

Union Calendar No. 223

108TH CONGRESS
1ST SESSION

H. R. 2751

[Report No. 108-380]

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

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2003

Mrs. JO ANN DAVIS of Virginia (for herself and Mr. TOM DAVIS of Virginia)
introduced the following bill; which was referred to the Committee on
Government Reform

NOVEMBER 19, 2003

Additional sponsor: Mr. PUTNAM

NOVEMBER 19, 2003

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 16, 2003]

A BILL

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 2003”.*

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

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

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

16 (b) *SENSE OF CONGRESS.*—

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

20 *“(e) SENSE OF CONGRESS.—It is the sense of Congress*
21 *that the implementation of this section is intended to re-*
22 *shape the General Accounting Office workforce and not*
23 *downsize the General Accounting Office workforce.”.*

24 (2) *VOLUNTARY SEPARATION INCENTIVE PAY-*
25 *MENTS.*—*Section 2 of Public Law 106–303 is amend-*
26 *ed by adding at the end the following:*

1 “(g) *SENSE OF CONGRESS.*—*It is the sense of Congress*
2 *that the implementation of this section is intended to re-*
3 *shape the General Accounting Office workforce and not*
4 *downsize the General Accounting Office workforce.”.*

5 (c) *ADDITIONAL LIMITATION RELATING TO VSIPS.*—
6 *Section 2(b) of Public Law 106–303 is amended by striking*
7 *paragraph (2) and inserting the following:*

8 “(2) *subsection (a)(2)(G) of such section shall be*
9 *applied—*

10 “(A) *by construing the citations therein to*
11 *be references to the appropriate authorities in*
12 *connection with employees of the General Ac-*
13 *counting Office; and*

14 “(B) *by deeming such subsection to be*
15 *amended by striking ‘Code.’ and inserting ‘Code,*
16 *or who, during the thirty-six month period pre-*
17 *ceding the date of separation, performed service*
18 *for which a student loan repayment benefit was*
19 *or is to be paid under section 5379 of title 5,*
20 *United States Code.’”.*

21 **SEC. 3. ANNUAL PAY ADJUSTMENTS.**

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

24 “(3) *except as provided under section*
25 *733(a)(3)(B) of this title, basic rates of officers and*

1 *employees of the Office shall be adjusted annually to*
2 *such extent as determined by the Comptroller General,*
3 *and in making that determination the Comptroller*
4 *General shall consider—*

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

8 *“(B) the need to protect the purchasing*
9 *power of officers and employees of the Office, tak-*
10 *ing into consideration the Consumer Price Index*
11 *or other appropriate indices;*

12 *“(C) any existing pay disparities between*
13 *officers and employees of the Office and non-Fed-*
14 *eral employees in each local pay area;*

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

18 *“(E) the appropriate distribution of agency*
19 *funds between annual adjustments under this*
20 *section and performance-based compensation;*
21 *and*

22 *“(F) such other criteria as the Comptroller*
23 *General considers appropriate, including, but*
24 *not limited to, the funding level for the Office,*
25 *amounts allocated for performance-based com-*

1 *pensation, and the extent to which the Office is*
2 *succeeding in fulfilling its mission and accom-*
3 *plishing its strategic plan;*
4 *notwithstanding any other provision of this para-*
5 *graph, an adjustment under this paragraph shall not*
6 *be applied in the case of any officer or employee*
7 *whose performance is not at a satisfactory level, as*
8 *determined by the Comptroller General for purposes of*
9 *such adjustment;”.*

10 ***(b) OFFICERS AND EMPLOYEES IN THE OFFICE SEN-***
11 ***IOR EXECUTIVE SERVICE.***—*Subparagraph (B) of section*
12 *733(a)(3) is amended to read as follows:*

13 *“(B) adjusted annually by the Comptroller*
14 *General after taking into consideration the fac-*
15 *tors listed under section 732(c)(3) of this title,*
16 *except that an adjustment under this subpara-*
17 *graph shall not be applied in the case of any of-*
18 *ficer or employee whose performance is not at a*
19 *satisfactory level, as determined by the Comp-*
20 *troller General for purposes of such adjustment;”.*

