexity. When changes to the plans are required, inspectors may approve such changes if they do not alter basic design or involve additional cost to the Government. The appellant is authorized to approve changes in basic design and incur additional cost to the Government, within reason, and in this regard exercises a level of responsibility in excess of that envisioned at the GS-9 grade level. However, the individual construction problems assigned to the appellant are not of the difficulty and complexity envisioned at that level, as discussed previously. Nevertheless, because of complete project responsibility and the authority to approve changes for complete projects vested in the appellant's position, it is properly evaluated at the GS-9 grade level of responsibility.

Having met the GS-9 grade level on both criteria for grade level determination, the appellant's position meets the GS-9 grade level requirements. This justifies application of Part III of the PCS for the Civil Engineering Series, GS-810, to determine the proper grade for the position.

Evaluation using the GS-810 standard

Part III provides for grade level analysis using two elements: Level and kind of authority exercised and Scope and complexity of construction operations.

Element 1. Level and kind of authority exercised

This element is concerned with the kinds of functions performed or supervised, and the relative independence and authority with which those functions are carried out. Element 1 has a range of 5 degrees, A through E, with point values of 20, 30, 40, 50, and 60, respectively. Only these specific values may be assigned. Degrees A, C, and E are defined in the PCS. They depict three common levels of authority in construction project organizations. Degrees B and D are not defined, but are to be used when a position falls between the defined degrees.

At degree A, construction representatives are responsible for inspection of construction operations on a shift, surveillance over limited, specialized phases of construction operations, or for negotiation and preparation of all contract change orders and modifications. There is normally at least one intermediate level of supervision between positions evaluated at Degree A and the

position of the engineer in charge of construction. Employees at Degree A generally have authority to recommend only, and take no significant final actions without review or consultation.

The appellant's work exceeds Degree A. His assignments entail monitoring and controlling entire contracts from start to finish. For his assigned projects, he may make initial drawings, using computer-aided design and drafting programs, when such drawings do not require professional design. When the drawings do require professional design, the appellant reviews the drawings and specifications at specified points in the design process, making recommendations for changes as needed. He prepares statements of work and participates in pre-contract conferences. He is delegated maximum authority and independence throughout the life of the contract, regularly keeping his supervisor informed of progress through bi-weekly progress reports, but he has the delegated authority to negotiate changes, including cost changes with the contractor. He approves or disapproves material and equipment submittals according to what is required in contract documents. Under competitive bid contracts, where the contract calls for materials meeting salient physical and performance characteristics, the appellant approves or disapproves material based on stated characteristics. He also has the authority under long-term contracts, which specify the actual manufacturer and model of items to be installed, to "reverse engineer" the project design and determine if the proposed substitute meets the design and engineering requirements on which the selections of the original material specifications were made. These authorities assigned to the appellant's position, which also include the delegated authority to negotiate changes, even if additional cost to the government is involved, are similar to the independence and authority envisioned at Degree C.

At Degree C, however, typical projects are clearing and building of roads, bridges, railroads that have to be relocated in connection with construction of a large dam or construction of canals for an irrigation system. The projects assigned to the appellant are limited to renovations, alterations, and repairs of existing office buildings, hangars, laboratories, and warehouses. They are not of the scope and complexity envisioned at Degree C. Thus, while the appellant's position entails authority and independence similar to Degree C, that authority and independence is exercised over projects of less scope and complexity than that envisioned at Degree C. The appellant has maintained that he is virtually the sole responsible person for projects assigned to him once the engineering and bidding aspects have been completed, and that he handles both the "field" and "office" functions of those projects. We recognize the wide range of responsibilities assigned and authorities delegated to the appellant that merit an evaluation above Degree A. However, the limited scope and complexity of the projects assigned to him and retention by his first-level supervisor of responsibility for making final technical determinations of significant actions preclude assignment of Degree C. Since the position does not fully meet the requirements for Degree C, but clearly exceeds those for Degree A, Degree B is credited for 30 points.

Element 2. Scope and complexity of construction operations

The definitions of levels under this element encompass a number of considerations, chief among which are size of the projects, diversity of structures or facilities, need for specialized or novel

equipment and methods, problems posed by the construction site, and presence of controversy or obstructive attitudes. Element 2 encompasses a range of seven levels, numbered 1 through 7, with point values of 25, 30, 35, 40, 45, and 50, respectively. Levels 1, 3, 5, and 7 are described. The intermediate levels 2, 4, and 6 are to be used when the scope and complexity of assigned construction operations exceed, but do not quite measure up to, one of the defined levels.

At Level 1, the projects consist mainly of one or two types of structures or facilities and take up to a year to complete. The equipment required is standard and commonly used, as are the materials and methods of construction. The foundation and soil conditions do not vary significantly. Such complexities and difficulties that are encountered are typical of small-scale construction projects. Over the past two years, the appellant's construction projects have included repairing and renovating a laboratory building; replacing 35,000 square feet of metal siding on two buildings; replacing a sanitary sewer system, including main and lateral lines, manholes, and a sewer pump; and making alterations for handicap accessibility to two buildings, including construction of ramps, railings, canopies, and lighting. The appellant's projects use the materials and procedures typical of, but not exceeding, Level 1.

In contrast, at Level 3, the scope and complexity of the construction operations are greater because the structures contain specialized equipment or customized features that require specially adapted construction methods and equipment, and the projects normally require two or more years to complete. Most of the appellant's projects are completed within one year, or extend over two or more years, but are divided into discrete repetitive segments, e.g., laboratory renovations accomplished in two phases. Although the appellant's projects are varied and, as such, require varied construction methods and equipment, those varied methods and equipment are standard and do not require major modifications. Also at Level 3, some projects require close coordination of construction schedules to accommodate concurrent operation and modification of connected or related facilities and systems. The appellant's projects sometimes require schedule changes. For example, when the construction or repair is to a laboratory, it may be necessary to modify the sequence of operations to accommodate scientists engaged in a delicate portion of a research project. However, those accommodations do not involve modifications of connected facilities and systems and do not require the close coordination envisioned at Level 3. Moreover, at Level 3, some of the facilities under construction require extensive treatment to correct site and foundation problems, or present problems in satisfying special "user" requirements of layout and/or facilities. The appellant's projects do not entail site or foundation problems. The appellant's projects are on or in buildings containing laboratories and special equipment but the projects themselves do not involve problems associated with special "user" requirements. The requirements to modify public access areas to satisfy handicap access requirements is a standard requirement and does not constitute the "special user requirements" envisioned at Level 3. Although some of the appellant's projects have some special design, procedure, and/or equipment requirements, they are few and the special requirements are not sufficiently beyond those envisioned at Level 1 to warrant assignment of a higher level. Consequently, Level 1 is credited for 20 points.

Summary

The combination of Degree B at 30 points and Level 1 at 20 points yields a total of 50 points, which the grade conversion chart in the standard places at the GS-9 grade level.

Decision

The position is properly classified as Construction Representative, GS-809-9.

