

FLSA-337

April 11, 1980

This is in reply to your letter of February 27, 1980, requesting our opinion on the applicability of Section 13(a)(1) of the Fair Labor Standards Act, to the position of Composition/Word Processing Technician.

You indicate that the function of this position is to prepare composition of technical reports, proposal, audio-visual aids and other documents through the operation of the Xerox 850 full screen word processor and the Compugraphic EditWriter 7500 typesetting machine. Each technician must spend one week at an intensive training seminar for each piece of equipment and competency takes weeks of daily practice on each machine. The technicians are responsible for the format and design of each document, some of which are done automatically when the machines are properly programmed for these functions. The technician must make corrections and revisions, perform predetermined preventive maintenance and clean-up, order supplies, maintain a record of machine charges to project assignments and assist with work schedules for the machines.

On the basis of the above facts, we are of the opinion that these technicians would not qualify for exemption under Section 13(a)(1) of the Act, as set out in the Regulations, Part 541, a copy of which is enclosed. The primary duty of this position is not management of an enterprise or recognized department thereof; nor is the primary duty directly related to management policies or general business operations of the employer; nor does the primary duty consist of work requiring knowledge of an advance type in the field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study. (See section 541.1, 541.2 and 541.3 of the enclosed Regulations).

It appears that the position you describe does not require the consistent exercise of discretion and judgment in making real decisions in significant matters in the sense in which such terms are used in the regulations. The machines, while they are unique and complicated, appear to be standard pieces of equipment which require skill and the following of standardized procedures in their operation. While this position undoubtedly requires the use of considerable skill, it is skill in applying techniques, procedures or specific standards acquired by special training or experience. The performance of such duties, therefore, depends primarily upon the skill and experience of the technician and the procedures followed rather than upon the exercise of discretion and independent judgment with the meaning of section 541.207 of the regulations. In addition, these activities are in the nature of "production" work as distinguished from duties directly related to management policies or general business operations, within the meaning of section 541.205.

If you have additional questions you may wish to contact our local Area Office in the Federal Building, Room 7000, 400 North Eighth Street, Richmond, Virginia 23340 (Phone: (804) 782-2995). That office is in a better position to ascertain all of the necessary facts and will be pleased to offer every possible assistance.

Sincerely,

Henry T. White, Jr.
Deputy Administrator

Enclosure