

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 classification of the appealed decision, it is to be effective no later than the beginning of the fourth pay period after the date of this decision (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's name and address]

Personnel Officer
Bureau of Land Management
[organizational location]
Department of Interior
[servicing personnel address]

Director, National Human Resources
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Introduction

On November 12, 1999, the Dallas Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [the appellant], an employee of the [organizational location], Bureau of Land Management (BLM), Department of the Interior, [city and state]. Her position is currently classified as Management Analyst, GS-343-9, as a result of a June 1999 BLM appeal decision. The appellant has no specific opinion regarding the agency's title and series determination, however, she still believes her grade should be GS-11. We have accepted and decided her appeal under section 5112 of title 5, United States Code (U.S.C.).

To help decide the appeal, an Oversight Division representative conducted an initial telephone audit of the appellant's position on January 10, 1999, and had follow-up discussions with the appellant, her supervisor, other [organizational location] officials whose responsibilities intersect those of the appellant, servicing personnel staff, and the classification specialist who prepared the agency appeal decision. To gain further perspective, the Oversight Division representative conducted an on-site audit of the appellant's position on January 31, 1999. In reaching our decision, we have reviewed the audit findings and all information of record furnished by the appellant and her agency, including her official position description (PD), 3303.

Position information

The appellant and her agency agree that PD number 3033 is an accurate depiction of her duties and responsibilities. The PD was prepared by the appellant and approved by her supervisor without change. The percentages of time spent on the various duties are identified on the original PD and on an official amendment to the PD. Although those percentages have changed significantly since the last amendment, the descriptions of the major kinds of work performed and knowledge required are sufficient so that PD 3033 is adequate for evaluation.

The appellant's position is that of a work leader for two of the major support functions that fall under the [organizational segment]: (1) land and mineral titles, i.e., maintaining and updating the public land and mineral status records for the states of [three states]; and (2) public assistance, i.e., responding to written, telephonic, e-mail and walk-in requests from the public for current and historical information from those records as well as related land use issues. The [organizational segment] is currently configured as a straight-line organization of 33 employees under one official supervisory position, i.e., the branch chief. Historically, there had been subordinate supervisory positions in this Branch serving as section chiefs, but these were eliminated as part of a BLM initiative to "flatten" organizations. Prior to that initiative, the appellant had served as the chief of the Public Assistance Section (referred to as the "public room") that was responsible for responding to public inquiries. Realignment initiatives have not only changed the appellant to work leader status in the "public room" but also added responsibility for leading the work of the former Land and Minerals Titles Section. Further realignment resulted in the transfer of responsibility for coordinating the processing of Freedom of Information Act requests from the [organizational location] Records Manager (now the [organizational location] Bureau Records Specialist) to the appellant.

Most of the appellant's work (i.e., 65 - 70 percent) deals with the official land and mineral records and is subdivided as follows:

- 25 percent: the appellant serves as the work leader of a staff of 11 employees, all of whom are performing one-grade interval work pertaining to land and mineral records. The substantive work of the "land and titles" staff is carried out by three employees titled Land Law Assistant (Drafting) and classified in the Legal Clerical and Assistance, GS-986 series. These employees depict all changes to the public land status records, both manually and in an automated system, that are prompted by a variety of legal case actions, surveys, re-surveys, legislation, revised regulations, etc. The substantive work of the "public room" (public assistance) staff is carried out by five employees who respond to public inquiries regarding public lands status (e.g., oil and gas leases, rights of way, etc.) and are classified in the Contact Representative, GS-962, series. Neither series is predominant grade-wise, as the highest level of work performed in each is currently classified at GS-7. Three other employees support the work of the Land Law Assistants and Contact Representatives by preparing case files for review, microfilming and reproducing land records, or handling collections, billings and deposits for fees stemming from map sales and document research and reproduction. The appellant and her work team are configured as follows:

Work Leader - Management Analyst, GS-343

Titles staff - (2) Land Law Assistant, GS-986-7
 (1) Land Law Assistant, GS-986-6

Public Room - (5) Contact Representative, GS-962-7*

Support staff - (1) Financial Assistant, GS-503-6
 - (1) Microform Equipment Operator, GS-350-5
 - (1) Land Law Clerk, GS-986-4

*One employee, reassigned 11/23/99 to the public room from another branch, is graded at GS-8 based on "incumbency allocation", but occupies a GS-7 position.