21 ***(c) CONFORMING AMENDMENT.***—*Section 732(b)(6) is*
22 *amended by striking “title 5.” and inserting “title 5, except*
23 *as provided under subsection (c)(3) of this section and sec-*
24 *tion 733(a)(3)(B) of this title.”.*

1 **SEC. 4. PAY RETENTION.**

2 *Paragraph (5) of section 732(c) is amended to read*
3 *as follows:*

4 *“(5) the Comptroller General shall prescribe reg-*
5 *ulations under which an officer or employee of the Of-*
6 *fice shall be entitled to pay retention if, as a result*
7 *of any reduction-in-force or other workforce adjust-*
8 *ment procedure, position reclassification, or other ap-*
9 *propriate circumstances as determined by the Comp-*
10 *troller General, such officer or employee is placed in*
11 *or holds a position in a lower grade or band with a*
12 *maximum rate of basic pay that is less than the rate*
13 *of basic pay payable to the officer or employee imme-*
14 *diately before the reduction in grade or band; such*
15 *regulations—*

16 *“(A) shall provide that the officer or em-*
17 *ployee shall be entitled to continue receiving the*
18 *rate of basic pay that was payable to the officer*
19 *or employee immediately before the reduction in*
20 *grade or band until such time as the retained*
21 *rate becomes less than the maximum rate for the*
22 *grade or band of the position held by such officer*
23 *or employee; and*

24 *“(B) shall include provisions relating to the*
25 *minimum period of time for which an officer or*
26 *employee must have served or for which the posi-*

1 *tion must have been classified at the higher*
2 *grade or band in order for pay retention to*
3 *apply, the events that terminate the right to pay*
4 *retention (apart from the one described in sub-*
5 *paragraph (A)), and exclusions based on the na-*
6 *ture of an appointment; in prescribing regula-*
7 *tions under this subparagraph, the Comptroller*
8 *General shall be guided by the provisions of sec-*
9 *tions 5362 and 5363 of title 5.”.*

10 **SEC. 5. RELOCATION BENEFITS.**

11 *Section 731 is amended by adding after subsection (e)*
12 *the following:*

13 *“(f) The Comptroller General shall prescribe regula-*
14 *tions under which officers and employees of the Office may,*
15 *in appropriate circumstances, be reimbursed for any reloca-*
16 *tion expenses under subchapter II of chapter 57 of title 5*
17 *for which they would not otherwise be eligible, but only if*
18 *the Comptroller General determines that the transfer giving*
19 *rise to such relocation is of sufficient benefit or value to*
20 *the Office to justify such reimbursement.”.*

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

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

24 *“(g) The Comptroller General shall prescribe regula-*
25 *tions under which key officers and employees of the Office*

1 *who have less than 3 years of service may accrue leave in*
2 *accordance with section 6303(a)(2) of title 5, in those cir-*
3 *cumstances in which the Comptroller General has deter-*
4 *mined such increased annual leave is appropriate for the*
5 *recruitment or retention of such officers and employees.*
6 *Such regulations shall define key officers and employees and*
7 *set forth the factors in determining which officers and em-*
8 *ployees should be allowed to accrue leave in accordance with*
9 *this subsection.”.*

10 **SEC. 7. EXECUTIVE EXCHANGE PROGRAM.**

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

13 *“(h) The Comptroller General may by regulation es-*
14 *tablish an executive exchange program under which officers*
15 *and employees of the Office may be assigned to private sec-*
16 *tor organizations, and employees of private sector organiza-*
17 *tions may be assigned to the Office, to further the institu-*
18 *tional interests of the Office or Congress, including for the*
19 *purpose of providing training to officers and employees of*
20 *the Office. Regulations to carry out any such program—*

21 *“(1) shall include provisions (consistent with sec-*
22 *tions 3702 through 3704 of title 5) as to matters con-*
23 *cerning—*

24 *“(A) the duration and termination of as-*
25 *signments;*

1 “(B) reimbursements; and

2 “(C) status, entitlements, benefits, and obli-
3 gations of program participants;

