

U.S. Office of Personnel Management
Division for Human Capital Leadership & Merit System Accountability
Classification Appeals Program

Atlanta Field Services Group
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Classification Appeal Decision
Under section 5112 of title 5, United States Code

Appellant: [appellant]

Agency classification: Contract Specialist
GS-1102-11

Organization: [name] Division
[name] Department
[name] Directorate
Marine Corps Air Station [location]
Department of the Navy
[location]

OPM decision: Contract Specialist
GS-1102-11

OPM decision number: C-1102-11-05

/s/ Robert D. Hendler
Robert D. Hendler
Classification and Pay Claims
Program Manager

August 30, 2005
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]
[address]
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[name]
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Introduction

On May 27, 2005, the Atlanta Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant]. Her position is currently classified as a Contract Specialist, GS-1102-11, and is located in the [name] Division, [name] Department, [name] Directorate, Marine Corps Air Station (MCAS) [location], Department of the Navy, in [location]. She requests that her position be upgraded to GS-12. We received the complete appeal administrative report from the agency on May 26, 2005. The appeal has been accepted and processed under section 5112(b) of title 5, United States Code (U.S.C.).

General issues

The appellant submitted a classification appeal through her agency to OPM. On April 5, 2005, the agency issued its appeal decision sustaining the current classification and forwarded the appeal to OPM. The appellant bases her request on her belief that the designation of the Contracting Department at the MCAS as the Regional Contracting Office for the [organization] has increased the degree of complexity of the acquisition work that she now performs. She believes that her acquisition work requires intensive searches of regulations and policies and extensive analysis.

The appellant makes various statements about her agency's evaluation of her position and the difficulties she has experienced in having her position re-evaluated and the position description (PD) updated. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Because our decision sets aside all previous agency actions and decisions on the appellant's position, the appellant's concerns regarding her agency's classification review process are not germane to this decision.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant and the agency, including information obtained from telephone interviews with the appellant and her second level supervisor.

Position information

The appellant is assigned to a standard PD, number [#]. Several other employees occupy identical additional positions in the organization. The supervisor and the appellant certified the accuracy of the PD. Our fact-finding revealed that while the description of duties in the PD is essentially accurate, the descriptions for Factor 3, Guidelines, and Factor 4, Complexity, are overstated. For example, the Guidelines description indicates that the appellant devises new contractual provisions or innovative financial arrangements and incentives and develops justifications for adopting a contractual posture which includes new or modified contractual positions or which appears to be at variance with established guidelines. The Complexity description indicates that the appellant's assignments involve analysis of subcontracts. However, the appeal record reflects that the appellant typically is

not involved in comparable innovative contractual work and that contractors have full responsibility for the subcontractors.

The [name] Division is responsible for the planning, administration, negotiation and award of formal contracts for the procurement of equipment, supplies and services whose costs are estimated to exceed \$100,000. This organization is also responsible for formal contracts for the procurement of equipment, supplies and services costing between \$25,000 and \$100,000 that require tradeoff analyses and best-value determinations for supported organizations and activities. The appellant is responsible for performing a variety of professional pre- and post-award functions, including solicitation of bids or offers, price and cost analysis, negotiation, award and administration of contracts for equipment, materials and services necessary for the operation of the MCAS. Her responsibilities also include performing these functions for the [name] Aircraft Wing, the Naval Air Depot, and other tenant activities at the MCAS involved in test, evaluation, operational or production functions and for subordinate field activities of [organizational acronym].

The appellant's work involves preparing procurement requests for specialized scientific instruments and laboratory testing devices, professional or technical services such as state-of-the-art consultant services required to maintain, modify and update specialized equipment used in refurbishing aircraft systems, telecommunications services and base support services. Her work also involves the acquisition of supplies and services ranging from standard items requiring urgent delivery requirements to complex or sophisticated requirements involving best-value, tradeoff determinations or performance-based service contracts (PBSC). During the pre-award phase of contracts, the appellant performs a wide range of duties including reviewing requests for procurement of standard and complex capital investment equipment, materials, and services, analyzing requirements, recommending revisions of statements of work or specifications and, where a PBSC is determined to be appropriate, assisting the customer in developing such a contract.

The appellant conducts market research and considers socio-economic programs in determining the acquisition method, contract type, milestones, and procurement plan and develops technical evaluation criteria and the source selection plans. Following award, she administers active contracts until completion of final delivery and payments and the contracts are closed and retired, she monitors contractor performance relative to completion schedules for her assigned contracts. She conducts post-award conferences, participates in Critical Design Reviews required for procurement of complex equipment, holds discussions and meetings to monitor the performance of the Contracting Officer's Representative (COR) and advises the COR on contractual issues. The appellant issues change orders as necessary. She negotiates equitable adjustments for mission-related changes; approves contractor payments; assesses liquidated or actual damages for nonperformance; issues stop work, show cause or cure notices; exercises options; terminates contracts for default or convenience; and negotiates settlements. Her responsibilities also include interpreting contract provisions for contractors and agency officials and providing appropriate advice and guidance of contractual matters. The appellant also prepares the initial agency position on protests from unsuccessful bidders and issues or recommends a decision on claims under the contracts.

