

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



Washington Oversight Division  
1900 E Street, N.W.  
Washington, DC 20415

**Classification Appeal Decision**  
**Under Section 5112 of Title 5, United States Code**

**Appellant:** [name]

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

**Organization:** [sector]  
[region]  
Immigration and Naturalization Service  
Department of Justice  
[city and State]

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

**OPM decision number:** C-1896-14-01

\_\_\_\_\_  
Linda Kazinetz  
Classification Appeals Officer

November 15, 2000  
\_\_\_\_\_  
Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a classification 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 the conditions and time limits specified in title 5, Code of Federal Regulations, sections 511.605, 511.613, and 511.614, as cited in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

### **Decision sent to:**

[appellant]

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## Introduction

On February 28, 2000, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a position classification appeal from [appellant], who is employed as a Supervisory Border Patrol Agent, GS-1896-14, at the [sector], [region], Immigration and Naturalization Service (INS), Department of Justice, in [city and State]. (The appeal was subsequently reassigned to the Washington Oversight Division.) [Appellant] requested that his position be classified as Supervisory Border Patrol Agent, GS-1896-15. This appeal was accepted and decided under the provisions of section 5112 of title 5, United States Code.

A telephone audit was conducted by a Washington Oversight Division representative on August 17, 2000. This appeal was decided by considering the audit findings and all information of record furnished by the appellant and his agency, including his official position description, number WS067F, most recently classified by the servicing personnel office as Supervisory Border Patrol Agent, GS-1896-14, on March 20, 1996.

## General Issues

In support of his request for a higher grade, the appellant compares his position to those of counterparts classified at the GS-15 level. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to others as a basis for deciding his appeal.

The appellant also argues that his agency uses a generic performance work plan for all Chief Patrol Agents, and that his performance standards are consequently the same as those of other Chief Patrol Agents whose positions are classified at the GS-15 level. However, this is immaterial to the classification of his position. Counterpart supervisory positions in different geographic areas may be graded differently based on local variations in the size or composition of their subordinate staffs or in the inherent difficulty of the work directed. (For example, the work may be more varied or complex in some geographic areas due to differing environmental, economic, or social conditions.) However, the performance standards of these differently-graded jobs may be similar or identical if the *general functional and management responsibilities* are essentially the same. Position classification and performance evaluation measure two entirely different elements - the difficulty and complexity of *the work itself* versus *the quality of the employee's performance* in carrying out that work. Performance expectations for supervisors (expressed in terms of their effectiveness in meeting objectives, efficient use of resources, responsiveness to complaints, etc.) may thus be standardized regardless of differences in grade level. In other words, lower-graded supervisors should not be held to lower standards in carrying out their prescribed supervisory responsibilities, since their grades are a function of the difficulty of their work, not their level of performance.

Lastly, the appellant refers to an internal INS classification guide in the grading of his position. However, by law we may only use OPM standards and guidelines in deciding appeals. Therefore, the INS classification guide is not referenced in this evaluation.

### **Position Information**

The appellant is the Chief Patrol Agent for the [sector] and is responsible for directing all sector operations for the detection and prevention of smuggling and illegal entry of aliens into the U.S.

### **Series Determination**

The appellant's position is assigned to the Border Patrol Agent Series, GS-1896, which covers positions involved in enforcement work related to immigration and nationality laws. Neither the appellant nor the agency disagrees.

### **Title Determination**

The appellant's position is titled as Supervisory Border Patrol Agent, which is the authorized title for supervisory positions in this series. Neither the appellant nor the agency disagrees.

### **Grade Determination**

The appellant's position was evaluated using the General Schedule Supervisory Guide (GSSG). This is a cross-series guide used to determine the grade level of supervisory positions in the General Schedule. The GSSG has six evaluation factors, each with several factor level definitions and corresponding point values. Positions are evaluated by crediting the points designated for the highest level met under each factor, and converting the total to a grade by using the grade conversion table provided in the guide.

#### *Factor 1, Program Scope and Effect*

The element *Scope* addresses the complexity and breadth of the program directed and the services delivered. The geographic and organizational coverage of the program within the agency structure is included under this element.

Under *Scope*, the position meets Level 1-3 in terms of the complexity of the work directed (i.e., technical, administrative, protective, investigative, or professional work.) The appellant's subordinate staff is comprised primarily of employees in the two-grade interval Border Patrol Series performing investigative and enforcement work.

Likewise, Level 1-3 is met under this element in terms of the organizational coverage of the program within the agency structure (i.e., coverage which encompasses a major metropolitan area, a State, or a small region of several States.) The [sector office] encompasses [geographic area], comparable to a small region of several States.

