

Calendar No. 407

108TH CONGRESS }
1st Session

SENATE

{ REPORT
108-216

GAO HUMAN CAPITAL REFORM ACT OF 2003

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1522

TO PROVIDE NEW HUMAN CAPITAL FLEXIBILITIES WITH RESPECT
TO THE GAO, AND FOR OTHER PURPOSES

E:\Seals\Congress.#13

DECEMBER 9, 2003.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

29-010

WASHINGTON : 2003

COMMITTEE ON GOVERNMENTAL AFFAIRS

SUSAN M. COLLINS, Maine, *Chairman*

TED STEVENS, Alaska	JOSEPH I. LIEBERMAN, Connecticut
GEORGE V. VOINOVICH, Ohio	CARL LEVIN, Michigan
NORM COLEMAN, Minnesota	DANIEL K. AKAKA, Hawaii
ARLEN SPECTER, Pennsylvania	RICHARD J. DURBIN, Illinois
ROBERT F. BENNETT, Utah	THOMAS R. CARPER, Delaware
PETER G. FITZGERALD, Illinois	MARK DAYTON, Minnesota
JOHN E. SUNUNU, New Hampshire	FRANK LAUTENBERG, New Jersey
RICHARD C. SHELBY, Alabama	MARK PRYOR, Arkansas

MICHAEL D. BOPP, *Staff Director and Chief Counsel*

JENNIFER A. HEMINGWAY, *Professional Staff Member*

ANDREW G. RICHARDSON, *Staff Director, Oversight of Government Management,
the Federal Workforce and the District of Columbia Subcommittee*

MICHAEL DOVILLA, *Professional Staff Member, Oversight of Government
Management, the Federal Workforce and the District of Columbia Subcommittee*

JOYCE A. RECHTSCHAFFEN, *Minority Staff Director and Counsel*

LAWRENCE B. NOVEY, *Minority Counsel*

EMILY J. KIRK, *Minority Counsel, Oversight of Government Management,
the Federal Workforce and the District of Columbia Subcommittee*

JENNIFER TYREE, *Minority Counsel, Financial Management,
the Budget, and International Security Subcommittee*

AMY B. NEWHOUSE, *Chief Clerk*

Calendar No. 407

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 108-216

GAO HUMAN CAPITAL REFORM ACT OF 2003

DECEMBER 9, 2003.—Ordered to be printed

Mr. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

[To accompany S. 1522]

The Committee on Governmental Affairs, to whom was referred the bill (S. 1522) to provide new human capital flexibilities with respect to the GAO, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	9
IV. Section by Section Analysis	9
V. Estimated Cost of Legislation	15
VI. Evaluation of Regulatory Impact	17
VII. Changes in Existing Law Made by the Bill, as Reported	17

I. PURPOSE AND SUMMARY

The purpose of S. 1522 is to provide new human capital flexibilities with respect to the General Accounting Office (GAO). The bill would permanently extend GAO's authority to offer voluntary early retirement and voluntary separation incentive payments to its workforce, and would provide new authority for GAO to modify its personnel and workforce practices to allow greater flexibility in determining pay increases, pay retention rules, and other compensation matters. S. 1522 would also rename the GAO as the "Government Accountability Office."

II. BACKGROUND

The General Accounting Office was established in 1921 by the Budget and Accounting Act¹ to ensure that federal resources were spent in an economical, efficient, and effective manner. The GAO is recognized as an independent agency within the legislative branch, whose primary client is the Congress. Today, GAO is a multidisciplinary professional services organization, comprised of about 3,250 employees, that conducts a wide range of financial and performance audits, program evaluations, management reviews, investigations, and legal services spanning a broad range of government programs and functions.²

GAO PERSONNEL ACT OF 1980

Until 1980, GAO's personnel system was indistinguishable from those of executive branch agencies—that is, GAO was subject to the same laws, regulations, and policies as they were. However, with the expansion of GAO's role in congressional oversight of federal agencies and programs, concerns grew about the potential for conflicts of interest. As a result, legislation, originally introduced at GAO's request, was favorably reported by the Committee and, on February 15, 1980, was enacted as the GAO Personnel Act of 1980, the principal goal of which was to avoid potential conflicts by making GAO's personnel system more independent of regulation by executive branch agencies.³ Along with this independence, the act gave GAO greater flexibility in hiring and managing its workforce. Among other things, while requiring GAO to abide by the same merit system principles and other key rights and protections that are applicable to the executive branch, the 1980 Act granted the Comptroller General authority to: appoint, promote, and assign employees on the basis of fitness and merit but without regard to title 5, U.S. Code, requirements in these areas; set employees' pay without regard to the federal government's General Schedule (GS) pay system's classification standards and requirements; and establish a merit pay system for certain officers and employees. By excepting GAO from the above requirements, the GAO Personnel Act of 1980 allowed GAO to pursue significant innovations in managing its people, including the establishment of a "broad banding" or "pay banding" approach for classifying and paying its Analyst and Attorney workforce in 1989. Therefore, as the Comptroller General recently testified before this Committee, while certain other agencies are now requesting authority to establish broad banding and pay for performance systems, GAO has had almost 15 years of experience with such systems.⁴

GAO PERSONNEL FLEXIBILITIES ACT

In early 2000, GAO sought legislation affording additional flexibilities to enable it to modernize and update its human capital policies and performance management system. GAO made a specific,

¹Public Law 13, 67th Congress, 42 Stat. 20.

²Hearing on Oversight of GAO: What Lies Ahead for Congress' Watchdog?, Statement of David M. Walker, Comptroller General, before the Committee on Governmental Affairs, September 16, 2003 (GAO-03-1167T), (referred to as "Walker testimony (GAO-03-1167T)," pp. 51-52.

³S. Rep. 96-540 (Dec. 20, 1979); Public Law 96-191.

