Fair Labor Standards Act (FLSA) Designation Worksheet (5 CFR Part 551)

(Complete Worksheet in conjunction with *Instructions for Completing the FLSA Designation Worksheet*)

Position Title/Pay Plan/Series/Grade: Supervisory Wildland Firefighter, GS-0456-08
Position Number/Organization/Organization Code: DOI DX00700

I. Foreign Exemption (§551.212) and/or Exemption of employees receiving availability pay (§551.213)

If any of the boxes in this section are marked, the employee/position is Exempt and the remaining sections need not be applied. See §551.104 for definition of Exempt Area. Refer to §551.212 when administering employees/positions meeting the criteria for foreign exemption.

- ☐ The employee is permanently stationed in an exempt area and spends all hours of work in a given workweek in one or more exempt areas (foreign exemption)
- ☐ The employee is not permanently stationed in an exempt area, but spends all hours of work in a given workweek in one or more exempt areas (foreign exemption)
- ☐ Criminal investigator receiving availability pay under §550.181(a), as provided in 29 U.S.C. 213(a)(16)
- ☐ Pilot employed by U.S. Customs and Border Protection or its successor who is a law enforcement officer as explained in §551.213(b)

II. Salary based Nonexemption (§551.203) and/or Nonexemption of certain employees (§551.204)

If any of the boxes in this section are marked, the employee/position is Nonexempt **if**: 1) none of the boxes in Section I are checked; and 2) §551.208(c) Practice of law, §551.208(d) Practice of medicine, or §551.208(h) Teachers, do not apply to the employee/position.

- ☐ Annual rate of basic pay is less than $23,660
- ☐ Equipment operating or protective occupations (nonsupervisory)
- ☐ Clerical occupations (nonsupervisory)
- ☐ Technician work below GS-09 and many, but not all, of those positions that are at or above GS-09 (nonsupervisory)
- ☐ Nonsupervisory employees in the Federal Wage System (or comparable systems)
- ☐ Employee/position requires highly specialized, technical skills and knowledge that can only be acquired through prolonged job training and experience, such as Air Traffic Control or Aircraft Operation (applies to nonsupervisory white-collar employees).

III. Exemption Criteria. The employee/position is Exempt from FLSA if the primary duties meet the "terms and spirit" of one or more of the exemption criteria below (see General Principles §551.202).

- ☐ **Primary Duty:** the duty that constitutes the major part (over 50 percent) of an employee's work. A duty constituting less than 50 percent of an employee's work may be credited as the primary duty if the work: 1) constitutes a substantial, regular part of the work assigned and performed; 2) is the reason for the existence of the position; and 3) is clearly exempt work in terms of the basic nature of the work, the frequency with which the employee must exercise discretion and independent judgment, and the significance of the decisions made. (§551.104 *Primary Duty*)

A. Executive Exemption (§551.205) – all three boxes must be checked to apply this exemption criteria

- ☐ Primary duty is management (defined by §551.104 Management) of a Federal agency or any subdivision thereof;
- ☐ Customarily and regularly directs the work of two or more other employees – must have "operating authority" over employees. This does not include those who merely assist the manager or supervise in the manager's absence; AND
- ☐ Has authority to hire or fire other employees OR whose suggestions and recommendations of such are given <u>particular weight</u>.
  - <u>Particular Weight</u>: When the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees are: 1) part of the employee's job duties; 2) regular and recurring in frequency; and 3) regularly relied upon for decision making, even if higher level manager's recommendations have more importance and if the employee does not have authority to make the ultimate decision as to the "supervised" employee's change in status.

B. Administrative Exemption (§551.206) – both boxes must be checked to apply this exemption criteria

- ☐ Primary duty is the performance of office or non-manual work directly related to the <u>management or general business operations</u>, as distinguished from production functions, of the employer or the employer's customers;
  - <u>Management or general business operations</u>: to meet this requirement, the employee must perform work directly related to assisting with the running or servicing of the "business." Examples include: finance, accounting, budgeting, auditing, purchasing, procurement, safety and health, human resource management, computer network and database administration, legal and regulatory compliance. Depending upon the purpose of the work and the organizational context (line or staff), work in certain occupations may be either exempt or nonexempt (§551.206(h)).
- ☐ Primary duty includes the exercise of <u>discretion and independent judgment</u> on matters of significance.
  - <u>Discretion and independent judgment</u>: implies that the employee has authority to make an independent choice, even if the decisions or recommendations are reviewed at a higher level and, upon occasion, revised or reversed. Examples include, but are not limited to: 1) authority to formulate, affect, interpret, or implement mgmt. policies or operating practices; 2) carries out

major assignments; 3) performs work that affects the organization's operations to a substantial degree; 4) authority to commit the employer in matters that have significant financial impact; 5) authority to waive or deviate from established policies and procedures without prior approval; 6) authority to negotiate and bind the organization on significant matters; 7) provides consultation or expert advice to mgmt.; 8) involved in planning long or short-term objectives; 9) investigates and resolves matters of significance on behalf of mgmt.; and 10) represents the organization in handling complaints, arbitrating disputes, or resolving grievances. (§551.206(b) and (c))

