

OFFICE OF PERSONNEL MANAGEMENT
MERIT SYSTEMS OVERSIGHT AND EFFECTIVENESS
DALLAS OVERSIGHT DIVISION
CLASSIFICATION APPEAL DECISION

Under section 5112(b) of title 5, United States Code

Appellant: [the appellant]

Position: Supervisory Detention and Deportation Officer, GS-1801-13
Position Number: WD374E

Organization: [appellant's branch]
[city] District Office
Immigration and Naturalization Service
[city, state]

Decision: GS-1801-13.
Title at the agency's discretion.
(Appeal denied)

OPM Decision Number: C-1801-13-01

/s/ bjb
Bonnie J. Brandon
Classification Appeals Officer

9/30/97
Date

Copy of decision sent to:

[the appellant]
[the appellant's address]
[city, state, zip]

[name and address
of appellant's servicing
personnel officer]

Chief, Classification and Compensation Policy
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Introduction

The position is assigned to the U.S. Immigration and Naturalization Service (I&NS) District Office in [the activity]. The position had been classified as a Supervisory Detention and Deportation Officer, GS-1801-14, and was reclassified by the agency to the GS-13 grade level based on application of the General Schedule Supervisory Guide. The appellant does not agree with his agency's determination and filed an appeal with this office under the provisions of chapter 51 of title 5, United States Code. This is the final administrative decision of the Government, subject to discretionary review only under the conditions and time limits specified in sections 511.605 and 511.613 of the Code of Federal Regulations.

Position Information

The purpose of the position is to serve as the deputy to the Assistant District Director (ADD) for Detention and Deportation. The Detention and Deportation (D&D) Branch has responsibility for enforcement of laws and regulations pertaining to detention, deportation, and exclusion or the voluntary departure of aliens illegally in the United States. [The installation's] jurisdiction includes the states of [two neighboring states]. The appellant is responsible for providing assistance to the ADD in planning, coordinating, controlling, and directing the functions and activities of the District's detention and deportation program. The program functions are carried out by staff located at the [activity and subordinate organizations]. These operations include the custody and maintenance of persons being detained pending deportation proceedings, the removal or release of those persons at the conclusions of such proceedings, a transportation system, food services, facility maintenance, diesel repair for the Western Region, and a health clinic. The supervisor indicated that the appellant is generally responsible for the daily operations of the program while he is more involved with other administrative and management issues.

The appellant provides direct supervision to three subordinate supervisors, i.e., one in the [activity and subordinate organizations]. The Servicing Processing Center detains approximately 500 convicted criminal aliens and employs a staff of 100. The detention facility in [location] is a joint Department of Justice facility, housing primarily Bureau of Prisons and I&NS criminal alien inmates, approximately 600 each, and has about 40 I&NS employees. The Bureau of Prisons is the primary contracting office for this facility. The I&NS provides the deportation case management functions for all inmates. Technical and program direction is provided to the detention and deportation operations in the District's sub-offices in [three cities in 2 neighboring states]. A second Department of Justice contract facility provides shelter for 48 unaccompanied minor aliens in [city and state]. The I&NS District retains legal custody of those minors and provides case management, performs weekly inspections to assure quality of the physical facility and care, arranges for needed medical care, etc. The appellant oversees the management of bed space and the transportation system and monitors contracts for operation of detention facilities, jail bed space in other locations, and transportation fleet maintenance. The position descriptions for the appellant and his supervisor, in combination with organizational and other information, are adequate for classification purposes.

Series and Title Determination

The General Inspection, Investigation, and Compliance Series, GS-1801, includes positions whose primary duties are to administer, coordinate, supervise, or perform inspectional, investigative, analytical, or advisory work to assure understanding and compliance with Federal laws, regulations, or other mandatory guidelines when such work is not covered by a more specialized series.

The D&D function ensures compliance with immigration laws by detaining and deporting persons who violate those laws. We agree with the agency's determination that this work does not meet the definition of any specialized series. The appellant does not question the series of his position, and we find the GS-1801 series appropriate. As there are no prescribed titles for this series, the agency may construct a title, using the instructions contained in the Introduction to the Position Classification Standards. The Supervisory title is appropriately included.