Level 1-4 is not met under this element. At that level, work involves directing a segment of a professional, highly technical, or complex administrative program which 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 purpose of the appellant's position is to supervise line operations at the field level. Although the appellant may provide input to proposed new policies or standard operating procedures, responsibility for the type of program development work described at Level 1-4 is retained at higher agency levels.

The element *Effect* addresses the external impact of the program.

Under *Effect*, the position likewise meets Level 1-3, where the activities accomplished directly and significantly impact a wide range of agency activities, the work of other agencies, or the operations of outside interests (e.g., a segment of a regulated industry), or the general public. The activities directed by the appellant impact the work of other Federal agencies in the region with which it has close collaborative relationships (e.g., the Federal Bureau of Investigation, Drug Enforcement Administration, Customs Service, Coast Guard, among others); the operations of local employers, particularly forestry and agricultural enterprises, as they relate to the employment of aliens; and the general public, through the interdiction of drugs, firearms, and illegal aliens at the northwestern U.S. borders.

Level 1-4 is not met under this element. At that level, work impacts an agency's headquarters operations, several bureauwide programs, or most of an agency's entire field establishment; or facilitates the agency's accomplishment of its primary mission or programs of national significance; or impacts large segments of the nation's population or segments of one or a few large industries; or receives frequent or continuing congressional or media attention.

The field-level activities directed by the appellant do not have this degree of agencywide impact. They represent a segment of the agency's primary line operations, not a self-contained program of national significance (e.g., a major research program or production operation which, although housed at one facility, embodies or directly enables accomplishment of a large segment of the agency's mission.)

They impact the hiring practices of local employers, but they do not have the degree of *industrywide* impact intended at this level to the extent that they significantly affect the manner in which particular industries carry out their operations on a widespread basis. The appellant receives frequent inquiries from local congressional staff to provide information that will allow them to address constituent concerns, but this does not constitute the type of congressional attention intended at this level, i.e., frequent attention by Congress in relation to national rather than local or regional concerns. Although the occasional, more important interdictions may attract broader media attention, these are not

frequent or continuing, and the normal media exposure tends to be local or regional rather than national in scope.

Level 1-3 is credited.

550 points

*Factor 2, Organizational Setting*

This factor considers the organizational situation of the supervisory position in relation to higher levels of management.

The appellant reports directly to the Regional Director, [region], an SES-level position. This directly correlates with Level 2-3.

Level 2-3 is credited.

350 points

*Factor 3, Supervisory and Managerial Authority Exercised*

This factor covers the delegated supervisory and managerial authorities exercised on a recurring basis.

Level 3-4 presents two alternative sets of criteria, either of which must be met for crediting of that level, *in addition to the delegated managerial and supervisory authorities included at lower levels of this factor*. This means that Level 3-4 requires, as a basic condition for crediting, that the position first fully satisfy the managerial and supervisory authorities described at Level 3-3 under *both* paragraphs a and b of that level. This is because the various levels described under Factor 3 are not stand-alone criteria that may be viewed in isolation, but rather represent a continuum of progressively more responsible supervisory/managerial work.

In this regard, the appellant's delegated supervisory authorities and responsibilities fully meet Level 3-3b in its description of various second-level (or higher) supervisory functions. The position does not, however, satisfy the criteria for Level 3-3a, which is as follows:

Exercise 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. Assure implementation (by lower and subordinate organizational units or others) of the goals and objectives for the program segment(s) or function(s) they oversee. Determine goals and objectives that need additional emphasis; determine the best approach or solution for resolving budget shortages; and plan for long range staffing needs, including such matters as whether to contract out work. These positions are closely involved with high level program officials (or comparable agency staff level personnel) in the development of overall goals and objectives for assigned staff function(s), program(s), or program segments(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.

The appellant's position is supervisory, not managerial, in nature. He is responsible for the execution of line program activities at the field level and as such the scope of his responsibility is limited to the sector office. Level 3-3a, in contrast, describes program management work normally delegated to higher levels in the organization, where the position is involved in making decisions related to overall program staffing, budgetary, policy, and regulatory matters. Although the appellant may provide input to higher levels of management on any of these issues as they relate to the resource requirements and working environment of his sector, he does not have the type of broad program authority intended at this level.

Since the appellant's position meets Level 3-3b in terms of supervisory responsibility, that level may be credited. However, since the position does not also meet Level 3-3a in terms of managerial responsibility, Level 3-4 may not be credited, regardless of whether the position otherwise meets certain aspects of Level 3-4 criteria.

Level 3-3 is credited.

775 points

#### *Factor 4, Personal Contacts*

This is a two-part factor which assesses the nature and purpose of the personal contacts related to supervisory and managerial responsibilities. The nature of the contacts, credited under subfactor 4A, and the purpose of those contacts, credited under subfactor 4B, must be based on the same contacts.

##### *Subfactor 4A, Nature of Contacts*

To be credited under this subfactor, the level of contacts must contribute to the successful performance of the work, be a recurring requirement, and require direct contact.