C. Professional Exemption (§551.207) – to apply this exemption criteria, must check the "Primary Duty" box AND all the boxes of at least one of the two Professionals or Computer Employees listed below

☐ Primary duty must be the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

1. Learned Professionals (§551.208) – all boxes must be checked to apply this exemption criteria

☐ Primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; AND

☐ Perform work requiring advanced knowledge (cannot be attained at high school level) which is predominantly intellectual in character and includes work requiring the consistent exercise of discretion and judgment; AND

☐ The advanced knowledge must be in a field of science or learning which includes the traditional professions of physical, chemical, and biological sciences, accounting, actuarial computation, engineering, architecture, law, medicine, theology, teaching, and other occupations as distinguished from mechanical arts or skilled trades; AND

☐ The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction which restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. On unusual occasions, engineering technicians performing work comparable to that performed by professional engineers on the basis of advanced knowledge may also be exempt (§551.208(3)(f)); however, they are also an example of an occupation that would not meet this particular criteria (§551.208(3)).

2. Creative Professionals (§551.209) – must check the box in order to apply this exemption criteria

☐ Primary duty must be the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical, or physical work. Examples include actors, musicians, composers, conductors, soloists. Painters who, at most, are given the subject matter of their painting and writers who choose their own subject may also be included. Employees engaged in the work of newspapers, magazines, television, or other media are not exempt creative professionals if they only collect, organize, and record information that is routine or already public.

3. Computer Employees (§551.210) – all boxes must be checked to apply this exemption criteria

☐ Employee's annual salary is not less than $23,660 (proposed to be $47,476), **or** hourly pay rate is not less than $27.63; and

☐ The employee must work as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field, performing duties described under primary duties below; and

☐ Primary duty must consist of: 1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications; 2) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; 3) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; **OR** 4) a combination of the aforementioned duties, the performance of which requires the same level of skills.

☐ The computer employee exemption does not include employees engaged in the manufacture or repair of computer hardware and related equipment and does not include employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs, and who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations. Check this box if position does NOT include these duties.

Final Designation of FLSA Exemption Status: Non Exempt ◉ or Exempt ○

If Exempt, provide justification, including citing the applicable exemption criteria:

The consideration that an executive employee primarily performing management duties, at a minimum, raises more than reasonable doubts as to whether a Code 2 GS-08 first level supervisory wildland firefighter who primarily performs fire suppression duties and devotes approximately 25% of their work to supervisory duties is an "executive employee" under OPM regulations. Therefore, as there is clearly more than "reasonable doubt as to whether an employee meets the criteria for exemption, OPM regulations require employees to designate FLSA nonexempt, 5 C.F.R. § 551.202(d). Based on DOL and OPM regulations this position does not meet the criteria to be exempt from the minimum wage and overtime provisions of the FLSA executive exemption under 29 U.S.C. Section 213(a)(1).

Name and Title of Evaluator: Kara Platt, Senior Classification Program Analyst

Signature: _____ Digitally signed by KARA PLATT Date: 2024.04.30 08:28:36 -04'00'

Date of Determination: 4/30/24

Note: FLSA determinations can temporarily change due to temporary activities as described in §551.211 (performing different work or duties for a temporary period of time); §551.215 (fire protection activities); or §551.216 (law enforcement activities).

Instructions for Completing the Fair Labor Standards Act (FLSA) Designation Worksheet

Background

The Fair Labor Standards Act (FLSA) was passed in 1938 "to provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes." The "finding and declaration" was that "the Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." (The Fair Labor Standards Act of 1938, As Amended; WH Publication 1318, Revised May 2011; §202 (a)) The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in the Federal, State, and local governments. The U.S. Office of Personnel Management administers the provisions of the FLSA for employees of Federal agencies with a few exceptions (§551.102 and §551.103). 5 CFR Part 551 addresses pay administration under the FLSA and "contains the regulations, criteria, and conditions set forth by the OPM as prescribed by the Act, supplements and implements the Act, and must be read in conjunction with it."