- 10 percent: the appellant personally participates in some of the public room work by handling those inquiries that are particularly vague and/or require more complex and time-consuming investigation and research, especially into the less well-known historical records. Although the appellant has not personally participated in the work of the titles staff, she is fully knowledgeable of the land and mineral records involved and is soon to be trained in the software program used to update the master title plats.

- 35 percent: (down from 50 percent in the most recent amendment to PD 3033) - the appellant serves as a technical resource and a “backup” to the lead [organizational location] representative for a major BLM automation project. The project goal is to convert all manual land and mineral records into an integrated, automated database that would eventually be accessible via the Internet. Significantly scaled down from the original plan, however, this project is now to be carried out in a sequence of modules that allow each integral functionality to be tested, debugged and deployed before moving ahead with additional functionalities. The appellant’s involvement in the project has included serving as a technical resource for the identification of user needs, testing of system/software capabilities, quality control and post-conversion data clean-up, as well as assisting the lead [organizational location] project officer in providing statewide user training for the first module approved for pre-deployment testing in the [two states] state offices. The appellant’s current involvement consists mostly of assisting state-wide users with problems and questions experienced with the initial functionality being tested.
- 30 percent: the appellant serves as FOIA coordinator, responsible for processing all FOIA requests received in the [organizational location] and all requests received in subordinate field offices that result in full or partial denial of records or fee waiver requests. In this capacity, the appellant deals with all technical and administrative records maintained by BLM organizations in the three-state area, not just land and mineral records.

Series and title determination

The appellant serves as the work leader for a group of 11 employees performing one-grade interval work involved in: (1) maintaining, updating, automating public land and mineral status records of the states of [three states] and (2) responding to a variety of public inquiries about the status of those lands and their history. The staff members performing the substantive work are classified as Contact Representative, GS-962, and Land Law Assistant (Drafting), GS-986. Neither series is predominate grade-wise, as the highest graded work in each series is currently classified at GS-7. The appellant describes GS-7 assignments as those actions that require her staff to deal with the more complex legal land instruments and supporting documents, multi-part transactions, and the more complex searching of historical records and legal statutes to fully respond to public inquiries. The appellant personally participates in some of the substantive GS-962 work for a small percentage of her time (10 percent). Although she is thoroughly knowledgeable of the land and mineral records involved in the “titles” work and performs some quality control checks of completed work in that area, the appellant has delayed personal participation in the GS-986 work until she can be trained in the new automated system/software used to update the master title and use plats. A third kind of work exists in the appellant’s role as FOIA “coordinator”, which consists mostly of processing FOIA requests, preparing an annual report, some periodic coordination with “zone” FOIA coordinators in subordinate offices, or with coordinators in other state offices and at bureau headquarters when dealing with a “multiple-state” FOIA request. Because of the extensive departmental, bureau and other guidance/information already available, the appellant’s involvement in developing formal supplementary written

guidance on FOIA matters has been minimal and procedural in nature. Overall, the primary nature of this FOIA work is similar to that performed in clerical or assistant positions classifiable at grades GS-7 and below.

Positions that involve work covered by more than one occupational series are considered “mixed” positions. Usually, the grade-controlling, or highest graded, work performed determines the appropriate series. However, when no series predominates grade-wise, consideration is given to such factors as: (a) the paramount knowledge required, (b) reasons for the position’s existence, (3) the line of promotion for the position, and (4) the best or most likely recruitment source of applicants for the position. In the appellant’s case, the substantive technical work in GS-962 and GS-986 series share the common requirement for a thorough understanding and knowledge of the public land and mineral records and supporting documents as well as the ability to research them. As a result, the employees led by the appellant can fairly readily switch from one type of work to the other, although movement to the GS-986 “titles” work necessitates some training in drafting and in the new software used to automate the master title plats. Movement to the public room work would allow “titles” staff employees to develop potentially career-enhancing “people skills” to supplement their technical knowledge. The appellant’s position was originally established to oversee the public assistance function, and she had advanced to it from a nonsupervisory Contact Representative position in the public room. The majority of the substantive GS-7 positions led by the appellant (5 of 7) are still devoted to the public room work. The appellant’s FOIA work does not exceed GS-7 nor does it represent the primary reason why her position exists, the paramount knowledge required, the best recruitment source, or the normal line of promotion to the appellant’s position. In summary, the appellant’s position is best represented by classification in the Contact Representative, GS-962 series.

