

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

Atlanta Field Services Group
75 Spring Street, SW., Suite 1018
Atlanta, GA 30303-3109

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

Appellant: [appellant]

Agency classification: Lead Contract Specialist
GS-1102-14

Organization: [organization]
[name] Office
U.S. Department of Energy
[location]

OPM decision: Contract Specialist
GS-1102-13

OPM decision number: C-1102-13-03

Marta Brito Pérez
Associate Director
Human Capital Leadership
and Merit System Accountability

August 20, 2004

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).

Since this decision lowers the grade of the appealed position, it is to be effective no later than the beginning of the sixth pay period after the date of this decision, as permitted by 5 CFR 511.702. The applicable provisions of parts 351, 432, 536, and 752 of title 5, Code of Federal Regulations, must be followed in implementing the decision. If the appellant is entitled to grade retention, the two-year retention period begins on the date this decision is implemented. 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]
[address]
[location]

[name]
Acting Director
[organization]
U.S. Department of Energy
[name] Office
[address]
[location]

Director
Human Resource Management
U.S. Department of Energy
1000 Independence Avenue, SW.
Washington, DC 20585

Introduction

On September 25, 2003, the Atlanta Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant]. He works as a Lead Contract Specialist, GS-1102-14, in the [organization], [name] Office, U.S. Department of Energy, [location]. The appellant requests that his position be reclassified as Senior Contract Specialist, GS-1102-15. He believes that his agency did not properly apply the GS-1102 grading criteria in evaluating his position. We received the complete appeal administrative report from the agency on January 22, 2004. The appeal has been accepted and processed under section 5112(b) of title 5, United States Code (U.S.C.).

Background

The appellant appealed to his agency in 2000 when the appellant was assigned to a deputy director position in his current office and at the same time performed nonsupervisory contract specialist duties and led a team of contract specialists within the division. On October 10, 2000, the agency sustained his position at the GS-14 grade, crediting his deputy work at the GS-14 grade level and his nonsupervisory contract specialist work at the GS-13 grade level. In 2003, [organization] management restructured the division to eliminate the supervisory deputy position and assigned the appellant to a Lead Contract Specialist, GS-1102-14, position. The human resources office evaluated the lead duties at the GS-14 grade level and continued to use the agency's appeal decision for the evaluation of the contract specialist work at the GS-13 grade level.

General issues

The appellant makes various statements about his agency's review and evaluation of his position and believes his reassignment from a supervisory to a lead position at the same grade level was a "constructive demotion." He also compares the classification of his position to other positions in the division. In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of his position. 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). Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison. Like OPM, the appellant's agency must classify positions based on comparison to OPM position classification standards and guidelines. However, the agency also has primary responsibility for ensuring that its positions are classified consistently with OPM appeal decisions.

The appellant discusses contract work and supervisory duties that he performed since 1996. However, 5 U.S.C. 5112 indicates that we can consider only current duties and responsibilities in classifying positions. Established OPM guidance requires that a representative work cycle be determined for establishing what work is characteristic of a position for classification evaluation. Given the cycle of the appellant's work, current duties are those that have occurred in about the past year to eighteen months. Therefore, we could not consider duties performed earlier in deciding this appeal.

The appellant believes he should receive retroactive GS-15 pay back to June 1998. 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...Consequently, back pay is not available as a remedy for misassignments to higher level duties or improper classifications" (CG decision B-232695, December 15, 1989).

To help decide the appeal we conducted phone and on-site audits of the appellant's position. We also interviewed the current Deputy Manager for Business, the second level supervisor since December 2003. We conducted phone interviews with the former Acting Deputy Manager for Business, the former Supervisory Contracts Specialist, who was the immediate supervisor prior to December 2003, and the DoE Contracts Management Office Director. In reaching our classification decision, we have reviewed the audit findings and all information of record furnished by the appellant and his agency, including his official position description.

Position information

The appellant indicates that his official position description is not accurate, and indicates that he grieved the inaccuracy of the position description utilizing the agency's grievance procedure. However, a human resources office representative said that a grievance was not filed in accordance with agency procedures. The Acting Deputy Manager for Business, the appellant's second level supervisor at the time, certified to the accuracy of the appellant's official position description, number [#].

A position description is the official record of the major duties and responsibilities assigned to a position by a responsible management official; i.e., a person with authority to assign work to a position. A position is the duties and responsibilities that make up the work performed by an employee. Classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the duties assigned by management and performed by the employee. We classify a real operating position, and not simply the position description.

Based on our review, we find that the appellant's position description of record is inaccurate in describing the "lead" duties of the position, and should be amended to reflect the findings of this decision. The position description also does not adequately identify the duties and responsibilities associated with the requirement that the incumbent lead and provide technical oversight and direction of the day-to-day operational aspects of the contracting functions within the Division. The record shows that the appellant provides advice, counsel, and oversight to other contract specialists, performs peer review of contracts, and provides other assistance on procurement projects when requested by the contract specialists, the supervisor, or management officials as discussed in the **Series, title and standard determination** section of this decision. The appellant does not routinely oversee and direct all technical contracting activities in the division as described in the position description.