Definitions (§551.104)

Customarily and Regularly. A frequency which must be greater than occasional, but which may be less than constant. Tasks or work performed customarily and regularly includes normally and recurrently performed work every workweek. It does not include isolated or one-time tasks.

Discretion and independent judgment (§551.206 (b)). In addition to the definition on the Worksheet, the following guidance helps to further define this term: **a)** the fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance; **b)** discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures, or specific standards described in manuals or other sources; and **c)** the use of manuals, guidelines, or other established procedures containing or relating to highly technical, scientific, legal, financial, or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exemption status. However, employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances will be nonexempt.

Exempt area. Any foreign country, or any territory under the jurisdiction of the United States, other than the following locations: (1) A State of the United States; (2) The District of Columbia; (3) Puerto Rico; (4) The U.S. Virgin Islands; (5) Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (67 Stat. 462); (6) American Samoa; (7) Guam; (8) Commonwealth of the Northern Mariana Islands; (9) Midway Atoll; (10) Wake Island; (11) Johnston Island; and (12) Palmyra.

*FLSA Exempt***.** Not covered by the minimum wage and overtime provisions of the FLSA.

*FLSA Nonexempt***.** Covered by the minimum wage and overtime provisions of the FLSA.

Formulate, affect, interpret, or implement management policies or operating practices. Work that involves management policies or operating practices which range from specific objectives of a small field office to broad national goals. Employees performing such work make policy decisions or participate indirectly through developing or recommending proposals that are acted on by others. Execution of management policies involves obtaining compliance with such policies or making significant determinations furthering the operation of

programs and accomplishment of program objectives. Administrative employees engaged in such work typically perform one or more phases of program management.

Management. Performing activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining records for use in supervision or control; appraising employees' productivity and efficiency for purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment, or tools to be used; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Matters of Significance (§551.206 (a) and (g)). The level of importance or consequence of the work performed. An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

Primary Duty. The duty that constitutes the major part (over 50 percent) of an employee's work. A duty constituting less than 50 percent of an employee's work (alternative primary duty) may be credited as the primary duty for exemption purposes provided that duty: (1) Constitutes a substantial, regular part of the work assigned and performed; (2) Is the reason for the existence of the position; and (3) Is clearly exempt work in terms of the basic nature of the work, the frequency with which the employee must exercise discretion and independent judgment as discussed in §551.206, and the significance of the decisions made.

Recognized organizational unit. An established and defined organizational entity which has regularly assigned employees and for which a supervisor is responsible for planning and accomplishing a continuing workload. This distinguishes supervisors from leaders of temporary groups formed to perform assignments of limited duration. Continuity of the same subordinates is not essential to the existence of a recognized organizational unit with a continuing function. See definitions for more explanation and examples.

General Principles (§551.202)

In all exemption determinations, the following principles must be observed: **a)** <u>each employee is presumed to be FLSA nonexempt</u> unless the employing agency correctly determines that the employee <u>clearly</u> meets the requirements of one or more of the exemptions of this subpart and such supplemental interpretations or instructions issued by OPM; **b)** <u>exemption criteria must be narrowly construed</u> to apply only to those employees who are clearly within the terms and spirit of the exemption; **c)** the <u>burden of proof rests with the agency</u> that asserts the exemption; **d)** an employee who clearly meets the criteria for exemption must be designated FLSA exempt. <u>If there is a reasonable doubt as to whether an employee meets the criteria for exemption, the employee will be designated FLSA nonexempt</u>; **e)** while established position descriptions and titles may assist in making initial FLSA exemption determinations, <u>the designation of an employee as FLSA exempt or nonexempt must ultimately rest on the duties actually performed by the employee</u> (do not rely solely on the position description (PD) when making FLSA determinations); **f)** although separate criteria are provided for the exemption of executive, administrative, and professional employees, those categories are not mutually exclusive. Employees who perform a combination of exempt duties set forth in this regulation may also qualify for exemption (*i.e.*, work that is exempt under one section of this part will not defeat the exemption under any

other section); **g)** failure to meet the criteria for exemption under what might appear to be the most obvious criteria does not preclude exemption under another category; **h)** although it is normally feasible and more convenient to identify a single exemption category, this is not always appropriate. An exemption may be based on a combination of functions, no one of which constitutes the primary duty, or the employee's primary duty may involve two categories which are intermingled and difficult to segregate. The agency is responsible for showing and documenting that the work as a whole clearly meets one or more of the exemption criteria.

