

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

Appellant: [appellant]

Agency classification: Immigration Enforcement Agent,
GL-1801-9

Organization: [name] Field Office
Assistant Team 2
Detention and Removal Operations
Immigration and Customs Enforcement
Department of Homeland Security
[city and state]

OPM decision: GL-1801-9
Title to be determined by agency

OPM decision number: C-1801-09-12

/s/ Robert D. Hendler

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

May 31, 2009

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), 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:

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Introduction

On August 18, 2008, the Dallas Oversight and Accountability Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant]. [appellant] is assigned to the [name] Field Office, Detention and Removal Operations, Assistant Team 2, U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), with a duty station of [city and state]. The appellant's position is currently classified as Immigration Enforcement Agent, GL-1801-9. He believes his position should be classified as Immigration Enforcement Agent, GS-1801-11. He believes the duty descriptions in the standardized position description (PD) are incomplete in some cases and the percentage of time spent on the first two major duties is inaccurate. OPM received the agency's initial administrative report (AAR) on October 14, 2008. In a follow-up inquiry, the appellant indicated he had not received his copy of the AAR. We sent an electronic copy to the appellant and received his comments on January 7, 2009. We have accepted and decided this appeal under the authority of § 5112 of title 5, United States Code (U.S.C.).

General issues

As part of the appellant's initial appeal request, he provided what he titled a Duty Comparison Study, comparing common duties performed by Immigration Enforcement Agents (IEA), GL-9; Border Patrol Agents, GS-11; and Deputy U.S. Marshals, GS-11. The stated intent is to substantiate the need for making the IEA career progression to a GS-11 journey level. It begins by listing the Academy Training period for each occupation and goes on to discuss what the author describes as 15 common duties for the three positions.

In submitting this document as part of his appeal, the appellant compares duties of his position to similar duties of other positions within a different component of DHS and to positions in another agency. While there may be similarities in some duties of these positions, the basic missions, organizational settings, and qualification requirements involve other duties which differ significantly by occupation. 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, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to others which include other duties and responsibilities and which may or may not have been properly classified as a basis for deciding his appeal.

Position information

The Office of Detention and Removal Operations (DRO) is the primary enforcement arm within ICE for the identification, apprehension, and removal of illegal aliens from the United States. The resources and expertise of DRO are utilized to identify and apprehend illegal aliens, fugitive aliens, and criminal aliens; to manage them while in custody; and to enforce orders of removal from the United States.

DRO has a field office in [city and state], with a sub-office located at the Federal Detention Center in [second city in the state]. The appellant is assigned to a two-person office in [duty station city], an outstation of the DRO office in [second city], which is 130 miles away. Co-

located are other small DHS offices, i.e., Office of Investigations (OI) (3 persons), Federal Protective Service, and Customs and Border Protection. The appellant's immediate supervisor is located in [second city].

The appellant is assigned to standardized PD [number], used throughout ICE for positions performing a variety of enforcement functions related to the investigation, identification, apprehension, prosecution, detention, and deportation of aliens and criminal aliens and apprehension of absconders from removal proceedings. It states, "All incumbents perform the first two major duties and perform one or more of the remaining five major duties on a regular and recurring basis, for at least 25 percent of their time each." The first two duties are:

(1) Deportation, transport, and escort, and (2) Detention. The PD shows a range from 25 to 75 percent of the incumbent's time for each of these duties. The remaining duties include: (3) Jail check and institutional removal program (IRP); (4) Prosecution; (5) Determining alienage and fugitive operations; (6) Operational support/BORCAP/law enforcement liaison; and (7) Alien criminal apprehension program (ACAP), law enforcement agency support, multi-agency task forces, quick response teams, duty officer, etc. Duties (4), (5), and (7) each include identical wording:

Prepares complete and comprehensive written reports of findings and/or makes recommendations for corrective action, prepares required documents to initiate removal proceedings, and obtains and serves search warrants and arrest warrants and writs, depending on the circumstances of each case. Arrests and processes for removal aliens encountered who are not authorized to be in, or work in, the United States.

Duty 1 describes removal of aliens to their country of citizenship. This includes processing and deporting or escorting aliens under final orders of removal. This involves ensuring identification of the correct deportable individual, coordinating with foreign officials at their consulate to obtain travel documents and authorizations, coordinating with airport and airline representatives, and negotiating with receiving country officials for receipt of deportees.

