Subsec. (f). Pub. L. 108–271, §5, added subsec. (f).

Subsec. (g). Pub. L. 108–271, §6, added subsec. (g).

Subsecs. (h), (i). Pub. L. 108–271, §7, added subsecs. (h) and (i).

2000—Subsec. (e)(1). Pub. L. 106–303, §5(1), substituted ''terms of not more than 3 years, but which shall be renewable'' for ''not more than 3 years''.

Subsec. (e)(2). Pub. L. 106–303, §5(2), substituted ''level IV'' for ''level V''.

1993—Subsec. (b). Pub. L. 103–89 inserted before period at end '', as in effect on October 31, 1993''.

1984—Subsec. (b). Pub. L. 98–615 substituted ''section 5401 of title 5'' for ''section 5401(a) of title 5''.

Subsec. (e). Pub. L. 98–236 substituted ''title 5 at rates not in excess of the maximum daily rate for GS–18 under section 5332 of such title'' for ''title 5'' in provisions preceding par. (1) and ''15'' for ''10'' in par. (1).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. I, title I, §1301(b), Dec. 18, 2015, 129 Stat. 2671, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal year 2016 and each succeeding fiscal year.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–271, §13, July 7, 2004, 118 Stat. 816, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), this Act [see Tables for classification] and the amendments made by this Act shall take effect on the date of enactment of this Act [July 7, 2004].

''(b) PAY ADJUSTMENTS.—

''(1) IN GENERAL.—Section 3 of this Act [amending sections 732 and 733 of this title] 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'.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1984 AMENDMENTS

Pub. L. 98–615, title II, §205, Nov. 8, 1984, 98 Stat. 3217, provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

Pub. L. 98–326, §2, June 22, 1984, 98 Stat. 269, provided that: ''The amendments made by this Act [amending this section and sections 732 and 733 of this title] shall take effect beginning on October 1, 1984.''

CONSULTATION

Pub. L. 108–271, §10, July 7, 2004, 118 Stat. 815, provided that: ''Before the implementation of any changes authorized under this Act [see Tables for classification], the Comptroller General shall consult with any interested groups or associations representing officers and employees of the General Accounting Office [now Government Accountability Office].''

§ 732. Personnel management system

(a) The Comptroller General shall maintain a personnel management system. The Comptroller General may prescribe a regulation about the system only after notice and opportunity for public comment. A reprisal or threat of reprisal may not be made against an officer or employee of the Government Accountability Office because of comments on a proposed regulation about the system.

(b) The personnel management system shall—

(1) include the principles of section 2301(b) of title 5;

(2) prohibit personnel practices prohibited under section 2302(b) of title 5;

(3) prohibit political activities prohibited under subchapter III of chapter 73 of title 5;

(4) ensure that officers and employees of the Office are appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service;

(5) give a preference to an individual eligible for a preference in the executive branch of the United States Government in a way and to an extent consistent with a preference given an individual in the executive branch; and

(6) provide that the Comptroller General shall fix the basic pay of officers and employees of the Office not fixed by law, consistent with section 5301 of title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title.

(c) Under the personnel management system—

(1) the Comptroller General shall publish a schedule of basic pay rates for officers and employees of the Office;

(2) except as provided in clause (4) of this subsection and section 733(a)(3)(A) of this title, the highest basic pay rate under the pay schedule may not be more than the rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5;

(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 Of-

fice, 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;

(4) the pay schedule for officers and employees of the Office may provide that the basic pay rates for not more than 129 positions (including senior-level positions under section 732a of this title) may be at rates not more than the rate of basic pay payable for grade GS–18 of the General Schedule, less the number of positions in the General Accounting Office Senior Executive Service[1] under section 733 of this title (except positions included in the Service under section 733(c) of this title and senior-level positions described in section 732a(b) of this title); and

(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.

(d) The personnel management system shall provide—

(1) for a system to appraise the performance of officers and employees of the General Accounting Office[2] 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;

(2) that the Comptroller General has the same responsibility for performance appraisals under this subsection as the Director of the Office of Personnel Management has under section 4302 of title 5;

(3) for a reduction in grade or removal of an officer or employee because of unacceptable performance consistent with section 4303 of title 5;

(4) for other personnel actions consistent with chapter 75 of title 5; and

(5) a procedure for processing complaints and grievances not otherwise provided for under clauses (3) and (4) of this subsection or subsection (e) or (f)(1) of this section.

