

Classification Appeal Decision
Under section 5112 of title 5, United States Code

Appellant: [Appellant]

Agency classification: Accounting Officer
GM-0510-14

Organization: Accounting Section (AS)
Accounting, Treasury, and Financial
Systems Division
Bureau of Fiscal Operations
[Agency]
[Location]

OPM decision: Accounting Officer
GM-0510-14

OPM decision number: C-0510-14-01

/s/ Judith A Davis (for)

Robert D. Hendler
Classification and Pay Claims
Program Manager
Merit System Audit and Compliance

August 16, 2010
Date

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

Decision sent to:

[Appellant]
Accounting Officer
Accounting Section
[Agency]
[Address]
[City and State]

[Name]
HR POC
Chief, Workforce/Organizational Management
Bureau of Human Resources
[Agency]
[Address]
[City and State]

[Name]
Director of Personnel
Bureau of Human Resources
[Agency]
[Address]
[City and State]

Introduction

On April 21, 2010, Chicago Oversight of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant]. The appellant occupies a position currently classified as Accounting Officer, GS-0510-14. The appellant believes it should be classified as Accounting Officer, GS-0510-15. The appellant's position is located in the AS, within the Accounting, Treasury, and Financial Systems Division, Bureau of Fiscal Operations, [Agency] in [Location]. We received the agency's administrative report (AAR) on May 17, 2010, and the appellant's final comments on the AAR on May 27, 2010. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

Background

On February 2, 2010, the agency presented the appellant the findings of a review conducted by a contract classifier to collect, review, and evaluate the appellant's position in response to the appellant's request for a desk audit. During his preliminary review, the classifier only applied Factor 1 of the Job Family (JFS) Position Classification Standard for Professional and Administrative Work in the Accounting and Budget Group, GS-0500, to determine the position did not meet the Level 1-9, which would be required to raise the points high enough to warrant reclassification from GS-14 to GS-15. The classifier subsequently used the General Schedule Supervisory Guide (GSSG), hereafter called the Guide, which is a six-factor standard used to evaluate GS supervisory positions, and determined the position was properly classified at the GS-14 level.

On February 8, 2010, the appellant appealed the desk audit findings to his agency citing the Guide only as the basis for his belief his position should be classified at the GS-15 level. He did not appeal the evaluation using the 500 JFS. In its response, the agency assigned the position to the 510 series, but evaluated the grade level by applying the functional Guide. Their final classification report concluded that the appellant's position was properly classified as Accounting Officer, GS-14. The appellant subsequently filed this appeal with OPM.

General issues

The appellant makes various statements about past events that have occurred since he transferred from [Agency] to the Office of Inspector General with [Agency], and prior to his transfer to the Accounting Section AS in 2002. In adjudicating this appeal, our responsibility is to make our own independent decision on the proper classification of the position. By law, we must make that decision solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison.

In his May 3, 2010, letter to OPM, the appellant states that he "would like to know if a Prohibited Personnel Action occurred (sic) by anyone based on my past whistleblowing or the subsequent FOIA lawsuit," or afterward by the exercise of his classification appeal rights. However, a claim of retaliation for filing an appeal is not covered by OPM's classification appeal regulations under section 5112 of title 5, United States Code (U.S.C.). Claims of violations of

merit system principles are adjudicated by the Merit System Protection Board (MSPB at www.mspb.gov) under 5 U.S.C. 2301(b). The U.S. Office of Special Counsel (OSC at www.osc.gov) protects government employees from prohibited personnel practices, including reprisal for whistleblowing under 5 U.S.C. 2302(b).

The appellant also says he has seen vacancy announcements for accounting officers announced at the GS-15 grade level on USAJOBS for positions listing work comparable to his duties and responsibilities. While vacancy announcements contain a list of major duties, they do not address the range of factors required to classify positions. Furthermore, as previously discussed, we must classify positions solely by comparing their current duties and responsibilities to OPM position classification standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we also cannot compare the appellant's position to others, which may or may not be classified properly, as a basis for deciding this appeal.

