



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Human Capital Leadership
and Merit System
Accountability Division

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

Appellant: [appellant]

Agency classification: Contract Specialist
GS-1102-12

Organization: [location] Operations Branch
[region] Field Contracting Operations
Field Operations
Office of the Chief Procurement Officer
U.S. Department of Housing and Urban
Development
[location]

OPM decision: Contract Specialist
GS-1102-12

OPM decision number: C-1102-12-07

/s/ Robert D Hendler

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

September 25, 2006

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).

As indicated in this decision, our findings show the appellant's official position description (PD) does not meet the standard of adequacy described in the *Introduction to the Position Classification Standards*. Since PDs must meet this standard of adequacy, the agency must revise/update the appellant's PD. The servicing human resources office must submit a compliance report containing the corrected PD to the Philadelphia Field Services Group within 30 days of this decision.

Decision sent to:

[appellant]

Deputy Director
Office of Human Resources
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410-3000

Director, Office of Human Resources, ARH
U.S. Department of Housing and Urban Development
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Introduction

On December 15, 2005, the Philadelphia Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant]. Her position is currently classified as Contract Specialist, GS-1102-12, which the appellant believes should be upgraded to the GS-13 grade level. We received the agency administrative report (AAR) on June 5, 2006. The position is located in the [location] Operations Branch, [region] Field Contracting Operations, Field Operations, Office of the Chief Procurement Office (OCPO), U.S. Department of Housing and Urban Development, [location]. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C).

We conducted on-site interviews with the appellant and her immediate supervisor on August 1, 2006. At our request, the appellant's supervisor subsequently e-mailed additional information to us pertaining to the current organization and reporting structures and position description (PD) assignments within the office. In reaching our classification decision, we carefully considered all of the information gained from the interviews, as well as the written information furnished by the appellant and her agency, including the PD of record.

Background

The appellant, and two co-workers on the same PD, filed a group appeal with one of the Department of Housing and Urban Development's (HUD's) Administrative Services Centers (ASC) in July 2004, requesting their position be upgraded to GS-13 because they perform work previously done at HUD's Headquarters (HQ). The ASC forwarded the appeal to the Director, Staffing and Classification Division (ARHS) for action. An April 7, 2005, ARHS letter to the appellant's supervisor denied the appeal. The appellant appealed the ARHS decision to the Director, Office of Human Resources (ARH) on April 22, 2005, and provided additional supporting information. ARH upheld the ARHS decision, and the appellant subsequently filed this appeal with OPM.

The AAR includes the appellant's PD of record and previous appeal decisions. We requested the agency provide a signed evaluation statement for the position and resolve apparent conflicts between the PD and previous evaluations. The agency provided a new, official evaluation statement for the appellant's position, dated May 17, 2006, which credits all factors at the levels shown on the PD of record.

General issues

The appellant submitted PD [number] as her "current GS-1102 position description along with a statement of its accuracy from my supervisor" in her appeal request. The PD is dated October 19, 1995, and contains only major duty statements. The supervisor states "the enclosed position description...is accurate." The AAR provides PD [number] also dated October 19, 1995, as the appellant's current official PD of record. We compared the major duty statements of the two PDs and find them identical. PD [number] also describes the work in regard to factor levels (FLs) and provides the levels credited to arrive at the GS-12 grade evaluation. The appellant states "I cannot attest to what is in their library but I can certify that the PD I provided is the

one... I am held accountable to...by my supervisor...” The appellant further states the PD provided in the AAR is inaccurate because of the levels assigned to the FL descriptions and outdated references for the organization/reporting structure.

A PD is the official record of the major duties and responsibilities assigned to a position or job by an official with the authority to assign work. A position is the work made up of the duties and responsibilities performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities assigned by management and performed by the employee (title 5, Code of Federal Regulations, sections 511.607(a)(1) and 609). An OPM appeal decision classifies a real operating position, and not simply the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant.

When the appellant’s PD was written, she was assigned to the [organization], as part of the Office of Assistant Secretary for Administration which was responsible for field office contracts. The [organization] no longer performs contracting. Effective March 19, 2006, HUD reorganized its contracting structure. The [organization] now reports through [region] Field Contracting Operations to the Assistant Chief Procurement Officer for Field Operations at HQ and is part of OCPO. In its June 1, 2006, letter to us, the agency stated “This reorganization made the Office of the Chief Procurement Officer a separate program office reporting to the Deputy Secretary... Once the reorganization was initiated all of the contracting staff’s reporting requirements changed, as did the work.” However, the PD has not changed.

