

106TH CONGRESS
2^D SESSION

H. R. 4642

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2000

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

AN ACT

To make certain personnel flexibilities available with respect to the General Accounting Office, 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. VOLUNTARY EARLY RETIREMENT AUTHORITY.**

2 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Effective
3 for purposes of the period beginning on the date of the
4 enactment of this Act and ending on December 31, 2003,
5 paragraph (2) of section 8336(d) of title 5, United States
6 Code, shall, with respect to officers and employees of the
7 General Accounting Office, be applied as if it had been
8 amended to read as follows:

9 “(2)(A) has been employed continuously by the
10 General Accounting Office for at least the 31-day
11 period immediately preceding the start of the period
12 referred to in subparagraph (D);

13 “(B) is serving under an appointment that is
14 not time limited;

15 “(C) has not received a notice of involuntary
16 separation, for misconduct or unacceptable perform-
17 ance, with respect to which final action remains
18 pending; and

19 “(D) is separated from the service voluntarily
20 during a period with respect to which the Comp-
21 troller General determines that the application of
22 this subsection is necessary and appropriate for the
23 purpose of—

24 “(i) realigning the General Accounting Of-
25 fice’s workforce in order to meet budgetary con-
26 straints or mission needs;

1 “(ii) correcting skill imbalances; or

2 “(iii) reducing high-grade, managerial, or
3 supervisory positions;”.

4 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

5 Effective for purposes of the period beginning on the date
6 of the enactment of this Act and ending on December 31,
7 2003, subparagraph (B) of section 8414(b)(1) of title 5,
8 United States Code, shall, with respect to officers and em-
9 ployees of the General Accounting Office, be applied as
10 if it had been amended to read as follows:

11 “(B)(i) has been employed continuously by the
12 General Accounting Office for at least the 31-day
13 period immediately preceding the start of the period
14 referred to in clause (iv);

15 “(ii) is serving under an appointment that is
16 not time limited;

17 “(iii) has not received a notice of involuntary
18 separation, for misconduct or unacceptable perform-
19 ance, with respect to which final action remains
20 pending; and

21 “(iv) is separated from the service voluntarily
22 during a period with respect to which the Comp-
23 troller General determines that the application of
24 this subsection is necessary and appropriate for the
25 purpose of—

1 “(I) realigning the General Accounting Of-
2 fice’s workforce in order to meet budgetary con-
3 straints or mission needs;

4 “(II) correcting skill imbalances; or

5 “(III) reducing high-grade, managerial, or
6 supervisory positions;”.

7 (c) NUMERICAL LIMITATION.—Not to exceed 10 per-
8 cent of the General Accounting Office’s workforce (as of
9 the start of a fiscal year) shall be permitted to take vol-
10 untary early retirement in such fiscal year pursuant to
11 this section.

12 (d) REGULATIONS.—The Comptroller General shall
13 prescribe any regulations necessary to carry out this sec-
14 tion, including regulations under which an early retire-
15 ment offer may be made to any employee or group of em-
16 ployees based on—

17 (1) geographic area, organizational unit, or oc-
18 cupational series or level;

19 (2) skills, knowledge, or performance; or

20 (3) such other similar factors (or combination
21 of factors described in this or any other paragraph
22 of this subsection) as the Comptroller General con-
23 siders necessary and appropriate in order to achieve
24 the purpose involved.

1 **SEC. 2. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

2 (a) IN GENERAL.—Effective for purposes of the pe-
3 riod beginning on the date of the enactment of this Act
4 and ending on December 31, 2003, the authority to pro-
5 vide voluntary separation incentive payments shall be
6 available to the Comptroller General with respect to em-
7 ployees of the General Accounting Office.