Grade Level 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 GSSG defines deputy as a position that serves as an alter ego to a manager of high rank or level and either fully shares with the manager the direction of all phases of the organization's program and work, or is assigned continuing responsibility for managing a major part of the manager's program when the total authority and responsibility for the organization is equally divided between the manager and the deputy. A deputy's opinion or direction is treated as if given by the chief.

The GSSG further indicates the evaluation criteria are not designed to be applied directly to deputy or "assistant chief" supervisory positions. The grade of a full deputy or full "assistant chief" supervisory position which shares fully in the duties, responsibilities, and authorities of the "chief" should normally be set one grade lower than the grade of the supervisory duties of the position to which it reports. The appellant believes the position should be evaluated on his own duties rather than on the supervisor's position. There is long-standing Office of Personnel Management guidance that indicates that cases involving an equal sharing of supervisory responsibilities among a chief and deputy chief position are extremely rare, and if existing, would almost surely restrict or lower the grade of the chief position. This guidance also indicates the necessity to examine any nonsupervisory responsibilities involved for their grade impact. Our discussions found that the appellant and his supervisor do share in the supervision and management of the D&D program in a manner consistent with the GSSG's definition of deputy positions. We do not find that the appellant's position includes any significant nonsupervisory duties; therefore, the position should be evaluated using the normal procedures.

Factor 1 - Program Scope and Effect

This factor assesses the general complexity, breadth, and impact of the program areas and work directed, including its organizational and geographic coverage. It also assesses the impact of the work both within and outside the immediate organization. To assign a factor level, the criteria dealing with both scope and effect, as defined below, must be met.

Scope

Scope addresses the general complexity and breadth of the program directed and the work directed, the products produced, or the services delivered. The geographic and organizational coverage of the program within the agency structure is included under scope.

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 which encompasses a major metropolitan area, a State, or a small region of several States.

The Detention and Deportation work directed by the ADD, as discussed above, is most comparable to the 1-3a level. It involves direction of administrative and protective work covering a two-state area. The work does not involve the development of major aspects of key agency scientific, medical, legal, administrative, regulatory, or policy programs; or major, highly technical operations at the Government's largest, most complex industrial installations, as described at Level 1-4a.

Level 1-3 is credited for scope.

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 1-3b, 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 comparable to the examples below), the work directly involves or substantially impacts the provision of essential support operations to numerous, varied, and complex technical, professional, and administrative functions.

At Level 1-4b, 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

populations or segments of one or a few large industries, or receives frequent or continuing congressional or media attention.

The detention and deportation activities support the I&NS District programs in enforcement of immigration laws. The ADD works with other law enforcement agencies, other Federal as well as State and local governmental agencies, to coordinate deportation of criminal aliens. This is directly comparable to Level 1-3. Because of political sensitivity, the Phoenix D&D operation may, at times, be subject to congressional or media attention, but we do not find that the full intent of level 1-4b is met.

Level 1-3b is credited for effect.

Summary

As both subfactors are credited at level 1-3, that level is credited for Factor 1. 550 points are credited.

Factor 2 - Organizational Setting

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

Level 2-3 is credited when a position is accountable to a position that is Senior Executive Service (SES), flag or general officer, or equivalent or higher level in the supervisory chain. The ADD position reports to the Deputy District Director. The instructions in the GSSG provide that a position reporting to a full deputy should be credited as if reporting directly to the chief. The District Director is an SES position.

Level 2-3 is credited for 350 points.

Factor 3 - Supervisory and Managerial Authority Exercised

This factor covers the delegated supervisory and managerial authorities which 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. Where authority is duplicated or not significantly differentiated among several organizational levels, a factor level may apply to positions at more than one organizational level.

Level 3-1 defines the basic requirements for coverage by the GSSG. Level 3-2 requires that, in addition to meeting Level 3-1, the position must meet one of the paragraphs: a, b, or c. Paragraph a discusses production-oriented work and b describes situations where work is contracted out. Neither is appropriate for this position. At Level 3-2c, the position must have responsibility for carrying out at least three of the first four and a total of six or more of 10 authorities and responsibilities. The ADD fully meets the criteria for Level 3-2c.

