

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

Atlanta Oversight Division
75 Spring Street, SW., Suite 972
Atlanta, GA 30303-3109

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

Appellant: [Appellant]

Agency classification: Supervisory Criminal Investigator
GS-1811-13

Organization: Investigations Branch
[District Office]
[Region]
Immigration and Naturalization Service
[Location]

OPM decision: Supervisory Criminal Investigator
GS-1811-13

OPM decision number: C-1811-13-03

(s)

Timothy Heath
Classification Appeals Officer

4/23/01

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]

Administrative Officer
U.S. Department of Justice
Immigration and Naturalization Service
77 Forsyth Street, SW.
Atlanta, GA 30303

Chief
Classification and Compensation Policy Section
U.S. Department of Justice
Immigration and Naturalization Service
425 I Street, NW.
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Introduction

On December 12, 2000, the Atlanta Oversight Division, U.S. Office of Personnel Management (OPM), accepted an appeal for the position of Supervisory Criminal Investigator, GS-1811-13, Investigations Branch, [District], [Region], Immigration and Naturalization Service (INS), [Location]. The appellant is requesting that his position be classified as Supervisory Criminal Investigator, GS-1811-14.

The appeal was accepted and processed under section 5112(b) of title 5, United States Code (U.S.C.). This is the final administrative decision on the classification of the position subject to discretionary review only under the limited conditions and time outlined in part 511, subpart F, of title 5, Code of Federal Regulations.

General issues

The appellant was assigned to a section chief position in September 1999. In October 2000, four GS-1811-13, Criminal Investigators (Special Task Force) were assigned as employees under the supervision of the appellant. The agency contends that since the four Criminal Investigators were not assigned to the appellant at the time of his appeal, they should not be considered in our decision. It is our responsibility to evaluate the current duties and responsibilities of the appealed position, and, therefore, supervision of the four additional positions is included in our evaluation. There is no basis for excluding supervision of these employees based on when they were assigned to the supervision of the appellant.

The appellant contends that his counterparts in other INS Regions are classified at the GS-14 level with even less responsibility. By law, OPM must make classification determinations solely by comparing the current duties and responsibilities of the position to OPM standards 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 others as a basis for deciding the appeal.

An Atlanta Oversight Division representative conducted telephone interviews with the appellant and the appellant's first line supervisor. 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.

Position information

The appellant is assigned to position description number [Number]. The appellant and his supervisor have not certified the accuracy of the position description. OPM considers a position description to be adequate for classification purposes when it is considered so by a person knowledgeable of the occupation and the classification standards and is supplemented by current information about the position's organization, functions, programs, and procedures. The file indicates that the position description does generally describe the duties and responsibilities of the

position with the exception of specifically listing the supervision of the four additional GS-1811-13, Criminal Investigators. We find that the position description describes the major duties and responsibilities of the appellant's position and includes information about the job that is significant to the classification. Combined with the supplemental information available about the position, the position description is considered to be accurate for classification purposes.

The appellant is assigned to the Investigations Branch of the [District]. He is responsible for a section and function of the District-wide investigations program. He supervises personally and through six subordinate Supervisory Special Agents several units of investigators, each consisting of a subordinate supervisor and a group of Special Agents. The investigators under the appellant's supervision are engaged in conducting investigations under the criminal and statutory provisions of the Immigration and Nationality Act, including the administrative prosecution functions of the Executive Office of Immigration Review (EOIR). The appellant is responsible for planning, coordinating, evaluating, and supervising mission-essential programs and priorities and evaluating Investigative Branch performance in meeting agency, region, and district priorities. He is under the direct supervision of the Assistant District Director for Investigations (ADDI) who provides general program objectives and overall policy administration and guidance.

The appellant provides administrative as well as technical leadership and supervision to assigned subordinate supervisors, senior agents (in differing degrees for certain Special Task Force agents), agents, and support staff responsible for mission-essential support.

Series and title determination

The agency determined that the appellant's position is properly classified in the Criminal Investigating Series, GS-1811, and meets the requirements to be titled Supervisory Criminal Investigator. The appellant does not contest this determination and we concur.

Standard determination

Criminal Investigating Series, GS-1811, dated February 1972.
General Schedule Supervisory Guide, dated April 1993.

Grade determination

The General Schedule Supervisory Guide (GSSG) provides evaluation criteria for determining the grade level of supervisory positions in grades GS-5 through GS-15. This guide uses a factor-point method that assesses six factors: program scope and effect, organizational setting, supervisory and managerial authority exercised, personal contacts, difficulty of typical work directed, and other conditions. The appellant's duties and responsibilities meet the criteria for coverage by this guide. The appellant disagrees with the agency evaluation of Factors 1, 5, and 6. He does not contest the agency evaluation of Factors 2, 3, and 4, and based on our review, we agree. Accordingly, we will limit our discussion to Factors 1, 5, and 6.