⁴Walker testimony (GAO-03-1167T), note 2 above, pp. 52-53.

fact-based demonstration that the requested flexibilities were necessary and appropriate.⁵ Such legislation was introduced by this Committee's then-Chairman, Senator Thompson, and Ranking Member, Senator Lieberman, and was incorporated, with their consent, into spending legislation that passed the Senate;⁶ and revised legislation was reintroduced, passed by the House and Senate, and, on October 13, 2000, enacted into law.⁷

This legislation, sometimes referred to as the "GAO Personnel Flexibilities Act," authorized the Comptroller General to offer voluntary early retirement to certain employees in order to realign the workforce to meet budgetary constraints or mission needs; correct skill imbalances; or reduce high-grade, managerial, or supervisory positions. The voluntary early retirement authority was authorized through December 31, 2003. In fiscal years 2002 and 2003, GAO granted voluntary early retirement to 52 employees in fiscal year 2002 and 37 employees in fiscal year 2003.⁸ GAO believes, and the Committee concurs, that careful use of voluntary early retirement can be an important tool to assist federal agencies in incrementally improving their overall human capital profile.

In addition to voluntary early retirement authority, the GAO Personnel Flexibilities Act gave the Comptroller General the authority to offer voluntary separation incentive payments, through December 31, 2003, in order to realign the workforce to meet budgetary constraints or mission needs; correct skill imbalances; or reduce high-grade, supervisory, or managerial positions. Although GAO has not yet used its buyout authority under the Act, and the Comptroller General has indicated to the Committee that GAO has no plans to do so in the foreseeable future,⁹ GAO is seeking to retain this flexibility. Similar authorities for voluntary early retirement and voluntary separation incentive payments were provided to most federal agencies under the Homeland Security Act of 2002.¹⁰

The GAO Personnel Flexibilities Act also established senior-level scientific, technical, and professional positions, and provided those positions with the same pay and benefits applicable to the Senior Executive Service. At present, GAO has filled 8 senior level positions, including that of a Chief Accountant, Chief Economist, Chief Statistician, and Chief Actuary, as a result of the authority granted under the Act.¹¹

Upon enactment of the GAO Personnel Flexibilities Act, GAO began the process of developing regulations to implement its new authorities. The Comptroller General used the flexibilities to address significant issues involving succession planning and imbalances in the structure, shape, and skills of its workforce.

⁵ S. Rep. 106-304 (May 23, 2000), pp. 37-42; Congressional Record, H7802-H7803 (September 19, 2000).

⁶ S. 2529, incorporated into S. 2603, as reported, see S. Rep. 106-304 (May 23, 2000), pp. 37-42, further incorporated into H.R. 4516, as passed by the Senate on July 17, 2000.

⁷ Public Law 106-303.

⁸ Walker testimony (GAO-03-1167T), note 2 above, p. 19.

⁹ Id., p. 61.

¹⁰ Public Law 107-296, § 1313.

¹¹ GAO, Report to Congressional Committees, "Assessment of Public Law 106-303: The Role of Personnel Flexibilities in Strengthening GAO's Human Capital," (June 2003, GAO-03-954SP), p. 13.

GAO'S DEVELOPMENT AND PRESENTATION OF THE BUSINESS CASE
FOR PERSONNEL FLEXIBILITIES

GAO identified human capital as one of three risk areas in its FY2002 Performance and Accountability Report.¹² Upon further review of the range and limits of the GAO's existing administrative and legislative authorities, the Comptroller General concluded that GAO needed to seek from Congress additional human capital flexibilities so that GAO could enhance its ability to attract, retain, and reward a high-performing workforce and lead by example in the area of human capital management.

GAO has been a leader in assisting Congress to stem the human capital challenges facing the federal government. For example, David Walker, Comptroller General, testified before the Subcommittee on the Oversight of Government Management in 2001, on the role of Congress and the agencies when requesting additional flexibilities to meet workforce needs. Mr. Walker said,

For agencies that request legislative exceptions from current civil service constraints, Congress can require that they make a sound business case based on rational and factbased analyses of their needs, the constraints under which they presently operate, and the flexibilities available to them. For example, before we submitted human capital legislative proposals for GAO last year, we applied the due diligence needed not only to identify in our own minds the flexibilities we needed to better manage our human capital, but also to give Congress a clear indication of our needs, our rationale, and the steps we were committed to taking in order to maximize the benefits while managing the risks. The process we followed included a thorough analysis of our human capital needs and flexibilities, clear standards for implementation, and multiple opportunities for employee involvement and feedback. The legislative flexibilities we eventually received, tailored as they were to our specific needs, may not be appropriate for other federal employers. However, the process we followed in identifying and making a sound business case for these flexibilities is one that would be sensible for other agencies to follow.¹³

The Committee agrees and believes that for agencies to request additional personnel flexibilities they should first use existing human capital flexibilities responsibly and strategically, have the infrastructure and safeguards in place to use the flexibilities requested, work with employees in developing the request for new flexibilities, and provide the Congress with detailed information stating the reasons for the request and how the new flexibilities will be used. The Committee believes that GAO has followed this process and has presented a sound business case for the need for additional flexibilities.

In the Comptroller General's testimony regarding this legislation he explained to the Committee that GAO has effectively and strate-

¹² GAO Strategic Plan 2002-2007, GAO-02-430SP.

¹³ Hearing on Human Capital: Meeting the Governmentwide High-Risk Challenge, Statement of David M. Walker, Comptroller General, before the Subcommittee on Government Oversight and Management, February 1, 2001, GAO-01-357T, p. 15.

gically used existing flexibilities to meet its workforce needs.¹⁴ Using the authority granted in 2000, GAO established a corps of senior level executives who have the pay and benefits of the Senior Executive Service but need not be generalist managers. In addition, GAO has instituted a new knowledge transfer and succession planning program that would allow select retirees to be reemployed as annuitants for up to two years following retirement in order to facilitate the transfer of knowledge in critical areas and allow for a smooth transfer of responsibilities. To retain staff with critical skills and staff with less than three years of GAO experience, the GAO implemented legislation authorizing federal agencies to offer student loan repayments in exchange for certain federal service commitments. GAO ranks as one of the top agencies in providing student loan repayments. As a result of the student loan repayment program and other innovative programs at the agency, GAO was listed by *Washingtonian* magazine as one of the best federal agencies to work.¹⁵

The Comptroller General also explained that GAO has the infrastructure and safeguards in place to effectively use additional flexibilities.¹⁶ In fiscal year 2002, GAO completed an overhaul of its performance assessment system and implemented a new, modern, effective, and credible performance appraisal system for analysts and specialists; adapted the system for attorneys; and began modifying the system for administrative professional and support staff. GAO's performance standards were revised to incorporate its core values and strategic goals. GAO also updated descriptions of performance to better reflect the current nature of its work and implemented other key concepts, such as leadership by example, client service, measurable results, matrix management, open and constructive communications, and balancing people and product considerations. The GAO performance management system also includes safeguards to prevent arbitrary, discriminatory, or retaliatory performance assessments. The GAO system allows employees who are dissatisfied with their performance appraisal to consult with the Human Capital Office, the Office of Opportunity and Inclusiveness, or file a grievance. As a result of its credible and meaningful performance assessment system—with adequate safeguards—GAO was able to reward those with outstanding performance. Given the positive results of this new performance program, the Committee believes GAO is in a position to handle an expanded pay for performance system.