The appellant says in his remote office, he is not involved in overseas deportations. He performs some transport duty, primarily moving aliens to and from local facilities. Because of the limited number of locations nationwide available to detain unaccompanied juveniles, the appellant may transport/arrange transport for them to an appropriate facility. At his duty location, there are nine county and one city jail facility within a radius of approximately 40 miles where aliens may be detained on various charges. There is a contract facility in [duty station city] certified to provide ICE detention for less than 72 hours. There are more stringent requirements to obtain certification for detention for longer periods of time. The appellant estimates he spends an average of one to two hours daily transporting aliens locally, but actual deportation/escort work is limited to temporary special details, primarily for across-the-border deportations.

Duty 2 describes detention program responsibilities, ensuring detainees are cared for in accordance with ICE standards, i.e., standards of physical care; intake and out-take processing; counseling regarding personal and family matters; and supervision and transportation including prison pick-ups, medical and court transportation, etc.. The incumbent is responsible for locating a detainee's personal possessions and safeguarding them until released to the detainee.

Individually and with support of other law enforcement and contract correctional personnel, incumbent works to maintain order and discipline in detention facilities.

The appellant believes this duty statement is not accurate because it does not include special responsibilities for dealing with juvenile detainees and does not include the role of Detainee Manager he is assigned because of his remote sub-office duty location. The appellant indicates there are only certain facilities authorized to provide detention for juvenile aliens as stated in our discussion of Duty 1. While the appellant is not part of the annual jail inspection teams, he does perform basic checks when at the facilities. He checks their daily intake logs, ensures a basic medical screening was conducted, checks availability of telephone access to consulate offices, etc. He enters information on detainees into the modules of a database which includes personal identification, classification level, threat risk, medical status, etc. This program can track the status of a detainee through the ICE system. He then coordinates for transportation to appropriate detention facilities. Contractors are primarily responsible for physically moving detainees to immigration courts in [first and second cities] as well as longer-term detention facilities. The appellant works in coordination with the OI to ensure bed space is available for detainees when work site operations are conducted. The appellant estimates 25 percent of his time involves this duty.

Duty 3 involves periodic visits to local, municipal, and State law enforcement holding and correctional facilities, courts, parole and probation offices, and State and Federal prisons to identify violators of immigration and nationality laws who are subject to removal. This is accomplished through personal interviews and questioning of aliens and others, and the review of documents and files to establish if these individuals are illegal aliens and removable. The incumbent assists other law enforcement agencies in identifying criminal aliens in their custody, prepares documents to initiate removal proceedings, and arrests and processes for removal those not authorized to be in or work in the United States. He prepares reports of findings and makes recommendations for action, obtains and serves search warrants and arrest warrants and writs. He also observes conditions in these facilities and makes recommendations to local officials to meet ICE standards, as appropriate.

The appellant believes this duty is described fairly accurately but notes the IRP and ACAP program (described in duty 7) have been combined into the Criminal Alien Program (CAP). He indicates facilities will often call the duty officer or fax booking sheets when they suspect the possibility of an illegal alien in their custody. The appellant performs records checks, may do personal interviews, and checks other documentation. The appellant regularly uses multiple databases including IAFIS (the FBI's integrated automated fingerprint identification system), IBIS (interagency border inspection system) which interfaces with DHS' IDENT (biometric identification system), NCIC (national criminal information system) and the TECS (Treasury enforcement communications system). It is important these checks be made to determine the person's citizenship, if they have immigration/criminal history, and/or are deportable. A detainer must be issued as to not release the person before immigration charges can be addressed. The appellant recently participated on a task force to perform a 100 percent screening of a 1500-bed facility in another state where ICE staff had been unable to maintain regular monitoring of incoming inmates. During our interview, he indicated spending approximately 25 percent or more of his time on CAP duties.

Duty 4 indicates the incumbent initiates criminal proceedings against immigration status violators, taking and issuing written sworn statements, conducting simple or preliminary investigations of these cases, and presenting facts to the appropriate channels for consideration of the U.S. Attorney.

The appellant states this description is not accurate because it does not include serving as case agent, testifying before grand juries and in court hearings. He states he initiates proceedings for other than immigration status such as possession and use of counterfeit and fraudulent documents, false claims of citizenship, reentry after deportation, and felony criminal charges.

