

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

**Appellant:** [name]

**Agency classification:** Sector Enforcement Specialist  
GS-1801-9

**Organization:** Border Patrol Sector Headquarters  
[name] Border Division  
Office of Border Patrol  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security  
[location]

**OPM decision:** GS-1802-6  
Title to be determined by agency

**OPM decision number:** C-1802-06-01

/s/ Ana A. Mazzi

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Ana A. Mazzi  
Deputy Associate Director  
Merit System Audit and Compliance

April 5, 2010

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Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), this decision constitutes a certificate which 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 (Introduction)*, appendix 4, Section G (address provided in appendix 4, section H).

Since this decision lowers the grade of the appealed position, it is to be effective no later than the beginning of the sixth pay period after the date of this decision, as permitted by 5 CFR 511.702. The applicable provisions of 5 CFR parts 351, 432, 536, and 752 must be followed in implementing the decision. If the appellant is entitled to grade retention, the two-year retention period begins on the date this decision is implemented. The servicing human resources office must submit a compliance report containing the corrected position description and a Standard Form 50 showing the personnel action taken. The report must be submitted within 30 days from the effective date of the personnel action to the Dallas Oversight and Accountability Group.

**Decision sent to:**

[appellant's name and address]

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## **Introduction**

The Dallas Oversight and Accountability Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal on September 19, 2008, from [name]. The appellant's position is currently classified as Sector Enforcement Specialist (SES), GS-1801-9, but he believes it should be classified at the GS-11 grade level. The position is located in the Border Patrol Sector Headquarters, [name] Border Division, Office of Border Patrol (OBP), U.S. Customs and Border Protection (CBP), U.S. Department of Homeland Security (DHS), in [location]. We received the complete agency's administrative report on February 17, 2009, and the appellant's comments on that report on April 1, 2009. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

## **Background**

The appellant's position was previously classified in the GS-1802, Compliance Inspection and Support Series, and titled Law Enforcement Communications Assistant (LECA). CBP's Compensation Programs and Policy Division (now the Compensation and Organizational Effectiveness Division (COED)) reviewed OBP's LECA positions to evaluate changes in the scope and complexity of work since the September 11, 2001, terrorist attacks. In a March 31, 2006, memorandum, COED concluded the LECA positions were properly titled as SES and classified in the GS-1801, General Inspection, Investigation, and Compliance Series.

COED supported the reclassification by drawing comparisons between the LECA positions and CBP's GS-1801 SES positions assigned to the Office of Information and Technology's National Law Enforcement Communications Center (NLECC), in Orlando, Florida. COED's memorandum states:

The responsibilities carried by the LECA are closely akin to those of the CBP Sector Enforcement Specialists but on a smaller scale in terms of scope of program operations and analytical support. The difference being, the SES jobs have national scope and impact whereas the subject positions provide work to support special geographical areas of the country. In addition, the SES positions have broader program responsibilities that include the provision of training sessions on data base capability and operations, preparation of special correspondence and briefing material regarding Sector activities, participating in developing of systems hardware and software packages etc. However, this should not preclude re-classification of LECA positions to the two grade interval GS-1801 series as are the SES jobs.

COED also evaluated the grades of the positions by applying the grade-level criteria in the Intelligence Series, GS-132 position classification standard (PCS) and the now abolished Grade Level Guide (GLG) for Compliance Work. They assigned full performance levels for NLECC's positions at the GS-11 level and OBP's at the GS-9 level. COED's memorandum attributes grade level differences to NLECC positions performing other grade-controlling responsibilities and states:

They provide real time tactical intelligence analysis and direct pertinent information and instructions impacting on going field operations. The specialist at this level works with contract personnel and other Sector Specialists in the design, development and performance of technical operational tests that measure the effectiveness of network hardware/software under various contingencies. Assignments include developing findings, preparing problem definitions, defining operational alternatives etc. [sic] The GS-11 Specialists conducts [sic] training classes, seminars and presents briefings on systems operations and they prepare technical proposals and recommendations for systems modification.

COED's review did not change the grade of the appellant's position. After unsuccessfully attempting to file a classification appeal with his local human resources office, the appellant forwarded his appeal to OPM. In response to his filing a classification appeal with OPM, COED prepared a January 14, 2009, evaluation statement determining the position's classification was unchanged.

### **General issues**

The appellant said he is performing work similar to NLECC's GS-11 SES positions. He submitted various documents in support of his classification appeal (e.g., a previous OPM classification appeal decision for an Environmental Protection Assistant, GS-029-7; an SES position description (PD) classified at GS-1801-11 for undisclosed DHS duty locations; and vacancy announcements for the U.S. Department of the Interior's Intelligence Research Specialist, GS-132, positions at the GS-12 or GS-13 grade levels, and CBP's SES positions at GS-5 to GS-11 grade levels for several duty locations). By law, we must classify positions solely by comparing their current duties and responsibilities to OPM position classification standards (PCS) and guidelines (5 U.S.C. 5106, 5107, and 5112). Other methods or factors of evaluation are not authorized for use in determining the classification of a position, such as comparison to positions which may or may not have been properly classified.

Like OPM, CBP must classify positions based on comparison to OPM's PCSs and guidelines Under 5 CFR 511.612, agencies are required to review their own classification decisions for identical, similar, or related positions to ensure consistency with OPM certificates. Consequently, CBP has primary responsibility for ensuring its positions are classified consistently with OPM appeal decisions. If the appellant believes his position is classified inconsistently with another, then he may pursue this matter by writing to the human resources office of his agency's headquarters. He should specify the precise organizational location, series, title, grade, and responsibilities of the positions in question. The agency should explain to him the differences between his position and the others, or classify those positions in accordance with this appeal decision.

The appellant believes he is entitled to retroactive backpay to the GS-11 level. The U.S. Comptroller General states that an "employee is entitled only to the salary of the position to which he is actually appointed, regardless of the duties performed. When an employee performs the duties of a higher grade level, no entitlement to the salary of the higher grade exists until such time as the individual is actually promoted... Consequently, backpay is not available as a

remedy for misassignments to higher level duties or improper classifications (Decision Number B-232695, December 15, 1989).” The Back Pay Act (5 U.S.C. 5596(b)(3)) bars back pay for periods of misclassification.