The Comptroller General also described how GAO has worked with employees in developing and presenting its business case for the requested flexibilities. GAO has an ongoing communication program with its employees by conducting employee surveys, holding meetings with the Employee Advisory Council,¹⁷ soliciting employee suggestions for agency improvements, and engaging in telecast chats with employees. In addition, GAO has worked extensively with employees in the development of this legislative pro-

¹⁴ Walker testimony (GAO-03-1167T), note 2 above, pp. 19-23.

¹⁵ Sherri Dalphonse, Cindy Rich, Ellen McLellan, and Wayne Nelson, 50 Great Places to Work, *Washingtonian* Mag., November 2003, p. 93.

¹⁶ Walker testimony (GAO-03-1167T), note 2 above, pp. 23, 70-71.

¹⁷ The Employee Advisory Council, which is comprised of employees elected to represent a cross-section of the agency, was formed in 1999 by the Comptroller General to advise him on issues pertaining to management and employees.

posals. GAO undertook a phased approach that involved (1) developing a straw proposal, (2) vetting the straw proposal broadly both externally and internally, and (3) making appropriate adjustments based on comments and concerns raised during the vetting process.¹⁸ Within GAO, members of the Executive Committee, which includes GAO's Chief Operating Officer, General Counsel, and Chief Mission Support Officer, as well as the Comptroller General, worked with the managing directors and members of the Employee Advisory Council. GAO consulted with the Office of Personnel Management in developing its legislative proposal. The Comptroller General testified that their outreach process was both necessary and appropriate given the importance of the proposed changes.¹⁹

As detailed in the next section and in GAO's testimony before the Committee, GAO also explained why additional flexibilities are needed and how current law has impeded its efforts to build and maintain a high-quality workforce.²⁰ Based on GAO's work in presenting a solid business case for additional personnel flexibilities, particularly its current utilization of available flexibilities, extensive employee outreach efforts, and the presence of the necessary infrastructure and safeguards, the Committee believes that the requested targeted flexibilities are a logical incremental advancement in modernizing GAO's human capital policies. The process used by GAO to develop and request new human capital flexibilities serves as an example for other agencies seeking similar authority.

S. 1522, GAO HUMAN CAPITAL REFORM ACT OF 2003

On July 31, 2003, Senators George Voinovich and Susan Collins introduced legislation, S. 1522, the GAO Human Capital Reform Act of 2003, based on the Comptroller General's recommendations arising from review of GAO's existing administrative and legal authorities and from the outreach program discussed above. The Committee evaluated this legislation, received and considered testimony from the Comptroller General and from GAO's Employee Advisory Council,²¹ and developed amended legislation that the Committee reported favorably by voice vote, with no dissent, on October 22, 2003.

The legislation is designed to allow GAO to continue to invest in its human capital and attract, recruit, and retain staff with the critical skills needed by GAO to accomplish its mission both now and in future years. This legislation is appropriate for GAO considering its role and responsibilities in the legislative branch and its unique relationship to Congress, and taking account of the sound business case that GAO has presented to the Committee showing why the additional flexibilities are needed and appropriate.

S. 1522 would make permanent the voluntary early retirement authority and voluntary separation incentive payments authorized under the GAO Personnel Flexibilities Act. Both authorities were originally enacted to allow the Comptroller General to realign GAO's workforce to address budgetary or mission constraints; correct skills imbalances; and/or reduce high-grade, supervisory, or

¹⁸ Walker testimony (GAO-03-1167T), note 2 above, p. 56.

¹⁹ *Id.*, p. 58.

²⁰ *Id.*, p. 61-76.

²¹ Walker testimony (GAO-03-1167T), note 2 above; Statement for the Record by GAO's Employee Advisory Council (September 16, 2003, GAO-03-1162T).

managerial positions. The voluntary early retirement authority that would be extended by S. 1522 is limited to no more than 10 percent of the workforce in any one year. The authority to offer voluntary separation incentive payments is limited to no more than 5 percent of the workforce in any given year. GAO is also required to use existing resources to cover the cost of any voluntary separation incentive payment offered. As detailed in the legislative history of GAO's personnel flexibilities legislation enacted in 2000, these authorities include a number of provisions to assure that employees are not subject to arbitrary or unreasonable action.²² S. 1522 would also codify the sense of Congress that the implementation of these authorities is intended to reshape, not downsize, the GAO workforce.

The GAO Human Capital Reform Act of 2003 would allow GAO to adjust the rates of basic pay on a basis separate from the annual adjustment authorized for employees of the executive branch. The alternative pay system will be put into place after a minimum 2 year transition period. The provision would grant the Comptroller General discretion to set annual pay increases by taking into account alternative methodologies, and is designed to help GAO allocate pay adjustments based on performance.