Level 3-3 envisions the delegation of greater and more diverse supervisory and management authorities used in supervising a substantially greater workload, requiring use of multiple subordinate supervisors, team leaders, group leaders, etc., to help the manager direct and coordinate the work of the organization. To be credited at the 3-3 level, paragraph a or b must be met.

Paragraph 3-3a describes positions exercising delegated managerial authority to set a series of long-range work plans and schedules, assuring implementation of goals and objectives by subordinate organizations. They determine goals and objectives that need additional emphasis, determine the best approach for resolving budget shortages, and plan for long-range staffing needs. The positions are closely involved with high-level program officials in development of overall goals and objectives for assigned functions or programs. 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 that support development of goals and objectives of high levels of program management and development or formulation. In the subject position, the managerial authority for determining overall goals and objectives and long-range planning is located at a higher level in the agency. Level 3-3a is not appropriate for this position.

Paragraph b may be credited when the position exercises all or nearly all of the delegated supervisory authorities and responsibilities described at the 3-2c level and, in addition, at least 8 of the following 15 responsibilities:

1. Using any of the following to direct, coordinate, or oversee work: supervisors, leaders, team chiefs, group coordinators, committee chairs, or comparable personnel; and/or providing similar oversight of contractors;
2. Exercising significant responsibilities in dealing with officials of other units or organizations, or in advising management officials of higher rank;
3. Assuring reasonable equity (among units, groups, teams, projects, etc.) of performance standards and rating techniques developed by subordinates or assuring comparable equity in the assessment by subordinates of the adequacy of contractor capabilities or of contractor completed work;
4. Direction of a program or major program segment with significant resources (e.g., one at a multimillion dollar level of annual resources);
5. Making decisions on work problems presented by subordinate supervisors, team leaders, or similar personnel, or by contractors;
6. Evaluating subordinate supervisors or leaders and serving as the reviewing official on evaluations of nonsupervisory employees rated by subordinate supervisors;
7. Making or approving selections for subordinate nonsupervisory positions;

8. Recommending selections for subordinate supervisory positions and for work leader, group leader, or project director positions responsible for coordinating the work of others, and similar positions;
9. Hearing and resolving group grievances or serious employee complaints;
10. Reviewing and approving serious disciplinary actions (e.g., suspensions) involving nonsupervisory subordinates;
11. Making decisions on nonroutine, costly, or controversial training needs and training requests related to employees of the unit;
12. Determining whether contractor performed work meets standards of adequacy necessary for authorization of payment;
13. Approving expenses comparable to within-grade increases, extensive overtime, and employee travel;
14. Recommending awards or bonuses for nonsupervisory personnel and changes in position classification, subject to approval by higher level officials, supervisors, or others;
15. Finding and implementing ways to eliminate or reduce significant bottlenecks and barriers to production, promote team building, or improve business practices.

The agency has determined that at least eight responsibilities are creditable, e.g., 1, 2, 5, 6, 8, 12, 13, and 14. We find credit appropriately given for nine responsibilities, i.e., 1, 2, 4, 5, 6, 8, 12, 13, and 14. In accordance with I&NS policy, the ADD has authority to make recommendations on serious disciplinary actions and grievances beyond the first step. Responsibilities 9 and 10 are not creditable. While the ADD does have control of a budget that includes training funds, the examples of training requested and approved do not include nonroutine or controversial training for the D&D work performed, as in responsibility 11. We find Level 3-3b is met.

To be credited at the 3-4 level, both 3-3a and 3-3b must be met in addition to the authorities described at the 3-4 level. Level 3-3b is credited for 775 points.

Factor 4 - Personal Contacts

This is a two-part factor which 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 involved in supervisory and

managerial work. 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 the 4A-2 level, there are frequent contacts with members of the business community or general public; higher ranking managers, supervisors, and staff of program, administrative, and other work units throughout the field activity; representatives of local public interest groups; case workers in congressional district offices; technical or operating level employees of State and local governments; or reporters for local and other limited media outlets. These contacts may be informal, occur in conferences and meetings, or through telephone, televised, radio, or similar contact, and sometimes require special preparation.

