

SECTION BY SECTION ANALYSIS

SECTION 1. AMENDMENTS TO PUBLIC LAW 106-303.

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

SEC. 2. PAY SETTING POLICY.

Section 2 deletes the requirement that the Comptroller General shall fix the basic pay rates of employees consistent with section 5301 of title 5, which sets forth the principles that guide Congress in fixing Federal pay. This section provides that for the various local pay areas there be substantially equal pay for equal work, pay distinctions be maintained in keeping with work and performance distinctions, and federal pay should equal private pay for the same work. It also provides that disparity between federal pay and private pay should be removed. These policy considerations have been incorporated into the pay adjustment provision below as factors that the Comptroller General shall consider when adjusting the pay rates of GAO employees.

SEC. 3. PAY ADJUSTMENTS.

Section 3 enables the Comptroller General to annually adjust the pay rates for officers and employees of GAO without having to adjust the GAO pay rates at the same time and to the same extent as the annual statutory adjustments are made to the General Schedule. Subsection (a) accomplishes this for all GAO employees other than members of the Senior Executive Service (SES) and Senior Level (SL) staff. Subsection (b) accomplishes this for members of the SES and SL staff.

This provision enables the Comptroller General to annually adjust the pay rates for GAO officers and employees whose performance is at a satisfactory level after reviewing various factors such as the level of inflation and pay disparities between GAO employees and private sector employees in the local pay areas. In considering certain of these factors related to economic data, the data will be specifically related to positions at GAO. The provision also enables the Comptroller General to determine what other factors, such as the overall agency performance and funding levels, would be relevant to adjusting pay rates for GAO officers and employees. Methodologies to support the compensation of employees would be developed only after consultation with the Employee Advisory Council and Managing Directors, and employees would be given the opportunity for notice and comment to any regulations promulgated to implement this provision.

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

SEC. 4. PAY RETENTION.

Section 4 deletes the requirement that GAO provide grade and pay retention consistent with the statutory provisions in subchapter VI of chapter 53 of title 5, United States Code. The passage of this provision will enable employees who are demoted due to a reduction-in-force, other adjustment-in-force, reclassification or other specified reasons as determined by the Comptroller General to be placed immediately in a lower grade or band but their pay would not be reduced if it exceeds the maximum rate of the new band or grade. However, these employees would not be eligible for increases to their basic pay as long as their basic pay is at or exceeds the maximum rate of the band or grade into which they are placed.

Under the chapter 53 provisions employees who suffer a loss of grade or band due to, among other things, reduction-in-force procedures or reclassification receive full statutory increases for 2 years and then receive 50 percent of the statutory pay increases until the pay of their new position falls within the range of pay for that position. Essentially, this antiquated system allows employees for extended periods of time fundamentally to be paid at a rate that exceeds the value of the duties that they are performing. This is inconsistent with the merit principle that there should be equal pay for equal work. This section allows the Comptroller General to immediately place employees in the band or grade that is commensurate with the roles and responsibilities of their positions. At the same time, the Comptroller General could not reduce the basic pay of employees whose basic pay exceeds the maximum rate of the grade or band in which the employees are placed. The employees would retain this rate, without receiving any increases to basic permanent pay, until their basic pay was less than the maximum for their grade or band. These employees, however, could be eligible for performance awards. As with section 3, this provision would be implemented only after consultation with the Employee Advisory Council and Managing Directors and opportunity for notice and comment by employees to any pay retention regulations.

SEC. 5. RELOCATION BENEFITS.

Section 5 gives the Comptroller General the ability to provide employees who relocate but do not qualify for the relocation benefits set forth in subchapter II of chapter 57 of title 5, United States Code, some relief from the high costs of relocating. Presently, employees whose transfer is deemed to be in the interest of the Government are reimbursed for most of their costs (i.e. travel expenses, real estate expenses, moving expenses, and other related expenses) while employees who are not eligible receive no reimbursements even though their transfer may be of some benefit or value to the agency. This provision allows the Comptroller General to promulgate regulations permitting employees who would otherwise not receive any reimbursement for their relocation costs to receive a portion of such costs in appropriate circumstances.

