

## Calendar No. 407

108TH CONGRESS  
1ST SESSION**S. 1522**

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

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 IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

Mr. VOINOVICH (for himself and Ms. COLLINS) introduced the following bill;  
which was read twice and referred to the Committee on Governmental Affairs

NOVEMBER 21, 2003

Reported by Ms. COLLINS, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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**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,*

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

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “GAO Human Capital Reform Act of 2003”.

6       (b) AMENDMENT OF TITLE 31.—Except as otherwise  
7       expressly provided, whenever in this Act an amendment

1 is expressed in terms of an amendment to a section or  
 2 other provision, the reference shall be considered to be  
 3 made to a section or other provision of title 31, United  
 4 States Code.

5 **SEC. 2. AMENDMENTS TO PUBLIC LAW 106-303.**

6 Sections ~~1 and 2~~ of Public Law ~~106-303~~ (~~5 U.S.C.~~  
 7 ~~8336~~ note and ~~5597~~ note) are amended by striking “for  
 8 purposes of the period beginning on the date of enactment  
 9 of this Act and ending on December 31, 2003” each place  
 10 it appears and inserting “October 13, 2000”.

11 **SEC. 2. AMENDMENTS TO PUBLIC LAW 106-303.**

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

18 (b) *EXCLUSION OF CERTAIN EMPLOYEES RECEIVING*  
 19 *STUDENT LOAN BENEFITS.*—Section 2(b) of Public Law  
 20 106-303 (5 U.S.C. 5597 note) is amended by striking para-  
 21 graph (2) and inserting the following:

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

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

8           (c) *SENSE OF CONGRESS.*—

9           (1) *VOLUNTARY EARLY RETIREMENT AUTHOR-*  
10          *ITY.*—*Section 1 of Public Law 106–303 (5 U.S.C.*  
11          *8336 note) is amended by adding at the end the fol-*  
12          *lowing:*

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

17          (2) *VOLUNTARY SEPARATION INCENTIVE PAY-*  
18          *MENTS.*—*Section 2 of Public Law 106–303 (5 U.S.C.*  
19          *5597 note) is amended by adding at the end the fol-*  
20          *lowing:*

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

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

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

4 ~~“(3) except as provided under section~~  
5 ~~733(a)(3)(B) of this title, basic pay rates of officers~~  
6 ~~and employees of the Office shall be adjusted annu-~~  
7 ~~ally to such extent as the Comptroller General shall~~  
8 ~~determine, taking into consideration—~~

9 *“(3) except as provided under section*  
10 *733(a)(3)(B) of this title, basic rates of officers and*  
11 *employees of the Office shall be adjusted annually to*  
12 *such extent as determined by the Comptroller General,*  
13 *and in making that determination the Comptroller*  
14 *General shall consider—*

15 *“(A) the principle that there be equal pay*  
16 *for substantially equal work equal pay should be*  
17 *provided for work of equal value within each*  
18 *local pay area;*

19 ~~“(B) the Consumer Price Index;~~

20 *“(B) the need to protect the purchasing*  
21 *power of officers and employees of the Office, tak-*  
22 *ing into consideration the Consumer Price Index*  
23 *or other appropriate indices;*

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

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

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

9           “(F) such other criteria as the Comptroller  
10 General considers appropriate, including, but  
11 not limited to, the funding level for the Office,  
12 amounts allocated for performance-based com-  
13 pensation, and the extent to which the Office is  
14 succeeding in fulfilling its mission and accom-  
15 plishing its strategic plan;

16 notwithstanding any other provision of this para-  
17 graph, an adjustment under this paragraph shall not  
18 be applied in the case of any officer or employee  
19 whose performance is not at a satisfactory level, as  
20 determined by the Comptroller General for purposes  
21 of such adjustment;”.

22       (b) OFFICERS AND EMPLOYEES IN THE OFFICE SEN-  
23 IOR EXECUTIVE SERVICE.—Subparagraph (B) of section  
24 733(a)(3) is amended to read as follows:

1           “(B) adjusted annually by the Comptroller  
2           General after taking into consideration the fac-  
3           tors listed under section 732(c)(3) of this title,  
4           except that an adjustment under this subpara-  
5           graph shall not be applied in the case of any of-  
6           ficer or employee whose performance is not at  
7           a satisfactory level, as determined by the Comp-  
8           troller General for purposes of such adjust-  
9           ment;”.