Special Retirement Positions

The FLSA determinations do not play a role in special firefighter and law enforcement retirement coverage determinations. However, refer to the Department's website for instructions on submitting new and updated PDs, including updated FLSA determinations, for special retirement coverage determination: https://www.doi.gov/flert/

Performance of Different Work or Duties for a Temporary Period of Time

Performing different work or duties for a temporary period of time may affect an employee's exemption status. This applies only when an employee must perform work or duties that are not consistent with the employee's primary duties for an extended period, that is, for more than 30 consecutive calendar days—the "30-day test." The period of performing different work or duties may or may not involve a different geographic duty location. The exemption status of an employee temporarily performing different work or duties must be determined as described in §551.211; refer to this section of 5 CFR when addressing the effect of performing different work or duties for a temporary period of time on FLSA exemption status.

Completing the Worksheet

Positions/employees are presumed to be FLSA nonexempt. A position/employee may only be designated as FLSA exempt when proper application of exemption criteria has been applied and documented using the FLSA Worksheet. If there is a reasonable doubt as to whether a position/employee meets the criteria for exemption, the position/employee will be designated FLSA nonexempt.

Section I. Foreign Exemption and/or Exemption of employees receiving availability pay

When applying foreign exemption and/or exemption of employees receiving availability pay, refer to §551.212 and §551.213.

Foreign exemption applies if the employee meets one of the two criteria listed on the Worksheet as referenced in §551.212(b). However, employees who are permanently stationed in an exempt area are not subject to the foreign exemption when the employee spends any hours of work in any nonexempt area. If the duties being performed in the nonexempt area are consistent with the primary duties of the official position, the FLSA exemption status is that of the position in a nonexempt area. If the duties being performed in the nonexempt area are different than the primary duties, exemption status of the temporary duties must be determined by applying §551.211.

When foreign exemption applies to a position, complete two FLSA Worksheets: 1) worksheet represents the application of the foreign exemption, and 2) worksheet represents the FLSA determination of the position without the foreign exemption criteria (i.e., the FLSA determination of the primary duties when performed in a nonexempt area).

Section II. Salary-based nonexemption and/or nonexemption of certain employees

Bargaining Board. Nonsupervisory Bargaining Board positions are in a "comparable system" to FWS and would be nonexempt.

Technical Positions. Technical work is typically associated with and supportive of a Professional or Administrative field. If a nonsupervisory position falls into a technical/assistant occupational series (such as Supply Technician, Budget Technician, HR Assistant), is associated with and supportive of an administrative field, and is properly classified, the position is generally nonexempt regardless of grade. Nonsupervisory technician positions (such as Engineering Technician, Biological Science Technician, Hydrologic Technician) associated with and supportive of Professional fields are also generally nonexempt; however, higher graded technician positons of this type must be carefully evaluated against the exemption criteria.

Section III. Exemption Criteria

Apply the General Principles (§551.202) when making FLSA coverage determinations. In addition to the General Principles, below are general guidelines.

A. Executive Exemption Criteria (§551.205)

This exemption category is comprised of positions which meet the threshold for applying the General Schedule Supervisory Guide (GSSG) or the Federal Wage Job Grading Standard for Supervisors. Assuming sound position management principles are followed, there are few situations where managerial or supervisory positions are nonexempt, with the exception of the proper application of the salary-based nonexemption criteria under the first section of the Worksheet.

In general, the authorities granted to leader type positions are insufficient to meet the Executive exemption criteria outlined in 5 CFR 551.205. However, an employee who leads a team of other employees assigned to complete major projects may meet the requirements for an Administrative exemption (§551.206(i)).

In general, Code 4 Supervisors CSRA (positions that meet the definition of Supervisor in 5 U.S.C. 7103(a)(10), but do not meet the minimum requirements for application of the GSSG) will not likely meet the Executive exemption criteria because they will not likely meet the primary duty standard and possibly the "two or more" employees supervised standard. Careful consideration should be given to these positions when applying the Executive exemption criteria.

B. Administrative Exemption Criteria (§551.206)

This exemption category is comprised of positions/employees whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the organization (i.e., staff work opposed to line work) and whose primary duty includes the exercise of discretion and independent judgement with respect to matters of significance. It is very important to apply the definitions of these terms when applying this exemption criteria.