### **Position information**

The appellant’s position is assigned to the communications section of the [name] Sector. The sector covers 289 miles of international boundary and 125,500 square miles covering the entire state of [name] and [name]’s two most-western counties in [names]. The sector is divided into 11 stations located in [names]. The communications section’s approximately 50 SES positions support the more than 800 GS-1896 Border Patrol Enforcement positions responsible for enforcing the laws protecting the sector’s borders. The appellant’s position is directly supervised by a Supervisory SES, GS-1801-11.

The main communications center provides the sector’s Border Patrol Agents (BPA) with dispatch, emergency answering, and investigative assistance services. A smaller-scaled communications center is set up at the [name] station to provide similar services for BPAs assigned to the [name] and [name] stations, both remote sites located more than 100 miles from [name]. SESs are responsible for contacting law enforcement and medical services. In case of emergency, BPAs contact SESs who gather and disseminate relevant information to provide the appropriate emergency services personnel. The main communications center operates 24 hours a day, seven days a week, with each of the three shifts covered by two supervisors and 13 SESs with some staff as backup to ensure full coverage of center operations. Shifts are set from 8:00 a.m. to 4:00 p.m., 4:00 p.m. to 12:00 a.m., and 12:00 a.m. to 8:00 a.m. with meals taken at workstations for continual coverage.

The appellant estimates spending 90 percent of his time in the main communications center. SESs frequently rotate the responsibilities assigned to four different positions or roles. Briefly, Position 1 monitors radio transmissions, serves as point of contact for law enforcement agencies and emergency medical personnel, and completes record checks for BPAs. This entails accessing real-time information from a wide variety of automated law enforcement and Government systems discussed later in this decision. SESs run checks for BPAs at the stations, [name] International Airport, or sites of random traffic stops. Checks are completed quickly for the agent’s safety and to minimize traffic flow interruptions. Position 2 completes record checks for BPAs in the field, checkpoints, and processing centers; handles telephone calls; and inputs agent schedules (“481”) into the Intelligence Computer Assisted Detection (ICAD) system with the agent’s name, star number or designator, vehicle, and assigned area.

Position 3 disposes of the hardcopy files maintained for record checks; also inputs 481s; and retrieves, distributes, and files bulletins issued by the National Law Enforcement Telecommunications System (NLETS) and [name] Law Enforcement Telecommunications System ([L]ETS). The messaging systems disseminate criminal justice-related information within the law enforcement community. Position 4 monitors the sector’s ground sensor alarms. The SES detects activated alarms, notifies BPAs closest to sensors, updates ICAD’s alarm and dispatch system with the cause of alarm, and contacts appropriate Federal, State, and local officials when the situation warrants.

The appellant said he spends the remaining 10 percent of his time in the camera rooms staged at the [name] and [name] outstations. The Communications Department Supervisor, the appellant's second-level supervisor, said camera room coverage may increase. In general, this work entails monitoring the Remote Video Surveillance System (RVSS) as it tracks movement projected from day and night, digital, and video cameras. The RVSS provides BPA coverage over their vast territory. By monitoring the RVSS, the appellant can supply agents with critical information when responding to potentially dangerous situations (e.g., shots have been fired). Other camera room work includes notifying BPAs of unusual activity, monitoring sensors and alerting agents near the activated sensors, temporarily disabling sensors at the agent's command, and requesting a service technician's assistance with camera and video repair.

The official PD, number 621700, is standardized and covers all SES positions assigned to the OBP's 20 sectors. This PD and other material of record furnish much more information about the appellant's duties and responsibilities and how they are performed. In a November 6, 2008, memorandum, the appellant expresses concerns with his PD's accuracy, stating:

The PD infers that someone runs checks and/or disseminates information to our operators and then we disseminate someone else's records inquiries or intelligence to agents in the field. This simply isn't the case.

The PD includes various statements describing the appellant's record search work. For example, the introduction states:

The incumbent employs specialized experience and training in enforcement data analysis and applies a comprehensive knowledge of data available via national/international computerized information systems when providing real-time tactical and operational information in support of ground, sea, and air operations that are not limited to agency or national boundaries.

This and other statements in the PD accurately describe the SES's role. The appellant also said the PD does not list all of the law enforcement and Government systems available. A PD is an official record of the major duties and responsibilities assigned to a position or job by an official with the authority to assign work. A PD does not have to be a comprehensive and detailed narrative of the position's duties and responsibilities or of its work methods, processes, and tools. Major duties are normally those occupying a significant portion of the employee's time. They should be only those duties currently assigned, observable, identified with the position's purpose and organization, and expected to continue or recur on a regular basis over a period of time. Based on these criteria, we find the appellant's PD is adequate for classification purposes and meets PD standard of adequacy discussed in section III.E of the *Introduction*.

To help decide this appeal, we conducted telephone audits with the appellant on May 18, and October 16, 2009; an on-site audit with him and an interview with the second-level supervisor on July 30, 2009; and a telephone interview with the first-level supervisor on July 31, 2009. In deciding this appeal, we carefully considered the interviews and all other information of record furnished by the appellant and his agency, including the official PD.

### **Series and title determination**

OPM previously adjudicated a group classification appeal for LECA positions assigned to the El Paso Sector. The September 10, 1992, decision determined the work was properly classified as GS-1802-6. However, both the appellant and his first-level supervisor agree the September 11, 2001, terrorist attacks changed their work. Today, the center can access more law enforcement and Government databases, record checks are more detailed, and the threat of aliens illegally entering the country is secondary to the threat of terrorism on sector borders.

COED's January 14, 2009, evaluation statement states:

In 2006 the LECA work was reviewed and it was found that it had evolved and the LECAs were producing analytical work products and performing link analysis in the identification, tracking, and apprehension of individuals, organizations, and financial assets which may be involved in the importation of weapons of mass destruction and other serious criminal activities. It was realized that such analytical technical support work clearly fell within the definition for the General Inspection, Investigation, and Compliance Series GS-1801.