The [name] Office oversees the DoE [organization] site facility occupying 310 square miles. The mission entails stewardship in three areas: the nuclear weapons stockpile, nuclear materials, and the environment. The operations office oversees the management and operations contractor

and other contractors at the facility associated with products and services essential to achieving the mission. The facility's [organization] develops, implements, and administers the facility's acquisition and financial assistance program.

The appellant leads the Maintenance & Operations (M & O) Contractor Team and assists the Director in developing policies, procedures, and other technical guidance necessary for effective implementation of acquisition, financial assistance, and contractor performance management requirements. The appellant's position description reflects a combination of personally performed contract specialist work and lead responsibilities over a team of four Contract Specialist positions: two GS-1102-13, one GS-1102-12, and one GS-1102-11 positions. The appellant estimates that he performs "lead" duties for his identified team for a total of 25 percent of his work time. He spends the rest of his time performing contract specialist duties, including providing advice, assistance, and technical oversight, as requested, to other division contract specialists and facility management on acquisition management and actions. The advice, assistance, and oversight functions were estimated as occupying 25 to 30 percent of the appellant's work time.

The position description for the two GS-13 positions, certified as current and accurate by management authority, indicates that they have utmost latitude in developing and carrying out duties in negotiating and administering all assigned contract and financial assistance actions. They also have expert knowledge of contracting, the business environment, range of acquisition methods, acquisition policies and procedures, and principles and techniques of negotiation and ability to apply this knowledge. They are responsible for independently planning and carrying out the assignments, with assistance on controversial problems or matters of major policy significance. The GS-12 position is assigned highly specialized and complex procurement contracts and financial assistance instruments, has a working level knowledge of contract methods and types and expert level ability to apply analytical and evaluative methods and techniques. This position also is responsible for independently planning and carrying out assignments, with assistance provided on controversial problems or matters of major policy significance. Likewise, the GS-11 position is furnished guidance on critical issues and policy matters and independently plans and carries out the work. The level of independence of these positions is critical to supporting the grade levels of those positions. Therefore, we conclude that the appellant spends less than 25 percent of his time performing "lead" duties

The appellant personally performs and provides technical and operational direction and oversight to team members in the performance of varied and complex acquisitions, assistance, sales, and similar agreements, including research and development, and contractor performance management programs supporting the facility's and DoE programs assigned to the facility for support. The appellant serves as the contracting officer for administration for both the site M & O contract (valued at \$1.5 billion per year over a five year period) and the site paramilitary security services contract (valued at \$65 million per year) and manages the overall contractor performance management program. The authorized contracting officer on both these contracts is the [name] Office Manager. Assigned contracts range from cost reimbursement type pricing arrangements, such as cost plus awards fee and cost plus incentive fee to standard firm fixed price awards. The appellant serves as a contracting officer with unlimited signature authority for

contracts, financial assistance, and sales agreements. However, high cost contracts are subject to DoE approval.

The results of our interviews, the appellant's position description and other material of record, furnish more information about his duties and responsibilities and how they are performed.

Series, title, and standard determination

The agency classified the appellant's position in the Contracting Series, GS-1102. The appellant does not disagree with the agency's series determination and we concur.

The agency has titled the appellant's position as Lead Contract Specialist and applied Part II of the General Schedule Leader Grade Evaluation Guide (GSLGEG) to grade the leader duties. Part II of the GSLGEG states that the guide is used to classify positions whose primary purpose is, as a regular and recurring part of their assignment and at least 25 percent of their duty time, to lead a team of other GS employees in accomplishing two-grade interval work (or one grade interval at GS-9 or above) that meets at least the minimum requirements of Part II. Part II states that team leaders utilize a variety of coordinating, coaching, facilitating, consensus building, and planning techniques. To be classified by application of Part II, positions must spend at least 25 percent of their time exercising the minimum authorities and responsibilities required for coverage. At a minimum, team leaders must perform all of the first 7 coaching, facilitating and mentoring duties and a total of 14 of the 20 duties listed in Part II.

As discussed previously, the appellant's position fails to meet the first threshold of the GSLGEG in that he spends less than 25 percent of his time on leader duties. We also find that the appellant only performs five of the first 7 authorities and responsibilities. Specifically duties 1, 2, 4, 6, and 7 are met. For example, the appellant is aware of the organization's mission and does his best to communicate it to team members. He monitors and reports on the status and progress of work, balances the work, and serves as facilitator in coordinating team initiatives. Duties 3 and 5 are not met as discussed below.

