

U.S. Office of Personnel Management  
Office of Merit Systems Oversight and Effectiveness  
Classification Appeal and FLSA Programs

Dallas Oversight Division  
1100 Commerce Street, Room 4C22  
Dallas, TX 75242-9968

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

**Appellant:** [appellant's name]

**Agency classification:** Supervisory Border Patrol Agent  
GS-1896-14

**Organization:** [a specific] Border Patrol Sector  
Headquarters  
Eastern Region  
U.S. Immigration and Naturalization  
Service  
Department of Justice  
[geographic location]

**OPM decision:** Supervisory Border Patrol Agent  
GS-1896-14

**OPM decision number:** C-1896-14-02

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Bonnie J. Brandon  
Classification Appeals Officer

November 15, 2000

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Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the *Introduction to the Position Classification Standards*, appendix 4, section G (address provided in appendix 4, section H).

## Decision sent to:

### Appellant:

[appellant's name and address]

### Agency:

Acting Chief, Classification and  
Compensation Policy  
Immigration and Naturalization Service  
Department of Justice  
800 K Street, NW., Room 5000  
Washington, DC 20536

Assistant Commissioner for Office of  
Human Resources and Development  
Immigration and Naturalization Service  
Department of Justice  
800 K Street, NW., Room 5000  
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Director of Personnel  
U.S. Department of Justice  
JMD Personnel Staff  
1331 Pennsylvania Avenue, NW.,  
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## **Introduction**

On May 2, 2000, the Dallas Oversight Division, U.S. Office of Personnel Management (OPM), accepted a classification appeal from [the appellant] who is employed as a Supervisory Border Patrol Agent, GS-1896-14. The position is assigned to [a specific] Border Patrol Sector Headquarters, [a specific] Region, U.S. Immigration and Naturalization Service (INS), Department of Justice, [geographic location]. The appellant believes his position should be classified as Supervisory Border Patrol Agent, GS-1896-15. We accepted and decided the appeal under section 5112(b) of title 5, United States Code.

In adjudicating this appeal, we conducted telephone interviews with the appellant and his supervisor. We decided this appeal by considering the information provided during these interviews and all information of record provided by the appellant and his agency, including the appellant's official position description (PD), [number]. After receiving our written request for information concerning the appellant's position, the agency reassigned the appellant to PD [number], a position description that had been submitted for classification prior to the appellant filing his appeal with OPM. Both the appellant and his supervisor have certified that PD [number] is accurate.

## **General issues**

The appellant refers to an INS classification guide that the agency previously used to grade his position. In his package of material submitted to our office, the appellant included a copy of a position description to which he had previously been assigned and a proposed organizational chart. By law, OPM 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 cannot use agency internal guides, previous position descriptions, or proposed organizational charts in deciding appeals.

## **Position information**

INS uses the organizational title *Chief Patrol Agent* for the appellant's position. As the Chief Patrol Agent for [a specific] Sector, the appellant directs and implements the Sector's operations and border patrol enforcement efforts. Functions of the Border Patrol include preventing illegal entry of aliens into the United States, seeking out and apprehending aliens who are illegally in the United States, seeking out and apprehending alien smugglers, and enforcing the criminal provisions of the immigration and nationality laws. The Sector covers [a number of states]. The appellant performs his duties and responsibilities through subordinate supervisors and a staff of border patrol agents, criminal investigators, detention enforcement officers, technicians, and support personnel.

### **Series, title, and guide determination**

The appellant does not question the series or title of his position. We agree that the agency properly assigned the appealed position to the GS-1896 series and titled it *Supervisory Border Patrol Agent*.

The General Schedule Supervisory Guide (GSSG) is a cross-series guide used to determine the grade level of supervisory positions in the General Schedule. The appellant's position meets the criteria for coverage of the GSSG.

### **Grade determination**

The GSSG uses a factor-point method that assesses six factors common to supervisory General Schedule positions. Evaluators assign a point value to each factor based on a comparison of the position's duties with the factor-level descriptions. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails to meet a particular factor-level description in any significant aspect, the point value for the next lower factor level must be assigned. If an equally important aspect that meets a higher level balances the deficiency, however, the next higher level is assigned. Evaluators then convert the total points assigned to a grade using the grade conversion table in the standard.