In his appeal request, the appellant says he assumed duties performed by a former associate who had been a GS-15. He also says beginning in 2006 he began approving agency cash transfers which previously had been approved by a member of the senior executive service (SES). However, the assignment of more or different work does not necessarily mean the additional work is more difficult and complex. In addition, each grade level represents a band of difficulty and responsibility. Performing more difficult work than previously performed may continue to fit within and support the current grade level of the position.

The appellant also requests back pay, if his appeal request is approved, for performing GS-15 work retroactive to March 6, 2006, when he was assigned to his present PD. However, the U.S. Comptroller General states that an “. . . employee is entitled only to the salary of the position to which he is actually appointed, regardless of the duties performed. When an employee performs the duties of a higher grade level, no entitlement to the salary of the higher grade exists until such time as the individual is actually promoted. This rule was reaffirmed by the United States Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976), where the Court stated that ‘. . . the federal employee is entitled to receive only the salary of the position to which he was appointed, even though he may have performed the duties of another position or claim that he should have been placed in a higher grade.’ Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classifications.” (CG decision B-232695, December 15, 1989).

Position information

The appellant reports to the Chief, Accounting, Treasury, and Financial Systems Division, who in turn reports to the Chief Financial Officer (CFO) who heads the Bureau of Fiscal Operations for [Agency]. As chief of financial accounting, the appellant plans, develops, and directs the agency's financial accounting and cash management programs. Financial accounting is the process of measuring an enterprise's assets, liabilities, and equity and must conform to Generally Accepted Accounting Principles (GAAP). Financial accounting allows outside users to review an enterprise's financial health.

He supervises a subordinate staff of 13 (one GS-14 Cost Accountant, three GS-13 Accountants, six GS-12 Accountants, and three GS-11 Accountants). His PD states, and the appellant agrees, he directs the subordinate staff by assigning work, determining priorities, and providing advice and assistance as needed. He prepares performance standards and evaluates the work performance of each employee. He informally resolves complaints and grievances, and arranges for the training and career development of his employees. He interviews and recommends selections for new employees.

The appellant participates in the design, review, and implementation of automated accounting and financial management systems. He provides advisory services on financial management activities to his supervisor and other operating officials, as well as the CFO. He furnishes financial statements, reports, and other financial data in accordance with Federal accounting standards on all aspects of the agency's financial operations, including the financial condition of the administrative and benefit trust funds, cost reports, and related data to agency officials, Treasury, Office of Management and Budget (OMB), Government Accountability Office, Centers for Medicare and Medicaid Services (CMS) services and fees, congressional committees, and the congressional budget office, as required.

He maintains the integrity of the [Agency Program], [Agency Program], and other accounts of the [Agency]. He also analyzes actual against projected revenues from the unemployment insurance contributions, [Agency Program], and other sources of income to ensure amounts are appropriately and properly credited to those accounts. The [Agency Program] ([Acronym] or "the Trust") was established pursuant to Section 105 of the [Agency Program] Act of 2001 (the "Act") that was signed into law on December 21, 2001. The Act set February 1, 2002, as the date that the Trust was to become effective. The sole purpose of the Trust is to manage and invest [Agency Program] assets. The Act authorizes the Trust to invest the assets of the [Agency Program] in a diversified investment portfolio in the same manner as those of private sector retirement plans. Prior to the Act, investment of [Agency Program] assets was limited to U.S. government securities

The appellant ensures amounts are not obligated in excess of apportioned amounts or available income, and alerts the CFO or the Budget Officer if it appears additional funds for obligations should be apportioned before such obligations are made. He also ensures fund balances, revenues, and expenditures are properly and accurately reflected.

He manages the agency's cash management program by monitoring the deposit of funds, reconciling cash accounts, warrants, and other transfer documents, as well as making income and expenditure forecasts so as to maximize investment income. He oversees the transfer of cash transfers to the Federal Management Service (FMS, a bureau within the U.S. Department of the Treasury), [Acronym], the Intragovernmental Payment and Collection System (IPAC) and the regular [Agency] limitations funds. More recently, the Accounting Section has also had to track and account for stimulus funds distributed under the American Recovery and Reinvestment Act of 2009 (ARRA) and extended unemployment benefits under the Worker, Homeownership, and Business Assistance Act (WHBAA) of 2009.