Most of these cases are self-generated, although the supervisor indicated some may be assigned at the request of the OI. The appellant initiates the I-213 (alien inadmissibility) form, using the available databases including fingerprint charts, sworn statements, the alien's immigration record, as well as other criminal history information. He will obtain copies of pertinent documents, court decisions, etc. to present the facts through appropriate channels for possible prosecution. The appellant indicated cases possibly involving alien smuggling, drugs, weapons or other contraband are referred through OI for further investigation and/or referral to other agencies responsible for enforcement of drug and weapons laws. He estimates initiating 18 to 20 cases per year and spending approximately 25 percent of his time performing this work.

Duty 5 describes locating and arresting aliens who have failed to appear for removal proceedings, failed to depart voluntarily pursuant to an order of removal, or who have escaped from agency custody. The incumbent obtains and serves criminal and administrative warrants of arrest, orders of supervision, etc. for persons found in the United States who are subject to removal or criminal proceedings, where the individual is not in custody of another law enforcement agency.

The appellant indicates the fugitive operations are not a regular part of his work at his location. They do not have a dedicated team in [duty station city] for such operations as they do in larger locations. Volunteers may come from other areas to assist in locating fugitives once or twice per year as needed, but the appellant generally spends minimal time in fugitive operations.

Duty 6 describes processing for removal of aliens apprehended by others via extensive database inquiries to determine criminal history and/or any links to terrorist activities. The incumbent interprets this information using knowledge of immigration law and prepares necessary charging documents, requiring liaison with other law enforcement agencies. He must identify fraudulent, counterfeit, or altered identification documents and determine when appropriate to refer the suspect for further investigation.

During our interview, the appellant characterized this duty as a catch-all involving coordination/support to with Border Patrol, OI, and other law enforcement agencies in providing data searches and preparing documents. He estimated less than 25 percent of his work time involved this aspect of his duties.

Duty 7 describes responding to a variety of inquiries and complaints from Federal, State, and local government representatives, private citizens, congressional staff, etc. concerning allegations of residence or employment of unauthorized aliens. In order to respond, the incumbent may interview, inspect documents, and/or check databases, documenting and disseminating information received to appropriate DHS entities and systems.

The appellant indicates he and his partner share the duty officer role and indicates most calls can be resolved by telephone. They are responsible for cooperating with local law enforcement and sharing information but the appellant indicates they do not have formal task forces operating. The appellant indicates duties also include cooperative meetings with local, county, and state law enforcement agencies located within the Federal District area of responsibility to share information, etc. These meetings occur once or twice a year.

The supervisor indicated the appellant's primary duties involve CAP work, providing local transfers and pickups, obtaining timely detainers, and providing some assistance to OI in obtaining information from databases and obtaining records. He indicated the appellant may occasionally appear at a trial, transport unaccompanied juveniles, and be involved in deportation and escort work.

The appellant's PD and other materials of record provide more information about the duties and responsibilities and how they are performed. While the appellant believes more detailed information should be included, we find the PD is adequate for classification purposes, and we incorporate it by reference into this decision. To help decide this appeal, we conducted telephone audits with the appellant on March 9 and April 22, 2009, and a telephone interview with his second-level supervisor on April 27, 2009. In reaching our decision, we carefully considered all of the information gained from these interviews as well as written information provided by the appellant and the agency.

Series, title, and standard determination

The agency determined this position is properly assigned to the GS-1800 Investigation Group Occupation and to the GS-1801 General Inspection, Investigation, and Compliance Series. The recently issued Job Family Position Classification Standard for Administrative Work in the Inspection, Investigation, Enforcement, and Compliance Group (JFS) 1800, renames the 1800 occupational group, the 1801 occupational series, and provides other new series definitions, titling instructions, and grading criteria.

The 1801 series has been renamed General Inspection, Investigation, Enforcement, and Compliance Series and covers positions which supervise, lead, or perform inspection, investigation, enforcement, or compliance work. This series is applicable when the work is covered by two or more administrative occupations in the 1800 Group and no one occupation predominates, or is consistent with this occupational group but not covered by an established series in the 1800 group.