4 “(2) shall limit—

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

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

11 “(3) shall require that an employee of a private
12 sector organization assigned to the Office may not
13 have access to any trade secrets or to any other non-
14 public information which is of commercial value to
15 the private sector organization from which such em-
16 ployee is assigned;

17 “(4) shall require that, before approving the as-
18 signment of an officer or employee to a private sector
19 organization, the Comptroller General shall determine
20 that the assignment is an effective use of the Office’s
21 funds, taking into account the best interests of the Of-
22 fice and the costs and benefits of alternative methods
23 of achieving the same results and objectives; and

24 “(5) shall not allow any assignment under this
25 subsection to commence after the end of the 5-year pe-

1 riod beginning on the date of the enactment of this
2 subsection.

3 “(i) An employee of a private sector organization as-
4 signed to the Office under the executive exchange program
5 shall be considered to be an employee of the Office for pur-
6 poses of—

7 “(1) chapter 73 of title 5;

8 “(2) sections 201, 203, 205, 207, 208, 209, 603,
9 606, 607, 643, 654, 1905, and 1913 of title 18;

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

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

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

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

19 “(7) section 27 of the Office of Federal Procure-
20 ment Policy Act (41 U.S.C. 423).”.

21 **SEC. 8. REDESIGNATION.**

22 (a) *IN GENERAL.*—The General Accounting Office is
23 hereby redesignated the Government Accountability Office.

24 (b) *REFERENCES.*—Any reference to the General Ac-
25 counting Office in any law, rule, regulation, certificate, di-

1 *rective, instruction, or other official paper in force on the*
2 *date of enactment of this Act shall be considered to refer*
3 *and apply to the Government Accountability Office.*

4 **SEC. 9. PERFORMANCE MANAGEMENT SYSTEM.**

5 *Paragraph (1) of section 732(d) is amended to read*
6 *as follows:*

7 *“(1) for a system to appraise the performance of*
8 *officers and employees of the General Accounting Of-*
9 *fice that meets the requirements of section 4302 of*
10 *title 5 and in addition includes—*

11 *“(A) a link between the performance man-*
12 *agement system and the agency’s strategic plan;*

13 *“(B) adequate training and retraining for*
14 *supervisors, managers, and employees in the im-*
15 *plementation and operation of the performance*
16 *management system;*

17 *“(C) a process for ensuring ongoing per-*
18 *formance feedback and dialogue between super-*
19 *visors, managers, and employees throughout the*
20 *appraisal period and setting timetables for re-*
21 *view;*

22 *“(D) effective transparency and account-*
23 *ability measures to ensure that the management*
24 *of the system is fair, credible, and equitable, in-*
25 *cluding appropriate independent reasonableness,*

1 *reviews, internal assessments, and employee sur-*
2 *veys; and*

3 “(E) a means to ensure that adequate agen-

4 *cy resources are allocated for the design, imple-*
5 *mentation, and administration of the perform-*
6 *ance management system;”.*

7 **SEC. 10. CONSULTATION.**

8 *Before the implementation of any changes authorized*
9 *under this Act, the Comptroller General shall consult with*
10 *any interested groups or associations representing officers*
11 *and employees of the General Accounting Office.*

12 **SEC. 11. REPORTING REQUIREMENTS.**

13 (a) *ANNUAL REPORTS.*—*The Comptroller General*
14 *shall include—*

15 (1) *in each report submitted to Congress under*
16 *section 719(a) of title 31, United States Code, during*
17 *the 5-year period beginning on the date of enactment*
18 *of this Act, a summary review of all actions taken*
19 *under sections 2, 3, 4, 6, 7, 9, and 10 of this Act dur-*
20 *ing the period covered by such report, including—*

21 (A) *the respective numbers of officers and*
22 *employees—*

23 (i) *separating from the service under*
24 *section 2 of this Act;*

1 (ii) receiving pay retention under sec-
2 tion 4 of this Act;