The appellant's contacts meet Level 4A-3, where contacts are with high ranking managers at agency headquarters; key staff of public interest groups; journalists of influential city or county newspapers or radio and television coverage; Congressional committee and subcommittee staff assistants; contracting officials of large industrial firms; local officers of regional or national public action groups; or State and local government managers. These contacts normally take place in meetings and conferences and often require extensive preparation of briefing materials. Corresponding to this level, the appellant has recurring contacts with higher-level bureau management, State and local government officials, local officers of special interest groups, and media representatives.

The position does not meet Level 4A-4, where there are *frequent* contacts with regional or national officers of public action groups; key staff of congressional committees and principal assistants to senators and representatives (e.g., majority and minority staff directors or chief counsels); elected or

appointed representatives of State and local governments; journalists of major metropolitan, regional, or national newspapers, magazines, television, or radio; or heads of bureaus and higher level organizations in other Federal agencies. These contacts take place in meetings, conferences, briefings, speeches, presentations, or oversight hearings and may require extemporaneous response to unexpected or hostile questioning. Preparation typically includes briefing packages or similar presentation materials, requires extensive analytical input by the employee and subordinates, and/or involves the assistance of a support staff. This is the highest level of contacts described in the guide.

There is no evidence that the appellant has frequent contacts of this nature. Although he may *occasionally* meet with some of these individuals, such as elected officials or journalists of large newspapers, the issues discussed would not be of such magnitude or contentiousness as to require the degree of preparation described at this level. He may have intermittent contact with the local congressional representatives, but he does not have contacts with key congressional staff. Overall, his contacts are more local than regional/national in scope.

Level 4A-3 is credited.

75 points

*Subfactor 4B, Purpose of Contacts*

This subfactor covers the purpose of the personal contacts credited under subfactor 4A.

The purpose of the appellant's contacts is consistent with Level 4B-3, where the purpose of the contacts is to justify, defend, or negotiate in representing the organizational unit 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, or hearings involving problems of considerable consequence or importance.

The position does not meet Level 4B-4, where the purpose of the 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 directed, or involving the commitment or distribution of major resources, when intense opposition or resistance is encountered due to significant organizational or philosophical conflict, competing objectives, major resource limitations or reductions, or comparable issues. The organizational level of the appellant's position (i.e., field level) does not permit regular involvement in the types of broad *program or policy* issues expected at this level of contacts.

Level 4B-3 is credited.

100 points

*Factor 5, Difficulty of Typical Work Directed*

This factor measures the difficulty and complexity of the basic work most typical of the organization directed, and that constitutes 25 percent or more of the workload of the organization.



The full performance level for nonsupervisory Border Patrol Agents is GS-11. These positions constitute the majority of the appellant's subordinate staff engaged in the basic, mission-oriented work of the organization. Even allowing that many of these employees may not be engaged full time in work at that grade level, GS-11 work constitutes at least 25 percent of the overall sector workload. Therefore, the base level of work supervised by the appellant is GS-11.

The GSSG recognizes that for second (and higher) level supervisors, sometimes a heavy supervisory or managerial workload related to work above the base level may be present. In those cases, the GSSG permits using the highest level of nonsupervisory work directed which requires at least 50 percent of the duty time of the supervisory position under evaluation for this factor. However, this alternative method is not appropriate for the appellant's position. First, the appellant does not supervise a heavy nonsupervisory workload above the GS-11 base level (only six positions out of a total subordinate staff of over 50 employees engaged in mission-oriented work.) Second, these positions are one or two levels down in the sector organization, so primary responsibility for their supervision rests with the appellant's subordinate supervisors.

Level 5-6 is credited.

800 points

*Factor 6, Other Conditions*

This factor measures the extent to which various conditions contribute to the difficulty and complexity of carrying out supervisory duties, authorities, and responsibilities. If the level selected under this factor is either 6-1, 6-2, or 6-3, and if three or more of the eight Special Situations described are met, the original level selected is increased by one level. If the level selected is either 6-4, 6-5, or 6-6, the Special Situations do not apply, and the original level selected is credited.

The appellant's position meets Level 6-5c, where supervision involves managing work through subordinate supervisors who each direct substantial workloads comparable to the GS-11 level.

Level 6-5 is credited.

1225 points

*Summary*

<u>Factors</u>	<u>Level</u>	<u>Points</u>
Program Scope and Effect	1-3	550
Organizational Setting	2-3	350
Supervisory/Managerial Authority	3-3	775
Personal Contacts		
Nature of Contacts	4A-3	75
Purpose of Contacts	4B-3	100
Difficulty of Work Directed	5-6	800
Other Conditions	6-5	<u>1225</u>
Total		3875

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

**Decision**

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