We agree the position is properly allocated to the 1801 occupational series. The appellant's position requires basic knowledge of pertinent parts of the Immigration and Nationality Act,

knowledge of law enforcement theory, and knowledge of DHS policy, instructions, and operations. This knowledge requirement is common to both the 1896 Border Patrol Enforcement and 1895 Customs and Border Protection series. However, the work functions of these two occupations differ, requiring additional skills and abilities to perform those functions. The appellant's position requires the knowledge and skills are used to gather facts to determine if a jailed individual is authorized to be in the country, if that person is subject to removal, and if criminal prosecution may be appropriate. For these reasons, the 1801 series is appropriate.

There are no prescribed titles for the 1801 series. The agency is responsible for constructing a title with the guidance contained in the *Introduction to the Position Classification Standards*.

Grade determination

The JFS uses the Factor Evaluation System (FES) format, which requires assigning factor levels and accompanying point values for each of the nine factors, and converting the total to a grade level against the grade-conversion table provided in the standard. For a position 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 in any significant aspect to meet a particular factor-level description, the point value for the next lower factor level must be assigned, unless an equally important aspect that meets a higher level balances the deficiency.

The agency's brief evaluation of the position references the earlier version of a draft 1800A JFS by comparison with portions of the 1801, 1810, 1811, 1896, and 1816 work described in the draft JFS. The evaluation also referenced the existing standards and guides for those occupations including the Grade- Level Guide for Positions Requiring Collateral Correctional Skills, the Administrative Analysis Grade Evaluation Guide, and the Primary Standard.

Our evaluation using the March 2009 JFS follows.

Factor 1 – Knowledge Required by the Position

This factor measures the nature and extent of information or facts an employee must understand to do acceptable work (e.g., steps, procedures, rules, policies, etc.) and the nature and extent of the skills necessary to apply that knowledge.

Level 1-6 requires knowledge and skill in applying inspection, investigation, enforcement, and/or compliance principles, concepts, and methodologies; laws, regulations, guidelines, and precedent decisions; requirements of various legal jurisdictions; and practices common to industries and entities regulated by applicable programs. The required knowledge and skills must be sufficient to independently perform such duties as: identify significant sources of information to detect illegal activity and document issues of probable cause; conduct inspections to determine if violations have occurred; conduct investigations using accepted methodology and problem solving techniques; take statements from witnesses, third parties, and other knowledgeable persons; research, analyze, interpret, and evaluate data and information to make appropriate recommendations; and prepare reports and technical information.

Level 1-7 requires knowledge be applied to a wide range of complex inspection, investigation, enforcement, and/or compliance principles and practices; criminal and case law precedents; administrative and level procedures; requirements of various legal jurisdictions; a broad range of advanced investigative techniques, research methodologies, and statistical and financial analyses; and business practices common to regulated entities and parties. Duties performed include coordinating investigative activities with Federal, State, and local law enforcement; conducting sophisticated surveillance; ensuring criminal cases are supported by evidence; developing supportable cases for presentation and/or prosecution; conducting inspections and investigations where significant difficulties are encountered; selecting, adapting, and applying investigation and negotiation techniques; interpreting complex laws and regulations; developing new approaches or procedures in data gathering and analysis techniques; recognizing and resolving discrepancies among findings; obtaining and/or reconstructing missing or withheld documents and information; overcoming obstacles to gather and interpret evidence; collect and confirm information from a variety of sources and methods; and prescribe corrective action or remediation in difficult and complex work assignments.

Like Level 1-6, the appellant uses his knowledge of the Immigration and Nationality Act and agency procedures to interview and take sworn statements from suspected aliens; search pertinent databases; determine appropriate violations with which to charge suspects, such as illegal entry or re-entry after deportation; gather evidence to support the case; and present the evidence to appropriate persons. He uses his knowledge of the various database systems to check fingerprint records and criminal and agency history of foreign born persons being held in jail facilities in order to determine if immigration laws have been violated and orders of detainer or deportation are appropriate.

The appellant's work does not require knowledge to perform the wide range of complex inspections and investigations involving such things as fraudulent documents, alien smuggling, and/or interdiction of narcotics, weapons, and other contraband found at Level 1-7. The immigration issues he is responsible for are fairly clear-cut and information is generally available, i.e., cases where aliens are removable because of being convicted for criminal offenses. Work requiring the regular and recurring use of Level 1-7 knowledge and skill is vested in other Federal organizations. As the appellant indicated during our interview, cases with possible involvement of alien smuggling, drugs, or weapons are passed on to ICE investigators and/or the other Federal law enforcement agencies with responsibility for enforcement of narcotics and/or firearms laws.