The appellant's position is currently classified to the GS-1801 series which covers two-grade interval positions administering, coordinating, supervising, or performing inspectional, investigative, analytical, or advisory work to assure understanding of and compliance with Federal laws, regulations, or other mandatory guidelines when such work is not more appropriately classifiable to another series in the GS-1800 Group or to another occupational series. The GS-1800, Investigation Group, includes all classes of positions involving advising on, administering, supervising, or performing investigation, inspection, or enforcement work primarily concerned with alleged or suspected offenses against the laws of the United States, or such work mainly concerned with determining compliance with laws and regulations.

To decide the proper series, we must first determine whether the work performed by the appellant is one-grade interval administrative support or a two-grade interval administrative in nature. Some tasks are common to both types of occupations, and it is not always easy to distinguish between one-grade interval and two-grade interval positions. Guidance on distinguishing between one-grade and two-grade interval work is available in the *The Classifier's Handbook*.

Support work usually involves proficiency in one or more functional areas or in certain limited phases of a specified program. Employees performing support work follow established methods and procedures. They have specific boundaries narrowly restricting their work. They use a limited variety of techniques, standards, or regulations. Support work involves handling problems which are often recurring and have precedents, limiting the breadth and depth of knowledge required, complexity of problem solving, applicability of guidelines, and closeness of supervisory controls.

In contrast, administrative work primarily requires a high order of analytical ability combined with a comprehensive knowledge of (1) the functions, processes, theories, and principles of management, and (2) the methods used to gather, analyze, and evaluate information. Administrative work also requires skill in applying problem-solving techniques and skill in communicating both orally and in writing. Administrative positions do not require specialized education, but they do involve the types of skills (i.e., analysis, research, writing, and judgment) typically gained through college-level education or through progressively responsible experience.

The appellant performs dispatcher-like duties including receiving and transmitting telephone and radio communications. As is typical of a dispatcher's work environment, assignments are of a continuing, repetitive nature where each situation varies in facts but not in the steps to be taken. Work involves receiving and documenting incoming communications, forwarding information to appropriate individuals, and maintaining logs of various activities. As the liaison between BPAs and emergency law enforcement or medical personnel, the appellant is responsible for ascertaining pertinent information on the nature, location, and extent of the situation when receiving calls for aid. Not following standard operating procedures (SOP) risks delaying or misdirecting emergency personnel. The appellant's work involves following strict protocol established by initial and on-the-job training and the center's January 21, 2000, SOP specifically directing the appellant's actions in various emergency situations (e.g., if shots are fired, clear the radio channel, gather specific information, dispatch all available agents within the area, and contact nearest civilian law enforcement agency). Typical of support work, the SOP and other guidelines are clear, well-established, and do not require significant interpretation or adaptation to fit work situations.

The appellant states the number of requests for record checks received fluctuates widely and is difficult to estimate, but the second-level supervisor calculates an hourly average of five or six. The appellant said it is critical to complete record checks quickly. He estimates taking three to five minutes for checks with negative findings (no suspicious activity) and five or more minutes for checks with positive findings (suspicious or criminal activity) depending on the length of time it takes to contact the record service provider and validate the individual's identity and criminal activity. Unlike two-grade interval positions, this process- and production-oriented environment does not reflect a work situation of such depth and breadth as to require or permit the level of analysis or use of evaluative methods or techniques inherent in two-grade interval work. Like support work, the appellant's duties require applying a practical knowledge of the purpose, operation, procedures, and guidelines related to querying no less than 15 local, national, and international law enforcement and Government information systems. Some of the commonly used databases include, but are not limited to, the Treasury Enforcement Computer System (TECS) which stores information on criminal histories, wants and warrants, vehicle registrations, and wanted individuals or vehicles flagged as "lookouts" for various reasons (e.g., drug dealing, terrorist activity, or outstanding Federal warrants); the National Crime Information Center (NCIC) and the [name] Crime Information Center ([CIC) which stores national and statewide information on criminal histories, vehicle registrations, drivers' licenses, wants and warrants, and weapons and property; and the Central Index System (CIS) which stores information on non-citizens including permanent residents, naturalized citizens, border crossers, apprehended aliens, legalized aliens, and aliens issued employment authorization cards.



The SES is considered an expert on the automated information systems. Unlike administrative work, the appellant does not have leeway to apply discretion and judgment in determining how to gather, evaluate, and disseminate information. These decisions have been predetermined and addressed in detailed SOPs, initial training, certification requirements for NCIC and TCIC operators, and instructions for the numerous law enforcement and Government systems. The appellant's work involves retrieving data and storing hardcopy records for the sole purpose of supporting BPAs in detecting, interdicting, apprehending, and preventing individuals and contraband from illegally crossing the border. The database query is the appellant's end product as he does not use the data as a springboard for making further decisions or recommendations. Information on record-check findings and triggered sensor alarms is reported in ICAD, which is used by agency management and intelligence unit personnel for tracking, developing, and investigating patterns, high-traffic areas, and other topics of concern. In contrast, the appellant's work is limited to sharing information with BPAs, who are vested with the authority to act on record-check findings (along with initial observations, primary examinations, person and baggage searches, and document assessments) as part of their law enforcement responsibilities.

The center established the priority order for many of the SES' major tasks including record-search requests, radio transmissions, and telephone calls. Record requests are strictly prioritized based on an assessment of the potential danger involved. SESs execute requests from agents at traffic stops, at mobile and permanent security checkpoints, and finally at airport security checkpoints. BPAs also request the type of record search to be completed. And a work aid, the Communication and Information Systems Data Sheet, specifically lists the data elements needed for a particular record check (e.g., CIS checks require the agent's star number, subject name, date of birth, country or state of birth, and alien registration number). These and other examples of record demonstrate the inherent limitations of the appellant's position in deciding what work is to be done, priorities, parameters, and how the work is to be done in some instances. Also unlike administrative work, the appellant's position does not require skill in using problem-solving techniques in communicating orally and in writing. When emergencies occur, the appellant compiles appropriate details into brief and concise narratives for a console log which is reviewed regularly by the first- and second-level supervisors. The core objective of the appellant's written work products (i.e., to report facts, not solve problems) does not require applying problem-solving techniques and skill.