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

14 **SEC. 4. PAY RETENTION.**

15       Paragraph (5) of section 732(c) is amended to read  
16 as follows:

17           “(5) the Comptroller General shall prescribe  
18           regulations under which an officer or employee of  
19           the Office shall be entitled to pay retention if, as a  
20           result of any reduction-in-force or other workforce  
21           adjustment procedure, position reclassification, or  
22           other appropriate circumstances as determined by  
23           the Comptroller General, such officer or employee is  
24           placed in or holds a position in a lower grade or  
25           band with a maximum rate of basic pay that is less

1 than the rate of basic pay payable to the officer or  
2 employee immediately before the reduction in grade  
3 or band; such regulations—

4 “(A) shall provide that the officer or em-  
5 ployee shall be entitled to continue receiving the  
6 rate of basic pay that was payable to the officer  
7 or employee immediately before the reduction in  
8 grade or band until such time as the retained  
9 rate becomes less than the maximum rate for  
10 the grade or band of the position held by such  
11 officer or employee; and

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

1 **SEC. 5. RELOCATION BENEFITS.**

2 Section 731 is amended by adding after subsection  
3 (e) the following:

4 “(f) The Comptroller General shall prescribe regula-  
5 tions under which officers and employees of the Office  
6 may, in appropriate circumstances, be reimbursed for any  
7 relocation expenses under subchapter II of chapter 57 of  
8 title 5 for which they would not otherwise be eligible, but  
9 only if the Comptroller General determines that the trans-  
10 fer giving rise to such relocation is of sufficient benefit  
11 or value to the Office to justify such reimbursement.”.

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

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

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

1 **SEC. 7. EXECUTIVE EXCHANGE PROGRAM.**

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

4 “(h) The Comptroller General may by regulation es-  
5 tablish an executive exchange program under which offi-  
6 cers and employees of the Office ~~in high-grade, manage-~~  
7 ~~rial, or supervisory positions~~ may be assigned to private  
8 sector organizations, and employees of private sector orga-  
9 nizations may be assigned to the Office, ~~for work of mu-~~  
10 ~~tual concern and benefit. to further the institutional inter-~~  
11 ~~ests of the Office or Congress, including for the purpose of~~  
12 ~~providing training to officers and employees of the Office.~~

13 Regulations to carry out any such program—

14 “(1) shall include ~~provisions which define high-~~  
15 ~~grade, managerial, or supervisory positions, and pro-~~  
16 ~~visions (consistent with sections 3702 through 3704~~  
17 ~~of title 5) as to matters concerning—~~

18 “(A) the duration and termination of as-  
19 signments;

20 “(B) reimbursements; and

21 “(C) status, entitlements, benefits, and ob-  
22 ligations of program participants; ~~and~~

23 “(2) shall limit—

24 “(A) the number of officers and employees  
25 who are assigned to private sector organizations  
26 at any one time to not more than ~~3015~~; and

1           “(B) the number of employees from private  
2           sector organizations who are assigned to the Of-  
3           fice at any one time to not more than 30.”;

4           “(3) shall require that an employee of a private  
5           sector organization assigned to the Office may not  
6           have access to any trade secrets or to any other non-  
7           public information which is of commercial value to  
8           the private sector organization from which such em-  
9           ployee is assigned;

10           “(4) shall require that, before approving the as-  
11           signment of an officer or employee to a private sector  
12           organization, the Comptroller General shall determine  
13           that the assignment is an effective use of the Office’s  
14           funds, taking into account the best interests of the Of-  
15           fice and the costs and benefits of alternative methods  
16           of achieving the same results and objectives; and

17           “(5) shall not allow any assignment under this  
18           subsection to commence after the end of the 5-year pe-  
19           riod beginning on the date of the enactment of this  
20           subsection.

21           “(i) An employee of a private sector organization as-  
22           signed to the Office under the executive exchange program  
23           shall be considered to be an employee of the Office for pur-  
24           poses of—

25           “(1) chapter 73 of title 5;

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

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

5           “(4) chapter 171 of title 28 (commonly referred  
6           to as the *Federal Tort Claims Act*) and any other  
7           *Federal tort liability statute*;

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

10           “(6) section 1043 of the *Internal Revenue Code*  
11           *of 1986*; and

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

14 **SEC. 8. REDESIGNATION.**

15           (a) IN GENERAL.—The General Accounting Office is  
16 hereby redesignated the Government Accountability Of-  
17 fice.

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

23 **SEC. 9. PERFORMANCE MANAGEMENT SYSTEM.**

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

1           “(1) for a system to appraise the performance of  
2           officers and employees of the General Accounting Of-  
3           fice that meets the requirements of section 4302 of  
4           title 5 and in addition includes—

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

7                   “(B) adequate training and retraining for  
8                   supervisors, managers, and employees in the im-  
9                   plementation and operation of the performance  
10                  management system;

11                  “(C) a process for ensuring ongoing per-  
12                  formance feedback and dialogue between super-  
13                  visors, managers, and employees throughout the  
14                  appraisal period and setting timetables for re-  
15                  view;

16                  “(D) effective transparency and account-  
17                  ability measures to ensure that the management  
18                  of the system is fair, credible, and equitable, in-  
19                  cluding appropriate independent reasonableness,  
20                  reviews, internal assessments, and employee sur-  
21                  veys; and

22                  “(E) a means to ensure that adequate agen-  
23                  cy resources are allocated for the design, imple-  
24                  mentation, and administration of the perform-  
25                  ance management system.”.

