

108TH CONGRESS
2D SESSION

H. R. 2751

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2004

Received; read twice and referred to the Committee on Governmental Affairs

AN ACT

To provide new human capital flexibilities with respect to
the GAO, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 31.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “GAO Human Capital Reform Act of 2004”.

4 (b) AMENDMENT OF TITLE 31.—Except as otherwise
5 expressly provided, whenever in this Act an amendment
6 is expressed in terms of an amendment to a section or
7 other provision, the reference shall be considered to be
8 made to a section or other provision of title 31, United
9 States Code.

10 **SEC. 2. AMENDMENTS TO PUBLIC LAW 106–303.**

11 (a) AUTHORITIES MADE PERMANENT.—Sections 1
12 and 2 of Public Law 106–303 (5 U.S.C. 8336 note and
13 5597 note) are amended by striking “for purposes of the
14 period beginning on the date of the enactment of this Act
15 and ending on December 31, 2003” each place it appears
16 and inserting “October 13, 2000”.

17 (b) SENSE OF CONGRESS.—

18 (1) VOLUNTARY EARLY RETIREMENT AUTHOR-
19 ITY.—Section 1 of Public Law 106–303 is amended
20 by adding at the end the following:

21 “(e) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that the implementation of this section is intended
23 to reshape the General Accounting Office workforce and
24 not downsize the General Accounting Office workforce.”.

1 (2) VOLUNTARY SEPARATION INCENTIVE PAY-
2 MENTS.—Section 2 of Public Law 106–303 is
3 amended by adding at the end the following:

4 “(g) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the implementation of this section is intended
6 to reshape the General Accounting Office workforce and
7 not downsize the General Accounting Office workforce.”.

8 (c) ADDITIONAL LIMITATION RELATING TO
9 VSIPs.—Section 2(b) of Public Law 106–303 is amended
10 by striking paragraph (2) and inserting the following:

11 “(2) subsection (a)(2)(G) of such section shall
12 be applied—

13 “(A) by construing the citations therein to
14 be references to the appropriate authorities in
15 connection with employees of the General Ac-
16 counting Office; and

17 “(B) by deeming such subsection to be
18 amended by striking ‘Code.’ and inserting
19 ‘Code, or who, during the thirty-six month pe-
20 riod preceding the date of separation, per-
21 formed service for which a student loan repay-
22 ment benefit was or is to be paid under section
23 5379 of title 5, United States Code.’;”.

1 **SEC. 3. ANNUAL PAY ADJUSTMENTS.**

2 (a) OFFICERS AND EMPLOYEES GENERALLY.—Para-
3 graph (3) of section 732(c) is amended to read as follows:

4 “(3) except as provided under section
5 733(a)(3)(B) of this title, basic rates of officers and
6 employees of the Office shall be adjusted annually to
7 such extent as determined by the Comptroller Gen-
8 eral, and in making that determination the Comp-
9 troller General shall consider—

10 “(A) the principle that equal pay should be
11 provided for work of equal value within each
12 local pay area;

13 “(B) the need to protect the purchasing
14 power of officers and employees of the Office,
15 taking into consideration the Consumer Price
16 Index or other appropriate indices;

17 “(C) any existing pay disparities between
18 officers and employees of the Office and non-
19 Federal employees in each local pay area;

20 “(D) the pay rates for the same levels of
21 work for officers and employees of the Office
22 and non-Federal employees in each local pay
23 area;

24 “(E) the appropriate distribution of agency
25 funds between annual adjustments under this

1 section and performance-based compensation;
2 and

3 “(F) such other criteria as the Comptroller
4 General considers appropriate, including, but
5 not limited to, the funding level for the Office,
6 amounts allocated for performance-based com-
7 pensation, and the extent to which the Office is
8 succeeding in fulfilling its mission and accom-
9 plishing its strategic plan;

10 notwithstanding any other provision of this para-
11 graph, an adjustment under this paragraph shall not
12 be applied in the case of any officer or employee
13 whose performance is not at a satisfactory level, as
14 determined by the Comptroller General for purposes
15 of such adjustment;”.