Authority and responsibility 3 indicates that the lead coaches the team in the selection and application of appropriate problem solving methods and techniques, provides advice on work methods, practices and procedures, and assists the team and/or individual members in identifying the parameters of viable solutions. Our interviews disclosed that the appellant primarily discusses possible options and approaches with team members. The team members' position descriptions indicate that based on the degree of independence and authority given to them, the appellant does not need to coach the team on methods and only provides assistance with controversial issues and policy matters. Generally, the members are expected to use judgment in interpreting and adapting regulations and procedures for application to a broad range of problems and situations. This authority and responsibility is not met.

Authority and responsibility 5 indicates that the lead trains or arranges for training in team building or working in teams. The appellant's team consists of positions, at grade levels GS-11 through 13. While the appellant arranges for specific administrative or technical training, such as conferences or certification training, he does not train or arrange for the training of team members in methods and techniques of team building and working in teams to accomplish tasks

or projects. These tasks are assigned to and have been accomplished by the office director. This authority and responsibility is not met.

Because all of the first 7 lead duties are not all met, his position also does not meet the second threshold required for coverage by the GSLGEG. Therefore, he is not a team leader and his position cannot be titled as "Lead" or graded using the GSLGEG.

Grade determination

The GS-1102 position classification standard is written in the Factor Evaluation System (FES) format. Positions graded under the FES format are compared to nine factors. Levels are assigned for each factor and the points associated with the assigned levels are totaled and converted to a grade level. Under the FES, factor level descriptions mark the minimum characteristics needed to receive credit for the described level. If a position fails to meet the criteria in a factor level description in any significant aspect, the next lower level and its lower point value must be assigned unless an equally important aspect that meets a higher level balances the deficiency. The position may exceed those criteria in some aspects and still not be credited at a higher level.

Factor 1, Knowledge required by the position

This factor measures the nature and extent of information or facts required to do acceptable work and the nature and extent of skill necessary to apply this knowledge. To be used as a basis for selecting a level under this factor, the knowledge must be required and applied. The agency credited Level 1-8. We concur.

In addition to the knowledge and skills described at Level 1-7, work at Level 1-8 requires: mastery of contracting methods and contract types to plan and carry out long-term preaward and/or postaward procurement actions; or, mastery of the procurement functional area sufficient to apply experimental theories and new developments to problems not susceptible to treatment by accepted methods, to extend existing contracting techniques, and to develop procurement policies for use by other contracting personnel in solving procurement problems; or, mastery of procurement principles and technical or program requirements to plan and manage or make decisions or recommendations that significantly affect the content, interpretation, or development of complex, long-range, or interrelated agency policies or programs concerning the management of procurement matters; and, familiarity with business strategy and program or technical requirements sufficient to perform or direct in-depth evaluations of the financial and technical capabilities, or the performance of the contractor; or equivalent knowledge and skill.

Illustrative preaward work requires knowledge and skill sufficient to procure systems where little or no contractual precedent exists to serve as guidance in developing or modifying procurement strategies or pricing structure, e.g., extensive ADP acquisitions such as a nationwide teleprocessing system or a multiprocessor mainframe system with a database management system used in multi-disciplined scientific applications. Also representative of Level 1-8 is applying knowledge and skill sufficient to manage all contractual aspects of a major program involving coordination of a number of contracts. This requires long-range procurement

planning; a thorough knowledge of the program objectives, scheduling, and interrelationships with other programs; and skill in interpreting policies to solve unprecedented problems. Other illustrative work entails applying knowledge and skill sufficient to procure extensive technical services, such as at large Government-owned contractor-operated installations and facilities, which involve use and accountability for large amounts of Government-furnished property, numerous subcontractual arrangements, and accommodation of continuous contractual changes.

Illustrative of postaward work is applying knowledge of contract administration sufficient to monitor systems contracts that extend over several years, and cover research, development, testing, and/or production of complex equipment systems. The contracts require monitoring the performance of the prime contractor and a large number of subcontractors, negotiating forward pricing rates and claims, complex changes, and terminations or contract close out. Level 1-8 includes work requiring knowledge of postaward procedures sufficient to administer complex service contracts which require day-to-day negotiations of significant contract changes, monitoring numerous special provisions, coordinating extensive subcontracting involvement, and observing rigid time frames. Also included at Level 1-8 is knowledge of contract price and cost analysis techniques sufficient to develop complex contractual pricing arrangements and incentives, such as devising multiple incentives requiring use of sophisticated contracting techniques; sharing arrangements, such as cost-plus-incentive-fee or fixed-price-incentive-fee, where the Government and the contractor share the cost risk; or economic price adjustment clauses that identify the basis for adjusting certain labor or material costs where price cannot be reasonably predicted at the time of contract negotiation.

Level 1-8 is met. Corresponding to that level, the appellant's position requires mastery of contracting methods and contract types to plan and administer long-term pre-award and post-award procurement actions and price/cost analysis. The appellant's activities primarily relate to the five-year M & O and security support contracts and research and development services, but he also oversees or provides technical assistance for design and development contracts, such as the salt processing facility contract, financial assistance agreements, such as grants and cooperative agreements; interagency agreements for supplies, equipment, and services; and sales contracts for products produced at the facility.