1 **SEC. 10. CONSULTATION.**

2 *Before the implementation of any changes authorized*  
 3 *under this Act, the Comptroller General shall consult with*  
 4 *any interested groups or associations representing officers*  
 5 *and employees of the General Accounting Office.*

6 **SEC. 9. SEC. 11. REPORTING REQUIREMENTS.**

7 (a) ANNUAL REPORTS.—The Comptroller General  
 8 shall include—

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

16 (A) the respective numbers of officers and  
 17 employees—

18 (i) separating from the service under  
 19 section 2 of this Act;

20 (ii) receiving pay retention under sec-  
 21 tion 4 of this Act;

22 (iii) receiving increased annual leave  
 23 under section 6 of this Act; and

24 (iv) engaging in the executive ex-  
 25 change program under section 7 of this  
 26 Act, as well as the number of private sec-

1           tor employees participating in such pro-  
2           gram and a review of the general nature of  
3           the work performed by the individuals par-  
4           ticipating in such program;

5           (B) a review of all actions taken to formu-  
6           late the appropriate methodologies to implement  
7           the pay adjustments provided for under section  
8           3 of this Act, except that nothing under this  
9           subparagraph shall be required if no changes  
10          are made in any such methodology during the  
11          period covered by such report; and

12          (C) an assessment of the role of sections 2,  
13          3, 4, 6, ~~and 7~~ 7, 9, and 10 of this Act in con-  
14          tributing to the *General Accounting Office's*  
15          ability to carry out its mission, meet its per-  
16          formance goals, and fulfill its strategic plan;  
17          and

18          (2) in each report submitted to Congress under  
19          such section 719(a) after the effective date of sec-  
20          tion 3 of this Act and before the close of the ~~5 year~~  
21          *5-year* period referred to in paragraph (1)—

22                 (A) a detailed description of the meth-  
23                 odologies applied under section 3 of this Act  
24                 and the manner in which such methodologies  
25                 were applied to determine the appropriate an-

1           nual pay adjustments for officers and employees  
2           of the Office;

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

6           (C) a description of any extraordinary eco-  
7           nomic conditions or serious budget constraints  
8           which had a significant impact on the deter-  
9           mination of the annual pay adjustments for of-  
10          ficers and employees of the Office.

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

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

17                 (2) recommendations for any legislative changes  
18                 to section 2, 3, 4, 6, ~~or 7~~ 7, 9, or 10 of this Act;  
19                 and

20                 (3) any assessment furnished by the General  
21                 Accounting Office Personnel Appeals Board or any  
22                 interested groups or associations representing offi-  
23                 cers and employees of the Office for inclusion in  
24                 such report.

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

8 **SEC. 12. TECHNICAL AMENDMENT.**

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

11 **SEC. 10. SEC. 13. EFFECTIVE DATES.**

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

15 (b) PAY ADJUSTMENTS.—

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

21 (2) INTERIM AUTHORITIES.—In connection with  
 22 any pay adjustment taking effect under section  
 23 732(c)(3) or 733(a)(3)(B) of title 31, United States  
 24 Code, before October 1, 2005, the Comptroller Gen-  
 25 eral may by regulation—

1 (A) provide that such adjustment not be  
2 applied in the case of any officer or employee  
3 whose performance is not at a satisfactory level,  
4 as determined by the Comptroller General for  
5 purposes of such adjustment; and

6 (B) provide that such adjustment be re-  
7 duced if and to the extent necessary because of  
8 extraordinary economic conditions or serious  
9 budget constraints.

10 (3) ADDITIONAL AUTHORITY.—

11 (A) IN GENERAL.—The Comptroller Gen-  
12 eral may by regulation delay the effective date  
13 of section 3 of this Act and the amendments  
14 made by that section for groups of officers and  
15 employees that the Comptroller General con-  
16 siders appropriate.

17 (B) INTERIM AUTHORITIES.—If the Comp-  
18 troller General provides for a delayed effective  
19 date under subparagraph (A) with respect to  
20 any group of officers or employees, paragraph  
21 (2) shall, for purposes of such group, be applied  
22 by substituting such date for “October 1,  
23 2005”.

**Calendar No. 407**

108TH CONGRESS  
1ST SESSION

**S. 1522**

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**A BILL**

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

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NOVEMBER 21, 2003

Reported with amendments