The reorganization is intended to provide for a single “virtual” agency contracting workforce. Under the new contracting structure, seven branches report through three regional Contracts Division Chiefs to the Deputy Assistant Secretary Operations at HQ. The agency provided organization charts show sixteen occupied GS-1102-12 positions in the five Contracting Operations Branches (including [location]). Contracting policy and systems support are provided by a separate organization within the OCPO structure.

The appellant provided a vacancy announcement for a GS-1102-13 position in the OCPO in Washington, DC and compared her work to that performed by GS-13 grade level Contracting Specialists at HQ. The fact that certain work is performed at a higher level in the organization does not, in-and-of-itself, mean that work equates to a higher grade level. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM position classification standards (PCSs) and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant’s position to other positions, which may or may not be classified correctly, as a basis for deciding this appeal.

Both the appellant and her supervisor stressed the high quality and consistency of the appellant’s work. In adjudicating an appeal, the quality of work is not germane to the classification process since the classification analysis of a position is based on the assumption that the assigned work is properly performed (*Introduction to the Position Classification Standards (PCSs)*, appendix 3, Factor 5). Therefore, issues raised regarding the effectiveness of the appellant’s work may not

be considered in the classification of her position. Rather, they are properly considered as part of the performance management process.

The appellant makes various statements about the classification review processes conducted by her agency. In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of the appellant's position. Because our decision sets aside any previous agency decision, the classification practices used by the appellant's agency in classifying her position are not germane to the OPM classification appeal process.

Position information

The major program offices at HQ establish requirements, provide statements of work (SOW), and establish "independent cost estimates" which serve as the basis for determining the required level of pre-award contract review and approval. The appellant provides advice and recommendations concerning the preparation of the SOW based on her contract experience, regulatory/statutory contract requirements, and familiarity with private and public sector service provider capabilities.

All proposed buys expected to meet or exceed half a million dollars in total purchases are first submitted to the Office of Small and Disadvantaged Business Utilization by the requesting program office. They then go before the agency Pre-Award Management Review Board (PMRB), comprised of senior managers including the heads of the program areas and Senior Counsel, for approval. Once approved, they are available to the OCPO for action and assigned to a contract specialist.

The appellant issues large shell contracts which establish an agreement to purchase exclusively from one, or a few, contractors during a given period of time (a base year and options to extend up to four optional years) and lay the contractual framework; i.e., terms, conditions, and clauses, etc., for the acquisition of services on an as-needed basis. She provides technical guidance to program officials to refine/clarify SOWs, solicits bids, performs complex cost/price analysis, negotiates, awards, administers and closes out contracts. When services are actually required, the appellant negotiates individual task orders (TOs) with the sole source contractor, or if more than one contractor is involved, issues award notices to the contractors who then compete for awards of particular task orders. Shell contracts are submitted for appropriate reviews and approvals based on their anticipated overall dollar value. Each TO issued under a shell contract is also submitted for reviews and approvals based on its stated dollar value.

Most negotiations are done "one-on-one" with contractor representatives over the telephone, although she also occasionally has face-to-face or written negotiations. She negotiates independently, but has access to "back office" support resources such as attorneys, information technology and other specialists as needed during negotiations. Contracts may involve the review and approval of subcontracting plans, and many of her awards are for small business set-asides (SBSA), or 8A contracts. Contractual actions and funding approvals are worked concurrently and contracts stipulate award is subject to approval of funds. The appellant responds to contractor questions and concerns, and coordinates with the OCPO officials, HUD Board of Contract Appeals and attorneys, Government Accountability Office representatives,

and others as appropriate, providing contract history and technical procurement information and advice for post award claims and/or protests regarding her assigned contracts.

The appellant and her supervisor are the only warranted Contracting Officers (COs) in the office. The appellant is authorized to independently sign and award contracts up to the small purchase limit of \$100,000, while her supervisor's warrant is up to \$1 million dollars. Contracts between one and five million dollars are signed by the Division Director and those over five million dollars are signed by the Deputy CPO or occasionally, when very sensitive and/or high visibility matters are involved, by higher level contract managers.