GAO already has a number of key systems and safeguards in place, such as a validated performance measurement system for its analysts and attorneys, and opportunity periods for employee improvement, which will help guide the implementation of the proposed compensation system. Absent extraordinary circumstances or serious budgetary constraints, employees or officers who perform at a satisfactory level would receive an annual base pay adjustment based on compensation surveys that are tailored to the nature, skills, and composition of GAO's workforce. The base pay adjustment will be designed to protect purchasing power and address differences in compensation ranges by the local pay area.²³ The Comptroller General estimates that at least 95 percent of the workforce will qualify for an additional performance-based increase once the proposed compensation system is fully implemented.²⁴

S. 1522 would ensure that an employee demoted as a result of workforce restructuring or reclassification will be entitled to pay retention, although he or she will not be eligible for any automatic increase in basic pay until his or her current rate is less than the maximum rate of the new position. This safeguard will help ensure a smooth transition for employees who are reclassified into a position with a lower level of compensation. When GAO's analysts and attorneys were converted to a broad band system, former Comptroller General Charles A. Bowsheer provided these employees with a guarantee that the analysts and attorneys rated as meeting expectations in all categories would fare at least as well under pay bands as under the General Schedule system. Comptroller General Walker has stated his intent to the Committee that he will honor his predecessor's pay protection guarantee. In addition, the Comp-

²²S. Rep. 106-304 (May 23, 2000), pp. 37-42; Congressional Record, H7802-H7803 (September 19, 2000).

²³Walker testimony (GAO-03-1167T), note 2 above, p. 81.

²⁴Id., p. 68.

troller General has stated that mission support staff will also receive this protection upon their conversion to pay bands.²⁵

Before finalizing and implementing the modified pay system authorized under S. 1522, the Comptroller General will seek the advice of GAO's managing directors and the Employee Advisory Council. Employees will have the opportunity to review and comment on the draft regulations for the modified pay system.

S. 1522 would grant GAO the authority, in appropriate circumstances, to reimburse employees or officers for some relocation expenses when a transfer benefits GAO but does not meet the current requirements for reimbursement. Under current law, employees who qualify for relocation benefits are entitled to full benefits; however, there is no partial relief available.²⁶ The provision grants GAO the flexibility to promulgate regulations in order to provide employees such relief.

S. 1522 would authorize GAO to provide 160 hours of annual leave to key officers and employees who have under 3 years of federal service. GAO has found that, in recruiting experienced mid- and upper-level hires, the loss of leave they would incur upon moving from the private to the federal sector is a major disincentive.²⁷ By increasing the annual leave that certain newly hired officers and employees may earn, the provision will assist GAO in its recruitment efforts.

The GAO Human Capital Reform Act of 2003 would establish an executive exchange program between GAO and private sector entities, to help GAO address certain skills imbalances. Currently, GAO has the authority to conduct such an exchange with public entities and nonprofit organizations.²⁸ Private sector participants would be subject to the same conflict of interest laws and regulations, and would receive their salaries and benefits from their employers. Participation in the executive exchange program would be limited to no more than 15 GAO employees or officers, and 30 private sector employees at any one time. The legal framework to establish the regulations for the exchange program will be based on the Information Technology Exchange Program authorized under the E-Government Act of 2002.²⁹

S. 1522 would change the name of the agency from the "General Accounting Office" to the "Government Accountability Office." GAO requested this name change, which maintains the well-known acronym, "GAO," to better reflect the current mission of the General Accounting Office as incorporated into its strategic plan for serving Congress. When established, GAO's workforce consisted primarily of accounting clerks. Today, less than 15 percent of agency resources are devoted to traditional accounting activities. GAO has said it believes this name change will help avoid confusion among job applicants, members of the public, the press, and within the Congress, since it is often incorrectly assumed that GAO is still solely a financial auditing agency.³⁰

²⁵ Id., p. 72.

²⁶ 5 USC § 6303.

²⁷ Walker testimony (GAO-03-1167T), note 2 above, p. 74.

²⁸ The GAO is one of many agencies covered by the Intergovernmental Personnel Act of 1970, Public Law 91-648, 5 USC §§ 3371-3376. Under this Act, federal agencies including GAO, can detail their employees to State and local governments and nonprofit organizations.

²⁹ Public Law 107-347.

³⁰ Walker testimony (GAO-03-1167T), note 2 above, p. 76.

III. LEGISLATIVE HISTORY

S. 1522 was introduced by Senator George Voinovich and Senator Susan Collins on July 31, 2003, and was referred to the Committee on Governmental Affairs. A hearing on S. 1522 was held before the Committee on Governmental Affairs on September 16, 2003. The witnesses included Comptroller General David Walker, General Accounting Office and Maurice McTigue, of the Mercatus Center. The Employee Advisory Council of the General Accounting Office submitted written testimony.

Proposed manager's amendments were developed, on a bipartisan basis, to clarify a number of provisions and to set forth certain commitments by GAO to ensure a fair and prudent exercise of the new authorities. Among other things, the proposed managers' amendments—(i) stated the sense of Congress that the implementation of voluntary early retirement and voluntary separation incentive authorities is intended to reshape, not downsize, the GAO workforce; (ii) codified GAO's intent to consider the protection of employees' purchasing power in making annual pay adjustments; (iii) clarified the terms of the executive exchange program to ensure that private sector employees will be subject to federal ethics laws and will not have access to trade secrets; and (iv) required GAO to submit annual reports to Congress detailing its use of the flexibilities in the bill. The Committee also received a commitment from the Comptroller General that, absent extraordinary circumstances or serious budgetary constraints, employees or officers who perform at a satisfactory level will receive an annual base-pay adjustment designed to protect their purchasing power.

On October 15, 2003, the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia favorably polled out S. 1522. On October 22, 2003, the Committee on Governmental Affairs met in open session and by voice vote agreed to manager's amendments to S. 1522, offered by Senator Voinovich, and by voice vote, ordered S. 1522 reported favorably with the amendments. Senators present: Voinovich, Coleman, Bennett, Fitzgerald, Levin, Akaka, Lautenberg, Pryor, and Collins.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 of the bill would entitle the Act the "GAO Human Capital Reform Act of 2003".

Section 2. Amendments to Public Law 106–303

Subsection (a) would make permanent the authority of the General Accounting Office (GAO) under Public Law 106–303, sections 1 and 2, to offer voluntary early retirements and voluntary separation payments to certain employees of GAO when necessary to realign GAO's workforce in order to meet budgetary or mission needs, correct skill imbalances, or reduce high-grade positions. Originally, these authorities were to lapse on December 31, 2003.

Subsection (b) would make an employee who, during the 36-month period preceding separation performed services for which a student loan repayment benefit was or is to be paid, ineligible for a voluntary separation incentive payment.

Subsection (c) expresses the Sense of Congress that the implementation of section 2 is intended to reshape the General Accounting Office workforce and not downsize the General Accounting Office workforce.