He ensures proper profiles are being used at [Agency] to facilitate the transition to the FMS' Federal Agencies' Centralized Trial-Balance System (FACTS II) which is a computer program that allows agencies to submit one set of accounting data for governmentwide reporting purposes. This data includes mostly budgetary information that is required for the Report on Budget Execution and Budgetary Resources (SF 133), the Year-End Closing Statement (FMS 2108), and much of the initial data that will appear in the prior year column of the Program and Financing (P&F) Schedule of the President's Budget.

The appellant retains his assignment to the GM pay category. GM to GS conversion under Performance Management and Recognition System Termination Act of 1993 (P.L. 103-89) was enacted on September 30, 1993 and was effective on November 1, 1993. The employee, not the position, is covered by P.L. 103-89 as long as he or she continues to occupy any grade 13, 14, 15 supervisory or management official position.

The supervisor certified to the accuracy of the appellant's official PD [#####-##-##] on May 14, 2010, but the appellant disagrees with the grade-level determination. He believes his duties as Accounting Officer warrant higher credit for the many high level duties and responsibilities he performs.

To help decide this appeal, we conducted a telephone audit with the appellant and a telephone interview with the first-level supervisor on July 28, 2010. In deciding this appeal, we carefully considered the interviews and all other information of record furnished by the appellant and his agency, including the official PD. Based on our fact-finding, we find the appellant's PD covers the major duties and responsibilities performed by the appellant, is adequate for purposes of classification, and we incorporate it by reference into this decision.

Series, title, and standard determination

The agency assigned the appellant's position to the GS-510 series and titled it Accounting Officer based on application of the Job Family (JFS) Position Classification Standard for Professional and Administrative Work in the Accounting and Budget Group, 0500. The appellant does not disagree with these determinations and, based on careful analysis of the record, we agree. Therefore, the position is properly allocated as Accounting Officer, GM-510.

The agency applied the previously cited JFS and the Guide to evaluate the grade level of the position. The appellant does not disagree with the use of these standards and we concur.

Grade determination

In classifying the appellant's current PD, the agency evaluated the appellant's position using the criteria for the GS-510 Accounting Series contained in the 500 JFS, assigning Levels 1-8, 2-5, 3-5, 4-5, 5-5, 6-3, 7-B, 8-1, and 9-1. The appellant did not appeal this application of the JFS and, after carefully reviewing the record; we concur with the agency's determination and have so credited the position.

The Guide is a cross-series guide used to determine the grade level of supervisory positions in the General Schedule (GS). The Guide has six evaluation factors, each with several factor level definitions and corresponding point values. Positions are evaluated by crediting the points designated for the highest level met under each factor, and converting the total to a grade by using the grade conversion table provided in the Guide. The agency's February 8, 2010, appeal decision assigned Levels 1-3, 2-2, 3-2, 4A-4, 4B-3, 5-8, and 6-6. In his appeal request to OPM, the appellant only disagreed with the assignment of Factor 1-3, stating he believed it should warrant evaluation at the 1-4 Level due to his policy and system-development duties. After careful review of the appeal record, we concur with the crediting of Levels 2-2, 5-8, and 6-6. Our analysis of the factor contested by the appellant and those with which we do not agree or which would benefit from further discussion follows.

Factor 1, Program Scope and Effect

This factor addresses the general complexity, breadth, and impact of the program areas and work directed, including the organizational and geographic coverage. It also assesses the impact of the work both within and outside the immediate organization. To credit a particular factor level, the criteria for both scope and effect must be met. The factor levels describe two situations: agency line programs, e.g., providing services to the public; and support programs, e.g., providing administrative services within an agency.

As an independent agency in the executive branch of the Federal Government, the [Agency's] primary function is to administer comprehensive retirement-survivor and unemployment-sickness benefit programs for the [Category of Workers] and their families, under the [Agency Program] Unemployment Insurance Acts. In connection with the retirement program, the [Agency] has administrative responsibilities under the Social Security Act for certain benefit payments and [Category of Workers] Medicare coverage. The appellant's section, located within CFO/Bureau of Fiscal Operations, is a staff support program covered by the second situation.