SEC. 6. INCREASED ANNUAL LEAVE FOR UPPER LEVEL EMPLOYEES.

Section 6 allows the Comptroller General to provide 160 hours of annual leave to appropriate employees in high-grade, managerial or supervisory positions who have less than 3 years of Federal service. Under the annual leave provision in section 6303 of title 5, United States Code, employees earn annual leave based on Federal years of service. Until an employee has 3 years of service, the employee earns 104 hours (13 days) of annual leave in a year. Between 3 and 15 years, the employee earns 160 hours (20 days) of annual leave in a year. By increasing the annual leave that certain newly hired officers and employees may earn, this provision is designed to attract and retain highly skilled employees needed to best serve the Congress and the country.

SEC. 7. EXECUTIVE EXCHANGE PROGRAM.

Section 7 establishes an executive exchange program for GAO. Under this program high-grade, managerial or supervisory employees from GAO may work in the private sector, and private sector employees may work at GAO. While the Comptroller General will establish the details of this program in duly promulgated regulations, this section requires the regulations to be consistent with most of the provisions under sections 3702-3704 of title 5, United States Code, regarding the existing Information Technology Exchange Program. However, some of the provisions of the Information Technology Exchange Program would not be relevant to GAO's program. This is because the Information Technology Exchange Program involves technology exchanges, whereas GAO's exchange program will cover not only those who work in the field of information technology but also accountants, economists, lawyers, actuaries, and other highly skilled professionals.

In this regard, the definitional provision at section 3701 does not apply to GAO. However, GAO's regulations are required to be consistent with the general provisions in section 3702 concerning agreements, termination and duration of assignments. Nevertheless, GAO's regulations need not be consistent with subsections (a), (e) and (f) of section 3702, as they specifically concern matters that relate to a technology exchange program. Section 3703 sets out the rules relative to the assignment of employees to private sector organizations. This subsection would apply to GAO's program, except for

subsection (e), which covers matters related to small business concerns and is not relevant to the GAO program. Section 3704 sets out the rules relative to assignment of employees from private sector organizations and would be applicable to the GAO program, except for the provision regarding regulations prescribed by the President. Under this section, private sector participants would receive their salary and benefits from their employers and GAO need not contribute to these costs. More importantly, this section makes clear that the private sector participants would be subject to the same laws and regulations regarding conflict of interest, financial disclosure, and standards of conduct applicable to all employees of GAO. Section 3705, which concerns the Office of the Chief Technology Officer of the District of Columbia, is not applicable to the GAO program. In addition, the reporting requirements of the Office of Personnel Management in section 3706 will not cover GAO. Instead the Comptroller General must assess the effectiveness and usefulness of the program in the GAO annual report submitted to the Congress and other interested parties.

The number of GAO employees participating in the program is limited to no more than 1% of the workforce. In addition, no more than 30 private sector employees may participate in the program.

SEC. 8. REDESIGNATION.

Section 8 of the bill changes the name of the General Accounting Office to the Government Accountability Office to more accurately reflect the current mission of GAO and assist the agency in its recruiting and public communication efforts. While the U.S. General Accounting Office may be reflective of the agency's role in its initial decades of existence, it is not reflective of the modern agency. The modern agency is focused on improving the performance and assuring the accountability of the federal government for the benefit of the American people. Importantly, although the name has been changed, the well-known acronym for the agency, "GAO", remains the same.

SEC. 9. EFFECTIVE DATES.

Section 9 provides that the effective date of the Act will be the date of passage except for sections 2 and 3 that concern annual adjustments to the pay rates for GAO employees. These provisions are effective for any pay adjustments on or after October 1, 2005, and until then, with two exceptions, the existing statutory provisions will be in effect. The first exception gives the Comptroller General the authority to prescribe regulations that would immediately preclude employees who are not performing at a satisfactory level from receiving the annual adjustment to the pay rates, instead of having to wait until section 3 is effective. The second exception authorizes the Comptroller General to prescribe regulations that would enable him to give less than the full amount of the adjustments under existing law, if the agency encounters serious budget constraints or extraordinary economic conditions. However, the Comptroller General may delay the implementation of sections 2 and 3 for groups of employees if he deems this appropriate.