Factor 1 – Program Scope and Effect:

This factor assesses the general complexity, breadth, and impact of the program areas and work directed, including organizational and geographic coverage. It also assesses the impact of the work within and outside the immediate organization and the geographic coverage. To credit a particular factor level, the criteria for both scope and effect must be met. The agency evaluated this factor at Level 1-2 (Level 1-3a for Scope and Level 1-2b for Effect.) The appellant believes the factor should be credited at Level 1-3.

a. *Scope*

This element addresses the general complexity and breadth of: (1) the program (or program segment) directed; and (2) the work directed, the products produced, or the services delivered. The geographic and organizational coverage of the program (or program segment) within the agency structure is addressed under this element.

Level 1-2a discusses a program segment or work directed that is administrative, technical, complex clerical, or comparable in nature. The functions, activities, or services provided have limited geographic coverage and support most of the activities comprising a typical agency field office, an area office, a small to medium military installation, or comparable activities within agency program segments.

The appellant's duties clearly exceed Level 1-2a by virtue of his duties and responsibilities administering and directing a broad criminal investigations operation covering three states.

Level 1-3a discusses directing 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.

The appellant's position fully meets Level 1-3a. His program segment is responsible for initiating and conducting investigations and administering the prosecution functions of the EOIR within the [District]. The District Investigations Program encompasses a comprehensive criminal investigative operation including benefit and document fraud, complex alien smuggling conspiracies, violent career criminal and alien gang activities, multi-agency task force operations, organized crime and national security investigations. The three states [States] within the appellant's jurisdiction cover 279 counties and seven Federal Judicial Districts. The position requires regular and recurring contact within these jurisdictions and Judicial Districts, and continuing contact with the U.S. Attorney's office. In addition, the appellant has District-wide responsibility for the Quick Response Teams.

Level 1-3a is credited for Scope.

b. *Effect*

Effect addresses the impact of the work, the products, and/or the programs described under scope on the mission and programs of the customer, the activity, other activities in or out of government, the agency, other agencies, the general public, or others.

At Level 1-2b, the services or products support and significantly affect installation level, area office level, or field office operations and objectives, or comparable program segments; or provide services to a moderate, local or limited population of clients or users comparable to a major portion of a small city or rural county.

This appellant's position meets and somewhat exceeds Level 1-2b. His position affects some of the programs in the Investigations Branch in the [District]. However, the [States] geographic areas are slightly larger than the serviced population described at this level.

At Level 1-3b, the 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 (e.g., 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 impacts the provision of essential support operations to numerous, varied, and complex technical, professional, and administrative functions.

The appellant's position does not meet the criteria at Level 1-3b. The investigative work affects major aspects of the District's Investigation program and is often conducted in coordination and cooperation with other Federal, state, and local law enforcement agencies. However, the work supervised is found to primarily impact one District program, Investigations, and does not meet the criteria of directly or substantially impacting the provision of essential support functions to numerous, varied and complex technical, professional, and administrative functions. While the appellant works with various agencies and organizations outside the INS (e.g., the Federal Bureau of Investigation, the Drug Enforcement Agency, INTERPOL, several foreign governments, including the Mexican Attorney General, and state and local governmental jurisdictions), there is no evidence that he is making decisions that significantly impact the programs and policies of these organizations.

Level 1-3b is not fully met; therefore, Level 1-2b must be credited for Effect.

Since the appellant's work meets Level 1-3a for Scope and Level 1-2b for Effect, this factor must be credited at Level 1-2 for 350 points.

Factor 5 – Difficulty of Work Supervised:

This factor measures the difficulty and complexity of the basic work most typical of the organization directed, as well as other line, staff, or contracted work for which the supervisor has technical or oversight responsibility, either directly or through subordinate supervisors, team leaders, or others. The agency evaluated this at Level 5-7. The appellant believes that Level 5-8 should be credited.

The GSSG provides two methods for determining the highest level creditable for Factor 5. The first method involves determining the highest grade which best characterizes the nature of the basic mission oriented non-supervisory work performed or overseen by the organization directed, and which constitutes 25 percent or more of the *workload* (not positions or employees) of the organization. This means that 25 percent or more of the nonsupervisory duty hours of subordinates and others is expended on work at or above the base level credited, or where extensive contract work is overseen, that 25 percent or more of the dollars spent on human services is for work at or above that level. Work that is graded based on the degree of independence from supervision should be excluded from consideration or have the grade adjusted for purposes of applying this guide.