The Job Family Standard (JFS) for Administrative Work in the Inspection, Investigation, Enforcement, and Compliance Group, GS-1800, is written in the Factor Evaluation System (FES) format, under which factor levels and accompanying point values are assigned for each of the nine factors with Factor 1 (Knowledge Required by the Position) carrying the most weight. Level 1-5, the lowest level described in the JFS, includes illustrations of positions conducting record and database searches similar to the appellant's. Unlike the appellant's work, positions at Level 1-5 perform analytical work using data gathered from record searches, by assisting in determining supplemental leads for further research and analysis, and preparing routine reports; or by conducting interviews, obtaining sworn statements and affidavits, and analyzing and presenting to higher level investigators or supervisors documentary evidence in reports and case records.

The appellant's position is properly classified in a one-grade interval series in the GS-1800 Group. The GS-1800 JFS, under Additional Occupational Considerations, directs work involving searching electronic databases in response to individual search requests from law enforcement agencies for outstanding warrants, immigration, and violations be classified to the GS-1802 series. The GS-1802 series covers positions performing or supervising inspectional or technical support work in assuring compliance with or enforcement of Federal laws, regulations, or other mandatory guidelines which are not classifiable to a more specific occupational series. GS-1802 work requires knowledge of prescribed procedures, established techniques, directly applicable guidelines, and pertinent characteristics of regulated items or activities. Based on the preceding discussion, the appellant's position is appropriately classified to the GS-1802 series. The GS-1802 series does not have published titles, and the agency may assign a title following the guidance in the *Introduction*.

### **Standards and grade determination**

The GS-1802 series does not contain grade-level criteria. As explained in the *Introduction*, an appropriate general classification guide or criteria in a PCS or PCSs for related work should be used if there are no specific grade-level criteria for the work. PCSs used for cross comparison should cover work as similar as possible to the work being performed with regard to the kind of work processes, functions, or subject matter; qualifications required to do the work; level of difficulty and responsibility; and the combination of classification factors with the greatest influence on grade level.

COED's January 14, 2009, evaluation statement determined the grade of the appellant's position by applying a combination of one- and two-grade interval standards including the Grade Evaluation Guide (GEG) for Police and Security Guard Positions, GS-083 and GS-085, in addition to the GS-132 PCS and GLG for Compliance Work.

We agree the appellant's dispatcher-like work is properly covered by the GEG for Police and Security Guard Positions. The GEG covers "control-desk" work, like the appellant's, involving receiving and recording radio, telephone, and personal messages and instructions involving emergencies, complaints, violations, accidents, and requests for information and assistance. Control-desk employees also transmit messages and instructions to officers on patrol and dispatch officers to investigate complaints and assist in emergencies. They maintain records and prepare reports covering activities and events occurring during the shift. After careful consideration, we evaluated the appellant's control-desk activities at the GS-5 level. Based on the following grade-level analysis, the appellant's dispatcher work is not grade-controlling. Consequently, we will not discuss this work further.

The appellant's grade-controlling work is properly evaluated by application of the GLG for Clerical and Assistance Work (Guide) which provides general criteria for grading clerical and assistance work. There are no closely related PCSs for one-grade interval work in the GS-1800 Group, but we determined the appellant's investigative assistance work is comparable to the legal assistance work described in the JFS for Assistance Work in the Legal Kindred Group, GS-900. Like the GS-962, Contact Representatives, the appellant's work involves assisting in developing evidence and preparing required documents. Like the GS-986 Legal Assistants, his

work involves establishing, maintaining, and closing files; compiling status reports; and locating and abstracting data from files and records. The GS-900 JFS also describes knowledge requirements consistent with the appellant's position and is, therefore, appropriate to verify grade level.

### *Evaluation using the Guide*

The Guide provides general criteria to use in determining the grade level of nonsupervisory clerical and assistance work being performed in offices, shops, laboratories, hospitals, and other settings in Federal agencies. The Guide describes the general characteristics of each grade level from GS-1 through GS-7, and uses the two following criteria for grading purposes: *Nature of Assignment* (which includes knowledge required and complexity of the work) and *Level of Responsibility* (which includes supervisory controls, guidelines, and contacts).

#### *Nature of Assignment*

At the GS-6 level, assistant work typically requires considerable evaluative judgment within well-defined, commonly occurring aspects of an administrative program or function. The work may involve responsibility for a stream of products or continuing processes based on direct application of established policies, practices, and criteria. Assignments involve a relatively narrow range of case situations occurring in a broad administrative program or function. Work typically involves identifying issues, problems, or conditions and seeking alternative solutions based on evaluation of the intent of applicable rules, regulations, and procedures. The employee usually deals with problems or situations which remain stable and resemble past problems or situations. Assignments often involve problems or situations where there is not one absolutely correct solution, only a best or most appropriate one. It requires practical knowledge of guidelines and precedent case actions relating to a particular program area equal to that acquired through considerable work experience or specialized training. The work also requires skill to recognize the dimensions of a problem and express ideas in writing.

At the GS-7 level, assistant work consists of specialized duties with continuing responsibilities for projects, questions, or problems arising within an area of a program or functional specialty. Assignments consist of a series of related actions or decisions prior to final completion, and the decisions or recommendations are based on the development and evaluation of information from various sources. The work involves identifying and studying factors or conditions and determining their interrelationships as appropriate to the defined area of work. Work requires knowledge and skill to recognize the dimensions of the problems involved, collect the necessary information, establish the facts, and take or recommend action based upon application or interpretation of established guidelines. It requires practical knowledge, learned through on-the-job training and experience, to deal with the operations, regulations, principles, and peculiarities of the assigned program, function, or activity.