Ninety percent of the appellant's time is spent on work previously performed at HQ. During the past year she administered seven large Management and Marketing (M&M) shell contracts awarded by HQ in accordance with established agency requirements and formats. Two of these have since been closed out. She issues and administers individual task orders; negotiates, prepares and processes numerous modifications to SOW requirements including those resulting from statutory/regulatory requirements affecting particular locations in which the work is performed; implements contractual provisions to extend the term of the contracts for additional years; and terminates and closes out contracts. The appellant quickly negotiated, prepared and awarded two large emergency sole-source, fixed-price with cost reimbursement M&M contracts (both within 60 days) needed to ensure undisrupted provision of essential property management services while the regular contract awards are being disputed in court.

The appellant awarded a sole-source, 8A shell contract with cost reimbursement based on a very general SOW description of requirements for technical services (i.e., software development for training programs, web page design and maintenance, etc.) for the Office of Multiple Family Housing. The contract does not state a dollar limit, although Small Business Administration regulations specify a three million dollar limit within any one year period, and the total value cannot exceed five million dollars unless the SBA approves a waiver. It covers a base year plus three optional years with no specified limits on the value of individual task orders (TOs). So far, the appellant has awarded, and administers, one TO under this contract.

The appellant awards, administers, and closes out shell service contracts for the Office of Healthy Homes (HH). Ninety percent are sole-source, 8A, fixed price with cost reimbursement contracts for a one year base and up to four years optional. Most state an expected dollar amount. Each TO is processed and funded separately under the terms of the shell contract. HH contracts are for lead control technical services, risk assessments, business support services, document imaging, information technology (IT) work/software development, the National Conferences for HH, mold remediation outreach services (to teach Katrina victims how to get rid of mold), etc. Ten percent are fixed price Inter Agency Agreements (IAA). The appellant provides advice, guidance and coordinates with HUD program offices to development of the SOW and Government cost estimate, she then negotiates with the agency providing services. IAAs typically do not involve the depth or difficulty of negotiations typical of contracts with private sector interests because they are made with other Government entities generally working cooperatively toward the same or similar goals. However, IAA awards must be shown to be fair and reasonable. Examples of the appellant's HH contracts include a four year, five million dollar IAA with the Department of Health and Human Services for risk assessment for lead based paint

in homes, and a three year, three million dollar contract with Centers for Disease Control for a national campaign concerning disease prevention and reducing lead hazards. In addition, the appellant awards a few SBSA contracts for HH. For these, she synopsis procurements, sets the date for submission of proposals from multiple competitive bidders, reviews proposal cost and technical data, negotiates with bidders, prepares final revisions, makes the award decision, processes awards, and administers and closes out the contracts as appropriate.

The appellant performs pre-award, award, administration and post award contracting duties including close out of contracts for the Home Ownership Center ten percent of her time. Both the appellant and her supervisor refer to this as “field work.” The “field work” performed by the [organization] covers the area including [location, location, location, etc.] and occasionally contracts for other regions. These are typically competitive, fixed price, SBSA, indefinite delivery/indefinite quantity (IDIQ) contracts for recurring requirements. Small purchase service contracts include: closing agents to represent the agency’s interests when a property is sold; construction inspections for new work or rehabilitated properties; appraisal of properties resulting from loan defaults; and field reviews of appraisals performed as a quality control function. Larger contracts may involve: technical reviews of loan packages provided for HUD properties by lenders; post-endorsement technical reviews for 8A, sole source contracts; special property inspections for M&M work performed by other agency contractors; or records storage for the documentation of transactions. Individual task orders issued under such contracts typically do not exceed the small purchase limit and are processed under simplified purchase procedures with common and/or standardized terms and conditions. Ninety five percent of all “field” contracts over \$100,000 are small business set-asides. Funds are committed for contracts/TOs only after an actual requirement for a particular service is identified.

The appellant performs her work based on criteria provided by the Federal Acquisition Regulation (FAR) and HUD’s FAR supplement (HUDAR) and on-line Procurement Handbook which provide policy and templates for contractual actions. HUD procurement guidance is issued and maintained by the Policy Division of OCPO. Application frequently requires interpretation and adaptation to meet the needs of particular contracts. Unique contract requirements and/or situations occasionally require the appellant to develop new and innovative approaches or require deviation from established practices and procedures. The supervisor is informed of such situations.