This factor is credited at Level 1-6 for 950 points.

Factor 2 – Supervisory Controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

At Level 2-3, the supervisor makes assignments by defining objectives, priorities, and deadlines; and provides assistance on controversial or unusual situations which have no clear precedents. The employee independently plans and carries out assignments in accordance with accepted

policies and practices; and handles problems and deviation relying on instructions, previous training, and accepted procedures. Work is reviewed by ensuring appropriate factors have been considered, sufficient information or evidence has been gathered to support the conclusions, and pertinent regulations and precedents have been applied. Completed work is reviewed for conformity with policy, appropriateness of approach, technical soundness, and adherence to deadlines.

Level 2-4 describes the supervisor outlining overall objectives and available resources; discussing with the employee the projects and timeframes; and determining the parameters of the employee's responsibilities. The employee determines the most appropriate avenues to pursue, decides the practices and methods to apply in all phases of the assignments; interprets policy and regulations and resolves most conflicts as they arise; coordinates projects or cases with others as needed; and keeps the supervisor informed of progress and potentially controversial matters. The supervisor does not normally review the methods used but checks for soundness of overall approach, effectiveness in producing results; feasibility of recommendations, and adherence to requirements.

The appellant believes this factor should be graded at Level 2-4 because the supervisor is located 130 miles away. However, the levels under this factor are not controlled by the physical presence of supervision. The appellant's supervisors are available by phone as needed. Comparable to Level 2-3, the PD indicates the incumbent works under general supervision, independently planning and carrying out assignments and resolving problems or deviations in accordance with general direction, previous training, or accepted techniques and organizational practices. Like at Level 2-3, the assigned tasks are of a continuing nature within the general priorities and instructions provided by the agency. The appellant has the training and experience to carry out those tasks independently without detailed and specific instruction and close review of work typical at lower levels. The work situation does not provide the appellant with the opportunity to make the types of choices typical of Level 2-4 in determining the avenues to pursue, the work methods and practices to apply, and requiring the interpretation of policy

This factor is credited at Level 2-3 for 275 points.

Factor 3 – Guidelines

This factor covers the nature of guidelines and judgment employees need to apply them.

Level 3-3 indicates the employee uses a variety of guidelines, manuals, and standard reference materials, however, they are not completely applicable to the work or have gaps in specificity. The employee uses judgment in interpreting, adapting, applying, and deviating from guidelines, analyzing the results of such adaptations and recommending changes in established methods and procedures.

Like Level 3-3, the appellant has available a wide range of established regulations, precedents, and implementing procedures for use in accomplishing his work. He must use judgment in selecting the appropriate guidance for use in what may be complicated situations. The appellant does not disagree with the credit given for this factor, and we concur.

This factor is credited at Level 3-3 and 275 points are credited.

Factor 4 – Complexity

The primary components of this factor are nature of assignment, identifying what needs to be done, and the difficulty and originality involved in performing the work.

At Level 4-3, work involves different and unrelated processes and methods to determine the nature and extent of compliance, noncompliance, or illegal activity. The employee analyzes and evaluates issues, conditions, and/or problems; selects and applies appropriate legal and regulatory guidelines and a variety of standard techniques and procedures; and decides on a course of action based on the subject and issues involved. The employee exercises versatility, judgment, and perception to understand interrelationships among different strategies, activities, and laws or requirements.

Level 4-4 involves a variety of assignments involving many different and unrelated procedures to resolve situations and problems. The employee analyzes data from a variety of sources, considering the impact and interrelationships, and complex patterns; confirms accuracy and authenticity of information, and resolves issues of contradictory, missing, or inconclusive data; or resolves unusually complex jurisdictional issues through extensive coordination efforts. The employee exercises judgment in planning and prioritizing the sequence, direction, and progress of work; and must evaluate and interpret information from various sources and vary the approach to each assignment by adapting established practices and precedents.

Like Level 4-3, the appellant's work involves a variety of processes e.g., checking jail intake logs, interviewing suspected aliens, reviewing pertinent databases to determine possible immigration and/or criminal records, and determining what further action may be appropriate. While visiting the detention/jail facilities, the appellant is responsible for observing the facility to ascertain if it is providing care in accordance with DHS standards. He responds to requests from other law enforcement agencies for information from the databases to determine criminal history or links to terrorist activities. The JFS provides illustrations comparable to the appellant's work at Level 4-3, e.g., investigating aliens suspected of criminal acts; choosing a course of action to interview aliens in custody of other agencies; conducting on-site inspections of businesses to review immigration records; determining citizenship or immigration status from available records and other sources and preparing documents to initiate deportation proceedings; and exercising judgment in coordinating with other agencies to verify authenticity of documents and information and determining the citizenship or immigration status.