With regard to the agency appeal decision, we do not find compelling the rationale provided for classifying the appellant’s position in the Management Analyst, GS-343 series. The GS-343 series covers positions which primarily serve as staff analysts and advisors to management on the effectiveness of government programs and operations, or the productivity and efficiency of Federal agencies or both. Management analysts spend their time designing and conducting studies and other types of analyses for the purpose of providing line managers objectively based information for making decisions on administrative and programmatic aspects of agency operations and management. The paramount knowledges are of management principles and processes as well as quantitative and qualitative analytical techniques. Specifically excluded from GS-343 coverage are positions which have as their paramount qualification requirement specialized subject matter knowledge and skills equivalent to those of a fully-trained employee in the subject matter occupation. While the appellant has been instrumental in efforts to install in the [organizational location] an automated master title plats program that was first developed and implemented in another BLM state office, and has had to occasionally make adjustments in work processes, the type and level of analyses used in those instances would not approach the breadth and depth of analytical technique envisioned in the Management Analyst series. Further, the paramount qualification required in the appellant’s position is the technical knowledge of current and

historical public land and mineral records; and the primary recruitment source for her position would not be other qualified management analysts.

The appellant's work leader responsibilities for the public room and titles work consists of: developing the proposed annual operating budget for supplies, equipment, training and travel; communicating management and organizational goals, policies, instructions and other information; tracking and certifying time and attendance; approving leave; distributing and prioritizing the work when necessary, such as for a particularly large or unique order (e.g., request for copies of 25 complete oil and gas lease files); identifying staff technical training needs, providing input and recommendations to the branch chief on performance appraisals and awards, resolving simple and informal complaints while referring more serious complaints and disciplinary problems to the branch chief. Both the appellant and her supervisor confirm that when her position was converted to work leader from supervisory status, the specific limitations on her delegated authority and responsibilities necessary to effect that change were specifically identified, and those delegations have not been formally changed. As a result, the appropriate title for the appellant's position is Lead Contact Representative.

Grade determination

Since this is a mixed series position, a grade determination must be made for each different kind of work performed by applying the appropriate classification standards and guides. The final grade controlling duties must be a regular and recurring part of the job and be performed at least 25 percent of the time.

Application of Part 1 of the General Schedule Leader Grade Evaluation Guide is appropriate. The appellant spends 25 percent of her time leading the work of the public room and the title staff of 11 employees in the performance of one-grade interval technical and support work. The appellant's work leader duties and responsibilities are generally a good match to the examples described in Part 1. While the number of workers led by the appellant (11) is near the cautionary upper limit mentioned in Part 1 of the Guide, and the branch chief indicates that his large span of control (1:33) is creating some pressure to revert to a subordinate supervisory structure, there has been no official redelegation of supervisory responsibilities to the appellant. Under Part 1 of the Guide, leader positions are classified one GS grade above the highest level of nonsupervisory work led. This means the grade to be used usually is the grade of the highest level employee in the team (other than the leader or a supervisor). Care should be taken, however, to assure that grade does not reflect a team member's other, non-team-related duties, work in an occupation for which the work leader is not qualified, or work receiving little or no leadership from the work leader because the team member is a recognized "expert" in the work or performs above the normal full performance level. In this case, the seven highest grade workers led are GS-7. This grade level is based on the work leader's certification that those employees spend at least 25 percent of their time in dealing with the more complex personal contacts (e.g., customer requests that are vague or ambiguous) and records research (e.g., more extensive searching in the oldest historical records) or in processing multi-part case transactions that involve complex legal

instruments and supporting documents. The workers generally perform this work independently although they consult the appellant on particularly new or unusual cases. The appellant is fully qualified for all the work led and would be considered the “expert” within the team with regard to the paramount knowledge of land and mineral records and related transactions. Since GS-7 is the highest level of work the appellant leads, her position supports a grade of GS-8 under part 1 of the work leader guide.

The appellant believes that her personal work in the public room exceeds the level of work performed by the GS-7 Contact Representatives, in that she handles those requests that completely “stump” her public room staff and require research into the oldest historical land records and occasional contacts with records specialists in other Federal agencies, such as the Forest Service or the Bureau of Reclamation, or at the county level, as well as historians. Since the appellant reports that she spends only about 10 percent of her time in this personal work, however, it cannot be grade controlling.