The appellant develops local office procedures and practices, checklists, work improvements, time saving techniques and methods, etc., to enhance accuracy of contracting actions, ensure proper processing of actions and consideration of all established requirements. She provides procedural advice and guidance to co-workers and others within OCPO based on experience gained in dealing with difficult and complex national contracts, and has mentored and provided on-the-job training to a co-worker/trainee. The guidance she gives to co-workers, both within and outside the immediate office, is in the form of suggestions or recommendations rather than being authoritative or directive. The appellant explains contract statutes, regulations, policy, procedure, practice, interpretations and applications, and provides recommendations in her dealings with high-level agency program officials, contractors, contractor representatives and other interested parties both within and outside the Federal Government.

As an example of her impact on agency policy/practices, the appellant refers to a situation involving a large dollar value long term contract award, issued by HQ, which is currently being contested between two contractors resulting in HUD and GAO-level contract appeals, protests and litigation. The matter involves politically sensitive issues with media attention, particularly in the affected locations. The appellant has awarded two “fill-in” contracts needed to provide essential services during litigation, until final resolution of the long term contractual issues can be achieved. Her supervisor is the CO of record for the contracts due to their dollar value. The appellant refers to her involvement in the collaborative efforts and decisions made with HUD’s Office of General Counsel, OCPO and major program personnel concerning these contracts and in consideration of GAO recommended action. The work involves court ordered action with very short timeframes for award due to the emergency nature of the contracts. Because of this situation, the PMRB decided to waive the otherwise required, time consuming pre-award review and approval of the contracts. The appellant cites this decision by the PMRB as an indication of her impact on agency policy and contractual procedures.

The supervisor typically does not review the appellant’s small buy contracts which she signs as CO. The supervisor does review complete packages from the appellant for all contracts and/or individual task orders exceeding \$100,000 dollars to ensure they are complete, correct, and the recommended actions reflect sound judgment and are appropriate to the particular contractual action and associated considerations. However, with the exception of high visibility and/or politically sensitive actions, the review is not as in-depth as that performed for other proposed awards because the appellant’s work is generally considered to be thorough, complete and accurate.

Series, Title, and Standard Determination

The appellant’s position is properly assigned to the Contracting Series, GS-1102, titled Contract Specialist, and evaluated by application of the grade-level criteria provided in the PCS for Contracting Series. Neither the appellant nor the agency disagrees.

Grade Determination

The GS-1102 PCS is written in the Factor Evaluation System (FES) format, under which factor levels (FLs) and accompanying point values are to be assigned for each of the following nine factors, with the total then being converted to a grade level by use of the grade conversion table provided in the PCS. The factor point values mark the lower end of the ranges for the indicated FLs. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the selected (threshold) factor level description (FLD). If the position fails in any significant aspect to meet a particular FLD, the point value for the next lower FL must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

The appellant refers to the sole Contract Specialist, GS-1102-13 benchmark provided in the PCS in support of her belief that her position should be evaluated at the GS-13 grade level. It describes work concerning research and development on extensive, state-of-the-art, specialized

equipment or systems, or long term social, economic, environmental and/or health problems for which little or no experience or precedent data is available.

Benchmarks describe work situations which represent significant numbers of positions in an occupation and reflect each of the nine factors as they relate to those particular duties. A benchmark may be used as content in an official PD only if it completely and accurately describes the work of the position. Benchmark FLs do not necessarily reflect the threshold for a particular FL, and may describe conditions that fall anywhere within the range of a FL. This distinction between FLDs and benchmark FLs is very important in applying FES PCSs containing benchmarks. A FL may be credited by reference to either a benchmark or FLD, but it can only be denied by reference to a FLD. There is only one benchmark describing GS-13, grade level Contract Specialist work. The appellant's assignments are not comparable to work described in this benchmark which, therefore, may not be applied in evaluating her position.

The appellant states she is the only warranted CO in the office, other than her supervisor, to indicate her independent exercise of decision making authority. Signatory authority is addressed by the PCS which states "...CO authority generally affects certain responsibilities of the position, such as commitment authority described under Scope and Effect. However, such authority is not, by itself, grade determining. The grade of a particular position must be evaluated in terms of...the extent of review, the complexity of the procurement, the scope of the procurement, and other relevant factors."

The agency credited the appellant's position at Levels 1-7, 2-4, 3-4, 4-5, 5-4, 6-3, 7-3, 8-1, and 9-1. The appellant believes her position should be credited with Levels 1-9, 2-5, 3-5, and 5-5. The appellant requests her position be credited at Level 4-5, and the agency's official evaluation statement resolves a previous conflict by crediting the position at that level. Based on careful analysis of the record, we concur with the levels currently credited by the agency for the factors not in dispute. Our analysis of Factors 1, 2, 3 and 5 follow.

Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information an employee must understand in order to do the work, and the skills needed to apply that knowledge.

At Level 1-7, the work requires knowledge of a wide range of contracting methods and types to plan and carry out pre-award and post-award procurement actions, or in-depth knowledge of a specialized area to analyze difficult contracting issues, modify standard contracting procedures and terms to satisfy specialized requirements, and solve contracting problems requiring significant departures from previous approaches. The work also requires familiarity with business practices and market conditions sufficient to evaluate bid responsiveness and contractor performance. For example, at this level the employee may purchase large quantities of items to meet the consolidated requirements of one or more regions, commands, agencies, or departments, or may procure complex and/or diversified supplies, services, construction, or research and development, such as design services for specialized equipment, or architectural and engineering services to design major buildings, structures, facilities, or projects. Contract administration may involve monitoring a group of contracts such as fixed-price with

re-determination provisions, cost reimbursement, or contracts with incentive provisions. The work may involve gathering and evaluating price and/or cost data for a variety of procurement actions, such as production equipment subject to design or manufacturing changes, or proposals projecting changes in labor and material costs or technology. At this level, contract specialists engaged in staff work may write the activity's operating procedures, interpret procurement regulations and policies for the activity operational procurement specialists, and identify and analyze procurement issues and their impact on local procedures.

At Level 1-8, operating-level work requires a mastery of contracting methods and types to plan and carry out *long-term procurement actions*, **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 performance of the contractor, or equivalent knowledge and skill. The distinguishing features of this level are the *magnitude and complexity* of the systems or services being procured, e.g., extensive ADP acquisitions such as a nationwide teleprocessing system or a multiprocessor mainframe system used in multi-disciplined scientific applications; all contractual aspects of a major program involving coordination of a number of contracts; extensive technical services, such as large Government-owned, contractor-operated installations and facilities; or design services for large hospitals, laboratories, prisons, Federal office buildings, dams, power plants, mints, or other comparable structures. Contract administration may involve *complex* service contracts which require day-to-day negotiations of significant contract changes, monitoring numerous special provisions, coordinating extensive subcontracting involvement, and observing rigid timeframes. Staff work at this level requires mastery of the procurement functional area to apply experimental theories and new developments to problems not susceptible to treatment by accepted methods, to extend contracting techniques, *and* to develop procurement *policies* for use by other contracting personnel in solving procurement problems. Alternatively, it requires mastery of procurement principles and 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.

As described previously, the knowledge required to perform the appellant's work meets Level 1-7. As at that level, the position requires skill in a wide range of contracting techniques to procure diverse professional and technical services which include: financial, property management and maintenance, repair (including lead removal), property marketing/sale, technical IT support, new mortgage insurance, closing agents, quality assurance review and reporting, administrative services, auditing, document storage, alterations and repair of HUD owned properties, and other services. Typical of Level 1-7, she interprets and applies available guidance, determines procurement strategy, negotiates, awards, administers and closes out a range of contract types, including negotiated fixed price, fixed price with cost reimbursement, IAAs, and indefinite delivery/indefinite quantity contracts. Her long term high dollar value contracts are "shell contracts" primarily for recurring service requirements. They are awarded for a base year plus optional years and frequently require new and innovative approaches to deal with unique requirements/situations. She also issues shell contracts for unique support service requirements, as defined by the program offices, to provide software applications, conventions, document storage, technical services, etc. The appellant negotiates modifications to the contracts in response to changes in the SOW, legal/regulatory requirements or other issues and negotiates,

prepares and administers TOs. She researches and resolves difficult and/or politically sensitive contracting issues, evaluates price and cost data for procured services, ensures conformance with legal, regulatory and contractual requirements, negotiates and establishes emergency contracts, and coordinates extensively with agency attorneys, contracting and program personnel concerning actions potentially subject to litigation and/or media scrutiny.