Section 3. Pay adjustments

This section would amend paragraph (3) of section 732(c) of title 31, United States Code, to enable the Comptroller General to annually adjust the pay rates for officers and employees of the General Accounting Office without having to adjust the GAO pay rates at the same time and to the same extent as the annual statutory adjustments are made to the General Schedule.

Subsection (a) would accomplish this for all GAO employees other than members of the Senior Executive Service (SES) and Senior Level (SL) staff. Subsection (b) would accomplish this for members of the SES and SL staff.

Paragraph (3) of section 732(c) would be amended to include a number of requirements for the Comptroller General to consider when annually adjusting the pay rates for officers and employees of the General Accounting Office. This provision would enable the Comptroller General to annually adjust the pay rates for GAO officers and employees whose performance is at a satisfactory level after reviewing various factors such as the need to protect the purchasing power of employees of the Office and pay disparities between GAO employees and private sector employees in the local pay areas. In considering certain of these factors related to economic data, the data would be specifically related to positions at GAO. The provision also would enable the Comptroller General to determine what other factors, such as the overall agency performance and funding levels, would be relevant to adjusting pay rates for GAO officers and employees. Methodologies to support the compensation of employees would be developed only after consultation with the Employee Advisory Council and Managing Directors, and employees would be given the opportunity for notice and comment to any regulations promulgated to implement this provision.

The provision is designed, among other reasons, to afford additional flexibility to the Comptroller General to increase the amount of merit or performance based compensation that could be provided to reward employees at different rates, based on their knowledge, skills, position, and performance rather than on the passage of time, the rate of inflation and geographic location. This would be accomplished in certain years by increasing the funding for performance-based compensation, the amounts of which can vary by performance category. At the same time, employees could receive less annual across the board base pay increases than they would receive under the existing law. However, for some employees increases in performance-based compensation would make up for this loss.

Under paragraph (3)(A) of subsection 732(c), the Comptroller General would be required to consider the principle that equal pay should be provided for work of equal value within each local pay area. Paragraph (3)(B) of subsection 732(c) would require the Comptroller General to consider the need to protect the purchasing power of officers and employees of the General Accounting Office, and to take into consideration the Consumer Price Index or other

appropriate indices. Paragraph (3)(C) of subsection 732(c) would require the Comptroller General to consider any existing disparities between officers and employees of the General Accounting Office and non-federal employees in each local pay area, while paragraph (3)(D) of subsection 732(c) would require consideration of the pay rates for the same levels of work for officers and employees of the General Accounting Office and non-federal employees in each local pay area. Paragraph (3)(E) of subsection 732(c) would require the Comptroller General to consider the appropriate distribution of agency funds between annual adjustments under section 3 and performance-based compensation. Paragraph (3)(F) of 732(c) would state that the Comptroller General will consider other criteria as appropriate, including, but not limited to, the funding level for the General Accounting Office, amounts allocated for performance-based compensation, and the extent to which the General Accounting Office is succeeding in fulfilling its mission and accomplishing its strategic plan.

Subsection (c) would conform section 3 of the Act by amending section 732(b)(6) of title 5, United States Code.

Section 4. Pay retention

This section would amend paragraph (5) of section 732(c) of title 31, United States Code, to require the Comptroller General to prescribe regulations ensuring employees or officers of the General Accounting Office who are demoted due to a reduction-in-force, other adjustment-in-force, reclassification or other specified reasons as determined by the Comptroller General are entitled to pay retention, if such a decision results in their placement in a lower grade or band with a maximum rate of basic pay less than their previous band or grade.

This section would allow the Comptroller General to immediately place employees in the band or grade that is commensurate with the roles and responsibilities of their positions. At the same time, the Comptroller General could not reduce the basic pay of employees whose basic pay exceeds the maximum rate of the grade or band in which the employees are placed. The employees would retain this rate, without receiving any increases to basic permanent pay, until their basic pay was less than the maximum for their grade or band. These employees, however, could be eligible for performance awards. As with section 3, this provision would be implemented only after consultation with the Employee Advisory Council and Managing Directors, and opportunity for notice and comment by employees to any pay retention regulations.

Section 5. Relocation benefits

Subsection (f) would grant the Comptroller General the ability to provide employees who relocate but do not qualify for the relocation benefits set forth in subchapter II of chapter 57 of title 5, United States Code, partial relief from the costs of relocating. Presently, employees whose transfer is deemed to be in the interest of the Government are reimbursed for most of their costs (i.e. travel expenses, real estate expenses, moving expenses, and other related expenses) while employees who are not eligible receive no reimbursements even though their transfer may be of some benefit or value to the agency. This provision would allow the Comptroller

General to promulgate regulations permitting employees who would otherwise not receive any reimbursement for their relocation costs to receive a portion of such costs in appropriate circumstances.

Section 6. Increased annual leave for key employees

Subsection (g) would allow the Comptroller General to provide 160 hours of annual leave to key officers and employees of the General Accounting Office who have less than 3 years of Federal service, in accordance with section 6303(a)(2) of title 5, United States Code. Under the annual leave provision in section 6303 of title 5, United States Code, employees earn annual leave based on Federal years of service. Until an employee has 3 years of service, the employee earns 104 hours (13 days) of annual leave in a year. Between 3 and 15 years, the employee earns 160 hours (20 days) of annual leave in a year. The Comptroller General would be required to award such increased annual leave as appropriate for the recruitment or retention of key officers and employees, consistent with regulations which would define key officers and employees, and set forth the factors in determining which officers and employees should be allowed to accrue such leave.

Section 7. Executive exchange program

This section would establish an executive exchange program for the General Accounting Office.

Subsection (h) would authorize the Comptroller General, by regulation, to establish an executive exchange program under which officers and employees of the General Accounting Office would have the ability to be assigned to private sector organizations, and employees of private sector organizations could be assigned to the General Accounting Office. Subsection (h) makes it clear that the purpose of the exchange program is to further the institutional interests of the General Accounting Office or Congress, including for the purpose of providing training to officers and employees of the General Accounting Office.