The appellant’s involvement in the BLM-wide automation initiative is not a separate kind of work for classification purposes. This is periodic project work, mostly of short-term duration, that can be considered a natural extension of her regular duties of overseeing the technical work of the public room and the titles staff. Also, this work does not require a significantly different kind or greater level of knowledge or skill than the appellant employs in her normal day-to-day work. Discussion with the BLM national lead for the automation project and the [organizational location] Land Records Specialist who serves as the lead [organizational location] representative on the project team, revealed that the appellant is one of a number of public room leads who have contributed their technical knowledge and experience to the national project team and the system/software developers for the design, testing, and debugging of automated program modules/functionalities. As technical resource advisors, the appellant and her “public room” peers have helped describe for the system/software developers the typical or standard user needs and expectations, have assisted in identifying “real world” user scenarios to test system/software capabilities, and have helped assess test results by checking the accuracy of the automated record product with the original, manual record. When the first module was approved for test application in the [two states] state offices, the appellant completed a one-day, train-the-trainer workshop so she could assist the [organizational location] Land Records Specialist with the initial training of statewide users. With that initial training surge completed, the appellant’s involvement in user training has diminished to only five percent of her time (down from 25 percent in the last amendment to PD 3033). Since the project plans and time frames have been significantly scaled back, it is not clear when the next major training requirement will be. In the meantime, the appellant is able to oversee and troubleshoot the conversion of records since that work is being done by her “titles” staff. In addition, the appellant estimates that in her role as designated “backup” to the lead [organizational location] project representative, she spends about five percent of her time assisting statewide users with their questions and problems with the new module.

The appellant processes all FOIA requests received in the [organizational location] and those received in subordinate field offices that will result in a partial or full denial of records or fee

waiver requests. This work covers all types of technical and administrative records maintained by BLM offices in the three-state area, not just the land and mineral records. For the appellant, this work consists of: (1) scanning the request to confirm the specific kind of record(s) identified, the category of the requestor, and whether a fee waiver request is included; (2) identifying the logical program office that might have jurisdiction over the type of record requested; (3) requesting the program office to determine whether such a record exists and to submit the record(s) for review against FOIA/PA guidelines, along with an estimate of the costs of reproduction and/or research to locate the document(s), as well as background information that would be useful in analyzing fee waiver requests; (4) applying FOIA and Privacy Act guidelines to determine whether the responsive record(s) can be released or should be denied in total or in part and whether fee waiver requests should be approved; (5) consulting the Field Solicitor or the [organizational location] Bureau Records Specialist for guidance on complex or unusual issues, as necessary; and (6) preparing the final response for signature by the State Director; ensuring that all responses that are denying records or fee waiver requests include the requestor's appeal rights and have been first coordinated with and concurred in by the Field Solicitor.

The appellant processes the full range of FOIA requests received in the [organizational location] and all of those received in subordinate field offices in the three-state area that warrant some degree of denial of the responsive records or fee waiver requests. There is a substantial body of regulations, guidelines, precedent cases, and other information that has been developed over the years that she can consult when processing requests. These include detailed departmental implementing regulations (43 CFR), published guidance from the departmental solicitor's office, bureau policies and guidance, annual Department of Justice overview reports on FOIA trends and precedent cases, and copies of responses to previous FOIA requests handled in the [organizational location]. The appellant must select from these guides those that are most applicable to each case being processed. To facilitate her search for relevant guidelines, precedents and comparable prior cases, the appellant has organized, catalogued and labeled this information in a set of binders available at her fingertips. Her contacts in carrying out this work are typically with specialists in program offices where the responsive records may exist, with the Field Solicitor in [city], with designated FOIA coordinators in subordinate field locations, with other FOIA coordinators within BLM when "multi-state" requests have been received, and with the [organizational location] Bureau Records specialist as needed on new or unusual issues. Although the appellant prepares the FOIA response in final form, she does not have final approval or signatory authority and must get concurrence from the Field Solicitor in all responses that include full or partial denial of the responsive record(s) and/or fee waiver requests. The appellant carries out this work virtually free of any technical or administrative supervision from the branch chief, who has little knowledge or expertise in the FOIA area. Instead, the appellant consults the Field Solicitor and/or the [organizational location] Bureau Records Specialist (who previously performed the FOIA processing function) on new or unusual issues.

Although PD 3033 says that the appellant "serves as the principal advisor to the State Director on FOIA/Privacy Act issues" and "provides training at all levels of the organization on FOIA/PA case law, disclosures, exemptions, fees, and annual reporting requirements", these duties are

somewhat overstated. The GS-12 Bureau Records Specialist in the Branch of IRM reports that she still retains overall FOIA/PA program and policy responsibility for MSO, even though her FOIA processing function has been assigned to the appellant. In addition, the appellant has been performing this work for only 18 months and is learning it on the job through an initial orientation from the Bureau Records Specialist, by assembling and reading the various guidelines, by collecting samples of FOIA cases and responses, and by consulting with the Bureau Records Specialist and the Field Solicitor as necessary on new or unusual cases/issues. While the State Director may, indeed, choose to directly deal with the appellant on FOIA matters, it is clear that the appellant does not yet have the knowledge and breadth of experience to provide the full range of management advice without first consulting with the Field Solicitor or the Bureau Records Specialist on certain issues.