In his agency-level appeal, the appellant stated his position met Level 1-4, citing the following illustration in the Guide:

Directs administrative activities (such as budget, management analysis, or personnel) conducted throughout, or covering the operations of, the agency's headquarters or most of its field establishment. The program segments directed materially shape or improve the structure, effectiveness, efficiency, or productivity of major portions of the agency's primary missions, multiregion programs, headquarterswide operations, or projects of national interest.

The appellant states AS improves the effectiveness and efficiency of headquarterswide operations by ensuring there is sufficient cash on hand to pay benefits, the agency's primary mission, pay expenses, and investing excess funds to earn interest for the agency and the trust funds. He states AS ensures [Agency's] compliance with OMB and Treasury directives in the reporting of budgets and accounts, ensures the agency is reimbursed the correct amount for cost activities from CMS, by handling the \$4 billion financial interchange, and by issuing the Performance and Accountability Report each year. In doing so, he states he plays a key role in

AS' developing new procedures, such as new payroll procedures in 2008 for the ARRA accounts, developing a new format for SF-133s, Budget Execution Reports, as required by Treasury, and taking such actions as reconciling the Master Benefit File to the General Ledger per an Office of Inspector General (OIG) recommendation and developing procedures to reconcile nonintegrated subsystems to the General Ledger per an OIG recommendation.

Scope addresses the complexity and breadth of the program directed and the services delivered. The geographic and organizational coverage of the program within the agency structure is included under this element.

Under *Scope*, the position meets both Levels 1-3 and 1-4 in terms of the complexity of the work directed in that the work performed is professional in nature. The appellant's subordinate staff is comprised primarily of employees in the two-grade interval performing accounting work. However, Level 1-4 is not met. At this level, work involves directing a segment of a professional, highly technical, or complex administrative program which involves *the development of major aspects of key agency scientific, medical, legal, administrative, regulatory, policy development or comparable, highly technical programs*. The purpose of the appellant's position is to supervise line accounting operations at the agency level. The accounting program is, in turn, a subordinate component of the Accounting, Treasury, and Financial Systems Division, a component of the Bureau of Fiscal Operations. Thus, AS is a limited program segment within the meaning of the GSSG tasked with performing one aspect of the overall [Agency] fiscal program. While the appellant may provide input to proposed new policies or standard operating procedures, responsibility for the type of program development work described at Level 1-4 is retained at higher agency levels. The record shows the Division is responsible for "developing financial policy and procedures" while AS is responsible for participating in the design, review, and implementation of automated financial accounting systems. Since level 1-4 is not fully met, Level 1-3 must be assigned.

Effect addresses the external impact of the program.

At Level 1-3 under *Effect*, the activities accomplished directly and significantly impact a wide range of agency activities, the work of other agencies, or the operations of outside interests (e.g., segment of a regulated industry), or the general public. In contrast, at Level 1-4 the work impacts an agency's headquarters operations, several bureauwide programs, or most of an agency's entire field establishment; or facilitates the agency's accomplishment of its primary mission or programs of national significance; or impacts large segments of the nation's population or segments of one or a few large industries; or receives frequent or continuing congressional or media attention. With regard providing services within an agency, Level 1-4 covers the direction of program segments that materially shape or improve the structure, effectiveness, efficiency, or productivity of major portions of the agency's primary missions, multiregion program, headquarterswide operations or projects of national interest.

While the work directed is agencywide as is typical of Level 1-4, AS is a subordinate component of one Division which, in turn is a program segment of the overall [Agency] fiscal program. AS improvements do not, in and of themselves, materially shape or improve the structure, effectiveness, efficiency, or productivity of [Agency's] primary missions; i.e., the adjudication

and dispensing of [Agency] benefits and the effective investment of [Agency] funds. Instead, they help to better track and account for the expenditure and tracking of such funds. As discussed previously, responsibility for such program improvements is vested in higher level [Agency] organizations. The appellant may receive frequent inquiries from local congressional staff to provide information that will allow them to address constituent concerns, but this does not constitute the type of congressional attention intended at this level, i.e., frequent attention by Congress in relation to [Agency] national-level program concerns. Since Level 1-4 is not met, Level 1-3 must be assigned.