3 (iii) receiving increased annual leave
4 under section 6 of this Act; and

5 (iv) engaging in the executive exchange
6 program under section 7 of this Act, as well
7 as the number of private sector employees
8 participating in such program and a re-
9 view of the general nature of the work per-
10 formed by the individuals participating in
11 such program;

12 (B) a review of all actions taken to formu-
13 late the appropriate methodologies to implement
14 the pay adjustments provided for under section
15 3 of this Act, except that nothing under this sub-
16 paragraph shall be required if no changes are
17 made in any such methodology during the period
18 covered by such report; and

19 (C) an assessment of the role of sections 2,
20 3, 4, 6, 7, 9, and 10 of this Act in contributing
21 to the General Accounting Office's ability to
22 carry out its mission, meet its performance
23 goals, and fulfill its strategic plan; and

24 (2) in each report submitted to Congress under
25 such section 719(a) after the effective date of section

1 3 of this Act and before the close of the 5-year period
2 referred to in paragraph (1)—

3 (A) a detailed description of the methodolo-
4 gies applied under section 3 of this Act and the
5 manner in which such methodologies were ap-
6 plied to determine the appropriate annual pay
7 adjustments for officers and employees of the Of-
8 fice;

9 (B) the amount of the annual pay adjust-
10 ments afforded to officers and employees of the
11 Office under section 3 of this Act; and

12 (C) a description of any extraordinary eco-
13 nomic conditions or serious budget constraints
14 which had a significant impact on the deter-
15 mination of the annual pay adjustments for offi-
16 cers and employees of the Office.

17 (b) *FINAL REPORT*.—Not later than 6 years after the
18 date of enactment of this Act, the Comptroller General shall
19 submit to Congress a report concerning the implementation
20 of this Act. Such report shall include—

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

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

1 (3) *any assessment furnished by the General Ac-*
2 *counting Office Personnel Appeals Board or any in-*
3 *terested groups or associations representing officers*
4 *and employees of the Office for inclusion in such re-*
5 *port.*

6 (c) *ADDITIONAL REPORTING.—Notwithstanding any*
7 *other provision of this section, the reporting requirement*
8 *under subsection (a)(2)(C) shall apply in the case any re-*
9 *port submitted under section 719(a) of title 31, United*
10 *States Code, whether during the 5-year period beginning*
11 *on the date of enactment of this Act (as required by sub-*
12 *section (a)) or at any time thereafter.*

13 **SEC. 12. TECHNICAL AMENDMENT.**

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

16 **SEC. 13. EFFECTIVE DATES.**

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

20 (b) *PAY ADJUSTMENTS.—*

21 (1) *IN GENERAL.—Section 3 of this Act and the*
22 *amendments made by that section shall take effect on*
23 *October 1, 2005, and shall apply in the case of any*
24 *annual pay adjustment taking effect on or after that*
25 *date.*

1 (2) *INTERIM AUTHORITIES.*—*In connection with*
2 *any pay adjustment taking effect under section*
3 *732(c)(3) or 733(a)(3)(B) of title 31, United States*
4 *Code, before October 1, 2005, the Comptroller General*
5 *may by regulation—*

6 (A) *provide that such adjustment not be ap-*
7 *plied in the case of any officer or employee whose*
8 *performance is not at a satisfactory level, as de-*
9 *termined by the Comptroller General for pur-*
10 *poses of such adjustment; and*

11 (B) *provide that such adjustment be reduced*
12 *if and to the extent necessary because of extraor-*
13 *dinary economic conditions or serious budget*
14 *constraints.*

15 (3) *ADDITIONAL AUTHORITY.*—

16 (A) *IN GENERAL.*—*The Comptroller General*
17 *may by regulation delay the effective date of sec-*
18 *tion 3 of this Act and the amendments made by*
19 *that section for groups of officers and employees*
20 *that the Comptroller General considers appro-*
21 *priate.*

22 (B) *INTERIM AUTHORITIES.*—*If the Comp-*
23 *troller General provides for a delayed effective*
24 *date under subparagraph (A) with respect to any*
25 *group of officers or employees, paragraph (2)*

1 *shall, for purposes of such group, be applied by*
2 *substituting such date for “October 1, 2005”.*

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