The appellant's contracts do not require application of the range and depth of knowledge expected at Level 1-8. Although many of her contracts cover multiple years, and some involve high visibility litigation and/or expedited actions, they are not comparable in scale and complexity to those envisioned at that level, i.e., the *major* programs or *extensive* acquisitions or technical services described in the PCS. They do not involve *continual and significant* contract changes or *extensive* subcontracting. Level 1-7 also addresses contracting work of a fairly high degree of difficulty and importance, such as Government-wide procurements and architectural/engineering services to design major projects, which is more representative of the appellant's position. Based on work experience, the appellant develops procurement checklists, procedures and practices and techniques that ensure compliance with established statutory, regulatory and policy requirements and improve the effectiveness, efficiency and consistency of contracting operations. These are shared with co-workers as suggested improvements/best practices. Their use is not required, although co-workers frequently do use them. This work is not comparable to Level 1-8 staff work. That level is appropriate for large organizations with *subordinate contracting activities* (e.g., in regional or field offices), where the employee is responsible for providing technical leadership, policy guidance, and staff evaluation of contracting issues and programs. This function is not vested in the appellant's position or her immediate organization.

The appellant requests her position be credited at Level 1-9, the highest level described in the PCS. Because the appellant's position does not fully meet Level 1-8, crediting of Level 1-9 is precluded. Therefore, Level 1-7 (1250 points) is credited.

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 how the work is reviewed. Controls are exercised by the supervisor in the way assignments are made, instructions are given to the employee, priorities and deadlines are set, and objectives and boundaries are defined. Responsibility of the employee depends upon the extent to which the employee is expected to develop the sequence and timing of various aspects of the work, to modify or recommend modification of instructions, and to participate in establishing priorities and defining objectives. It is not only the degree of independence with which the employee operates that is measured, but also the extent of the responsibility inherent in the assignment.

At Level 2-4, the supervisor outlines overall objectives and the resources available and the employee, in consultation with the supervisor, discusses timeframes, scope of the assignment including possible stages, and possible approaches. Throughout their assignments, employees determine and apply the most appropriate principles, practices, and methods; decide on the approach to be taken and intensity/depth of research in management advisories; apply new methods to resolve complex and/or intricate, controversial, or unprecedented issues and

problems; resolve most conflicts that arise; frequently interpret regulations on their own initiative; and keep the supervisor informed of progress and of potentially controversial matters. The supervisor reviews the work for soundness of overall approach, effectiveness in meeting requirements or producing results, the feasibility of recommendations and adherence to requirements. The supervisor does not typically review methods used.

At Level 2-5, the highest level described in the PCS, the supervisor provides only administrative direction and assignments are made 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, departmental, or agency policy. Employees determine the approach and method necessary to carry out assignments, and design overall plans and strategies for their projects to meet mission or program goals, requirements, and time frames. They independently carry out assignments including extensive, ongoing coordination with various internal and external elements, and independently negotiate. Work products and advice provided to management or field activities is considered technically authoritative. Work is reviewed to ensure it is compatible with overall management objectives, fulfills program objectives, attains goals established in the acquisition plan, provides appropriate business arrangements, and contributes to the short- and long-term success of the mission. The work may be reviewed by formal review boards. New contracting policies, procurement approaches, or modifications of contractual arrangements recommended by the employee are usually reviewed for compatibility with broad program and agency objectives, impact on agency procurement activities, economies achieved, and/or the extent to which they improve effectiveness or performance of procurement programs including those at subordinate echelons throughout the agency.

The appellant believes her position meets Level 2-5 due to her level of freedom from technical supervision, acceptance of her contractual advice and guidance as authoritative, delegated CO authority, recognition as a tough negotiator, and involvement with high visibility and sensitive agency contracts. She states she alone sets the deadlines and objectives for each-and-every procurement assigned to her; informs the supervisor of decisions after the fact; has full authority to provide guidance and direction to other program offices, contractors and other specialists in the office; often acts for the supervisor in their absence; and when her work is reviewed (i.e., all contracts exceeding \$100,000) it is only for conformity to HUD OCPO goals and objectives.

On the surface, certain limited aspects of the appellant's work may seem similar to Level 2-5, e.g., the limited review of her work. However, her responsibility for specified contracts falls short of that level. The supervisor assigns the appellant responsibility for particular contracts. The appellant carries out the work with a great deal of independence, coordinates with others within and outside the office, keeps the supervisor informed of potentially sensitive matters; resolves day-to-day problems; provides advice and makes decisions in accordance with existing laws, regulations, policies and, when available, precedent. This type of supervision is fully covered at Level 2-4. In contrast, Level 2-5 is typically accompanied by much broader accountability for a significant program, function, long range acquisition or agency objectives and involves decisions concerning allocation of resources. The availability of a technically qualified supervisor must also be considered in crediting Level 2-5 because the existence of such a position in the management chain makes Level 2-5 credit highly unlikely. In the appellant's

case, her supervisor exercises technical authority on major contracts to the extent that the supervision over the appellant may not be considered only administrative in nature. Neither the absence of immediate day-to-day supervision; the fact that technical recommendations are normally accepted; delegation of small purchase CO authority; nor filling in for the supervisor in their absence serves to support credit above Level 2-4. Furthermore, duties performed in the absence of another employee may not control the classification of a position (Introduction to the PCSs, III, J.) Therefore, Level 2-4 is credited (450 points).