The appellant disagrees with INS's evaluation of Factors 1 and 4. We concur with INS's determination for Factors 2, 5, and 6 and will not address them further in this decision. However, we disagree with INS's finding for Factor 3. Consequently, our evaluation of Factors 1, 3, and 4 follows.

#### *Factor 1, Program scope and effect*

The element *Scope* addresses the general complexity and breadth of the program (or program segment) directed and the work directed, the products produced, or the services delivered. *Scope* also includes the geographic and organizational coverage of the program (or program segment) within the agency structure. The element *Effect* assesses the impact of the work both within and outside the immediate organization. To credit a particular factor level, the criteria for both *Scope* and *Effect* must be met.

#### *Scope*

At Level 1-3, the supervisor directs a program segment that performs technical, administrative, protective, investigative, or professional work. The program segment and the work directed typically have coverage that encompasses a major metropolitan area, a State, or a small region of several States.

In contrast, a supervisor at Level 1-4 directs a segment of a professional, highly technical, or complex administrative program that involves the development of major aspects of key agency scientific, medical, legal, administrative, regulatory, policy development or comparable, highly

technical programs; or that includes major, highly technical operations at the Government's largest, most complex industrial installations.

The scope of the appellant's position meets Level 1-3 in terms of the complexity of the work directed. The appellant's staff consists primarily of employees in two-grade interval positions in the GS-1896 Border Patrol Series who perform protective or investigative work. The appellant's position also meets Level 1-3 in terms of the geographic and organizational coverage within INS's structure. Although the [appellant's] Sector is [a large] sector within INS, the Sector's geographic area is not equivalent to "a major segment of the Nation" or the "numerous States" as described at Level 1-4.

Level 1-4 also is not met in that the appellant does not direct activities involving *major aspects of key agency legal, administrative, regulatory, or policy development or other activities affecting the development of major agency programs*. Although the appellant may provide input for development of new policies and procedures, higher levels within INS and the Department of Justice have the responsibility for program development work described at Level 1-4. Further, the appellant's program does not involve activities comparable to major, highly technical operations carried out at the Government's largest, most complex industrial installations. The [appellant's] Sector's mission is delivering a segment of INS's line program, and the purpose of the appellant's position is to supervise the operation at the field level.

#### *Effect*

At Level 1-3, activities, functions, or services accomplished directly and significantly impact a wide range of agency activities, the work of other agencies, or the operations of outside interests (for example, a segment of a regulated industry); or the general public. At the field activity level (involving large, complex multimission organizations and/or very large serviced populations), the work directly involves or substantially affects the provision of essential support operations to numerous, varied, and complex technical, professional, and administrative functions.

At Level 1-4, the work directed impacts an agency's headquarters operations, several bureau-wide programs, or most of an agency's entire field establishment. Work at this level facilitates the agency's accomplishment of its primary mission or programs of national significance, impacts large segments of the population of the United States or segments of one or a few large industries, or receives frequent or continuing congressional or media attention.

The appellant's position meets Level 1-3 because of its direct and significant impact within the agency. The Sector's mission requires close and constant coordination with other law enforcement entities such as the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs Service, U.S. Coast Guard, Bureau of Prisons, U.S. Marshals Service, and offices of the U.S. Attorney. The work supervised by the appellant also significantly affects operations in five INS district offices.

Level 1-4 is not met in that the work directed does not affect the agency's headquarters operations, several bureau-wide programs, or most of the agency's entire field structure. Although important to Justice's enforcement program, the work directed does not facilitate

accomplishment of the agency's primary mission or programs of national significance. Further, the work does not affect large segments of the nation's population, and the businesses investigated do not comprise segments of one or a few large industries as described for Level 1-4.

The appellant's contacts with members of congress or their staffs are to provide information and assistance relating to the community or their constituents rather than involving issues of a contentious nature, such as oversight hearings. Contacts with journalists are informational, although the appellant sometimes must justify or defend actions taken by the Sector. The appellant's contacts do not rise to the level contemplated at Level 1-4 where frequent attention by congressional members or their staffs relates to national concerns rather than local or regional matters.