The appellant's position meets the GS-6 level. He provides investigative assistance support to agents engaged in OBP's enforcement work. For record checks, BPAs normally provide personal identifiers on the subject including name, date of birth, social security number, passport number, driver's license, or vehicle plates depending on the type of check requested. The

appellant uses the data to query no less than five law enforcement and Government databases for standard checks (“blue light”). He communicates findings to BPAs and logs record-check information (e.g., the agent’s name, subject’s name, date of birth, social security number, country of birth, type of check completed, and outcome) into a console log. As at the GS-6 level, this work involves applying well-defined and established work policies, procedures, and processes. The sector’s intelligence unit, which lacks access to non-immigration information systems, regularly request record checks from the appellant. These checks, as with the “blue light,” resemble past situations and require executing similar steps when querying the NLETS, []LETS, []ECS, and other databases.

As at the GS-6 level, the appellant’s position involves more than plugging in and extracting data from databases. For example, he must recognize when the information retrieved is inconsistent with the subject; determine if and how checks can yield better results by modifying the search (e.g., input names phonetically, expand names, or augment the date-of-birth range); and communicate and log record-check findings. He also monitors sensor alarms. In the camera room, sensors and cameras work together. Once a sensor is triggered, the appellant uses cameras to scan the area and provide BPAs with information to aid in the investigations. The ICAD is integrated with sensors; and any alert generates an event record in the system, requiring the appellant to annotate the result of the BPA investigation. However, this work does not require making decisions consistent with the GS-7 level, where assistants are responsible for studying and evaluating information, identifying problems, and recommending actions. In contrast, the appellant’s work involves searching databases quickly with the end product, the record findings, accomplished quickly and concretely. He does not evaluate the information’s validity, as databases are repositories for factual and reliable information, nor evaluate findings to make decisions or recommendations for BPAs on a subject’s admissibility into the country.

This factor is evaluated at the GS-6 level.

### *Level of Responsibility*

At the GS-6 level, the supervisor assists with precedent assignments by providing an interpretation of policy or the concepts and theories of the work. Completed work is evaluated for appropriateness and effectiveness in meeting goals. Assistants work under a framework of numerous and varied guidelines, but these are often not completely applicable to the assignment or have gaps in specificity. Employees at this level use judgment in interpreting and adapting guidelines and base their decisions and recommendations on facts and conventional interpretation of guidelines rather than on theory or opinion. Contacts with others are to provide, receive, or develop information in order to identify problems, needs, or issues, and/or to coordinate work efforts or resolve problems.

At the GS-7 level, the supervisor makes assignments by defining objectives, priorities, and deadlines. Employees work independently, using a general understanding of the expected outcomes and the scope of the assignments, and draw upon experience in resolving the more difficult situations which arise. Completed work is evaluated for appropriateness and conformance to policy. Guides, such as regulations, policy statements, and precedent cases, tend to be general and descriptive of intent, and they do not specifically cover all aspects of the

assignments. Guidelines apply less to specific actions and more to the operational characteristics and procedural requirements of the program or function. Even though personal contacts for GS-7 employees are often the same as those for GS-6 employees, the GS-7 employees serve as a central point of contact to provide authoritative explanations of requirements, regulations, and procedures and to resolve operational problems or disagreements affecting assigned areas.

The appellant's position meets the GS-6 level. Like the GS-6 level, he works independently within defined parameters in carrying out his record-check, sensor-, and RVSS-monitoring work. He uses judgment and initiative when applying the varied guidelines laid out in the center's SOPs, database instructions, training instructions, and accepted organizational practices. As at the GS-6 level, the appellant and BPAs exchange information to coordinate their work efforts, with the appellant responsible for receiving, extracting, communicating, and logging record-check findings. The first-level supervisor evaluates his work by observing him at the communications center, reviewing console logs, and through occasional feedback from agents.

In contrast to the GS-7 level, the appellant's work is covered by extensive guidelines applying to many of his work situations. He refers to past precedents when handling regular and recurring tasks as new and unusual situations are rare as evidenced by the center's relatively static mission function and by the January 21, 2000, SOP remaining mostly unchanged. The appellant works without any supervision at the [name] and [name] outstations. The work entails monitoring cameras, positioning equipment for the best angle, detecting sensor alarms, troubleshooting equipment, reporting operational problems with equipment, and recognizing diversionary tactics (e.g., dressing as construction workers or sacrificing individuals as decoys for smugglers). The appellant performs work independently, but, unlike the GS-7 level, he does not perform this work with a general understanding of what is expected of him at the communications center and outstations. Instead, his guidelines (SOPs, initial and on-the-job training, and accepted organization practices) are detailed, cover most major tasks, and are normally followed without modification. Therefore, the appellant's perception of what and how the work is to be done is specific, not general as expected at the GS-7 level.

The first-level supervisor also reviews the appellant's work for more than appropriateness and conformance to policy as expected at the GS-7 level. This close supervision is a reflection of the environment (e.g., shift supervisors are typically present) and work requirements (e.g., console logs are closely reviewed as they are regularly audited by the Federal Bureau of Investigation (FBI) and the [name] Department of Public Safety). In addition to thoroughly reviewing console logs for accuracy and adequacy, the supervisor also ensures checks are timely and completed using the correct databases.

This factor is evaluated at the GS-6 level.

### *Summary*

By comparison with the Guide, both factors are credited at the GS-6 levels.

### ***Evaluation using the GS-900 JFS***

This PCS is written in the FES format using nine factors. Each factor is evaluated separately and is assigned a point value consistent with factor-level definitions described in the PCS. The total number of points for all nine factors is converted to a grade by using the JFS's grade-conversion table. Under this system, each factor-level description describes the minimum characteristics needed to receive credit for the described level. If a position fails to meet the criteria in a factor-level description in any significant aspect, it must be credited at the next lower level. Conversely, the position may exceed those criteria in some aspects and still not be credited the higher level.

#### ***Factor 1, Knowledge Required by the Position***

This factor measures the nature and extent of information or facts the employee must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, regulations, and principles) and the nature and extent of the skills needed to apply the knowledge.