The appellant's work does not meet Level 4-4 as it does not involve the greater variety of assignments and more complex data to be resolved, requiring greater judgment to plan and prioritize the work and interpret information to adapt practices and precedents. Illustrations provided at Level 4-4 include: (1) examining referred cases concerning bad faith applicants; developing evidence concerning fraudulent entry and processing removal and detainment for prosecution actions; and (2) planning and directing operations to target and deal with smuggling or other criminal misconduct from intelligence received from various sources, (e.g., informants,

intelligence reports, and/ or other law enforcement agencies), directing patrols, and using such communications platforms as encrypted radios to relay the current situation. The appellant's CAP work is primarily self-generated based on information from the local jails and statements made by the persons arrested. He searches databases to determine the suspect's prior criminal and immigration history and will file requests for detainment so the government can address immigration issues. Like at Level 4-3, he will obtain and assemble the pertinent documents needed to support possible charges of deportation, lack of any record or permission to reenter the country after deportation; copies of criminal convictions, etc. needed to initiate an order of deportation or an appearance in Immigration Court. Work involving the complexities of Level 4-4 is vested in other Federal organizations. As the appellant indicated during our interviews, cases related to possible fraudulent documents, alien smuggling, and contraband items are referred to OI for further investigation or referral to other agencies, e.g. DEA, ATF.

This factor is credited at Level 4-3 and 150 points are credited.

Factor 5 – Scope and Effect

This factor measures the relationship between the nature of the work and the effect of work products or services within and outside the organization.

At Level 5-3, work involves independently conducting and completing typical inspection, investigations, enforcement activities, or compliance evaluations, including responsibility for resolving a variety of convention problems and situations by applying known solutions. Work contributes to effective administration and/or enforcement of pertinent laws and regulations and the prevention and detection of illegal or unsafe activities.

The appellant agrees with the agency's determination for this factor. We agree his work does not involve the multi-agency, multi-state, or international studies, reviews, or investigations typical of Level 5-4.

This factor is credited at Level 5-3 and 150 points are credited.

Factor 6 – Personal Contacts and Factor 7 – Purpose of Contacts

These factors measure the contact with persons not in the supervisory chain and the reasons for the communication and the environment in which it takes place.

Personal contacts at Level 3 describe contacts with individuals or groups from outside the agency in moderately unstructured settings on a non-routine basis. The extent of each contact is different. Typical contacts are with investigators from other agencies, district attorneys, witnesses, informants, complainants, public interest groups, and the news media.

At Level 4, personal contacts involve high-ranking officials outside the agency at national or international levels in highly unstructured settings. Typical contacts are members of Congress, leading representatives of foreign governments, presidents of large national or international firms

and organizations, State governors, majors of large cities, and nationally recognized representatives of the news media.

The appellant believes his personal contacts should be rated at Level 4. However, like at Level 3, the appellant's primary contacts are with foreign born individuals being held in local jail facilities, the sheriff and law enforcement staff from those facilities, detention facility staff, and other DHS components. As the current duty location precludes significant participation in the deportation process, contacts involving airport and airline personnel and representatives of foreign governments are minimal. The supervisor indicated the appellant may have occasional contact with consulate officials in the event of an unaccompanied juvenile or the serious injury or death of an alien. However, the setting of these contacts is not unstructured and the contacts are not with leading representatives of foreign governments within the meaning of the JFS. Thus, the appellant's regular contacts needed to perform his duties are comparable to Level 3.

The purpose of contacts at Level C is to influence, persuade, interrogate, or control people or groups. Persons contacted may be fearful, skeptical, uncooperative, or dangerous. The employee must be skilled in approaching the individual or group to enable gaining compliance with established policies and regulation by persuasion or negotiation, or gaining information by establishing rapport.

The appellant interviews suspected aliens who are reluctant to provide information and are often hostile. He seeks to gain cooperation from local law enforcement and jail officials. As duty officer, he responds to inquiries and requests for information and assistance from the public and other law enforcement agencies concerning allegations of residence or employment of unauthorized aliens. The agency has credited Level C and the appellant does not disagree. We concur with their findings.