The 4A-3 level describes frequent contacts with high ranking military or civilian managers, supervisors, and technical staff at bureau and major organizational levels of the agency; with agency headquarters administrative support staff; or with comparable personnel in other Federal agencies; 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; congressional committee and subcommittee staff assistants below staff director or chief counsel levels; etc. Contacts include those which 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 the 4A-4 level, there are frequent contacts with influential individuals or groups from outside the agency such as 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; or SES or Executive level heads of bureaus and higher level organizations in other Federal agencies. Such 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 ADD is responsible for consulting with and advising staff officers at the district, regional, and headquarters levels concerning matters within his area of responsibility. He cooperates in resolving matters that cross those organizational lines and represents the District Director at Regional and Service conferences concerning Detention and Deportation functions. He is expected to maintain harmonious work relations with foreign government officials and representatives of other Federal, state, and local governments, including the Bureau of Prisons, FBI, Customs, DEA, US Attorney's offices, Marshal's Service, court systems, and social service agencies. Contacts also include members of Congress and their staffs. We find the ADD has frequent contacts described at both Level 4A-2 and 4A-3. While there may be some contacts at the next higher level, the GSSG stipulates "frequent" contacts. In general, frequent contacts within the meaning of the GSSG are

those that occur several times a week. Contacts which occur at longer intervals, i.e., monthly, quarterly, are considered to be infrequent unless they typically involve extensive preparation consuming large portions of a position's work time. We find the highest level of frequent contacts is Level 4A-3. 75 points are credited.

Subfactor 4B - Purpose of contacts

This subfactor covers the purpose of the personal contacts credited in 4A, including the advisory, representational, negotiating, and commitment making responsibilities related to supervision and management.

Level 4B-2 indicates the purpose of contacts is to ensure that information provided is accurate and consistent; to plan and coordinate the work directed with that of others outside the subordinate organization; and/or to resolve differences of opinion among managers, supervisors, employees, contractors, or others.

Level 4B-3 states the purpose of 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. At this level, contacts usually involve active participation in conferences, meetings, hearings, or presentations involving problems or issues of considerable consequence or importance to the program managed.

Level 4B-4 indicates the purpose is to influence, motivate, or persuade persons or groups to accept opinions or take actions relating to advancing the fundamental goals and objectives of the program or segments 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. At this level, persons contacted are sufficiently fearful, skeptical, or uncooperative that highly developed communications, negotiation, conflict resolution, leadership, and similar skills must be used to obtain the desired results.

The ADD's primary contacts are for the purpose of providing advice and coordinating work within D&D and other District staff and providing information and assistance to Congressional staff officers on their concerns relating to the community or their constituents. He represents the District's D&D program in obtaining or committing resources; gaining compliance with regulations; and justifying or defending the program with the media, special interest groups, etc. We find the purpose of the ADD's contacts are most comparable to the 4B-3 level. The most frequent contacts are to obtain cooperation, coordinate, and resolve problems across organizational lines, both within the I&NS and with other agencies. While the ADD must exercise skill in dealing with parties with different perspectives concerning the detention and deportation programs, his contacts generally involve operational matters. We do not find the purpose of the frequent contacts involves the intense opposition, resistance, or the uncooperativeness described at the 4B-4 level. Level 4B-3 and 100 points are credited.

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. This work must characterize the nature of the basic (mission oriented) nonsupervisory work performed and constitute 25 percent or more of the workload (not positions or employees) of the organization. The instructions indicate that trainee level positions are credited at the full performance level. Work of lower level positions that primarily support or facilitate the basic work of the unit, subordinate work that is graded based on supervisory or work leader duties or an extraordinary degree of independence from supervision, or work for which the supervisor does not have responsibilities defined under Factor 3 should be excluded.

For second and higher level supervisors, a second method may be used in cases where a heavy supervisory or managerial workload related to work above the base level may be present. In these cases, a determination is made of the highest level of nonsupervisory work directed which requires at least 50 percent of the duty time of the supervisory position under evaluation. This grade may be used as the base level if sound alignment with other supervisory positions in the organization and agency results.