Factor 3, Guidelines

This factor covers the nature of guidelines and the judgment needed to apply them. While the lack of guidelines may require considerable judgment, the exercise of extensive judgment may also be required in the selection, interpretation and application/adaptation of the abundant guidelines typical of procurement work.

At Level 3-4, available policies and precedents are stated in general terms, or may be of limited use. Employees frequently search a wide range of regulations and policy issuances applicable to numerous and diverse procurement issues. Because available guidelines are often inadequate to deal with the problems encountered, employees apply ingenuity and originality to interpret, modify, and extend guides, techniques, and precedents; devise terms and conditions tailored to specific procurements; or balance the application of the guidelines in relation to novel program or technical needs, business considerations, and/or the socioeconomic climate. For example: previous negotiations are not directly applicable; pricing data is incomplete or limited; contract administration requires the employee to closely monitor and continuously assess contractor compliance due to the large number of subcontractors or volume of contractual provisions; or decisions to allow and/or allocate costs to resolve claims or terminations require extensive analysis. Employees apply experienced judgment and initiative to: identify and adhere to the underlying principles of guidelines; deviate from traditional techniques; or research trends and patterns to develop new approaches, criteria, or proposed policies.

At Level 3-5, the highest level described for this factor in the PCS, guidelines consist of legislation, broad and general policy statements, and procurement regulations involving one or more agencies, which require extensive interpretation. Employees develop and interpret authoritative procurement guidelines, policies, regulations, and/or legislation. Employees in operational positions develop and modify strategies for procurements where little or no contractual precedent exists to guide them. For example, a procurement that 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 serving in staff positions generally draft agency procurement regulations or policies.

The appellant's work meets Level 3-4. Available guidance includes the FAR, HUDAR and Procurement Handbook. The appellant interprets, modifies, and extends guides, techniques, and precedents and/or tailors terms and conditions to meet the needs of her assigned contracts. Her contracts are complex and include numerous contractual provisions, terms and conditions. They frequently require extensive analysis to make decisions regarding contract claims and

terminations. Typical of Level 3-4, while adhering to statute, regulation and policy, the appellant deviates from traditional procedures, practices and techniques to develop and implement new approaches based on her contracting experience. She closely monitors and evaluates contractor compliance while contracts are in effect. Her work does not require or permit her, like Level 3-5, to develop and interpret authoritative agency procurement guidelines, policies, regulations, and/or legislation, nor is the guidance available to her limited to broadly stated and non-specific policy statements and basic legislation requiring extensive interpretation. The record shows the appellant is assigned responsibility for contracts previously done at HQ, which she states she received without the prior procurement information. However, work situations described at Level 3-4 include those where previous negotiations are not available or applicable as guides and historical cost data may not be available. Most of the services she purchases have been, and continue to be purchased by HUD. Unlike Level 3-5, she performs her work within the confines of agency internal regulations and policies; i.e., HUDAR and Procurement Handbook, developed and authoritatively interpreted by the contracting policy and systems support organization within the OCPO structure. The appellant's position does not involve significant departures from existing systems, programs or the redefinition of policy. Therefore, Level 3-4 is credited (450 points).

Factor 5, Scope and Effect

This factor 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, i.e., the purpose, breadth, and depth of the assignment, describes such end objectives as the number of contracts awarded and administered decisions and recommendations made, and policy and regulatory documents written. 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 and allows consistent evaluations.

At Level 5-4, employees provide expertise in a functional area of contracting; advise, plan, or review services on specific problems, projects, or programs; negotiate, award, administer, and/or terminate contracts; and frequently exercise delegated CO authority within prescribed money limits for all or most contract actions. They plan, coordinate, and/or lead negotiations for a variety of complex contracts, contract modifications, or terminations, e.g., those which accommodate possible changes in program requirements, involve subcontractors, account for Government equipment, or involve consolidated requirements for several agencies or departments; formulate approaches to procurement problems or issues when the problems require extensive analysis of a variety of unusual conditions, questions, or issues; establish procedures to implement procurement policies and/or regulations; conduct in-depth analyses of contractors' financial and management systems and facilities to determine their ability to perform or for compliance with Government or contractual requirements; and/or plan and conduct program evaluations of subordinate procurement activities. The work significantly impacts contractor finances, the economy of respective geographic areas; or similar impact and affects a wide range of procurement activities (e.g., procurement program operations in various

offices/locations; the timely support of other departments or agencies), contractor operations or management systems, or the ability to meet significant procurement or technical program goals.