The second method is used for second and higher level supervisors who spend at least 50 percent of their duty time supervising or managing a heavy workload related to work above the base level. The appellant does not meet the criteria for using this method.

Criminal investigators at the GS-12 level perform 77 percent of the work of the appellant's organization. There are four GS-13 nonsupervisory Senior Special Agents, all appointed to special task forces, who are assigned to the appellant. The appellant spends between 10 and 20 percent of his time supervising the nonsupervisory GS-13's. The grades of the GS-13 Senior Special Agents are based in part on their independence. Therefore, that level is excluded or adjusted to be equivalent to GS-12. Supervision of GS-12 level work represents the majority of the appellant's workload. This equates to Level 5-7 in the guide.

Level 5-7 is credited for 930 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. Conditions affecting work for which the supervisor is responsible may be considered if they increase the difficulty of carrying out assigned supervisory or managerial duties and authorities. The highest factor level definition that the position fully meets should be credited. The agency evaluated this factor at Level 6-5. The appellant believes Level 6-6 is correct.

At Factor Level 6-5a, supervision and oversight require significant and extensive coordination and integration of a number of important projects or program segments of professional, scientific, technical, managerial, or administrative work comparable in difficulty to the GS-12 level. Supervision at this level involves making major recommendations which have a direct and substantial effect on the organization and projects managed, such as restructuring and recasting goals and objectives; initiating or dropping programs; determining organizational structure and resources; and formulating policy.

The appellant does not meet Level 6-5a. Although the work supervised is at the GS-12 level, it is the District Director, not the appellant, who is responsible for the execution of the various programs at the district level in conjunction with broad program objectives and policies established at central and regional office levels. The District Director is charged with determining program priorities and making adjustments and adaptations in district operations needed to accomplish program objectives. She makes recommendations to the Regional Director for changes or revisions in agency policies and procedures, realignment of manpower, and other such measures as may be required to ensure effectiveness and economy of operations at the district level. While the appellant provides input, primarily to the ADDI, he cannot be credited with fully meeting the requirements of this level.

Level 6-5b describes supervision of work at the GS-13 level or above involving extreme urgency, unusual controversy, or other comparable demands due to research, development, test and evaluation, design, policy analysis, public safety, public health, medical, regulatory, or comparable implications.

The appellant does not meet Level 6-5b. The level of work supervised is found to be at the GS-12 level.

Level 6-5c describes managing work through subordinate supervisors who each direct substantial workloads comparable to the GS-11 level. Such base work requires similar coordination to that described at Factor 6-4a for first line supervisors.

The appellant meets and exceeds Level 6-5c. He is a second level supervisor over subordinate GS-13 supervisors and a workforce made up of primarily GS-12 level investigators. The appellant has program responsibility and coordinates the work and resources of the six investigative units under his supervision.

At Level 6-6a, supervision and oversight require exceptional coordination and integration of a number of very important and complex program segments or programs of professional, scientific, technical, managerial, or administrative work comparable in difficulty to the GS-13 or higher level. Supervision and resource management at this level involves major decisions and actions which have a direct and substantial effect on the organizations and programs managed. Supervisors at this level make recommendations and/or final decisions about many of the management areas listed under 6-5 or about comparable areas.

The appellant does not meet Level 6-6a. He supervises and oversees work comparable to the GS-12 level. The primary responsibility for overall program recommendations and final decisions is at the ADDI and District Director levels. Accordingly, this level is not appropriate for the appellant's position.

At 6-6b, supervisors manage through subordinate supervisors and/or contractors who each direct substantial workloads comparable to the GS-12 or higher level. Such base work requires similar coordination as that described at 6-5a for first line supervisors.

The appellant does not fully meet Level 6-6b. He is a second level supervisor, supervising work with a base level of GS-12. However, headquarters determines priorities and goals and the funding allocated through the region to the districts. In addition, operational planning is done at the district level as to how to meet the program priorities and operational goals within those funding levels. As with Level 6-6a, the recommendations and policy formulation is found at the ADDI and District Director level.

Level 6-5c is the highest level fully met by the appellant and 1225 points are credited.

SUMMARY		
FACTOR	LEVEL	POINTS
1. Program Scope and Effect	1-2	350
2. Organizational Setting	2-1	100
3. Supervisory and Managerial Authority Exercised	3-3b	775
4. Personal Contacts		
A. Nature of Contacts	4A-3	75
B. Purpose of Contacts	4B-3	100
5. Difficulty of Typical Work Directed	5-7	930
6. Other Conditions	6-5c	1225
	TOTAL	3555

A total of 3555 points equates to grade GS-13, 3155 to 3600 points, according to the point-to-grade conversion chart in the GSSG.

Decision

The position is properly classified as Supervisory Criminal Investigator, GS-1811-13.