8 (b) TERMS AND CONDITIONS.—The authority to pro-
9 vide voluntary separation incentive payments under this
10 section shall be available in accordance with the provisions
11 of subsections (a)(2)–(e) of section 663 of the Treasury,
12 Postal Service, and General Government Appropriations
13 Act, 1997, as contained in Public Law 104–208 (5 U.S.C.
14 5597 note), except that—

15 (1) subsection (a)(2)(D) of such section shall be
16 disregarded;

17 (2) subsection (a)(2)(G) of such section shall be
18 applied by construing the citations therein to be ref-
19 erences to the appropriate authorities in connection
20 with employees of the General Accounting Office;

21 (3) subsection (b)(1) of such section shall be
22 applied by substituting “Committee on Government
23 Reform” for “Committee on Government Reform
24 and Oversight”;

1 (4)(A) subsection (b)(2)(A) of such section shall
2 be applied by substituting “eliminated (if any)” for
3 “eliminated”;

4 (B) subsection (b)(2)(C) of such section shall
5 be applied by substituting “such positions or func-
6 tions as are to be eliminated and such employees as
7 are to be separated” for “the eliminated positions
8 and functions”; and

9 (C) the agency strategic plan referred to in sub-
10 section (b) of such section shall, in addition to the
11 information described in paragraph (2) thereof, con-
12 tain the following: the steps to be taken to realign
13 the General Accounting Office’s workforce in order
14 to meet budgetary constraints or mission needs, cor-
15 rect skill imbalances, or reduce high-grade, manage-
16 rial, or supervisory positions;

17 (5) subsection (c)(1) of such section shall be
18 applied by substituting “to the extent necessary (A)
19 to realign the General Accounting Office’s workforce
20 in order to meet budgetary constraints or mission
21 needs, (B) to correct skill imbalances, or (C) to re-
22 duce high-grade, managerial, or supervisory posi-
23 tions, in conformance with that agency’s strategic
24 plan (as referred to in subsection (b)).” for the mat-
25 ter following “only”;

1 (6) subsection (c)(2)(D) of such section shall be
 2 applied by substituting “December 31, 2003, or the
 3 end of the 3-month period beginning on the date on
 4 which such payment is offered to such employee,
 5 whichever is earlier” for “December 31, 1997”; and

6 (7) instead of the amount described in para-
 7 graph (1) of subsection (d) of such section, the
 8 amount required under such paragraph shall be de-
 9 termined in accordance with subsection (c)(1) of this
 10 section.

11 (c) ADDITIONAL CONTRIBUTION TO RETIREMENT

12 FUND.—

13 (1) DETERMINATION OF AMOUNT REQUIRED.—

14 The amount required under this paragraph shall be
 15 the amount determined under subparagraph (A) or
 16 (B), whichever is greater, for the fiscal year in-
 17 volved.

18 (A) FIRST METHOD.—The amount re-
 19 quired under this subparagraph shall be deter-
 20 mined as follows:

21 (i) First, determine the sum of the
 22 following:

23 (I) The amount equal to 19 per-
 24 cent of the final basic pay of each em-
 25 ployee described in paragraph (2) who

1 takes early retirement under section
2 8336(d) of title 5, United States
3 Code.

4 (II) The amount equal to 58 per-
5 cent of the final basic pay of each em-
6 ployee described in paragraph (2) who
7 retires on an immediate annuity under
8 section 8336 of such title 5 (not in-
9 cluding any employee covered by sub-
10 clause (I)).

11 (ii) Second, reduce the sum of the
12 amounts determined under clause (i) by
13 the sum of the following (but not below
14 zero):

15 (I) The amount equal to 419 per-
16 cent of the final basic pay of each em-
17 ployee described in paragraph (2),
18 who is covered by subchapter III of
19 chapter 83 of title 5, United States
20 Code, and who resigns.

21 (II) The amount equal to 17 per-
22 cent of the final basic pay of each em-
23 ployee described in paragraph (2) who
24 takes early retirement under section
25 8414(b) of such title 5.

1 (III) The amount equal to 8 per-
2 cent of the final basic pay of each em-
3 ployee described in paragraph (2) who
4 retires on an immediate annuity under
5 section 8412 of such title 5.

6 (IV) The amount equal to 211
7 percent of the final basic pay of each
8 employee described in paragraph (2),
9 who is covered by chapter 84 of such
10 title 5, and who resigns.

11 (B) SECOND METHOD.—The amount re-
12 quired under this subparagraph shall be equal
13 to 45 percent of the final basic pay of each em-
14 ployee described in paragraph (2).

15 (2) COMPUTATIONS TO BE BASED ON SEPARA-
16 TIONS OCCURRING IN THE FISCAL YEAR IN-
17 VOLVED.—The employees described in this para-
18 graph are those employees who receive a voluntary
19 separation incentive payment under this section
20 based on their separating from service during the
21 fiscal year involved.