This combined factor is credited at Level 3 for Factor 6 and Level C for Factor 7 with a total of 180 points credited.

Factor 8 – Physical demands

This factor covers the requirements and physical demands placed on the employee by the work assignment. This includes physical characteristics and abilities and the physical exertion involved in the work.

At the Level 8-3, the highest described in the JFS, work requires considerable and strenuous physical exertion, such as long periods of standing, walking, and running over rough terrain; crawling in restrictive areas; climbing fences, walls, and freight train ladders; and driving all terrain vehicles over rough terrain. Employees must be prepared to protect themselves or others from physical attack at any time without warning and to use firearms as required by the position only as a last resort.

The agency has credited this level and the appellant agrees. The PD describes the physical exertion and extensive overtime and frequent travel by aircraft or motor vehicle, including running, climbing, negotiating obstacles, and physically subduing and lifting uncooperative

individuals as required. The appellant must maintain the ICE-required level of physical fitness needed for law enforcement officers. The work involves risk of attack without warning, requiring quick decisions to protect themselves or others. The appellant is required to carry a firearm and maintain qualifications. While the appellant is now rarely involved in deportation travel, he does interview aliens within jail facilities and may participate in apprehension of fugitives. Overall, we find the intent of Level 8-3 is met and 50 points are credited.

Factor 9 – Work environment

This factor considers the discomfort and risk of danger in the employee's physical surroundings and the safety precautions required.

At Level 9-2, the JFS describes work involving moderate risks and requires special safety precautions or protective gear. Such work may be performed outdoors in all types of weather, at dockside on fishing vessel, at fish processing plants, on board aerial or surface patrol craft, at ports of entry, or at cold storage facilities and warehouses. This work may involve exposure to high noise levels, auto and aircraft exhaust, or adverse weather; people and animals with contagious diseases; hazardous chemicals, herbicides, carcinogens, or pesticides; potentially dangerous machinery, equipment, and products, or areas with high crime rates.

Level 9-3 describes work involving high risk of exposure to potentially dangerous and stressful situations such as high-speed vehicle pursuits or boarding moving trains and vessels; physical altercation or use of lethal weapons while attempting to arrest suspects; assignments alternating between extreme cold, mountainous terrain and extremely hot, arid deserts; or risk of falling from rooftops or exposure to fires, explosions, and noxious gases.

Like at Level 9-2, the appellant is required to work in and around Federal, State, and local criminal institutions, to wear civilian clothing or uniform and protective equipment as appropriate, due to direct and frequent contact with illegal immigrants and other prisoners. This work does involve risk of attack, exposure to diseases such as TB, hepatitis, and HIV; irritant fumes, such as CS spray; attacks by animals such as guard dogs; and a wide variety of weather conditions.

The appellant believes this factor should be rated at the 9-3 level because the position is a rigorous law enforcement position subject to physical attack or mob situations during arrest situations or in detention facilities; and subject to exposure of communicable diseases from proximity to and handling of detainees. These risks are adequately addressed at Level 9-2. He indicates he participates in high risk operations during warrant service during fugitive operations, worksite enforcement operations, and gang surge operations. Based on our interviews with the appellant, the fugitive operations and other such special operations are not a regular and recurring aspect of his work within the meaning of the position classification process. Therefore, credit for Level 9-3 is precluded.

This factor is credited at Level 9-2 and 20 points are credited.

Summary

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge Required by the Position	1-6	950
2. Supervisory Controls	2-3	275
3. Guidelines	3-3	275
4. Complexity	4-3	150
5. Scope and Effect	5-3	150
6. Personal Contacts and 7. Purpose of Contacts	3C	180
8. Physical Demands	8-3	50
9. Work Environment	9-2	<u>20</u>
<i>Total</i>		2050

A total of 2050 points falls within the grade point range of the GS-9 grade level (1855 – 2100).

Decision

The position is properly classified to the General Inspection, Investigation, Enforcement, and Compliance Series, 1801, at the GL-9 grade level. The title is at the agency's discretion.¹

¹ GL employees covered by the General Schedule classification and pay system (1) are law enforcement officers and (2) receive special base rates at grades 3-10 under section 403 of the Federal Employees Pay Comparability Act of 1990.