Level 1-3 is assigned for this factor, and credited for 550 points, since the work does not support Level 1-4 for either Scope or Effect.

Factor 3, Supervisory and Managerial Authority Exercised

This factor covers the delegated supervisory and managerial authorities exercised on a recurring basis.

Under Level 3-3a, the incumbent of a position must exercise the delegated managerial authority to set long range plans with goals and objectives; assure implementation of the plans by subordinate organizational units; determine which objectives require additional emphasis; and determine solutions to and resolve issues created by budget and staff requirements, including contracting out. In contrast, the appellant serves as a first-level supervisor whose organization does not involve the degree of delegated managerial authority or involve subordinate organizational units or subordinate supervisors as is envisioned of an organizational setting at Level 3-3a. The position is not credited with Level 3-3a.

At Level 3-3b, a supervisor must exercise all or nearly all of the supervisory responsibilities and authorities described at Level 3-2c, plus at least 8 of the 15 responsibilities listed under Level 3-3b of the GSSG. As noted, the appellant's position exercises the responsibilities required for the crediting of Level 3-2c. Of the 15 responsibilities listed under Level 3-3b, the appellant's duties and responsibilities are compared below:

Responsibilities 1, 3, 5, 6, and 8 refer to situations where work is accomplished through subordinate supervisors, team leaders, or other similar personnel. Supervisors at this level exercise these responsibilities through *multiple* subordinate supervisors or team leaders. Further, the supervisor's organizational workload must be so large and its work so complex that it requires using two or more subordinate supervisors, team leaders, or comparable personnel to direct the work. The appellant is a first-level supervisor and the record shows the appellant's staff does not include such positions. The GS-14 staff accountant receives only administrative supervision from the appellant and the 3 GS-13 accountants receive limited technical supervision. Given this work structure, the appellant's organizational workload of 13 staff years is not so large and its work is not so complex that it requires using two or more subordinate supervisors, team leaders, or comparable personnel to direct the work. The appellant's position is not credited for these responsibilities.

Responsibility 2 is credited because the appellant exercises significant responsibilities in dealing with officials of other units and in advising management officials of higher rank as discussed in the PD of record. Responsibility 7 is credited in that he recommends selections for subordinate nonsupervisory positions. Responsibility 12 is not credited because the appellant does not oversee the work of contractor personnel. Responsibilities 10, 13, and 14 may not be credited as the authority to make those decisions has not been delegated to the appellant's position. For (10), the appellant is limited to resolving complaints and grievances informally. For (13), approval of the full range of expenses comparable to within-grade increases, extensive overtime, and employee travel are reserved to higher-level positions. For (14), the appellant organization does not present the opportunity for regular and recurring recommendations on changes in position classification for positions in the unit. The appellant's supervisor is responsible for making recommendations on awards. Responsibility 4 is not credited because the appellant does not direct a program with multimillion-dollar resources directly under the appellant's discretion and control. The size of the organization directed also precludes exercising responsibilities 9, 11, and 15 on a regular basis at the level intended by the Guide; i.e., hearing and resolving group grievances or serious employee complaints; making decisions on nonroutine, costly, or controversial training needs, e.g., management development, sabbaticals, etc.; and finding and implementing methods to reduce or eliminate barriers to production, promote team building, or improve business practices.

Summarizing the information above, the appellant performs only 2 of the 15 responsibilities listed under Level 3-3b. Because the appellant's position does not meet Level 3-3a, or 8 of the 15 responsibilities listed in Level 3-3b, Level 3-2 is assigned.

Level 3-2 is credited for 450 points.

Factor 4, Personal Contacts

This is a two-part factor which assesses the nature and purpose of the personal contacts related to supervisory and managerial responsibilities. The nature of the contacts, credited under subfactor 4A, and the purpose of those contacts, credited under subfactor 4B, must be based on the same contacts.