The appellant's position meets Level 5-4. Although her CO authority is limited, she applies contracting expertise to plan, coordinate and negotiate a variety of complex contracts and termination actions in accordance with the FAR, HUDAR and agency policy. She negotiates modifications to shell contracts in response to changes in requirements; analyzes procurement problems and interprets and/or adapts established guidance to resolve them. Typical of Level 5-4, she develops standardized processes and checklists to implement procurement regulation and policy; and provides advice and guidance to program staff applying lessons learned from prior experience to improve future contract actions. Contracts awarded by the appellant have a direct and significant economic and operational impact on contractors, and her larger dollar value contracts may also impact particular geographic areas, as is evident by the local media coverage of currently contested M&M service awards. She does advise senior program officials regarding SOW and contract requirements. However, this advice is on issues of Level 5-4 breadth and scope.

The purpose of the work at Level 5-5 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 CO authority for transactions involving sizeable expenditures of staff, funds, and material. Employees typically: plan and negotiate procurements for long-term systems, programs, or projects (i.e., five years or more); administer long-term contracts with delegated final authority to obligate funds in connection with most transactions and, as required, serve as team leader over a group of specialists whose services and advice are used to arrive at a decision; negotiate termination settlements and approve contractor proposed settlements with subcontractors for contracts in which several years of work have been expended, or which involve extensive proposals and/or claims of prime and subcontractors and large amounts of inventory and Government property; develop innovative contractual arrangements to resolve critical procurement problems and satisfy unusual procurement situations; establish and advocate/justify region, command, administration, agency or department positions concerning major procurement issues; develop procurement regulations, extend techniques, and/or interpret policy for use by other contracting specialists; or perform comparable work. Work products affect the work of other experts within or outside the agency; establish guides or procedures for use by subordinate contracting activities; affect the operation and evaluation of subordinate contracting programs; accomplish major procurements that contribute to the achievement of mission objectives; affect decisions made by senior procurement, technical, or program officials in terms of the authoritative procurement advice provided; and impact the economic well-being of a large corporation or subsidiary; or the well-being of substantial numbers of people, such as those employed in a major industry, or served by a broad social, economic, health, or environmental program.

The appellant's work does not meet Level 5-5. Her work is performed within the context of established regulation and policy. The new approaches she develops are in response to issues arising from her own assignments, rather than being intended for use by other specialists. While the small buy contracts she signs as CO are typically accepted as correct and thoroughly

documented without review, her work does not involve CO authority for transactions involving sizable expenditures of staff, funds or material, nor can her decisions on the HQ level contracts be considered authoritative. The appellant's supervisor and/or someone higher in the contracting chain of command exercise review and approval authority for any contracts of that scope. Her work does not affect the operation and evaluation of subordinate contracting programs, and although the total value of her contracts can be very large, they are shell contracts for services, as needed, during one year with possible optional years. They are not long term contracts involving phased development of major systems, programs or projects lasting for five or more years. As discussed previously, neither the appellant nor the organization in which she works is responsible for formulating HUD procurement policy or providing authoritative advice on such policy as is contemplated at Level 5-5. Therefore, Level 5-4 (225 points) must be credited.

Summary

<u>Factors</u>	<u>Level</u>	<u>Points</u>
<i>Knowledge Required</i>	1-7	1250
<i>Supervisory Controls</i>	2-4	450
<i>Guidelines</i>	3-4	450
<i>Complexity</i>	4-5	325
<i>Scope and Effect</i>	5-4	225
<i>Personal Contacts</i>	6-3	60
<i>Purpose of Contacts</i>	7-3	120
<i>Physical Demands</i>	8-1	5
<i>Work Environment</i>	9-1	<u>5</u>
Total		2890

The total of 2890 points falls within the GS-12 range (2755-3150 points) on the grade-conversion table provided in the standard.

Decision

The appealed position is properly classified as Contract Specialist, GS-1102-12.