16 (b) OFFICERS AND EMPLOYEES IN THE OFFICE SEN-
17 IOR EXECUTIVE SERVICE.—Subparagraph (B) of section
18 733(a)(3) is amended to read as follows:

19 “(B) adjusted annually by the Comptroller
20 General after taking into consideration the fac-
21 tors listed under section 732(c)(3) of this title,
22 except that an adjustment under this subpara-
23 graph shall not be applied in the case of any of-
24 ficer or employee whose performance is not at
25 a satisfactory level, as determined by the Comp-

1 troller General for purposes of such adjust-
2 ment;”.

3 (c) CONFORMING AMENDMENT.—Section 732(b)(6)
4 is amended by striking “title 5.” and inserting “title 5,
5 except as provided under subsection (c)(3) of this section
6 and section 733(a)(3)(B) of this title.”.

7 **SEC. 4. PAY RETENTION.**

8 Paragraph (5) of section 732(c) is amended to read
9 as follows:

10 “(5) the Comptroller General shall prescribe
11 regulations under which an officer or employee of
12 the Office shall be entitled to pay retention if, as a
13 result of any reduction-in-force or other workforce
14 adjustment procedure, position reclassification, or
15 other appropriate circumstances as determined by
16 the Comptroller General, such officer or employee is
17 placed in or holds a position in a lower grade or
18 band with a maximum rate of basic pay that is less
19 than the rate of basic pay payable to the officer or
20 employee immediately before the reduction in grade
21 or band; such regulations—

22 “(A) shall provide that the officer or em-
23 ployee shall be entitled to continue receiving the
24 rate of basic pay that was payable to the officer
25 or employee immediately before the reduction in

1 grade or band until such time as the retained
2 rate becomes less than the maximum rate for
3 the grade or band of the position held by such
4 officer or employee; and

5 “(B) shall include provisions relating to
6 the minimum period of time for which an offi-
7 cer or employee must have served or for which
8 the position must have been classified at the
9 higher grade or band in order for pay retention
10 to apply, the events that terminate the right to
11 pay retention (apart from the one described in
12 subparagraph (A)), and exclusions based on the
13 nature of an appointment; in prescribing regu-
14 lations under this subparagraph, the Comp-
15 troller General shall be guided by the provisions
16 of sections 5362 and 5363 of title 5.”.

17 **SEC. 5. RELOCATION BENEFITS.**

18 Section 731 is amended by adding after subsection
19 (e) the following:

20 “(f) The Comptroller General shall prescribe regula-
21 tions under which officers and employees of the Office
22 may, in appropriate circumstances, be reimbursed for any
23 relocation expenses under subchapter II of chapter 57 of
24 title 5 for which they would not otherwise be eligible, but
25 only if the Comptroller General determines that the trans-

1 fer giving rise to such relocation is of sufficient benefit
2 or value to the Office to justify such reimbursement.”.

3 **SEC. 6. INCREASED ANNUAL LEAVE FOR KEY EMPLOYEES.**

4 Section 731 is amended by adding after subsection
5 (f) (as added by section 5 of this Act) the following:

6 “(g) The Comptroller General shall prescribe regula-
7 tions under which key officers and employees of the Office
8 who have less than 3 years of service may accrue leave
9 in accordance with section 6303(a)(2) of title 5, in those
10 circumstances in which the Comptroller General has deter-
11 mined such increased annual leave is appropriate for the
12 recruitment or retention of such officers and employees.
13 Such regulations shall define key officers and employees
14 and set forth the factors in determining which officers and
15 employees should be allowed to accrue leave in accordance
16 with this subsection.”.

17 **SEC. 7. EXECUTIVE EXCHANGE PROGRAM.**

18 Section 731 is amended by adding after subsection
19 (g) (as added by section 6 of this Act) the following:

20 “(h) The Comptroller General may by regulation es-
21 tablish an executive exchange program under which offi-
22 cers and employees of the Office may be assigned to pri-
23 vate sector organizations, and employees of private sector
24 organizations may be assigned to the Office, to further
25 the institutional interests of the Office or Congress, in-

1 cluding for the purpose of providing training to officers
2 and employees of the Office. Regulations to carry out any
3 such program—

4 “(1) shall include provisions (consistent with
5 sections 3702 through 3704 of title 5) as to matters
6 concerning—

7 “(A) the duration and termination of as-
8 signments;

9 “(B) reimbursements; and

10 “(C) status, entitlements, benefits, and ob-
11 ligations of program participants;

12 “(2) shall limit—

13 “(A) the number of officers and employees
14 who are assigned to private sector organizations
15 at any one time to not more than 15; and