There is no published classification standard for FOIA work. Coverage under the Paralegal Specialist, GS-950, series is not appropriate because that series covers legal work that is ancillary (i.e., assistive or supplemental) to the work of attorneys, administrative law judges, administrative agency appellate boards, or other duly designated managers of legal work in areas such as litigation. That is not the kind of work situation in which the appellant performs her FOIA duties.

When no directly applicable standard exists, other standards that are compatible with the kind of work being evaluated can be used to determine the grade. In this case, the appellant's FOIA processing work is a good match for the kind of work covered by the Grade Level Guide for Clerical and Assistance Work. That guide covers the work of processing transactions and performing assistance duties within a framework of procedures, precedents, or instructions that is not covered by more specific grade level criteria in other guides or standards. Assistants perform technical work to support the administration or operation of the programs of an organizational unit. The work requires a working knowledge of the processes and procedures of an administrative field and the mission and operational requirements of the organization. The Guide describes the general characteristics of each grade level from GS-1 through GS-7 in a three-part format: (1) the definition of the grade level contained in the law (title 5, U.S. C. 5104); (2) narrative descriptions of the grade level concepts in terms of two factors: *Nature of assignment* (includes knowledge required and complexity of the work) and *Level of responsibility* (includes supervisory controls, guidelines and personal contacts); and (3) general work examples to illustrate each grade level.

At the GS-4 level, the work requires a moderate amount of training or experience, a good working knowledge of a special subject matter or limited field of procedure and practice, and the exercise of independent judgment in accordance with established policies, procedures, and techniques. The nature of the assignment consists of performing the full range of standard assignments and resolving recurring problems. The work involves related steps, processes or methods which require the employee to identify and recognize differences among a variety of recurring situations. Actions to be taken or responses to be made may differ in nature and sequence because of the differences in the particular characteristics of each individual case or transaction. In addition to knowledge of how to carry out the procedures, the work at this level requires some subject matter

knowledge of an organization's programs and operations; or of a type of business practice, such as maintaining records; or of a body of standardized rules, processes, or operations. In terms of level of responsibility, the supervisor provides little assistance with recurring assignments. The employee uses initiative to complete the work in accordance with accepted practices, and unusual situations may require the assistance of the supervisor or a higher-level employee. Procedures for doing the work have been established and a number of specific guidelines are available. The number and similarity of guidelines require the employee to use judgment in locating and selecting the most appropriate guidelines, references and procedures. The employee has contact with co-workers and those outside the organization to exchange information, and in some cases to resolve problems in connection with the immediate assignment.

The appellant's FOIA duties and responsibilities, as described above, are a good match to the GS-4 grade level descriptions in the Guide. At the GS-5 level, the work requires "considerable training" and experience, whereas the appellant has been able to assume and successfully carry out her FOIA duties with a period of informal orientation and periodic on-the-job mentoring by the Bureau Records Specialist and the Field Solicitor, rather than formal training. Also, at the GS-5 level, the nature of the work includes a variety of assignments involving "different and unrelated steps, processes, or methods"; and completion of each transaction typically involves selecting a course of action "from a number of possibilities." In contrast, the appellant's duties, as described above, typically follow a standard series of related steps, all aimed at a limited set of options that consist of determining whether: (1) the responsive record exists, (2) it is releasable in total or in part, and (3) the costs of searching for and/or copying the responsive record are to be waived. The appellant's level of responsibility meets some aspects of the GS-5 level of the guide, primarily in the degree of independence from supervision by the branch chief with which she carries out her FOIA work and the extent to which she uses judgment in selecting the appropriate guidance and related case examples from the extensive set of program information she has collected and catalogued. However, there is little evidence that the appellant is faced with a "number of procedural problems" that "require interpretation and adaptation" or that her regular and recurring contacts in her FOIA work "are with a variety of persons within and outside the agency" [underlining added for emphasis]. Thus, the GS-5 level is not fully met, and the appellant's FOIA work is best evaluated at GS-4.

In summary, we have evaluated the appellant's work leader duties as the highest graded work that constitutes at least 25 percent of her position. Based on application of the General Schedule Leader Grade Evaluation Guide, the appellant's position is best graded at GS-8.

Decision

The appellant's position is properly classified as Lead Contact Representative, GS-962-8.