

GAO HUMAN CAPITAL REFORM
ACT OF 2003

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 407, S. 1522.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1522) to provide new human capital flexibilities with respect to the GAO, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 31.

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

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

[SEC. 2. AMENDMENTS TO PUBLIC LAW 106-303.

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

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

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

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

“(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;”.

(c) SENSE OF CONGRESS.—

(1) VOLUNTARY EARLY RETIREMENT AUTHORITY.—Section 1 of Public Law 106-303 (5 U.S.C. 8336 note) is amended by adding at the end the following:

“(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.”.

(2) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—Section 2 of Public Law 106-303 (5 U.S.C. 5597 note) is amended by adding at the end the following:

“(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.”.

SEC. 3. ANNUAL PAY ADJUSTMENTS.

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

“(3) except as provided under section 733(a)(3)(B) of this title, basic pay rates of officers and employees of the Office shall be adjusted annually to such extent as the Comptroller General shall determine, taking into consideration—

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

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

“(B) the Consumer Price Index;

“(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; and

“(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 any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;”.

(b) OFFICERS AND EMPLOYEES IN THE OFFICE SENIOR EXECUTIVE SERVICE.—Subparagraph (B) of section 733(a)(3) is amended to read as follows:

“(B) 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 any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;”.

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

SEC. 4. PAY RETENTION.

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

“(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 adjustment 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 one described in subparagraph (A)), and exclusions based on the nature of an appointment; in prescribing regulations under this subparagraph, the Comptroller General shall be guided by the provisions of sections 5362 and 5363 of title 5.”.

SEC. 5. RELOCATION BENEFITS.

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

“(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 such relocation is of sufficient benefit or value to the Office to justify such reimbursement.”.

SEC. 6. INCREASED ANNUAL LEAVE FOR KEY EMPLOYEES.

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

“(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 6303(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.”.

SEC. 7. EXECUTIVE EXCHANGE PROGRAM.

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

“(h) The Comptroller General may by regulation establish an executive exchange program under which officers and employees of the Office [in high-grade, managerial, or supervisory positions] may be assigned to private sector organizations, and employees of private sector organizations may be assigned to the Office, [for work of mutual concern and benefit.] to further the institutional interests of the Office or 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 which define high-grade, managerial, or supervisory positions, and] provisions (consistent with sections 3702 through 3704 of title 5) as to matters concerning—

“(A) the duration and termination of assignments;

“(B) reimbursements; and

“(C) status, entitlements, benefits, and obligations of program participants; [and]

“(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 [30]15; and

“(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 commercial 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 the 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 Tort 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).”.

SEC. 8. REDESIGNATION.

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

(b) REFERENCES.—Any reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.

SEC. 9. PERFORMANCE MANAGEMENT SYSTEM.

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

“(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.”.

SEC. 10. CONSULTATION.

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

[SEC. 9.] SEC. 11. REPORTING REQUIREMENTS.

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

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

(A) the respective numbers of officers and employees—

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

(ii) receiving pay retention under section 4 of this Act;

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

(iv) engaging in the executive exchange program under section 7 of this Act, as well as the number of private sector employees participating in such program and a review of the general nature of the work performed by the individuals participating in such program;

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

(C) an assessment of the role of sections 2, 3, 4, 6, [and 7] 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; and

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

(A) 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 Office;

(B) the amount of the annual pay adjustments afforded to officers and employees of the Office under section 3 of this Act; and

(C) a description of any extraordinary economic conditions or serious budget constraints which had a significant impact on the determination of the annual pay adjustments for officers and employees of the Office.

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

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

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

(3) any assessment furnished by the General Accounting Office Personnel Appeals Board or any interested groups or associations representing officers and employees of the Office for inclusion in such report.

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

SEC. 12. TECHNICAL AMENDMENT.

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

[SEC. 10.] SEC. 13. EFFECTIVE DATES.

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

(b) PAY ADJUSTMENTS.—

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

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

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

(B) provide that such adjustment be reduced if and to the extent necessary because of extraordinary economic conditions or serious budget constraints.

(3) ADDITIONAL AUTHORITY.—

(A) IN GENERAL.—The Comptroller General may by regulation delay the effective date of section 3 of this Act and the amendments made by that section for groups of officers and employees that the Comptroller General considers appropriate.

(B) INTERIM AUTHORITIES.—If the Comptroller General provides for a delayed effective date under subparagraph (A) with respect to any group of officers or employees, paragraph (2) shall, for purposes of such group, be applied by substituting such date for “October 1, 2005”.

Mr. ENSIGN. I ask unanimous consent that the committee amendments be agreed to en bloc, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 1522), as amended, was read the third time and passed, as follows:

S. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 31.

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

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

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

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

(b) EXCLUSION OF CERTAIN EMPLOYEES RECEIVING STUDENT LOAN BENEFITS.—Section

2(b) of Public Law 106-303 (5 U.S.C. 5597 note) is amended by striking paragraph (2) and inserting the following:

“(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;”.