Similar to Level 1-8, the appellant planned for and negotiated significant incentive structure modifications for an existing long-term M & O contract involving use and accountability of over 300 square miles of Government-furnished property and extensive and complex operations. It involves two types of subcontractors and numerous sub-contractual arrangements, daily interpretation of contract agreements, and contractor performance management. For the most recent contract modification in 2003, the appellant developed an innovative "perpetual incentive" fee in response to the headquarters (HQ) environmental management office's desire to expedite and maximize the contractor's nuclear waste clean-up efforts to a greater level than done at any other clean-up sites. Other DoE contract specialists negotiating contractual pricing incentives have sought advice or information from the appellant relative to this fee arrangement. The incumbent also administers the cost plus incentive fee security contract, a five year contract which requires an annual plan and negotiated contract changes and, due to its nature, has to dovetail with the M & O contract.

Typical of Level 1-8, the appellant's contracts or team contracts he oversees require monitoring the performance of the prime contractor and a large number of subcontractors, negotiating forward pricing rates and claims, complex changes, and terminations or contract close out when they occur. He is a recognized procurement expert and, as requested, provides technical assistance or counsel to division staff or an independent review of division contracts. The appellant provides technical advice to facility management on special acquisition proposals and strategies. For example, he was asked to help resolve contract structuring problems on a DoE HQ project assigned to the facility. The project was for clean-up services at small DoE sites and resulted in 14 separate contracts. He also provides input or recommendations on HQ DoE Contracts Management Office or individual staff member proposals, often at their request, that ultimately may affect agency policies or programs.

The position does not fully meet Level 1-9. At that level, work may involve either operational assignments in planning and managing or reviewing and recommending to top management the approval of procurements for critical agency systems and programs within a major industry, or staff-level work in formulating new policies and concepts and advising management on issues and policy proposals affecting those procurements. In either case, however, the procurements are characterized by most or all of the following elements: (1) uncertainties involving the legislation, authorities, and scope of the program resulting from intense Congressional interest; (2) unprecedented factual or contractual issues (e.g. stemming from the newness or complexity of the system or program, the departure from previous approaches, intergovernmental requirements, or comparable conditions) which require the origination of contracting innovations, concepts, or principles; (3) contract negotiations which require balancing conflicting interests of extreme intensity, such as those resulting from the unlimited potential for future applications of the new product, or from public and political controversy culminating in the formation of special interest or lobbying groups, or from attention by the national news media thereby heightening the conflicts and increasing the negotiation problems; and (4) procurements involving systems or programs of such magnitude as to affect the economic health of a major industry whose economic position, in turn, affects the health and stability of the general economy, or significantly affects foreign economies.

Illustrative of operational assignments is responsibility for all preaward and postaward phases of the systems acquisition program having characteristics such as those described above, beginning with the initial strategy and planning phase and continuing through contract negotiation, award, administration, termination and closeout, including the merging of subsystems and components and the meeting of scheduled goals. For Level 1-9 staff work, the employee is a recognized expert and member of a contract review board responsible for reviewing and approving or redirecting the procurement strategy, plans, and techniques for the procurement of systems or programs having characteristics such as those described above, and other programs which require the approval of top management of the department or equivalent agency. The employee is a recognized expert responsible for generating new procurement concepts to resolve problems or issues having characteristics such as those described above; for formulating new procurement policies which have a broad or long-range impact on the procurement program of a major department or agency; and for advising top management during the executive and/or legislative decision making process on procurement issues and policy proposals which involve exceptional controversy, intensive legislative interest or initiatives, or affect a major segment of industry.

Unlike Level 1-9, the appellants work does not require generating new procurement concepts and he does not have significant responsibility for planning, managing, reviewing and recommending approval of procurements for the largest and newest or similarly critical agency systems or programs with Level 1-9 characteristics. This authority is vested in and retained by the HQ DoE environmental management program and contracts management offices. The Level 1-9 mission and functions are not present in the appellant's supported organization which is primarily responsible for overseeing the management and operations of the DoE site. The appellant's office primarily performs activities in support of the facility's organizations and HQ program personnel assigned there. The DoE site is one of a number of sites involving nuclear clean-up or agency on-going activities. The appellant is not responsible for procurements of the largest and newest or similarly critical agency systems or programs. His two major contracts are with contractors which have held the service contracts, or renewed contracts, for a number of years. Though complex contractual issues arise, e.g., modification of the M & O contract to establish incentive fees to maximize clean-up work, or best acquisition method for the next M & O service contract, methods for using an indefinite delivery /indefinite quantity contract to buy services, etc., the appellant is not responsible for developing the acquisition strategy for the major programs having the required Level 1-9 characteristics. The technical advice he provides at the request of the HQ contracting personnel constitutes peer review or counsel rather than a direct responsibility for HQ-level contracts management programs. In contrast, at Level 1-9 the standard clearly contemplates an in-depth, ongoing advisory role, where the employee would be advising top management on major procurements and formulating new policies and concepts that have a broad or long-range impact on the agency's overall procurement program. It is the HQ program and contracts management offices that are responsible for dealing with any major congressional and equivalent issues and uncertainties for the major programs found at Level 1-9.