(e) The personnel management system shall provide—

(1) a procedure that ensures that each officer and employee of the Government Accountability Office may form, join, or assist, or not form, join, or assist, an employee organization freely and without fear of penalty or reprisal; and

(2) for a labor-management relations program consistent with chapter 71 of title 5.

(f)(1) The personnel management system shall—

(A) provide that all personnel actions affecting an officer, employee, or applicant for em-

[1] See Change of Name note below.

[2] So in original. Probably should be ''Government Accountability Office''.

ployment be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

(B) include a minority recruitment program consistent with section 7201 of title 5.

(2) This subchapter and subchapter IV of this chapter do not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition. However, for officers, employees, or applicants in the Government Accountability Office—

(A) the General Accounting Office Personnel Appeals Board[1] has the same authority over oversight and appeals matters as an executive agency has over oversight and appeals matters; and

(B) the Comptroller General has the same authority over matters (except oversight and appeals) as an executive agency has over matters (except oversight and appeals).

(3) This section does not affect a lawful effort to achieve equal employment opportunity through affirmative action.

(g) An officer or employee of the Government Accountability Office completing at least one year of continuous service under a nontemporary appointment under the personnel management system acquires a competitive status for appointment to a position in the competitive service for which the officer or employee is qualified.

(h)(1)(A) Notwithstanding any other provision of law, the Comptroller General shall prescribe regulations, consistent with regulations issued by the Office of Personnel Management under authority of section 3502(a) of title 5 for the separation of employees of the Government Accountability Office during a reduction in force or other adjustment in force.

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

(i) tenure of employment;

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

(iii) veterans' preference under sections 3502(b) and 3502(c) of title 5;

(iv) performance ratings;

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

(vi) other objective factors such as skills and knowledge that the Comptroller General considers necessary and appropriate to realign the agency's workforce in order to meet current and future mission needs, to correct skill imbalances, or to reduce high-grade, managerial, or supervisory positions.

(C) Notwithstanding subparagraph (B), the regulations relating to removal from the General Accounting Office Senior Executive Service[1] in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

(2)(A) The regulations shall provide a right of appeal to the General Accounting Office Personnel Appeals Board[1] regarding a personnel action under the regulations, consistent with section 753 of this title.

(B) The regulations shall provide that final decision by the General Accounting Office Personnel Appeals Board[1] may be reviewed by the United States Court of Appeals for the Federal Circuit consistent with section 755 of this title.

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

(i) the personnel action to be taken with respect to the employee involved;

(ii) the effective date of the action;

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

(iv) the employee's ranking relative to other competing employees, and how that ranking was determined; and

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

(B) The Comptroller General may, in writing, shorten the period of advance notice required under subparagraph (A) with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable, except that such period may not be less than 30 days.

(i) The regulations under subsection (h) shall include provisions under which, at the discretion of the Comptroller General, the opportunity to separate voluntarily (in order to permit the retention of an individual occupying a similar position) shall, with respect to the Government Accountability Office, be available to the same extent and in the same manner as described in subsection (f)(1)–(4) of section 3502 of title 5 (with respect to the Department of Defense or a military department).

(j)(1) For purposes of this subsection—

(A) the term ''pay increase'', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under section 731(b) and subsection (c)(3) in such year;

(B) the term ''required minimum percentage'', as used with respect to an officer or employee in connection with a year, means the percentage equal to the total increase in rates of basic pay (expressed as a percentage) taking effect under sections 5303 and 5304–5304a of title 5 in such year with respect to General Schedule positions within the pay locality (as defined by section 5302(5) of title 5) in which the position of such officer or employee is located;

(C) the term ''covered officer or employee'', as used with respect to a pay increase, means any individual—

(i) who is an officer or employee of the Government Accountability Office, other than an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) of the Government Accountability Office Act of 2008, determined as of the effective date of such pay increase; and

(ii) whose performance is at least at a satisfactory level, as determined by the Comp-

troller General under the provisions of subsection (c)(3) for purposes of the adjustment taking effect under such provisions in such year; and

(D) the term ''nonpermanent merit pay'' means any amount payable under section 731(b) which does not constitute basic pay.

(2)(A) Notwithstanding any other provision of this chapter, if (disregarding this subsection) the pay increase that would otherwise take effect with respect to a covered officer or employee in a year would be less than the required minimum percentage for such officer or employee in such year, the Comptroller General shall provide for a further increase in the rate of basic pay of such officer or employee.