22 (3) REGULATIONS.—

23 (A) IN GENERAL.—The Office of Personnel
24 Management shall prescribe any regulations
25 necessary to carry out this subsection, including

1 provisions under which any additional contribu-
2 tion determined under this subsection shall, at
3 the election of the General Accounting Office,
4 be payable either in a lump sum or through in-
5 stallment payments made over a period of not
6 to exceed 3 years.

7 (B) INTEREST.—The regulations shall in-
8 clude provisions under which, if the installment
9 method is chosen, interest shall be payable at
10 the same rate as provided for under section
11 8348(f) of title 5, United States Code.

12 (4) RULE OF CONSTRUCTION.—As used in this
13 subsection, the term “resign” shall not be considered
14 to include early retirement or a separation giving
15 rise to an immediate annuity.

16 (d) DEFINITIONS.—

17 (1) FINAL BASIC PAY.—As used in this section,
18 the term “final basic pay” has the same meaning as
19 under section 663(d)(2) of the Treasury, Postal
20 Service, and General Government Appropriations
21 Act, 1997, as contained in Public Law 104–208 (5
22 U.S.C. 5597 note).

23 (2) EMPLOYEE.—As used in this section and,
24 for purposes of this section, the provisions of law
25 cited in subsection (b), the term “employee” shall be

1 considered to refer to an officer or employee of the
2 General Accounting Office.

3 (e) NUMERICAL LIMITATION.—Not to exceed 5 per-
4 cent of the General Accounting Office’s workforce (as of
5 the start of a fiscal year) shall be permitted to receive
6 a voluntary separation incentive payment under this sec-
7 tion based on their separating from service in such fiscal
8 year.

9 (f) REGULATIONS.—The Comptroller General shall
10 prescribe any regulations necessary to carry out this sec-
11 tion, excluding subsection (c). Such regulations shall in-
12 clude provisions under which a voluntary separation incen-
13 tive payment may be offered to any employee or group
14 of employees based on—

15 (1) geographic area, organizational unit, or oc-
16 cupational series or level;

17 (2) skills, knowledge, or performance; or

18 (3) such other similar factors (or combination
19 of factors described in this or any other paragraph
20 of this subsection) as the Comptroller General con-
21 siders necessary and appropriate in order to achieve
22 the purpose involved.

23 **SEC. 3. REDUCTIONS IN FORCE.**

24 (a) MODIFIED PROCEDURES.—

1 (1) IN GENERAL.—Subsection (h) of section
2 732 of title 31, United States Code, is amended to
3 read as follows:

4 “(h)(1)(A) Notwithstanding any other provision of
5 law, the Comptroller General shall prescribe regulations,
6 consistent with regulations issued by the Office of Per-
7 sonnel Management under authority of section 3502(a) of
8 title 5 for the separation of employees of the General Ac-
9 counting Office during a reduction in force or other ad-
10 justment in force.

11 “(B) The regulations must give effect to the following
12 factors in descending order of priority—

13 “(i) tenure of employment;

14 “(ii) military preference subject to section
15 3501(a)(3) of title 5;

16 “(iii) veterans’ preference under sections
17 3502(b) and 3502(c) of title 5;

18 “(iv) performance ratings;

19 “(v) length of service computed in accordance
20 with the second sentence of section 3502(a) of title
21 5; and

22 “(vi) other objective factors such as skills and
23 knowledge that the Comptroller General considers
24 necessary and appropriate to realign the agency’s
25 workforce in order to meet current and future mis-

1 sion needs, to correct skill imbalances, or to reduce
2 high-grade, managerial, or supervisory positions.

3 “(C) Notwithstanding subparagraph (B), the regula-
4 tions relating to removal from the General Accounting Of-
5 fice Senior Executive Service in a reduction in force or
6 other adjustment in force shall be consistent with section
7 3595(a) of title 5.

8 “(2)(A) The regulations shall provide a right of ap-
9 peal to the General Accounting Office Personnel Appeals
10 Board regarding a personnel action under the regulations,
11 consistent with section 753 of this title.