The appellant works under the direction of the Division Chief, a Supervisory Contract Specialist, who assigns work in terms of overall procurement projects, and consults with her during the development of priorities and critical project deadlines. High-dollar plans are submitted to a higher organizational level within the agency for approval. Following approval by the supervisor or higher organizational level, the appellant independently carries out all phases of the work including coordinating with others, conducting research of documents to resolve most of the problems that arise and consulting with higher level officials on controversial or sensitive issues. Her completed work is reviewed in terms of effectiveness in meeting contractual requirements and conformance with policies and procedures.

Series, title, and standard determination

The agency classified the appellant's position in the Contracting Series, GS-1102, and titled it as Contract Specialist. The appellant agrees with the series and title determination. The agency used the GS-1102 position classification standard (PCS) for grade level determination. We concur with the agency's series, title, and standard determinations.

Grade determination

The GS-1102 PCS is written in the Factor Evaluation System (FES) format, under which factor levels and accompanying point values are assigned for each of nine factors. The total is converted to a grade level by use of the grade conversion table provided in the PCS. Under the FES, each factor level description in a PCS describes the minimum characteristics needed to receive credit for the described level. Therefore, if a position fails to meet the criteria in a factor level description in any significant aspect, it must be credited at a lower level.

The appellant believes that her position should be credited at Levels 3-4 and 4-5. She agrees with her agency's crediting of Levels 1-7, 2-4, 5-3, 6-3, 7-3, 8-1 and 9-1. After careful review of the appeal record, we concur with the uncontested factor levels. Our analysis of the factors contested by the appellant follows.

Factor 3, Guidelines

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

At Level 3-3, guidelines include procurement regulations and precedents applicable to one or more of the contracting specialties. Precedents and written policies exist for procurements or contracts assigned and historical data are pertinent to the evaluation of price and basic elements of cost. However, contractual actions generally require adaptation by the specialist, e.g., clarification of the statement of work, adaptation of clauses or provisions to fit the requirements, use of options for additional quantities or advance and partial payment clauses, inclusion of specified methods of testing and special performance requirements, or similar requirements. The employee uses judgment in interpreting guidelines, in adapting procurement procedures, or in recommending approaches or solutions for specific problems. Judgment is required, for example, in locating potential suppliers, stimulating interest among local small businesses,

performing basic analyses of costs based on prevailing material and labor costs, or in recommending modifications to the contractual arrangements.

In contrast, at Level 3-4 policies and precedents are available but stated in general terms, or are of limited use. Intensive searches of a wide range of regulations and policy circulars applicable to the numerous and diversified procurement issues encountered are frequently required. Guidelines are often inadequate in dealing with problems, requiring ingenuity and originality in interpreting, modifying, and extending guides, techniques, and precedents; in devising terms and conditions tailored to specific procurements, or in balancing the application of the guidelines in relation to novel program or technical needs, business considerations, and the socio-economic climate.

Instances where available guidelines are inadequate typically include situations where previous negotiations are not directly applicable or pricing data is incomplete or limited, because of changes in materials or manufacturing processes. Other instances may be the result of lack of experience in the social, economic, environmental or health issues involved, or the large number of subcontractors or volume of contractual provisions requires close monitoring and continuous assessment during contract administration. In some instances extensive analysis is required to determine the allowability and allocability of costs in resolving claims or terminations. The employee uses experienced judgment and initiative in applying principles underlying guidelines, as in the evaluation of subordinate procurement programs; in deviating from traditional techniques; or in researching trends and patterns to develop new approaches, criteria, or proposed policies.

Level 3-3 is met. As at this level, a variety of guidelines are available to the appellant in the form of Federal and departmental acquisition and procurement laws, regulations, policies, and precedents that are applicable to the majority of the contracting areas for which she has responsibility. Guidance also exists in the form of Comptroller General decisions, departmental written guidance, policies and supplements, and historical data that is applicable to a wide variety of aspects of the contracting process. Like Level 3-3, the appellant uses judgment in interpreting guidelines and adapting procedures to meet Federal, department or agency contractual requirements. The work requires deferment to the engineers and technical specialists in the development of contract specifications.