(B) The further increase under this subsection—

(i) shall be equal to the amount necessary to make up for the shortfall described in subparagraph (A); and

(ii) shall take effect as of the same date as the pay increase otherwise taking effect in such year.

(C) Nothing in this paragraph shall be considered to permit or require that a rate of basic pay be increased to an amount inconsistent with the limitation set forth in subsection (c)(2).

(D) If (disregarding this subsection) the covered officer or employee would also have received any nonpermanent merit pay in such year, such nonpermanent merit pay shall be decreased by an amount equal to the portion of such officer's or employee's basic pay for such year which is attributable to the further increase described in subparagraph (A) (as determined by the Comptroller General), but to not less than zero.

(3) Notwithstanding any other provision of this chapter, the effective date of any pay increase (within the meaning of paragraph (1)(A)) taking effect with respect to a covered officer or employee in any year shall be the same as the effective date of any adjustment taking effect under section 5303 of title 5 with respect to statutory pay systems (as defined by section 5302(1) of title 5) in such year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 897; Pub. L. 98–326, § 1(b), June 22, 1984, 98 Stat. 269; Pub. L. 100–426, title III, §§ 302, 303, Sept. 9, 1988, 102 Stat. 1602; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(2)(B)], Nov. 5, 1990, 104 Stat. 1427, 1439; Pub. L. 104–53, title II, § 212(a), Nov. 19, 1995, 109 Stat. 535; Pub. L. 106–303, §§ 3(a)(1), (b)(1), 4(a)(2), Oct. 13, 2000, 114 Stat. 1066, 1068, 1069; Pub. L. 108–271, §§ 3(a), (c), 4, 8(b), 9, 12, July 7, 2004, 118 Stat. 812, 814, 816; Pub. L. 110–323, §§ 2(a), 8, Sept. 22, 2008, 122 Stat. 3539, 3548.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
732(a)	31:52–2(a).	Feb. 15, 1980, Pub. L. 96–191, §§ 3, 6, 94 Stat. 27, 32.
	31:52–5(b).	
732(b)	31:52–2(b)(1), (c)(1st sentence).	
732(c)	31:52–2(c)(last sentence).	
732(d)	31:52–2(d), (f), (h).	
732(e)	31:52–2(e).	
732(f)(1), (2).	31:52–2(g).	
732(f)(3) ...	31:52–2(b)(2).	
732(g)	31:52–5(a).	

In the section, the words ''officers and'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''not later than October 1, 1980'' and 31:52–5(b) are omitted as executed. The word ''maintain'' is substituted for ''establish by regulation'' to omit executed words. The words ''for the General Accounting Office (hereinafter referred to as the 'personnel system') which shall meet the requirements of subsections (b) through (h)'', and ''or any amendment'' are omitted as surplus. The words ''about the system'' are substituted for ''thereto'' for clarity.

In subsection (b)(1), the words ''merit system'' are omitted as surplus. In clause (5), the words ''of the United States Government'' are added for consistency. In clause (6), the words ''the principles of'' are omitted as surplus.

In subsection (c)(2), the words ''payable . . . under the General Schedule'' are omitted as surplus. In clause (4), the words ''not more than 100 positions'' are substituted for ''up to one hundred employees'' for consistency. The words ''payable . . . grade . . . of the General Schedule'' are omitted as surplus. In clause (5), the words ''the principles of'' are omitted as surplus.

In subsection (d)(2), the words ''Director of'' are added for consistency. The text of 31:52–2(d)(last sentence) is omitted as executed. In clause (4), the words ''the taking of'' are omitted as surplus.

In subsections (e)–(g), the word ''management'' is added for consistency.

In subsection (f)(1), the words ''in the General Accounting Office'' are omitted as surplus.

In subsection (f)(2), before clause (A), the word ''affect'' is substituted for ''abolish or diminish'' to eliminate unnecessary words. The words ''in the General Accounting Office by section 717 of the Civil Rights Act of 1964, by sections 12 and 15 of the Age Discrimination in Employment Act of 1967, by section 6(d) of the Fair Labor Standards Act of 1938, by sections 501 and 505 of the Rehabilitation Act of 1973, or . . . other'' are omitted as surplus. In clauses (A) and (B), the words ''has the same authority . . . as . . . has'' are substituted for ''authorities granted thereunder to . . . shall be exercised by'' for clarity. The words ''the Equal Employment Opportunity Commission, Office of Personnel Management, the Merit Systems Protection Board, or . . . other'' are omitted as surplus. In clause (A), the words ''established by section 52–3'' are omitted as surplus.