12 “(B) The regulations shall provide that final decision
13 by the General Accounting Office Personnel Appeals
14 Board may be reviewed by the United States Court of Ap-
15 peals for the Federal Circuit consistent with section 755
16 of this title.

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

22 “(i) the personnel action to be taken with re-
23 spect to the employee involved;

24 “(ii) the effective date of the action;

1 “(iii) a description of the procedures applicable
2 in identifying employees for release;

3 “(iv) the employee’s ranking relative to other
4 competing employees, and how that ranking was de-
5 termined; and

6 “(v) a description of any appeal or other rights
7 which may be available.

8 “(B) The Comptroller General may, in writing, short-
9 en the period of advance notice required under subpara-
10 graph (A) with respect to a particular reduction in force,
11 if necessary because of circumstances not reasonably fore-
12 seeable, except that such period may not be less than 30
13 days.”.

14 (2) EFFECTIVE DATE.—Subject to paragraph
15 (3), the amendment made by paragraph (1) shall
16 apply with respect to all reduction-in-force actions
17 taking effect on or after—

18 (A) the 180th day following the date of the
19 enactment of this Act; or

20 (B) if earlier, the date the Comptroller
21 General issues the regulations required under
22 such amendment.

23 (3) SAVINGS PROVISIONS.—If, before the effec-
24 tive date determined under paragraph (2), specific
25 notice of a reduction-in-force action is given to an

1 individual in accordance with section 1 of chapter 5
2 of GAO Order 2351.1 (dated February 28, 1996),
3 then, for purposes of determining such individual's
4 rights in connection with such action, the amend-
5 ment made by paragraph (1) shall be treated as if
6 it had never been enacted.

7 (b) **AUTHORITY TO PERMIT VOLUNTARY SEPARA-**
8 **TIONS TO AVOID REDUCTIONS IN FORCE.—**

9 (1) **IN GENERAL.—**Section 732 of title 31,
10 United States Code (as amended by subsection (a)),
11 is amended by adding at the end the following:

12 “(i) The regulations under subsection (h) shall in-
13 clude provisions under which, at the discretion of the
14 Comptroller General, the opportunity to separate volun-
15 tarily (in order to permit the retention of an individual
16 occupying a similar position) shall, with respect to the
17 General Accounting Office, be available to the same extent
18 and in the same manner as described in subsection (f)(1)-
19 (4) of section 3502 of title 5 (with respect to the Depart-
20 ment of Defense or a military department).”.

21 (2) **EFFECTIVE DATE.—**The amendment made
22 by paragraph (1) shall take effect on the date of the
23 enactment of this Act.

24 **SEC. 4. SENIOR-LEVEL POSITIONS.**

25 (a) **CRITICAL POSITIONS.—**

1 (1) IN GENERAL.—Title 31, United States
2 Code, is amended by inserting after section 732 the
3 following:

4 **“§ 732a. Critical positions**

5 “(a) The Comptroller General may establish senior-
6 level positions to meet critical scientific, technical or pro-
7 fessional needs of the General Accounting Office. An indi-
8 vidual serving in such a position shall—

9 “(1) be subject to the laws and regulations ap-
10 pplicable to the General Accounting Office Senior Ex-
11 ecutive Service under section 733 of this title, with
12 respect to rates of basic pay, performance awards,
13 ranks, carry over of annual leave, benefits, perform-
14 ance appraisals, removal or suspension, and reduc-
15 tions in force;

16 “(2) have the same rights of appeal to the Gen-
17 eral Accounting Office Personnel Appeals Board as
18 are provided to the Office Senior Executive Service;

19 “(3) be exempt from the same provisions of law
20 as are made inapplicable to the Office Senior Execu-
21 tive Service under section 733(d) of this title, except
22 for section 732(e) of this title;

23 “(4) be entitled to discontinued service retire-
24 ment under chapter 83 or 84 of title 5 as if a mem-
25 ber of the Office Senior Executive Service; and

1 “(5) be subject to reassignment by the Comp-
2 troller General to any position in the Office Senior
3 Executive Service under section 733 of this title, as
4 the Comptroller General determines necessary and
5 appropriate.

6 “(b) Senior-level positions under this section may in-
7 clude positions referred to in section 731(d), (e)(1), or
8 (e)(2) of this title.”.