(c) SENSE OF CONGRESS.—

(1) VOLUNTARY EARLY RETIREMENT AUTHORITY.—Section 1 of Public Law 106-303 (5 U.S.C. 8336 note) is amended by adding at the end the following:

“(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.”.

(2) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—Section 2 of Public Law 106-303 (5 U.S.C. 5597 note) is amended by adding at the end the following:

“(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.”.

SEC. 3. ANNUAL PAY ADJUSTMENTS.

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

“(3) except as provided under section 733(a)(3)(B) of this title, basic rates of officers and employees of the Office shall be adjusted annually to such extent as determined by the Comptroller General, and in making that 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; and

“(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 any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;”.

(b) OFFICERS AND EMPLOYEES IN THE OFFICE SENIOR EXECUTIVE SERVICE.—Subparagraph (B) of section 733(a)(3) is amended to read as follows:

“(B) 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 any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;”.

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

SEC. 4. PAY RETENTION.

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

“(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 adjustment 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 one described in subparagraph (A)), and exclusions based on the nature of an appointment; in prescribing regulations under this subparagraph, the Comptroller General shall be guided by the provisions of sections 5362 and 5363 of title 5.”.

SEC. 5. RELOCATION BENEFITS.

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

“(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 such relocation is of sufficient benefit or value to the Office to justify such reimbursement.”.

SEC. 6. INCREASED ANNUAL LEAVE FOR KEY EMPLOYEES.

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

“(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 6303(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.”.

SEC. 7. EXECUTIVE EXCHANGE PROGRAM.

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

“(h) The Comptroller General may by regulation establish an executive exchange pro-

gram under which officers 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 Office or 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 matters concerning—

“(A) the duration and termination of assignments;

“(B) reimbursements; and

“(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; and

“(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 commercial 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 the 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 Tort 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).”.

SEC. 8. REDESIGNATION.

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

(b) REFERENCES.—Any reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.

SEC. 9. PERFORMANCE MANAGEMENT SYSTEM.

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

“(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.”.

SEC. 10. CONSULTATION.

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

SEC. 11. REPORTING REQUIREMENTS.

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

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

(A) the respective numbers of officers and employees—

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

(ii) receiving pay retention under section 4 of this Act;

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

(iv) engaging in the executive exchange program under section 7 of this Act, as well as the number of private sector employees participating in such program and a review of the general nature of the work performed by the individuals participating in such program;

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

(C) 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; and

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

(A) 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 Office;

(B) the amount of the annual pay adjustments afforded to officers and employees of the Office under section 3 of this Act; and

(C) a description of any extraordinary economic conditions or serious budget constraints which had a significant impact on the determination of the annual pay adjustments for officers and employees of the Office.

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

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

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

(3) any assessment furnished by the General Accounting Office Personnel Appeals Board or any interested groups or associations representing officers and employees of the Office for inclusion in such report.

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

SEC. 12. TECHNICAL AMENDMENT.

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

SEC. 13. EFFECTIVE DATES.

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

(b) PAY ADJUSTMENTS.—

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

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

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

(B) provide that such adjustment be reduced if and to the extent necessary because of extraordinary economic conditions or serious budget constraints.

(3) ADDITIONAL AUTHORITY.—

(A) IN GENERAL.—The Comptroller General may by regulation delay the effective date of section 3 of this Act and the amendments made by that section for groups of officers and employees that the Comptroller General considers appropriate.

(B) INTERIM AUTHORITIES.—If the Comptroller General provides for a delayed effective date under subparagraph (A) with respect to any group of officers or employees, paragraph (2) shall, for purposes of such group, be applied by substituting such date for “October 1, 2005”.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108-12

Mr. ENSIGN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 24, 2003, by the President of the United States:

Mutual Legal Assistance Treaty With Japan, Treaty Document 108-12.

Mr. ENSIGN. I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be

printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and Japan on Mutual Legal Assistance in Criminal Matters, signed at Washington on August 5, 2003. I transmit also, for the information of the Senate, a related exchange of notes and the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the investigation and prosecution of a wide variety of crimes. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking testimony, statements, or items; examining persons, items, or places; locating or identifying persons, items, or places; providing items from governmental departments or agencies; inviting persons to testify in the requesting Party; transferring persons in custody for testimony or other purposes; assisting in proceedings related to forfeiture and immobilization of assets; and any other form of assistance permitted under the laws of the requested Party and agreed upon by the Central Authorities of the two Contracting Parties.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, November 24, 2003.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, as amended by Public Law 105-275, appoints Dr. Daniel Botkin, of California, as a member of the Board of Trustees of the American Folklife Center of the Library of Congress, vice Susan Barksdale Howorth, of Mississippi.

SENATE PAGES

Mr. FRIST. Mr. President, it is late tonight and we will be in session early tomorrow morning, but I did want to take a brief moment and give thanks to a very special group of people around this institution. There are a number of professional and dedicated individuals who spend each and every day working to keep this body functioning. But I want to give special thanks to one group of people tonight, and that is our Senate pages.