At Level 1-4, work requires knowledge of, and skill in applying, an extensive body of rules and procedures gained through extended training or experience sufficient to perform interrelated and nonstandard legal support work; plan, coordinate, and/or resolve problems in support activities; use a wide range of office software applications to prepare complex documents containing table or graphs; and use online legal resources to obtain information accessible over the Internet. Work also involves examining documents where the information and facts are straightforward and readily verifiable; need little development; require limited searches of reference, file, or historical material; and entail comparisons with explicit criteria.

At Level 1-5, in addition to those identified at the lower levels, work requires knowledge of, and skill in applying, comprehensive legal regulations, techniques, and procedures which are not readily understood sufficient to perform assistance work requiring extensive searches of records, reference, or historical material and comparisons with complex, voluminous, or broadly written criteria; use specialized, complicated techniques to complete assignments, such as comparing options or identifying conflicts; develop, examine, adjust, reconsider, or authorize settlements; and assist higher graded employees to plan strategies.

The appellant's position meets Level 1-4. As at this level, his position requires knowledge of, and skill in applying, an extensive body of rules and regulations related to his record check, sensor, and RVSS-related work. The duties require knowledge of OBP's enforcement function and the operating principles of the Federal, State, and local law enforcement and Government information systems. As at Level 1-4, he uses and extracts data which are normally straightforward, need little development, and involve confined and controlled searches of automated data files.

In contrast to Level 1-5, the appellant's record check work follows specific processes and procedures when querying databases. BPAs sometimes provide incomplete or sketchy information though most requests are sufficiently complete to run the type of check needed. The appellant also runs blue light checks for agents-in-training, new employees, and contractors.

Federal agencies (e.g., the FBI, Drug Enforcement Administration, and U.S. Marshals Service) contact the appellant to request record checks for subjects of their investigations. Unlike SES, other agencies have access to databases with criminal but no immigration information. The appellant also runs reverse record checks when the subject's name and date of birth are unknown but other personal identifiers such as home address or vehicle registration are available. As previous examples demonstrate, the appellant's record search work may involve increasing workload demands or changing work directions and instructions. Nonetheless, the record check is essentially the same task; with the guidelines and steps to be taken (e.g., identifying correct database, extracting record, refining search, communicating findings, and logging record check) the same; and with the knowledge required for this work the same for standard record check requests. He executes search requests by applying the knowledge associated with law enforcement and Government information systems rather than an in-depth and broad knowledge of multiple regulations, practices, procedures, and policies as expected at Level 1-5.

The appellant's position requires knowledge of the agency's organization, policies, functions, and operations gained through practical experience and initial or on-the-job training. He communicates with BPAs using an accepted ten-code system, which uses code words to represent common phrases to allow for brevity and standardization of message traffic. For example, 10-1 is receiving poorly, 10-2 is receiving well, and 10-3 is disregard last information. The appellant also responds to general inquiries from telephone calls routed to the sector after the close of business, weekends, and holidays. In addition, he monitors, interprets, and sends activated sensor information to BPAs and other concerned Federal, State, and local law enforcement agencies when necessary. Like Level 1-4, this work requires familiarity with OBP's enforcement work practices, rules, and regulations, in addition to an understanding of how the sector's authority fits within the jurisdiction and mission of other law enforcement agencies. Unlike Level 1-5, the appellant's work does not require applying comprehensive techniques and procedures which are not readily understood or applicable to the appellant's work.

Level 1-4 is credited for 550 points.

### *Factor 2, Supervisory Controls*

This factor covers the nature and extent of direct and indirect controls exercised by the supervisor. Employee responsibilities, as well as the review of completed work, are included. Employee responsibility depends upon the extent to which the employee is expected to develop the sequence and timing of various aspects of the work, to modify or recommend modification of instructions, and to participate in establishing priorities and defining objectives. The degree of review of completed work depends upon the nature and extent of the review.

At Level 2-3, the highest level described in the JFS, the supervisor makes assignments by outlining or discussing issues; and defining objectives, priorities, and deadlines. The supervisor or designated employee provides advice or additional specific instructions on new or unusual situations which do not have clear precedents. Employees independently plan the work; resolve problems; carry out successive steps of assignments; follow instructions, policies, previous training, or accepted practices; make adjustments using accepted legal practices and procedures;

handle problems and/or deviations which arise in accordance with instructions, policies, and guidelines; and refer controversial issues to the supervisor for direction. The supervisor or designated employee reviews completed work for technical soundness, appropriateness, and conformity to policies and requirements. The technical methods and procedures used in completing assignments seldom require detailed review.

The appellant's position meets but does not exceed Level 2-3. The supervisor ensures the center's operations are fully covered by assigning each SES on duty to one of three positions in the communications room. Each position operates with standing instructions on goals, assignments, procedures, deadlines, and priorities. Like Level 2-3, the appellant works independently in carrying out the successive steps of the assignment, making decisions usually under the pressure of time constraints, and planning his work following the center's pre-established priorities and deadlines. He works in the camera room with no supervision, making on-the-spot decisions based on available information. Consistent with Level 2-3, the supervisor is available to provide advice or additional instructions on unusual situations. The supervisor monitors his work by observing him in the communications room, examining console logs, and reviewing audio recordings. The supervisor evaluates completed work, not necessarily to review the exact work methods and processes used, but for technical soundness, appropriateness, and conformity to policy and reporting requirements.

Level 2-3 is credited for 275 points.

### *Factor 3, Guidelines*

This factor considers the nature of guidelines and the judgment needed to apply them.

At Level 3-2, the employee uses readily available guidelines in the form of agency policies and procedures which are clearly applicable to most transactions. These guidelines consist of legal regulations, dictionaries and references, computer manuals, office manuals, office policies and procedures, directives, general decisions, and agency guides. The employee uses judgment to determine the most appropriate guidelines or procedures to follow based on the nature of specific assignments; adapt guidelines in specific cases and make minor deviations; and refer issues that do not readily fit instructions or are outside of existing guidelines to the supervisor or a designated employee for resolution.