Level 3-4 is not met. The guidance available to and used by the appellant is not of the general nature and limited use for procurement issues as envisioned for this level. While requiring some interpretation and adaptation, most of the guidance, policies and procedures available are generally applicable to the circumstances encountered during her normal work assignments. The appellant's assignments routinely require her to conduct searches of the guidance available for assisting with interpretations of guidelines, adapting procedures, and developing recommendations or solutions to specific problems. Unlike Level 3-4, the appellant's typical searches are of a standard nature and include a wide variety of agency and Governmentwide contracting and procurement laws, regulations, guidance, directives, instructions, Comptroller General decisions, etc. If additional assistance is required, the appellant has access of two levels of supervisory assistance and legal counsel for East Coast contracting organizations. Unlike Level 3-4, the appellant's work assignments do not require, on a regular and recurring basis, the

application of principles underlying guidelines, as in the evaluation of subordinate procurement programs. They also do not require deviating from traditional techniques or reviewing trends and patterns to develop new approaches, criteria, or proposed policies.

Level 3-3 is credited for 275 points.

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of the tasks, 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 typically involves varied duties requiring many different and unrelated processes and methods, with full operating competence in the well-established aspects of a contracting assignment. Assignments typically involve planning and carrying out pre- and post-award, price/cost analysis, or staff functions containing a variety of complexities such as specialized requirements. These require knowledge and use of a variety of contract types, inclusion of special provisions, such as special pricing provisions, provisions regarding use of Government-furnished property, inspection and testing requirements, and performance of cost analysis. Assignments at this level also typically involve conducting market reviews to determine the availability of specialized items or services, the presence of unfavorable market conditions, such as frequent price changes, changing labor markets, or lack of suppliers and limited competition because of the small quantity ordered or the urgency of the requirement. Additional complicating factors may involve identification of set-asides for small and disadvantaged business concerns and contractual periods ranging from six months to two years or having short but very stringent time-frames, etc. Decisions are based on analysis of alternatives, adaptation or modification of procedures, or resolution of incomplete or conflicting technical program or contractor data. They include determinations concerning the interpretation of a considerable amount of technical data and policy and regulatory information and the planning and coordination of procurement activities for the pre-award, post-award, or other contractual functions.

In contrast, Level 4-5 the work is characterized by breadth of planning and coordination, or depth of problem identification and analysis, stemming from the variety of the procurement functions or from the unknowns or changes or conflicts inherent in the issues. It may involve responsibility as team leader or project officer for a significant procurement assignment typically involving complexities such as requirements containing a number of different elements, in-depth cost analysis, use of cost reimbursable and sole source fixed-price contracts, analysis of productive capacities of manufacturers or use of small or disadvantaged business considerations at the prime and subcontractor levels, etc. Decisions at this level involve responsiveness to continuing changes in programs or technological developments. The employee is constantly balancing program and technical needs, the interests of the contractors, statutory and regulatory requirements, and the prevailing socio-economic climate to make decisions based on sound business judgment that are in the best interest of the Government. Representative staff assignments include conducting program review of a wide range of procurement functions performed by subordinate activities.

Like Level 4-4, the appellant's work involves the full range of activities associated with the pre- and post-award procurement contract actions for goods and services for the MCAS and [organizational acronym] activities. The appellant determines requirements, methods of contracting, type of contract to be used and other aspects in developing the contracting plan. Comparable to Level 4-4, the contacts involve a number of complicating factors, such as a wide variety of supplies and services, some of which are specialized in nature, using a variety of contracts (firm-fixed price, indefinite quantity, economic price adjustment clauses, etc.), sole source negotiations, limited cost analysis, work performed in remote locations, rigid contractual periods and specification, etc. The appellant also provides assistance to organizations seeking to procure goods and services and those parties offering to contract to provide them. She administers complex, long-term contracts, and monitors the need for contract changes. Unlike Level 4-5, the appellant's regular and recurring assignments do not involve responsibility for the wide range of procurement functions or decisions intended at this level. Her work primarily involves procurement of equipment and services required for the maintenance and upkeep for major equipment that has already been procured and does not require the degree of planning and coordination, in-depth problem identification and analysis, or the level of conflicts arising from the variety of issues described for this level. Unlike Level 4-5, the appellant's work does not require her to function as a team leader over other employees or project officer for significant procurement assignments. Although she may serve on an audit team, she performs segments of audits and does not have team lead responsibility for evaluations.

Level 4-4 is credited for 225 points.

Summary

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-7	1250
2. Supervisory controls	2-4	450
3. Guidelines	3-3	275
4. Complexity	4-4	225
5. Scope and effect	5-3	150
6. Personal contacts	6-3	60
7. Purpose of contacts	7-3	120
8. Physical demands	8-1	5
9. Work environment	9-1	<u>5</u>
<i>Total points</i>		2540

The total of 2540 points falls within the GS-11 range (2355-2750) on the grade conversion table provided in the standard.

Decision

This position is properly classified as Contract Specialist, GS-1102-11.