The GSSG instructs that the method for first level supervisors should be used first. The information in the appeal record indicates there are approximately 171 authorized positions under the supervisory direction of the ADD and the appellant. Removing the supervisory and lower level support positions leaves approximately 103 staff years of nonsupervisory, substantive work to support the mission. Of that work, nearly 75 percent is at the GS-7 level. The first major work component, the Detention Enforcement Officer workload, accounts for most of the work at that grade level. The remaining 25 percent of the workload falls at the GS-9 or higher grade level. Using the criteria for first level supervisors, GS-9 would be the appropriate base level of work supervised.

The second major work component, i.e., Deportation Officer, has been determined by the agency to have a full performance level of GS-12. This workload involves approximately 19 staff years, i.e., slightly more than 18 percent of the workforce being considered. Because of statutory limitations and I&NS delegated authorities, many of the determinations made by these officers must be reviewed and approved by the appellant, the ADD, or the District Director. These include warrants for arrest, notices to appear, deferred actions, and stays of deportation. The Deportation Officer work in the three suboffices is also subject to technical guidance and oversight of the ADD. The agency has determined that this higher level workload occupies at least 50 percent of the ADD's time, and we will accept that determination.

Base level work at the GS-12 level is credited at the 5-7 level 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. To apply this factor, the highest factor level definition that the position fully meets may be credited.

Factor Level 6-5a indicates that supervision and oversight requires 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 major recommendations which have a direct and substantial effect on the organization and projects managed. For instance, the supervisor makes major recommendations in at least three of the areas listed below:

- significant internal and external program and policy issues affecting the overall organization, such as those involving political, social, technological, and economic conditions, as well as those factors cited in the first item of Factor Level 6-4a;
- restructuring, reorienting, recasting immediate and long-range goals, objectives, plans, and schedules to meet substantial changes in legislation, program authority, and/or funding;
- determinations of projects or program segments to be initiated, dropped, or curtailed;
- changes in organizational structure, including the particular changes to be effected;
- the optimum mix of reduced operating costs and assurance of program effectiveness, including introduction of labor saving devices, automated processes, methods improvements, and similar;
- the resources to devote to particular programs (especially when staff years and a significant portion of an organization's budget are involved);
- policy formulation, and long-range planning in connection with prospective changes in functions and programs.

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.

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.

At Level 6-6b, work is managed 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 ADD is involved with the Detention and Deportation program portion of the I&NS mission rather than a number of segments, as described at Level 6-5a, and has limited responsibilities for the kind of recommendations described at that level of the GSSG. He provides input to the District Director who, in turn, makes recommendations to higher level program officials. Level 6-5a is not creditable. Likewise, Level 6-6b is not appropriate since the 6-5a level of coordination is not met.

Level 6-5b level is not appropriate for the subject position. The work does not involve direct supervision of nonsupervisory work at the GS-13 or higher grade levels.

We find Level 6-5c most appropriate. Although credit has been given under Factor 5 for a base level of work at the GS-12 level, based on that work occupying a majority of the second-level supervisor's time, the authorities and responsibilities for coordination of the work is not fully creditable at the 6-5a level. The coordination required of the ADD is comparable to the 6-4a level described for first level supervisors, e.g., reviewing and approving reports, case documents, decisions, contracts, etc., for accurate reflection of policies, positions, and views of the organization and agency; evaluating the effectiveness of District D&D operations; recommending resources; and developing and implementing District policies within established law, regulations, and policy to meet local situations. The GS-12 work load is divided almost evenly among the three subordinate units supervised.

Level 6-5c is credited for 1225 points.

Summary

There is a total of 4005 points which falls into the point range for the GS-14 grade level (3605-4050). The ADD position is properly classified to the GS-14 grade level. The appellant's position as a full deputy position is classified at one grade below that of the ADD.

Decision

We find the appellant's position properly classified to the GS-1801 General Inspection, Investigation, and Compliance Series at the GS-13 grade level. The title is at the agency's discretion and should include the Supervisory designation.