- *Executive Assistant or Administrative Assistant Positions.* An executive assistant or administrative assistant to a high-level manager or senior executive (e.g., bureau head or executive services director and their deputies) generally meets the duties requirements for the Administrative exemption if such employee, without specific instruction or prescribed procedures, has been delegated authority regarding matters of significance. Merely reporting to a high-level manager or senior executive does not automatically confer an Administrative exemption. These positions typically do NOT perform clerical work.
- *Human Resources (HR) Positions***.** HR employees who formulate, interpret or implement HR management policies generally meet the duties requirements for the Administrative exemption. In addition, when interviewing and screening functions are performed by the HR employee who makes the hiring decision or makes recommendations for hiring from a pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt function.

- *Management Analysts, Program Analysts, and Management Advisor Positions.* Management Analysts who study the operations of an organization and propose changes in the organization, Program Analysts who study program operations and propose changes to the program, and other Management Advisors generally meet the duties requirements for the administrative exemption.
- *Acquisition Positions***.** Acquisition employees with authority to bind the organization to significant purchases generally meet the duties requirement for the Administrative exemption, even if they must consult with higher management officials when making a commitment.
- *Line versus Staff Positions.* Certain occupations typically assist and support line managers and assume facets of overall management function. Neither the location of the work nor the number of the employees performing the same or similar work turns such work into a production (line) function. For example, if human resources, acquisition, or financial management services were centralized for the Department or a Bureau, this does not change the inherent administrative nature of the work from staff to production (line) work. Similarly, employees who develop, interpret, and oversee agency policy are performing management support functions; some of these activities may be performed by employees who would otherwise qualify (or not qualify) for another exemption. Depending upon the purpose of the work and the organizational context, work in certain occupations may be either exempt or nonexempt. For example, criminal investigators who perform work directly related to the internal management of the agency and typically would be expected to provide recommendations of great significance based on the analysis of investigative findings would likely be considered as performing a staff function. In contrast, the performance of investigative and inspectional work to confirm whether specific regulatory requirements have been met for an investigative/inspectional component of any agency would likely be considered as performing a line rather than a staff function. Supervisors should be consulted to ensure that these types of positons are performing “administrative” duties that meet the Administrative exemption criteria before making an exempt determination.
- *Computer Positions.* Systems analysts and computer programmers generally meet the duties requirements for the Administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the organization or the organization's customers. A senior or lead computer programmer who leads a team of other employees assigned to complete a major project that is directly related to the management or general business operations of the employer or the employer's customers generally meets the duties requirements for the Administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team. (§551.210(d))
- *Lead positions*. An employee who leads a team of other employees assigned to complete major projects (such as acquisitions; negotiating real estate transactions or collective bargaining agreements; designing and implementing productivity improvements; oversight, compliance, or program reviews; investigations) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team. An example is a lead auditor who oversees an audit team in an auditing agency and who is assigned responsibility for leading a major audit requiring the use of substantial agency resources. This auditor is responsible for proposing the parameters of the audit and developing a plan of action and milestones to accomplish the audit. Included in the plan are the methodologies to be used, the staff and other resources required to conduct the audit, proposed staff member assignments, etc. When conducting the audit, the lead auditor makes on-site decisions and/or proposes major changes to managers on matters of significance in accomplishing the audit, including deviations from established policies and practices of the agency.
- *Ordinary inspection positions*. Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along

standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

C. Professional Exemption Criteria (§551.207)

If a position is properly classified in an occupational series designated as Professional and the work being performed meets the Professional exemption criteria as outlined in 5 CFR 551.207, the position is exempt. See §551.207 for further clarifying guidance on meeting or not meeting this exemption criteria for many specific occupations such as legal and medical occupations, accounting, engineering and architecture, and teaching and instructing.

Work requiring advanced knowledge means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment. Professional work is therefore distinguished from work involving routine mental, manual, mechanical or physical work. A professional employee generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

The advanced knowledge must be in a field of science or learning which includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy, and other similar occupations that have a recognized professional status.

The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction which restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession….the learned professional exemption is not applicable to occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical, or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction. The position of Engineering Technician is an example of such an occupation where the employee collects, observes, tests and records factual scientific data within the oversight of professional engineers, and performs work using knowledge acquired through on-the-job and classroom training rather than by acquiring the knowledge through prolonged academic study.

The OPM Series definition for the GS-1102, Contracting Series, states that the positions in this series perform professional work. While Contracting work would not traditionally be considered professional work, Contracting work classified in the GS-1102 may fall under the professional exemption criteria of §551.208(b) *Expansion of professional exemption*.