At Level 3-3, the employee uses guidelines which have gaps in specificity and are not applicable to all work situations. When completing a transaction, the employee may have to rely on experienced judgment, rather than guides, to fill in gaps, identify sources of information, and make working assumptions about what transpired. The employee uses judgment to select the most appropriate guideline and decide how to complete the various transactions. For example, the employee reconstructs incomplete files, devises more efficient methods for procedural processing, gathers and organizes information for inquiries, and resolves problems referred by others. In some situations, guidelines do not apply directly to assignments and require the employee to make adaptations to cover new and unusual work situations.



The appellant's position meets Level 3-2. His position requires applying his organization's SOPs, accepted practices and procedures, work aids, and other guidelines applicable to his day-to-day responsibilities. He decides which guidelines and precedents are applicable, and uses judgment and initiative for those situations not completely covered by guidelines. The appellant refers situations involving emergencies or situations outside of existing guidelines to the first- or second-level supervisor for assistance.

The appellant's position does not meet Level 3-3. Unlike Level 3-3, he does not regularly confront problems or situations requiring him to apply analysis and judgment (to complete work assignments and resolve problems) instead of established guidelines and past precedents. SESs complete initial training covering the 'how to' processes and the variety of techniques, standards, and practices directly applicable to their work. Topics include, but are not limited to, the local area network to log on, access Internet, and use local drives; radio operation to select lines to answer, select lines to call, place calls on hold, and transfer calls; and the operation of ICAD and the numerous law enforcement and Government databases. SESs must complete the comprehensive training plan intended to expose them to a variety of work situations. This, in addition to the SOP's detailed coverage, reflects how closely the center structures SES work practices, processes, and procedures. In this environment, the appellant's work does not regularly require or permit searching for and interpreting guidelines with gaps in specificity as expected at Level 3-3.

Level 3-2 is credited for 125 points.

#### *Factor 4, Complexity*

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

At Level 4-2, work consists of related steps, processes, and standard explanations of methods or programs in the function. Assignments may also be designed to prepare the employee for more difficult work. The data in legal documents are factual in nature; usually designed to record specific items of routinely required information in a uniform manner; and used for only one primary purpose or action. The employee checks and performs initial processing of legal documents received in the office; answers inquiries about applications, legal instruments, forms, and/or benefits; obtains missing or incomplete information as needed; compares information submitted with information previously recorded; and considers and evaluates sources of information, appropriateness of citations, and legal requirements of documents, legal instruments, or claims. The employee recognizes different procedures required to process documentation and assists customers. Choices are limited. Difficulties encountered include meeting strict deadlines and keeping track of large quantities of facts, figures, information, and paperwork.

At Level 4-3, the highest level described in the JFS, work consists of different and unrelated processes, methods, and sequences of tasks. The employee analyzes facts and identifies issues; defines the problems; determines courses of action from many alternatives; searches, isolates,

and determines the interrelationships among available information; assesses a variety of situations depending on the particulars of the case and/or the submitting party; selects appropriate resources and applies those resources to the problem at hand; evaluates records in relation to legal requirements; develops recommendations for problem resolution; and adjusts and authorizes settlements. The employee determines what needs to be done including choosing the order of research necessary, the sequence of steps, and the manner in which findings are presented. Actions may be complicated by situations where the facts are not clearly established. Verification or development of information from external sources is frequently required. The organization and presentation of information on documents can vary substantially. The same document is used for different purposes or actions.

The appellant's position meets Level 4-2. His work involves related steps and processes where the steps to be followed are routine and laid out in SOPs and other guidelines. His record search work involves using BPA-supplied factual information to extract background information from various law enforcement and Government systems. Similar to Level 4-2, the appellant searches, cross-checks, and evaluates multiple sources of information including, but not limited to, the NCIC and [ ]CIC for criminal histories; [ ]ECS for stolen property; [name] County Clerk for birth certificates issued by the county; Student and Exchange Visitor Information System for data on exchange visitors, international students, and scholars; and Image Storage and Retrieval System for photographs and fingerprints on individuals issued credentials (e.g., to be a resident). He retrieves and compiles search findings mainly to assist BPAs in determining a subject's admissibility into the country. As at Level 4-2, the chief concern of the appellant's record search work is timeliness in communicating findings for the safety of the agents.

The appellant's position does not meet Level 4-3. His work does not involve applying different and unrelated processes, methods, and sequences of tasks. The appellant's work entails following standard procedures spelled out in SOPs, initial and on-the-job training, and other guidelines. Unlike Level 4-3, his record-check work is straightforward and clear-cut in the assigning, executing, and delivering of the final work product. Each stage involves a clear course of action; it does not require considering the facts provided, identifying potential issues, or defining problems. He does not normally evaluate the end product (i.e., record-check findings) for accuracy, adequacy, validity, or relevancy in making recommendations to resolve problems.

The appellant is responsible for monitoring, receiving, and sending sensor alarm information to BPAs and others. He works in the camera room, conducting an initial assessment when equipment problems occur and notifying the supervisor when cameras cannot be restored. If BPA equipment is lost or stolen, the appellant resets access to the handheld radio, vehicle radio, etc., to prevent unauthorized users from monitoring radio traffic. Again, as in his record check duties, this work does not require determining the appropriate course of action from many alternatives as expected at Level 4-3.

Level 4-2 is credited for 75 points.

*Factor 5, Scope and Effect*

This factor covers the relationships between the nature of work (i.e., the purpose, breadth, and depth of the assignment) and the effect of work products or services both within and outside the organization. Effect measures such things as whether the work output facilitates the work of others, provides timely services of a personal nature, or impacts the adequacy of research conclusions.

At Level 5-2, work involves specific rules, regulations, or procedures. Work is constrained by well-defined and precise conditions. Work includes reviewing documents for missing information; searching records and files; verifying and maintaining records of transactions; and answering routine procedural questions. Work affects the quality of services performed by the office. Work provides the basis for subsequent actions taken by the organization to provide services to the public.