16 “(B) the number of employees from private
17 sector organizations who are assigned to the Of-
18 fice at any one time to not more than 30;

19 “(3) shall require that an employee of a private
20 sector organization assigned to the Office may not
21 have access to any trade secrets or to any other non-
22 public information which is of commercial value to
23 the private sector organization from which such em-
24 ployee is assigned;

1 “(4) shall require that, before approving the as-
2 signment of an officer or employee to a private sec-
3 tor organization, the Comptroller General shall de-
4 termine that the assignment is an effective use of
5 the Office’s funds, taking into account the best in-
6 terests of the Office and the costs and benefits of al-
7 ternative methods of achieving the same results and
8 objectives; and

9 “(5) shall not allow any assignment under this
10 subsection to commence after the end of the 5-year
11 period beginning on the date of the enactment of
12 this subsection.

13 “(i) An employee of a private sector organization as-
14 signed to the Office under the executive exchange program
15 shall be considered to be an employee of the Office for
16 purposes of—

17 “(1) chapter 73 of title 5;

18 “(2) sections 201, 203, 205, 207, 208, 209,
19 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

20 “(3) sections 1343, 1344, and 1349(b) of this
21 title;

22 “(4) chapter 171 of title 28 (commonly referred
23 to as the ‘Federal Tort Claims Act’) and any other
24 Federal tort liability statute;

1 “(5) the Ethics in Government Act of 1978 (5
2 U.S.C. App.);

3 “(6) section 1043 of the Internal Revenue Code
4 of 1986; and

5 “(7) section 27 of the Office of Federal Pro-
6 curement Policy Act (41 U.S.C. 423).”.

7 **SEC. 8. REDESIGNATION.**

8 (a) IN GENERAL.—The General Accounting Office is
9 hereby redesignated the Government Accountability Of-
10 fice.

11 (b) REFERENCES.—Any reference to the General Ac-
12 counting Office in any law, rule, regulation, certificate, di-
13 rective, instruction, or other official paper in force on the
14 date of enactment of this Act shall be considered to refer
15 and apply to the Government Accountability Office.

16 **SEC. 9. PERFORMANCE MANAGEMENT SYSTEM.**

17 Paragraph (1) of section 732(d) is amended to read
18 as follows:

19 “(1) for a system to appraise the performance
20 of officers and employees of the General Accounting
21 Office that meets the requirements of section 4302
22 of title 5 and in addition includes—

23 “(A) a link between the performance man-
24 agement system and the agency’s strategic
25 plan;

1 “(B) adequate training and retraining for
2 supervisors, managers, and employees in the
3 implementation and operation of the perform-
4 ance management system;

5 “(C) a process for ensuring ongoing per-
6 formance feedback and dialogue between super-
7 visors, managers, and employees throughout the
8 appraisal period and setting timetables for re-
9 view;

10 “(D) effective transparency and account-
11 ability measures to ensure that the management
12 of the system is fair, credible, and equitable, in-
13 cluding appropriate independent reasonableness,
14 reviews, internal assessments, and employee
15 surveys; and

16 “(E) a means to ensure that adequate
17 agency resources are allocated for the design,
18 implementation, and administration of the per-
19 formance management system;”.

20 **SEC. 10. CONSULTATION.**

21 Before the implementation of any changes authorized
22 under this Act, the Comptroller General shall consult with
23 any interested groups or associations representing officers
24 and employees of the General Accounting Office.

1 **SEC. 11. REPORTING REQUIREMENTS.**

2 (a) ANNUAL REPORTS.—The Comptroller General
3 shall include—

4 (1) in each report submitted to Congress under
5 section 719(a) of title 31, United States Code, dur-
6 ing the 5-year period beginning on the date of enact-
7 ment of this Act, a summary review of all actions
8 taken under sections 2, 3, 4, 6, 7, 9, and 10 of this
9 Act during the period covered by such report, includ-
10 ing—

11 (A) the respective numbers of officers and
12 employees—

13 (i) separating from the service under
14 section 2 of this Act;

15 (ii) receiving pay retention under sec-
16 tion 4 of this Act;

17 (iii) receiving increased annual leave
18 under section 6 of this Act; and

19 (iv) engaging in the executive ex-
20 change program under section 7 of this
21 Act, as well as the number of private sec-
22 tor employees participating in such pro-
23 gram and a review of the general nature of
24 the work performed by the individuals par-
25 ticipating in such program;