Paragraph (1) of subsection (h) states that the regulations to carry out the exchange program shall include provisions consistent with sections 3702 and 3704 of title 5, United States Code, which refers to the Information Technology Exchange Program, for matters concerning the duration and termination of assignments, reimbursements, and the benefits and obligations of program participants.

Paragraph (2) of subsection (h) limits the number of officers and employees who are assigned to private sector organizations at any one time to not more than 15, and the number of employees from private sector organizations who are assigned to the General Accounting Office at any one time to not more than 30.

Paragraph (3) of subsection (h) would make all private sector participants subject to the same laws that are applicable to the participants in the Information Technology Exchange Program, relating to such matter as conflict of interest and financial disclosure.

Paragraph (4) of subsection (h) would require that for an employee of a private sector organization assigned to the General Accounting Office, the Comptroller General must determine that the assignment is an effective use of the GAO's funds, and takes into

account the best interests of the General Accounting Office and the costs and benefits of alternative methods of achieving the same results and objectives.

Paragraph (5) of subsection (h) states that the executive exchange program would be sunset, with no assignments permissible to begin under the exchange program, 5 years after the date of enactment.

Subsection (i) lists sections of existing law that will apply to any employee of a private sector organization assigned to the General Accounting office under the executive exchange program.

Section 8. Redesignation

Subsection (a) would change the name of the General Accounting Office to the Government Accountability Office.

Subsection (b) states that any reference to the General Accounting Office on the date of enactment shall be considered to refer and apply to the Government Accountability Office.

Section 9. Performance management system

This section would amend section 732(d)(1) of title 31, United States Code, to state that the performance management system for the General Accounting Office must meet the requirements of section 4302 of title 5, and adds a number of new requirements. Specifically, the performance management system would be required to include a link between the performance management system and the agency's strategic plan; adequate training and retraining for all employees, supervisors, and managers in the performance management system; a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period and setting timetables for review; effective transparency and accountability measures to ensure that the management of the system is fair, credible, and equitable; and a means to ensure that adequate resources are allocated for the performance management system.

Section 10. Consultation

This section states that before the implementation of any changes authorized under the Act, the Comptroller General will consult with interested groups or associations that represent employees of the General Accounting Office.

Section 11. Reporting requirements

Currently, under section 719(a) of title 31, United States Code, the Comptroller General reports annually to the Congress. Subsection (a) would require that for a 5-year period beginning on the date of enactment of the Act, the annual report under 719(a) of title 31, United States Code, would summarize all actions taken under section 2, 3, 4, 6, 7, 9, and 10 of the Act.

Additionally, subsection (a)(1)(A) would require specific information to be included in the report for certain provisions, such as the number of officers and employees separating from service under section 2, the number of officers and employees receiving pay retention under section 4, the number of officers and employees engaging in the Executive Exchange Program under section 7, and the

number of officers and employees receiving annual leave under section 6.

Subsection (a)(1)(B) states that the annual report under section 719(a) of title 31, United States Code, should include a description of all actions with regard to the pay adjustments under the Act in the annual report, including the methodology applied, the amount of the annual pay adjustments, and any extraordinary economic conditions or serious budget constraints that significantly impacted on the determination of the adjustments.

Subsection (a)(1)(C) states that the annual report under section 719(a) of title 31, United States Code, must include an assessment of the role of sections 2, 3, 4, 6, 7, 9, and 10 of this Act in contributing to the General Accounting Office's ability to carry out its mission, meet its performance goals, and fulfill its strategic plan.

Subsection (a)(2) states that in each report submitted to Congress under section 719(a) of title 31, United States Code, after the effective date of section 3 of this Act and before the close of the 5-year period referred to in paragraph (1), the Comptroller General must include a detailed description of the methodologies applied under section 3 of this Act and the manner in which such methodologies were applied to determine the appropriate annual pay adjustments for officers and employees of the General Accounting Office. Subsection (a)(2)(B) states that the report must include the amount of the annual pay adjustment afforded to officers and employees of the General Accounting Office under section 3 of this Act. Subsection (a)(2)(C) states that the report must include a description of any extraordinary economic conditions or serious budget constraints that had a significant impact on the determination of the annual pay adjustments for officers and employees of the General Accounting Office.

Subsection (b) would require a final report not later than 6 years after the enactment of the Act, which summarizes the information included for the prior 5 years in the annual report regarding this Act, makes recommendations for any legislative changes to sections 2, 3, 4, 6, 7, 9, or 10, and includes any assessment of the GAO Personnel Appeals Board or interested groups representing officers and employees.

Subsection (c) states that the reporting requirement under subsection (a)(2)(C) shall apply to any report submitted under section 719(a) of title 31, United States Code, whether during the five year period beginning on the date of enactment of this Act or at any time thereafter.

Section 12. Technical amendment

This section would correct a reference in subsection 732(h)(3)(A) of title 31, United States Code, so that the existing term "reduction force" is changed to "reduction in force".

Section 13. Effective dates

Subsection (a) states that except as provided in subsection (b), the effective date of the Act will be the date of enactment.

Subsection (b) states that section 3 would take effect for any pay adjustments on or after October 1, 2005. Subsection (b) states that two interim authorities would be in place prior to any pay adjustments that would take effect on or after October 1, 2005. The first

exception, (b)(2)(A), would give the Comptroller General the authority to prescribe regulations that would immediately preclude employees who are not performing at a satisfactory level from receiving the annual adjustment to the pay rates, instead of having to wait until section 4 is effective. The second exception, (b)(2)(B), would authorize the Comptroller General to prescribe regulations that would enable him to give less than the full amount of the adjustments under existing law, if the agency encounters serious budget constraints or extraordinary economic conditions.

Subsection (b)(3) states that the Comptroller General would be authorized to delay the implementation of sections 3 and 4 for groups of employees or officers if he deemed such action appropriate.

V. ESTIMATED COST OF LEGISLATION

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1522—GAO Human Capital Reform Act of 2003

Summary: S. 1522 would authorize the General Accounting Office (GAO) to modify its personnel and workforce practices to allow greater flexibility in determining pay increases, pay retention rules, and other compensation matters. The bill also would permanently extend GAO's authority to offer separation (buyout) payments and early retirement to employees who voluntarily leave GAO. Finally, S. 1522 would rename GAO as the Government Accountability Office.