At Level 5-3, the highest level described in the JFS, work involves treating a variety of routine problems, questions, or situations within the work environment. The employee advises and assists applicants or other individuals requesting benefits or services with a variety of problems, questions, or situations in conformance with established criteria. Work may involve subjective considerations, such as looking for misrepresentations, fraud, or other illegal activity. Work affects the accurate and timely attainment of legal documents, rights, or privileges; the accurate and timely resolution of claims; and the economic well-being of individuals requesting benefits, claims, or services.

The appellant's work resembles Level 5-2 at which work is controlled by well-defined and precise conditions. His work involves making concrete, clear-cut, and unambiguous decisions due, in part, to the center's structuring processes through SOPs, initial training, and accepted organizational practices; and partly due to the center's role as the communications and investigative assistance arm for sector BPAs. The agents establish a subject's identity, citizenship, and documentation requirements for entry; identify individuals requiring record searches; and determine an individual's admissibility into the country. The appellant's position is reactive in contrast to the BPAs' active and expansive role in OBP's enforcement mission. As in his sensor-monitoring work, the appellant detects when alarms are activated and then notifies and directs agents to the appropriate location; however, the agent is responsible for investigating and determining probable causes.

Regardless, we find the appellant's position fully meets Level 5-3. As at this level, the appellant treats a variety of conventional problems and issues using established criteria. In addition to standard record checks, the appellant runs reverse record checks where the work process is less direct and requires first determining which database to search to locate a subject's name and date of birth. Similar to Level 5-3, he makes subjective judgment calls in detecting illegal activity. The appellant's camera room work involves making operational changes to the equipment by changing angles, zooming the lens, and rebooting the system; reporting equipment malfunctions to the supervisor; monitoring sensor activity; and identifying and alerting BPAs of suspicious activity. The appellant's work directly impacts the timely and efficient workflow of the agents' enforcement responsibilities. His record-check work also affects the quality and accuracy of the

BPA's determination of an individual's admissibility into the country. His position meets but does not exceed Level 5-3.

Level 5-3 is credited for 150 points.

#### *Factors 6 and 7, Personal Contacts and Purpose of Contacts*

Personal contacts include face-to-face and telephone contacts with persons not in the supervisory chain. Levels described under this factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contact takes place. These factors are interdependent. The same contacts selected for crediting Factor 6 must be used to evaluate Factor 7. The appropriate level for personal contacts and the corresponding level for purpose of contacts are determined by applying the point assignment chart for Factors 6 and 7.

##### *Personal Contacts*

At Level 2, the highest level described in the JFS, personal contacts are with employees in the same agency and/or with members of the general public in a moderately structured setting.

As at Level 2, the appellant's regular contacts are primarily with the sector's BPAs who are outside the center's immediate organization. Other contacts are with law enforcement and medical personnel, counterparts at other sectors, SESs at NLECC, representatives of other Federal agencies, and the general public. His contacts occur on a regular basis and take place in a moderately structured setting where the role and authority of each side does not have to be established each time. The appellant's contacts meet but does not exceed Level 2.

##### *Purpose of Contacts*

At Level b, the highest level described in the JFS, the purpose of contacts is to plan or arrange work efforts; to coordinate and schedule activities; to resolve problems relating to documents or procedures; and to provide explanations of why approval was not given, discuss measures that might be taken to obtain approval in the future, and explain alternative options that may be available.

As at Level b, the purpose of the appellant's regular and recurring contacts includes exchanging factual information, planning or arranging work efforts, and coordinating activities. The appellant responds to general inquiries from the public calling the sector after the close of business, weekends, and holidays. As at Level b, his contacts with sector BPAs are for the purpose of exchanging facts or coordinating work efforts. He communicates with BPAs to gather sufficient information for querying databases, communicate record-check findings, warn of activated sensor alarms, determine cause of sensor alarms, and describe and direct them to suspicious camera activity. With his counterparts at other sectors and NLECC, the appellant shares information on amber alerts and lookouts through the agency's administrative messaging system, telephone, or both depending on the situation's urgency. After identifying a subject with a warrant, he contacts the record service provider (or the entering agency) to validate the "hit" by

confirming the person's identity and the warrant's currency. Consistent with Level b, the appellant coordinates work efforts with other Federal agencies (e.g., by notifying U.S. Department of Agriculture representatives when livestock are wandering on the border). The purpose of the appellant's contacts meets but does not exceed Level b.

Level 2b is credited for 75 points.

*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, as well as the extent of physical exertion involved in the work.

As at Level 8-1, the only level described in the JFS, the appellant's work is sedentary and free of special physical demands. The appellant may carry light items such as paper and files, but the work does not require any unusual physical effort.

Level 8-1 is credited for 5 points.

*Factor 9, Work Environment*

This factor considers the risks and discomforts in the employee's physical surroundings. Additionally, any safety regulations related to the work assigned are considered.

As at Level 9-1, the only level described in the JFS, the appellant's work environment consists of an office setting and involves everyday risks or discomforts requiring normal safety precautions typical of an office setting. The appellant said he periodically accompanies BPAs in ride-alongs, observing the agents at work while gaining a familiarity with landmarks to help direct law enforcement and medical personnel during emergencies. As a passenger in the vehicle, the appellant is not in an office setting but in a similarly ventilated and heated environment involving everyday risks or discomforts.

Level 9-1 is credited for 5 points.

*Summary*

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge Required by the Position	1-4	550
2. Supervisory Controls	2-3	275
3. Guidelines	3-2	125
4. Complexity	4-2	75
5. Scope and Effect	5-3	150
6. & 7. Personal Contacts and Purpose of Contacts	2-b	75
8. Physical Demands	8-1	5
9. Work Environment	9-1	<u>5</u>
<i>Total</i>		1,260

A total of 1,260 points falls within the GS-6 range (1,105 to 1,350) on the JFS's grade conversion table.

**Decision**

By comparison with both the Guide and the GS-900 JFS, the position is properly classified as GS-1802-6. The title is at the agency's discretion.