Subfactor 4A, Nature of Contacts

To be credited under this subfactor, the level of contacts must contribute to the successful performance of the work, be a recurring requirement, and require direct contact.

The appellant's contacts meet Level 4A-3, where contacts are with high ranking managers at agency headquarters; key staff of public interest groups; journalists of influential city or county newspapers or radio and television coverage; Congressional committee and subcommittee staff assistants; contracting officials of large industrial firms; local officers of regional or national public action groups; or State and local government managers. These contacts normally take place in meetings and conferences and often require extensive preparation of briefing materials. Corresponding to this level, the appellant has recurring contacts with higher-level [Agency]

management, as well as operating officials at OMB, Financial Management Systems (FMS) at Treasury, and the Social Security Administration.

The position does not meet Level 4A-4, where there are *frequent* contacts with regional or national officers of public action groups; key staff of Congressional committees and principal assistants to senators and representatives (e.g., majority and minority staff directors or chief counsels); elected or appointed representatives of State and local governments; journalists of major metropolitan, regional, or national newspapers, magazines, television, or radio; or heads of bureaus and higher level organizations in other Federal agencies. These contacts take place in meetings, conferences, briefings, speeches, presentations, or oversight hearings and may require extemporaneous response to unexpected or hostile questioning. Preparation typically includes briefing packages or similar presentation materials, requires extensive analytical input by the employee and subordinates, and/or involves the assistance of a support staff. This is the highest level of contacts described in the guide.

According to the Guide, contacts credited under Subfactor 4A cover the organizational relationships, authority or influence level, setting, and difficulty of preparation associated with making personal contacts involved in supervisory and managerial work. To be credited, the contacts must contribute to the successful performance of the work, be a recurring requirement, have a demonstrable impact on the difficulty and responsibility of the position, and require direct contact. There is no evidence that the appellant has frequent contacts of this nature. The record shows his contacts to be limited to agency officials, mid-level analysts at OMB, and the FMS staff at Treasury. Level 4A-4 is the highest level described in the Guide for Subfactor 4A and is reserved for employees who frequently engage in the most difficult and demanding contacts required by supervisory and managerial work. This level includes contacts with: Senior Executive Service, flag or general officer, or Executive Level heads of bureaus and higher-level organizations in other Federal agencies.

Level 4A-3 is credited for 75 points.

Subfactor 4B, Purpose of Contacts

This subfactor covers the purpose of the personal contacts credited under subfactor 4A.

The purpose of the appellant's contacts is consistent with Level 4B-3, where the purpose of the contacts is to justify, defend, or negotiate in representing the organizational unit directed, in obtaining or committing resources, and in gaining compliance with established policies, regulations, or contracts. Contacts at this level usually involve active participation in conferences, meetings, or hearings involving problems of considerable consequence or importance.

The position does not meet Level 4B-4, where the purpose of the contacts is to influence, motivate, or persuade persons or groups to accept opinions or take actions related to advancing the fundamental goals and objectives of the program directed, or involving the commitment or distribution of major resources, when intense opposition or resistance is encountered due to significant organizational or philosophical conflict, competing objectives, major resource

limitations or reductions, or comparable issues. The organizational level of the appellant's position (i.e., a subelement of an agency headquarters) does not permit regular involvement in the types of broad *program or policy* issues expected at this level of contacts.

Level 4B-3 is credited for 100 points.

Summary

<u>Factors</u>	<u>Level</u>	<u>Points</u>
Program Scope and Effect	1-3	550
Organizational Setting	2-2	250
Supervisory/Managerial Authority	3-2	450
Personal Contacts		
Nature of Contacts	4A-3	75
Purpose of Contacts	4B-3	100
Difficulty of Work Directed	5-8	1030
Other Conditions	6-6	<u>1325</u>
Total		3780

The total of 3780 points falls within the GS-14 range (3605-4050) on the grade conversion chart provided in the Guide.

Decision

By comparison with both the Guide and the GS-500 JFS, the position is properly classified as Accounting Officer, GS-510-14 (coded as GM due to the appellant's system coverage).