9 (2) NUMERICAL LIMITATION APPLIES.—Section
10 732(c)(4) of title 31, United States Code, is
11 amended—

12 (A) by inserting “(including senior-level
13 positions under section 732a of this title)” after
14 “129 positions”; and

15 (B) by striking “title;” and inserting
16 “title and senior-level positions described in sec-
17 tion 732a(b) of this title);”.

18 (3) CLERICAL AMENDMENT.—The table of sec-
19 tions for chapter 7 of title 31, United States Code,
20 is amended by inserting after the item relating to
21 section 732 the following:

“732a. Critical positions.”.

22 (b) REASSIGNMENT TO SENIOR-LEVEL POSITIONS.—
23 Section 733(a) of title 31, United States Code, is
24 amended—

1 (1) by striking “and” at the end of paragraph
2 (6);

3 (2) by redesignating paragraph (7) as para-
4 graph (8); and

5 (3) by inserting after paragraph (6) the fol-
6 lowing:

7 “(7) allowing the Comptroller General to reas-
8 sign an officer or employee in the Office Senior Ex-
9 ecutive Service to any senior-level position estab-
10 lished under section 732a of this title, as the Comp-
11 troller General determines necessary and appro-
12 priate; and”.

13 **SEC. 5. EXPERTS AND CONSULTANTS.**

14 Section 731(e) of title 31, United States Code, is
15 amended—

16 (1) in paragraph (1) by striking “not more than
17 3 years” and inserting “terms of not more than 3
18 years, but which shall be renewable”; and

19 (2) in paragraph (2) by striking “level V” and
20 inserting “level IV”.

21 **SEC. 6. REPORTING REQUIREMENTS.**

22 (a) ANNUAL REPORTS.—The Comptroller General
23 shall include in each report submitted to Congress under
24 section 719(a) of title 31, United States Code, during the

1 5-year period beginning on the date of the enactment of
2 this Act—

3 (1) a review of all actions taken pursuant to
4 sections 1 through 3 of this Act during the period
5 covered by the report, including—

6 (A) the number of officers or employees
7 who separated from service pursuant to section
8 1 or 2, or who were released pursuant to a re-
9 duction in force conducted under the amend-
10 ment made by section 3, during such period;

11 (B) an assessment of the effectiveness and
12 usefulness of those sections in contributing to
13 the agency's ability to carry out its mission,
14 meet its performance goals, and fulfill its stra-
15 tegic plan; and

16 (C) with respect to the amendment made
17 by section 3, an assessment of the impact such
18 amendment has had with respect to preference
19 eligibles, including—

20 (i) whether a disproportionate number
21 or percentage of preference eligibles were
22 included among those who became subject
23 to reduction-in-force actions as a result of
24 such amendment;

1 (ii) whether a disproportionate num-
2 ber or percentage of preference eligibles
3 were in fact released pursuant to reduc-
4 tions in force under such amendment; and
5 (iii) to the extent that either of the
6 foregoing is answered in the affirmative,
7 the reasons for the disproportionate impact
8 involved (particularly, whether such
9 amendment caused or contributed to the
10 disproportionate impact involved); and

11 (2) recommendations for any legislation which
12 the Comptroller General considers appropriate with
13 respect to any of those sections.

14 (b) **THREE-YEAR ASSESSMENT.**—Not later than 3
15 years after the date of the enactment of this Act, the
16 Comptroller General shall submit to the Congress a report
17 concerning the implementation and effectiveness of this
18 Act. Such report shall include—

19 (1) a summary of the portions of the annual re-
20 ports required under subsection (a);

21 (2) recommendations for continuation of section
22 1 or 2 or any legislative changes to section 1 or 2
23 or the amendment made by section 3; and

24 (3) any assessment or recommendations of the
25 General Accounting Office Personnel Appeals Board

1 or of any interested groups or associations rep-
2 resenting officers or employees of the General Ac-
3 counting Office.

4 (c) PREFERENCE ELIGIBLE DEFINED.—For pur-
5 poses of this section, the term “preference eligible” has
6 the meaning given such term under section 2108(3) of
7 title 5, United States Code.

Passed the House of Representatives September 19,
2000.

Attest:

JEFF TRANDAHL,

Clerk.