Level 1-3 is credited for both *Scope* and *Effect* (550 points).

*Factor 3, Supervisory and managerial authority exercised*

This factor covers the delegated supervisory and managerial authorities that are exercised on a recurring basis. To be credited with a level under this factor, a position must meet the authorities and responsibilities to the extent described for the specific level.

The appellant's delegated supervisory authorities and responsibilities fully meet Level 3-3b. To be credited at Level 3-4, the position must meet both Level 3-3a and Level 3-3b and either of the two situations described at Level 3-4.

The appellant's position does not meet Level 3-3a, which involves the following:

- exercising delegated managerial authority to set a series of annual, multiyear, or similar types of long-range work plans and schedules for in-service or contracted work;
- assuring implementation (by lower and subordinate organizational units or others) of the goals and objectives for the program segment(s) or function(s) they oversee;
- determining goals and objectives that need additional emphasis;
- determining the best approach or solution for resolving budget shortages; and
- planning for long-range staffing needs, including such matters as whether to contract out work.

Positions that meet Level 3-3a are closely involved with high-level program officials (or comparable agency level staff personnel) in the development of overall goals and objectives for assigned staff function(s), program(s), or program segment(s). For example, they direct development of data; provision of expertise and insights; securing of legal opinions; preparation of position papers or legislative proposals; and execution of comparable activities which support

development of goals and objectives related to high levels of program management and development or formulation.

Level 3-3a applies to managerial positions responsible for broad programs or functions at higher organizational levels than the appellant's position. The appellant is not responsible for managing an overall program or program segment as described in the GSSG. Although the appellant may provide information to higher levels of management on issues such as overall program staffing, budget, policy, and regulatory matters, he does not have the broad program authority intended at Level 3-3a. His responsibility is limited to directing program activities within [a specific] Sector.

Since the appellant's position does not meet the managerial responsibilities contemplated at Level 3-3a, Level 3-4 may not be credited. However, Level 3-3b (775 points) is credited since the position fully meets that level.

#### *Factor 4, Personal Contacts*

This is a two-part factor that assesses the nature and purpose of personal contacts related to supervisory and managerial responsibilities.

##### *Subfactor 4a, Nature of contacts*

This subfactor covers the organizational relationships, authority, or influence level, setting, and difficulty of preparation associated with making personal contacts. To be credited, the level of contacts must contribute to the successful performance of the work, be a recurring requirement, have a demonstrable impact on the difficulty and responsibility of the position, and require direct contact.

At Level 4A-3, frequent contacts are with high ranking military or civilian managers, supervisors, and technical staff at bureau and major organizational levels of the agency; agency headquarters administrative support staff; or with comparable personnel in other Federal agencies. Contacts at this level also include key staff of public interest groups (usually in formal briefings) with significant political influence or media coverage; journalists representing city or county newspapers or comparable radio or television coverage; or congressional committee and subcommittee staff assistants below staff director or chief counsel levels. Contacts include those that take place in meetings and conferences and unplanned contacts for which the employee is designated as a contact point by higher management. They often require extensive preparation of briefing materials or up-to-date technical familiarity with complex subject matter.

At Level 4A-4, there are frequent contacts with influential individuals or groups from outside the agency. Such contacts include executive level contracting and other officials of major defense contractors; key staff of congressional committees and principal assistants to senators and representatives; elected or appointed representatives of State and local governments; journalists of major metropolitan, regional, or national newspapers, magazines, television, or radio media; SES or Executive Level heads of bureaus and higher level organizations in other Federal agencies. Contacts may take place in meetings, conferences, briefings, speeches, or

oversight hearings and may require extemporaneous response to unexpected or hostile questioning. Preparation typically involves briefing packages, requires extensive analytical input by the employee and subordinates, and/or involves assistance of a support staff.