CBO estimates that enacting S. 1522 would increase direct spending for retirement annuities and related health benefits by about \$1 million in fiscal year 2004, by \$19 million over the 2004–2008 period, and by \$40 million over the 2004–2013 period. Several provisions of S. 1522 could affect GAO employee compensation costs, but the net budgetary effect of such provisions would depend on how GAO exercises its new authorities and on whether future agency appropriations are adjusted to reflect any savings or costs. Finally, we expect that any addition discretionary costs associated with changing the agency's name would not be significant.

S.1522 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated impact of S. 1522 on direct spending is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	1	3	5	5	5	5	4	4	4	4
Estimated Outlays	1	3	5	5	5	5	4	4	4	4

Basis of estimate

Direct spending

S. 1522 would give GAO permanent authority to offer retirement to employees who voluntarily leave the agency early. GAO's existing buyout authority, which will expire on December 31, 2003, allows the agency to offer certain employees a lump sum payment of up to \$25,000 to voluntarily leave the agency. In addition, certain qualified employees who leave (whether they collect a separation payment or not) are entitled to receive immediate retirement annuities earlier than they would have otherwise. CBO estimates that extending this authority would increase direct spending by \$1 million in 2004, by \$19 million over the 2004–2008 period, and by \$40 million over the 2004–2013 period.

Based on information provided by GAO about use of its early retirement authority over the past several years, CBO estimates that each year about 35 agency employees would begin receiving retirement benefits three years earlier than they would have under current law. Inducing some employees to retire early results in higher-than-expected benefits from the Civil Service Retirement and Disability Fund (CSRDF). CBO estimates that the additional retirement benefits would increase direct spending by \$1 million in 2004, by \$16 million over the 2004–2008 period, and by \$32 million over the 2004–2013 period.

Extending GAO's buyout and early retirement authority also would increase direct spending for federal retiree health benefits. Many employees who retire early would continue to be eligible for coverage under the Federal Employees' Health Benefits (FEHB) program. The government's share of the premium for retirees is classified as mandatory spending. Because many of those accepting the buyouts under the bill would have retired later under current law, mandatory spending on FEHB premiums would increase. CBO estimates these additional benefits would increase direct spending by less than \$500,000 in 2004, by \$3 million over the 2004–2008 period, and by \$8 million over the 2004–2013 period.

Spending subject to appropriation

The authorities provided by S. 1522 would allow GAO to create a performance-based employee compensation system to govern basic pay adjustments, pay retention for employees affected by reductions in force, relocation reimbursements, and annual leave accruals beginning in fiscal year 2006. (Under existing law, GAO is required to follow personnel management policies determined by the Office of Personnel Management.) Implementing the new authorities that would be provided by S. 1522 could affect GAO's total costs of providing employee compensation, but CBO cannot predict any costs or savings associated with these new authorities, or the net effect of all such changes on the federal budget. Ultimately, the net budgetary effect of the proposed authorities would depend on the features of the compensation system adopted by GAO and on how the agency applies that new system to individual employees. Moreover, any resulting savings or costs would only be realized if the agency's annual appropriations are adjusted accordingly.

Providing GAO with the option of providing voluntary separation payments could also increase GAO's costs, but CBO estimates that

any new costs would average less than \$500,000 annually over the 2004–2013 period. Section 2 of the bill would allow GAO to offer certain employees payments of up to \$25,000 to voluntarily leave the agency. The bill also requires that GAO make a deposit amounting to 45 percent of each buyout recipient’s basic salary toward the CSRDF. Unlike an increase in retirement benefits, these two payments would be from the agency’s discretionary budget and are thus subject to appropriation. Since GAO’s current buyout authority was first authorized in October 2000, no one at the agency has received a buyout payment. As such, CBO expects that relatively few employees would receive a buyout payment over the next 10 years and that the cost of any buyout payments and required deposits toward the CSRDF would be negligible in any given year.

Intergovernmental and private-sector impact: S. 1522 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Ellen Hays, Geoffrey Gerhardt, and Deborah Reis; and Impact on State, Local, and Tribal Governments: Sarah Puro; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on state, local, or tribal governments. The legislation contains no other regulatory impact.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic* and existing law, in which no change is proposed, is shown in roman):

[PUBLIC LAW 106–303, ENACTED OCTOBER 13, 2000, 114
STAT. 1063]

AN ACT TO MAKE CERTAIN PERSONNEL FLEXIBILITIES AVAILABLE WITH RESPECT TO THE GENERAL AC- COUNTING OFFICE AND FOR OTHER PURPOSES

* * * * *

SECTION. 1. [5 U.S.C. 8336 note.] VOLUNTARY EARLY RETIREMENT AU- THORITY.

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Effective [for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003] *October 13, 2000*, paragraph (2) of section 8336(d) of title 5, United States Code, shall, with respect

to officers and employees of the General Accounting Office be applied as if it had been amended to read as follows:

* * * * *

(b) **FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**—Effective [for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003] *October 13, 2003*, subparagraph (B) of section 8414(b)(1) of title 5, United States Code, shall, with respect to officers and employees of the General Accounting Office, be applied as if it had been amended to read as follows:

* * * * *

(e) **SENSE OF CONGRESS.**—*It is the sense of Congress that the implementation of this section is intended to reshape the General Accounting Office workforce and not downsize the General Accounting Office workforce.*

SEC. 2. [5 U.S.C. 5597 note.] VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) **IN GENERAL.**—Effective [for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003] *October 13, 2003*, the authority to provide voluntary separation incentive payments shall be available to the Comptroller General with respect to employees of the General Accounting Office.