1 (B) a review of all actions taken to formu-
2 late the appropriate methodologies to implement
3 the pay adjustments provided for under section
4 3 of this Act, except that nothing under this
5 subparagraph shall be required if no changes
6 are made in any such methodology during the
7 period covered by such report; and

8 (C) an assessment of the role of sections 2,
9 3, 4, 6, 7, 9, and 10 of this Act in contributing
10 to the General Accounting Office's ability to
11 carry out its mission, meet its performance
12 goals, and fulfill its strategic plan; and

13 (2) in each report submitted to Congress under
14 such section 719(a) after the effective date of sec-
15 tion 3 of this Act and before the close of the 5-year
16 period referred to in paragraph (1)—

17 (A) a detailed description of the meth-
18 odologies applied under section 3 of this Act
19 and the manner in which such methodologies
20 were applied to determine the appropriate an-
21 nual pay adjustments for officers and employees
22 of the Office;

23 (B) the amount of the annual pay adjust-
24 ments afforded to officers and employees of the
25 Office under section 3 of this Act; and

1 (C) a description of any extraordinary eco-
2 nomic conditions or serious budget constraints
3 which had a significant impact on the deter-
4 mination of the annual pay adjustments for of-
5 ficers and employees of the Office.

6 (b) FINAL REPORT.—Not later than 6 years after the
7 date of enactment of this Act, the Comptroller General
8 shall submit to Congress a report concerning the imple-
9 mentation of this Act. Such report shall include—

10 (1) a summary of the information included in
11 the annual reports required under subsection (a);

12 (2) recommendations for any legislative changes
13 to section 2, 3, 4, 6, 7, 9, or 10 of this Act; and

14 (3) any assessment furnished by the General
15 Accounting Office Personnel Appeals Board or any
16 interested groups or associations representing offi-
17 cers and employees of the Office for inclusion in
18 such report.

19 (c) ADDITIONAL REPORTING.—Notwithstanding any
20 other provision of this section, the reporting requirement
21 under subsection (a)(2)(C) shall apply in the case any re-
22 port submitted under section 719(a) of title 31, United
23 States Code, whether during the 5-year period beginning
24 on the date of enactment of this Act (as required by sub-
25 section (a)) or at any time thereafter.

1 **SEC. 12. TECHNICAL AMENDMENT.**

2 Section 732(h)(3)(A) is amended by striking “reduc-
3 tion force” and inserting “reduction in force”.

4 **SEC. 13. EFFECTIVE DATES.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), this Act and the amendments made by this Act shall
7 take effect on the date of enactment of this Act.

8 (b) PAY ADJUSTMENTS.—

9 (1) IN GENERAL.—Section 3 of this Act and
10 the amendments made by that section shall take ef-
11 fect on October 1, 2005, and shall apply in the case
12 of any annual pay adjustment taking effect on or
13 after that date.

14 (2) INTERIM AUTHORITIES.—In connection with
15 any pay adjustment taking effect under section
16 732(c)(3) or 733(a)(3)(B) of title 31, United States
17 Code, before October 1, 2005, the Comptroller Gen-
18 eral may by regulation—

19 (A) provide that such adjustment not be
20 applied in the case of any officer or employee
21 whose performance is not at a satisfactory level,
22 as determined by the Comptroller General for
23 purposes of such adjustment; and

24 (B) provide that such adjustment be re-
25 duced if and to the extent necessary because of

1 extraordinary economic conditions or serious
2 budget constraints.

3 (3) ADDITIONAL AUTHORITY.—

4 (A) IN GENERAL.—The Comptroller Gen-
5 eral may by regulation delay the effective date
6 of section 3 of this Act and the amendments
7 made by that section for groups of officers and
8 employees that the Comptroller General con-
9 siderers appropriate.

10 (B) INTERIM AUTHORITIES.—If the Comp-
11 troller General provides for a delayed effective
12 date under subparagraph (A) with respect to
13 any group of officers or employees, paragraph
14 (2) shall, for purposes of such group, be applied
15 by substituting such date for “October 1,
16 2005”.

Passed the House of Representatives February 25,
2004.

Attest:

JEFF TRANDAHL,
Clerk.