Level 1-8 is credited for 1,550 points.

Factor 2, Supervisory controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work. The agency credited Level 2-4. We concur.

At Level 2-4, the employee works within a framework of overall objectives and available resources and consults with the supervisor in developing the deadlines, projects, and work to be done. The employee plans and carries out the work, determining the approach to be taken or methodology to be used, developing a fact finding plan, determining the depth of analysis or review required, or performing the initial planning necessary to conduct management evaluations of procurement programs for compliance with policies and regulations. The employee initiates necessary coordination with staff both in the Government and in the contractors' organizations, obtains necessary information and supporting documentation, and resolves most conflicts that arise. The employee may negotiate alone, but keeps the supervisor informed of progress, potential controversies, or matters that affect policy or have other far-reaching implications. Completed work is reviewed from an overall standpoint in terms of feasibility, compatibility with other work, or effectiveness in meeting requirements. In some positions, review is minimal,

with the employee being delegated contracting officer authority within prescribed dollar amounts.

Level 2-4 is met. As at that level, the appellant works under general supervision and independently plans, organizes, and accomplishes or guides work, coordinates with program, business office, HQ contract management personnel, and others and resolves problems and deviations. He keeps the supervisor informed of program status and major problems. He is responsible for interpreting, extending, and/or developing new contract provisions, incentives, clauses, terms, and conditions. The appellant leads or participates on negotiation teams and keeps the supervisor informed of progress, potentially controversial conflicts or policy or other issues which arise. During M & O contract modification negotiations, he informed HQ contracting officials of daily status and issues and obtained contracting staff approvals on significant contract proposals. The appellant's work is reviewed by the supervisor or by HQ contract management staff in terms of technical soundness, compliance with policies and for adequacy in meeting objectives. His recommendations and work are generally accepted and acted on without significant changes. The appellant is a contracting officer with unlimited signature authority; however, comparable to Level 2-4, there are monetary thresholds requiring HQ review. Procurements above \$5 million for a prime contract and \$25 million for a subcontract are subject to HQ review. Procurements requiring HQ review are generally identified when the site submits its annual business clearance document to HQ.

At Level 2-5, an employee receives only administrative supervision. The employee receives assignments in terms of broadly defined programs or functions, or long-range acquisition and agency objectives. Requirements frequently stem from mission or program goals and objectives, or from national or agency policy. The employee determines the approaches necessary to meet program requirements and time frames, including the design of overall plans and strategies for the projects, and independently carries out the work, including continual coordination of the various elements involved, and negotiates independently. Work products or advisory services provided to management or field activities are considered technically authoritative. Recommendations for new procurement approaches or policies are usually reviewed for compatibility with broad program and agency objectives, impact on agency procurement activities, economies achieved, and/or improved performance of agency procurement programs.

Level 2-5 is not met. While the appellant operates free of day-to-day supervision and his recommendations are frequently accepted, he does not have full technical authority. The appellant's supervisor's position description, certified as current and accurate, states that this position retains program control and program responsibility for the office. The office head's position is credited with overall procurement leadership and direction for oversight of assigned contractor and Federal programs and both administrative and technical supervision over all subordinate positions. The appellant's supervisor is responsible for advising management on financial assistance matters and manages assessment of the overall adequacy of contractor performance as well as facility oversight.

Level 2-4 is credited for 450 points.

Factor 3, Guidelines

This factor covers the nature of the guidelines used and the judgment needed to apply them. The agency credited Level 3-4. We concur.

At Level 3-4, policies and precedent 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 judgment, ingenuity, and originality in interpreting, modifying, and extending guides, techniques, and precedents; in balancing the application of the guidelines in relation to novel program or technical needs, business considerations, and the socioeconomic climate; in evaluating subordinate procurement programs; or in researching trends and patterns to develop new approaches, criteria, or proposed policies. The employee uses experience judgment and initiative in applying principles underlying guidelines, in deviating from traditional techniques, or in researching trends and patterns to develop new approaches, criteria, or proposed policies.

Level 3-4 is met. Comparable to that level, policies and precedent are available to some extent. Typically, the appellant must use substantial judgment in applying policy and guidelines to specific contracting and assistance situations. On a regular basis, the appellant uses originality in interpreting, modifying, and extending guides or precedents and develops new approaches, such as a new incentive fee structure, in relation to program needs or business considerations. In some situations he works with others in resolving significant problems and subsequently developing acquisition strategies. For example, the appellant was asked to assist in resolving the problems and issues encountered by the division staff on a HQ environmental management project assigned to the facility which involved contract solicitation for restoration and decontamination at a number of small DoE sites. The appellant worked with the HQ procurement, legal counsel, and environmental management staffs and another office contract specialist to develop a contract structure.