* * * * *

(b) **TERMS AND CONDITIONS.**—The authority to provide voluntary separation incentive payments under this section shall be available in accordance with the provisions of subsections (a)(2)(e) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note), except that—

* * * * *

[(2) subsection (a)(2)(g) of such section shall be applied by construing the citations therein to be references to the appropriate authorities in connection with employees of the General Accounting Office;]

(2)(A) *subsection (a)(2)(G) of such section shall be applied by construing the citations therein to be references to the appropriate authorities in connection with employees of the General Accounting Office; and*

(B) *employees excluded under subsection (a)(2)(G) of such section, shall include any employee who, during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379 of title 5, United States Code.*

* * * * *

(g) **SENSE OF CONGRESS.**—*It is the sense of Congress that the implementation of this section is intended to reshape the General Accounting Office workforce and not downsize the General Accounting Office workforce.*

UNITED STATES CODE

TITLE 31—MONEY AND FINANCE

Subtitle I—General

CHAPTER 7—GENERAL ACCOUNTING OFFICE

Subchapter III—Personnel

* * * * *

§ 731. General

* * * * *

(f) *The Comptroller General shall prescribe regulations under which officers and employees of the Office may, in appropriate circumstances, be reimbursed for any relocation expenses under subchapter II of chapter 57 of title 5 for which they would not otherwise be eligible, but only if the Comptroller General determines that the transfer giving rise to the relocation is of sufficient benefit or value to the Office to justify such reimbursement.*

(g) *The Comptroller General shall prescribe regulations under which key officers and employees of the Office who have less than 3 years of service may accrue leave in accordance with section 6302(a)(2) of title 5, in those circumstances in which the Comptroller General has determined such increased annual leave is appropriate for the recruitment or retention of such officers and employees. Such regulations shall define key officers and employees and set forth the factors in determining which officers and employees should be allowed to accrue leave in accordance with this subsection.*

(h) *The Comptroller General may by regulation establish an executive exchange program under which officer and employees of the Office may be assigned to private sector organizations, and employees of private sector organizations may be assigned to the Office, to further the institutional interests of the Congress, including for the purpose of providing training to officers and employees of the Office. Regulations to carry out any such program—*

(1) *shall include provisions (consistent with sections 3702 through 3704 of title 5) as to matter concerning—*

(A) *the duration and termination of assignments;*

(B) *reimbursements;*

(C) *status, entitlements, benefits, and obligations of program participants;*

(2) *shall limit—*

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

(B) *the number of employees from private sector organizations who are assigned to the Office at any one time to not more than 30;*

(3) *shall require that an employee of a private sector organization assigned to the Office may not have access to any trade secrets or to any other nonpublic information which is of com-*

mercial value to the private sector organization from which such employee is assigned;

(4) shall require that, before approving the assignment of an officer or employee to a private sector organization, the Comptroller General shall determine that the assignment is an effective use of the Office's funds, taking into account the best interests of the Office and the costs and benefits of alternative methods of achieving the same results and objectives; and

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

(i) an employee of a private sector organization assigned to the Office under the executive exchange program shall be considered to be an employee of the Office for purposes of—

(1) chapter 73 of title 5;

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

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

(4) chapter 171 of title 28 (commonly referred to as the Federal Torts Claims Act) and any other Federal Tort liability statute;

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

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

(7) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).

§ 732. Personnel Management System

* * * * *

(b) The personnel management system shall—

* * * * *

(6) provide that the Comptroller General shall fix the basic pay of officers and employees of the Office not fixed by law consistent with section 5301 of [title 5] title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title.

(c) Under the personnel management system—

* * * * *

(3) except as provided under section 733(a)(3)(B) of this title [or section 5349(a) of title 5], basic pay rates of officers and employees of the Office shall be adjusted [at the same time and to the same extent as basic pay rates of the General Schedule are adjusted] annually to such extent as determined by the Comptroller General, and in making the determination the Comptroller General shall consider—

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

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

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

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

(E) the appropriate distribution of agency funds between annual adjustments under this section and performance-based compensation;

(F) such other criteria as the Comptroller General considers appropriate, including, but not limited to, the funding level for the Office, amounts allocated for performance-based compensation, and the extent to which the Office is succeeding in fulfilling its mission and accomplishing its strategic plan;

notwithstanding any other provision of this paragraph, an adjustment under this paragraph shall not be applied in the case of an officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;

* * * * *

(5) [officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5] the Comptroller General shall prescribe regulations under which an officer or employee of the Office shall be entitled to pay retention if, as a result of any reduction-in-force or other workforce adjustments procedure, position reclassification, or other appropriate circumstances as determined by the Comptroller General, such officer or employee is placed in or holds a position in a lower grade or band with a maximum rate of basic pay that is less than the rate of basic pay payable to the officer or employee immediately before the reduction in grade or band; such regulations—

(A) shall provide that the officer or employee shall be entitled to continue receiving the rate of basic pay that was payable to the officer or employee immediately before the reduction in grade or band until such time as the retained rate becomes less than the maximum rate for the grade or band of the position held by such officer or employee; and

(B) shall include provisions relating to the minimum period of time for which an officer or employee must have served or for which the position must have been classified at the higher grade or band in order for pay retention to apply, the events that terminate the right to pay retention (apart from the ones described in subparagraph (A)), and the exclusions based on the nature of the appointment; in prescribing regulations under this subparagraph, the Comptroller General shall be guided by the provisions of sections 5362 and 5363 of title 5.

* * * * *

(d) The personnel Management System shall provide—

(1) for a system to appraise the performance of officers and employees of the General Accounting Office that meets the requirements of section 4302 of title 5 [;] and in addition includes—

(A) a link between the performance management system and the agency's strategic plan;

(B) *adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;*

(C) *a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period and setting timetables for review;*

(D) *effective transparency and accountability measures to ensure that the management of the system is fair, credible, and equitable, including appropriate independent reasonableness, reviews, internal assessments, and employee surveys; and*

(E) *a means to ensure that adequate agency resources are allocated for the design, implementation, and administration of the performance management system.*

* * * * *

(h)(1)(A) * * *

* * * * *

(3)(A) Except as provided in subparagraph (B), an employee may not be released due to a **reduction in force** *reduction in force*, unless such employee is given written notice at least 60 days before such employee is so released. Such notice shall include—

* * * * *

§ 733. Senior Executive Service

(a) The Comptroller General may establish a General Accounting Senior Executive Service—

* * * * *

(3) providing rates of basic pay—

* * * * *

(B) **adjusted at the same time and to the same extent as rates in the Senior Executive Service under section 5882 of title 5 are adjusted** *adjusted annually by the Comptroller General after taking into consideration the factors listed under section 732(c)(3) of this title, except that an adjustment under this subparagraph shall not be applied in the case of an officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;*

* * * * *