The appellant serves as INS's principal representative for law enforcement operations in the Sector. He must consult with and advise other INS field officials and headquarters program officials on matters of concern. He must maintain good working relationships with officials of other Federal, State, and local law enforcement agencies, including the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs Service, U.S. Coast Guard, Bureau of Prisons, U.S. Marshals Service, and offices of the U.S. Attorney; industry officials; labor councils; civil and social service organizations; and area media. He sometimes meets with officials of foreign consular offices and law enforcement officials of other countries. The appellant also has contacts with United States Senators and Representatives and their staffs and elected and appointed State and local officials.

Although the appellant has some contacts that are similar to those identified at Level 4A-4, the *frequency* demanded at this level and the preparation and analysis typically required for this level are not met. The appellant's meetings with some of these individuals (such as elected officials, media representatives, and members of foreign consular offices) do not typically involve issues of such magnitude or contentiousness as to require extensive preparation consuming large portions of the appellant's work time. The appellant's contacts with local INS agents, mid-management officials in companies' local offices, district congressional staff members, and local media representatives are consistent with those described at Level 4A-3. Overall, the full intent of Level 4A-4 is not met.

Level 4A-3 is credited for 75 points.

#### *Subfactor 4B, Purpose of Contacts*

This subfactor includes the advisory, representational, negotiating, and commitment responsibilities related to the supervisor's contacts.

At Level 4B-3, the purpose of contacts is to justify, defend, or negotiate in representing the project, program segment(s), or organizational unit(s) directed; in obtaining or committing resources; and in gaining compliance with established policies, regulations, or contracts. Contacts at this level usually involve active participation in conferences, meetings, hearings, or presentations involving problems or issues of considerable consequence or importance to the program or program segment(s) managed.

At Level 4B-4, the purpose of contacts is to influence, motivate, or persuade persons or groups to accept opinions or take actions related to advancing the fundamental goals and objectives of the program or segments directed, or involving the commitment of distribution of major resources, when intense opposition or resistance is encountered because of significant organizational or philosophical conflict, competing objectives, major resources, limitations or reductions, or comparable issues. At this level, the persons contacted are sufficiently fearful, skeptical, or



uncooperative that highly developed communication, negotiation, conflict resolution, leadership, and similar skills must be used to obtain the desired results.

As the principal Border Patrol field representative for [a specific] Sector, the appellant is the focal point for communication and coordination with other INS offices, State and local governmental agencies, voluntary agencies, and representatives of the media concerning Border Patrol matters that may be complex and controversial. The appellant represents the INS law enforcement operations program, providing information and negotiating for cooperation and commitment of other agencies and organizations in obtaining compliance with immigration law for the mutual benefit of all parties. He responds to congressional, other agency, and public inquiries concerning law enforcement operations and questions about field office procedures and operations. The appellant's most difficult contacts with high-ranking managers, public interest groups, journalists, and others are typically to justify and defend his Sector's decisions, to commit resources, and to gain compliance on important matters.

The purpose of the appellant's contacts is comparable to Level 4B-3. Similar to this level, the appellant's most frequent contacts are to obtain cooperation, coordination, and resolution of problems across organizational lines, both within INS and with other agencies. At Level 4B-3, the purpose of contacts with congressional members or staff is to provide information and assistance to them regarding their concerns relating to the community or their constituents. While considerable communication skills, persuasion, and tact are required in dealing with parties with different perspectives concerning immigration law enforcement programs, the purpose of the appellant's frequent contacts generally involves *operational* matters. The appellant's contacts do not regularly involve the intense opposition, resistance, or uncooperativeness for the types of broad *program or policy* issues expected at Level 4B-4.

Level 4B-3 is credited for 100 points.

*Summary*

In summary, we have evaluated the appellant's position as follows:

Factor	Level	Points
1, Program scope and effect	1-3	550
2, Organizational setting	2-3	350
3, Supervisory and managerial authority exercised	3-3	775
4, Personal contacts		
4A, Nature of contacts	4A-3	75
4B, Purpose of contacts	4B-3	100
5, Difficulty of typical work directed	5-6	800
6, Other conditions	6-5	1225
<b>Total</b>		<b>3875</b>

The total of 3875 points falls within the point range for the GS-14 grade level (3605-4050) on the grade conversion chart provided in the GSSG.

**Decision**

The position is properly classified as Supervisory Border Patrol Agent, GS-1896-14.