At Level 3-5, guidelines consist of legislation, broad and general policy statements, and procurement regulations that require extensive interpretation. The employee is an authority on developing and interpreting procurement guidelines, policies, regulations, and/or legislation. Employees working in operational positions are responsible for procurements for which little or no contractual precedents exist to guide them in developing and modifying the procurement strategies. For example, a procurement which involves a significant departure from existing systems or programs necessitates original and creative effort to obtain a reasonable balance of interests or the redefinition of policy in the design and execution of the procurement. Employees working in staff positions generally draft agency procurement regulations or policies.

The single GS-14 benchmark position in the standard is the only benchmark assigned Level 3-5. Illustrative of Level 3-5 work in that benchmark is an employee who has unlimited authority for a complete system, such as a missile or fire control system, and having significant and important system or program characteristics, to be used with other systems to yield a major system or an agencywide weapons program. The employee works with state-of-the-art technology and problems surface in previously undefined areas involving award-fee contracting, development of

leasing agreements, design-to-cost option clauses, use of fixed-price contracting on research and development requirements, for which the specialist must develop essentially new or modified techniques for obtaining effective results.

Level 3-5 is not met. The appellant's primary contract responsibilities involve services which have been performed for a number of years and design and construction or other financial assistance instruments for which some contractual precedent does exist. The appellant's development of new incentive features or concepts, use of established concepts in a new or different manner, and new adaptations of project management processes do not constitute the unprecedented procurement work involving a significant departure from existing systems or programs intended at this level. While the appellant is a technical expert for the facility and provides technical review and advice on procurement actions or issues, he is not responsible for Level 3-5 agency policy or regulatory development. Guidelines he develops relative to his assignments typically relate to procedural matters rather than policy concerns.

Level 3-4 is credited for 450 points.

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of tasks or processes in the work performed, the difficulty in identifying what needs to be done, and the difficulty and originality involved in performing the work. The agency credited Level 4-5. We concur.

At Level 4-5, the work is characterized by the breadth of planning and coordination, or depth of problem identification and analysis. These stem from the variety of the procurement functions or from the unknowns, changes or conflicts inherent in the issues. Alternatively, work may also be characterized by responsibility as team leader or project officer for a significant procurement assignment having various complexities. Assignment complexities might include program, project, or technical services involving extensive subcontracting; initial production of research and development where there is a lack of experience; in-depth cost analysis; advanced architectural or engineering design services, or contractual arrangements estimated to be two years or more. At this level, the employee is constantly balancing program and technical needs, the interests of the contractors, statutory and regulatory requirements, and the prevailing socioeconomic climate to make decisions. Procurements typically require new or modified contract terms and conditions, funding arrangements or policy interpretations. For example, specialists may have to develop new financial arrangements and accelerated delivery schedules to support program needs. At this level staff assignments include conducting program review of a wide range of procurement functions performed by subordinate activities.

Level 4-5 is met. The appellant is the contract officer for the facility's largest or most complex contracts. The assignment requires extensive planning, coordination, interpretation of both the contract and policy and regulations, and extension of current concepts and development of new ones. The appellant must constantly balance program and technical needs, such as in balancing retention of desirable contract features while incorporating desired new incentive features and the interest of contractors. He must also consider the socioeconomic climate, such as the agency's goal to include small and disadvantaged businesses as well as unrestricted or large

businesses for procurements. The appellant's procurements typically require new or modified contract terms, funding arrangements, or policy interpretation. For example, he participated in negotiating a new contract incentive structure, devised by the appellant, for the M & O contract intended to achieve maximum progress on accelerated closure of the facility. The goal was to maintain the balance between retention of the most important features of the current contract while incorporating a cost plus incentive fee closure contract somewhat like one contracted at another DoE site. The situation at the appellant's facility was more complicated in that the other site was scheduled for complete closure while his facility's contract includes closure activities as well as on-going mission activities. Work at the site is governed via a budgetary process that results in constant changes and adjustment to the work being performed, often due to shifts in funding. Comparable to Level 4-5, the appellant's primary services contracts are long-term, involve modifications and new negotiations on at least an annual basis and day-to-day administration requiring technical and policy interpretations. Policy issues are frequent. For example, the appellant is seeking a policy exception from HQ to allow the prime contractor to detail employees to do commercial work as a means to effectively utilize workers and charge out overhead costs. Similar to this level, the appellant also reviews procurement actions and provides advice at the request of others.

At Level 4-6, the work consists of broad contracting functions and activities involving several phases being pursued concurrently or sequentially with the support of technical, procurement, program, and management personnel within and outside the organization (e.g., developing guidance for contracting staff to follow throughout the acquisition of major systems, or advising program managers on the development of integrated acquisition strategies for a number of procurements supporting major agency programs.) The work concerns areas where issues are largely undefined, little or no established practices or precedents are available, and where new techniques and approaches need to be devised. Work at this level involves procurement systems or programs which require extensive analyses and continuing evaluation of potential approaches to establish comprehensive solutions or the development of new concepts, theories, or programs which will influence the procedures and ideas of others or resolve unyielding problems.

Level 4-6 is not met. The appellant's assigned work does not involve responsibility for major programs and does not have comparable scope or magnitude. HQ DoE contracts management staff review and approve acquisition and negotiation plans, and there is active engagement while negotiations are in progress and regular involvement during administration. Unlike Level 4-6 which anticipates groups of contract personnel and others performing phases or segments of the major procurement and advisement for a number of procurements associated with a major program, the appellant's contracting work relates to a segment of a major program and does not typically involve several phases being pursued concurrently or sequentially. The appellant's two largest contracts assignments require the participation of staff program and legal representatives during contract negotiations and two office contract specialists to handle associated subcontracts or contract administration functions for the two contracts. The service contracts are established contracts and while a number of contract issues frequently surface or major contract modifications are initiated, the work to be accomplished is not undefined and there is not a comparable lack of practices and precedents available to assist in problem solving. None of the appellant's procurements are of the magnitude or complexity expected at Level 4-6

and thus do not require the development of “integrated procurement strategies” or “new concepts, theories, or program” to support major agency programs.

Level 4-5 is credited for 325 points.

Factor 5 - Scope and effect

Scope and effect covers the relationship between the nature of the work and the effect of work products or services both within and outside the organization. The nature of the work describes such end objectives as the number of contracts awarded and administered, decisions and recommendations made, and policy and regulatory documents written. The agency credited Level 5-5. We concur.

Effect measures such things as whether the work output facilitates the work of others, provides timely services, affects agency programs or missions, or affects other agencies, private industry, or the general public. The concept of effect alone does not provide sufficient information to properly understand and evaluate the impact of the position. The scope of the work completes the picture, allowing consistent evaluations.

At Level 5-5, the purpose of the work is to resolve critical problems, or develop new approaches for use by other contract specialists or for use in planning, negotiating, awarding, administering, and/or settling the termination of major procurements. Recommendations or commitments are accepted as authoritative, and frequently carry contracting officer authority for transactions involving sizeable expenditures of staff, funds, and material. The work involves such functions as planning, negotiating, or administering procurements for long-term systems or programs, with delegated final authority to obligate funds; developing innovative contractual arrangements to resolve critical or unusual procurement problems; establishing or advocating positions for the region, agency, or department on major procurement issues; developing procurement regulations for use by other contracting specialists; or performing other comparable work. The work affects the work of other experts within or outside the agency, e.g., the development of guides or procedures for use by subordinate contracting activities; the operation and evaluation of subordinate contracting programs; or the accomplishment of major procurements.

The appellant’s work meets Level 5-5. The purpose of his work is to provide procurement expertise and support to various DoE and [organization] programs, to assess contractor performance, and to perform and review procurement activities of the M & O contractor. As at Level 5-5, the appellant is the contracting officer and performs or oversees the administration of long-term contracts. He and contract specialists working on the contract plan negotiate, or administer contracts with the prime and subcontractors involving complex procurement and very large amounts of money and Government property typical of Level 5-5. His work efforts have a major impact on the successful conduct and timeliness of major DoE and [organization] programs and on national environmental management objectives. Relative to either his own work assignments or while providing assistance and oversight to others, he develops or advocates positions on large, complex, or unique procurements assigned to [organization] and provides input to DoE on proposals. Some of the concepts or innovative methods developed by

the appellant for facility procurements have become precedent for other agency contract specialists.

At Level 5-6, the purpose of the work is to plan, develop, and execute critical agency procurement programs which are essential to the mission of the agency or department. Procurements or policies have the potential for affecting the economic health of a major industry or class of industries whose economic position affects the health and stability of the general economy, or for affecting major research or social programs which affect the quality of life on a long-term basis. The capabilities of the new system or program, or the magnitude and potential impact of the program or policy and its importance to the Nation in terms of defense, health, resources, or economy are such that the program receives scrutiny by top management in the agency, and often generates nationwide public interest.

Level 5-6 is not met. The appellant supports procurement programs that are essential to the facility and important to DoE goals. However, the record does not support an impact on the economic health of a major industry or class of industries which would affect the health and stability of the general economy or the quality of life on a long-term basis. In contrast, the facility is the largest employer in the state and has a regional economic impact. The facility's activities receive scrutiny from local Congressional members and other government officials and interested private organizations and individuals. The record does not show that the facility's program routinely receives nationwide public interest.

Level 5-5 is credited for 325 points.

Factor 6, Personal contacts

This factor includes face-to-face and telephone contacts and other dialogue with persons not in the supervisory chain. The levels selected under Factors 6 and 7 must be compatible, i.e., the personal contacts used as the basis for the level selected under Factor 7 must be the same as the contacts selected for Factor 6. The agency credited Level 6-4. We concur.

At Level 6-4, the highest level in the standard, personal contacts include high-ranking officials from outside the employing agency. These contacts are characterized by problems, such as appointments or arrangements may have to be made well in advance; each contact may be conducted under different ground rules; or comparable problems. Contacts at this level include senior corporate officials, key representatives from national or international organizations, principal executives of universities and nonprofit organizations.

Level 6-4 is met. The appellant's contacts are with all levels of management within DoE as well as high levels of management in other Federal agencies at the regional and national levels and non-profit organizations. The appellant also has frequent and recurring contacts with top level management officials in private sector corporations. For example, the appellant participated as the agency's contract specialist in the six month negotiation of the fee re-structuring modification of the M & O contract during which the contract corporation's president was involved in every formal negotiation, supported by one or two vice presidents, and the

company's lead vice president was in the subsequent negotiations conducted over a four month period.

Level 6-4 is credited for 110 points.

Factor 7, Purpose of contacts

This factor describes the purpose of the contacts identified under Factor 6. The agency credited Level 7-4.

At Level 7-3, contacts are to obtain agreement on previously determined goals and objectives through negotiation, persuasion, and advocacy, such as in obtaining compliance with procurement requirements, influencing contracting officers to adopt positions where there are conflicting options, or justifying contractual approaches to higher level reviewing officials.

Level 7-3 is met. The appellant provides advice on strategic acquisition goals and policy and regulatory information. He also deals with procurement and contractor performance management issues or problems, including assisting in formulating and articulating feasible and cost-effective methods of resolving them. Contacts are normally of a sensitive nature and require tact, diplomacy, and persuasiveness to negotiate resolution of controversial issues among competing and sometimes hostile interests. Consistent with this level, the appellant negotiates or participates on the negotiation team involving complex and sensitive matters, such as the M & O contract modification.

At Level 7-4, contacts are to justify, defend, and negotiate matters involving significant or controversial issues, or problems which require escalation because established channels and procedures have failed to resolve the problem. Negotiations at this level involve procurements of considerable consequence and importance, such as major and other large systems acquisition programs, negotiation with management representatives of other agencies, or representatives of foreign governments or international organizations. The employee is responsible for justifying and defending the agency position when the issues are strongly contested because of their impact or breadth. At this level, the employee assumes the lead in contract negotiations involving major systems or programs, in resolving disagreements or disputes between prime and subcontractors, and/or in effecting a compromise or developing acceptable alternatives. Employees at this level also serve on contract review boards at the department level.

Level 7-4 is not met. Although the appellant deals with sensitive and controversial issues and high level officials, his work assignments do not have comparable breadth or scope as intended at this level. HQ DoE management is responsible for leadership in handling issues or problems having the impact and breadth intended at Level 7-4.

Level 7-3 is credited for 120 points.

Factor 8, Physical demands

This factor covers the requirements and physical demands placed on the employee by the work assignment. The agency credited Level 8-1. We concur.

At Level 8-1, the work is primarily sedentary. No special physical demands are required to perform the work.

At Level 8-2, the work requires some physical exertion such as walking over rough, uneven, or rocky surfaces of the type found at construction sites or other outdoor facilities or conducting intensive negotiations for extended periods of time, i.e., four hours or longer without rest periods, and occasionally late in the evening.

Level 8-1 is met. Comparable to this level, the appellant's work is primarily sedentary. The appellant does not routinely conduct intensive negotiations lasting four hours or longer without a rest period or occasionally into the evening.

Level 8-1 is credited for 5 points.

Factor 9, Work environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned. The agency credited Level 9-1. We concur.

At Level 9-1, the work environment involves everyday risks or discomforts which require normal safety precautions typical of such places as conference rooms or offices or commercial vehicles.

At Level 9-2, the work involves moderate risks or discomforts on a regular and recurring basis, which require special safety precautions.

Level 9-1 is met. The appellant's work is primarily performed in an office setting, which is adequately lighted, heated and ventilated.

Level 9-1 is credited for 5 points.

Summary

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-8	1,550
2. Supervisory controls	2-4	450
3. Guidelines	3-4	450
4. Complexity	4-5	325
5. Scope and effect	5-5	325
6. Personal contacts	6-4	110
7. Purpose of contacts	7-3	120
8. Physical demands	8-1	5
9. Work environment	9-1	5

Total 3,340

A total of 3,340 points falls within the GS-13 grade level point range of 3,155–3,600 points in the GS-1102 grade conversion table.

Decision

The position is properly classified as Contract Specialist, GS-1102-13.