In subsection (f)(3), the word ''affect'' is substituted for ''prohibits or restricts'' for consistency.

In subsection (g), the words ''Notwithstanding any other provision of law'' are omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

Level III of the Executive Level, referred to in subsec. (c)(2), probably means Level III of the Executive Schedule, which is set out in section 5314 of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsecs. (c)(4) and (j)(1)(B), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 4(c)(1) of the Government Accountability Office Act of 2008, referred to in subsec. (j)(1)(C)(i), is section 4(c)(1) of Pub. L. 110–323, which is set out as a note below.

AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110–323, § 8, substituted ''rate for level III of the Executive Level, except that

the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5'' for ''highest basic rate for GS–15''.

Subsec. (j). Pub. L. 110–323, §2(a), added subsec. (j).

2004—Subsec. (a). Pub. L. 108–271, §8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

Subsec. (b)(6). Pub. L. 108–271, §3(c), substituted ''title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title'' for ''title 5''.

Subsec. (c)(3). Pub. L. 108–271, §3(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''except as provided under section 733(a)(3)(B) of this title or section 5349(a) of title 5, basic pay rates of officers and employees of the Office shall be adjusted at the same time and to the same extent as basic pay rates of the General Schedule are adjusted;''.

Subsec. (c)(5). Pub. L. 108–271, §4, amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5.''

Subsec. (d)(1). Pub. L. 108–271, §4, amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''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;''.

Subsecs. (e)(1), (f)(2) (introductory provisions), (g), (h)(1)(A). Pub. L. 108–271, §8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

Subsec. (h)(3)(A). Pub. L. 108–271, §12, substituted ''reduction in force'' for ''reduction force''.

Subsec. (i). Pub. L. 108–271, §8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

2000—Subsec. (c)(4). Pub. L. 106–303, §4(a)(2), inserted ''(including senior-level positions under section 732a of this title)'' after ''129 positions'' and substituted ''733(c) of this title and senior-level positions described in section 732a(b) of this title);'' for ''733(c) of this title);''.

Subsec. (h). Pub. L. 106–303, §3(a)(1), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''Notwithstanding the provisions of subchapter I of chapter 35 of title 5, United States Code, the Comptroller General shall prescribe regulations for the release of officers and employees of the General Accounting Office in a reduction in force which give due effect to tenure of employment, military preference, performance and/or contributions to the agency's goals and objectives, and length of service. The regulations shall, to the extent deemed feasible by the Comptroller General, be designed to minimize disruption to the Office and to assist in promoting the efficiency of the Office.''

Subsec. (i). Pub. L. 106–303, §3(b)(1), added subsec. (i).

1995—Subsec. (h). Pub. L. 104–53 added subsec. (h).

1990—Subsec. (b)(6). Pub. L. 101–509 substituted ''5301'' for ''5301(a)''.

1988—Subsec. (c)(3). Pub. L. 100–426, §303, substituted ''under section 733(a)(3)(B) of this title or section 5349(a) of title 5'' for ''in section 733(a)(3)(B) of this title''.

Subsec. (c)(4). Pub. L. 100–426, §302, substituted ''129'' for ''119'' and ''the rate of basic pay payable for grade GS–18 of the General Schedule'' for ''the highest rate for GS–18''.

1984—Subsec. (c)(4). Pub. L. 98–326 substituted ''119'' for ''100''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–323, §2(b), Sept. 22, 2008, 122 Stat. 3540, provided that: ''The amendment made by this section [amending this section] shall apply with respect to any pay increase (as defined by such amendment) taking effect on or after the date of the enactment of this Act [Sept. 22, 2008].''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 3 of Pub. L. 108–271 effective Oct. 1, 2005, and applicable in the case of any annual pay adjustment taking effect on or after Oct. 1, 2005, subject to authority of Comptroller General to change pay adjustments or delay the effective date for certain groups of officers and employees, see section 13 of Pub. L. 108–271, set out as a note under section 731 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT; SAVINGS PROVISION

Pub. L. 106–303, §3(a)(2), (3), Oct. 13, 2000, 114 Stat. 1067, 1068, provided that:

''(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) [amending this section] shall apply with respect to all reduction-in-force actions taking effect on or after—

''(A) the 180th day following the date of the enactment of this Act [Oct. 13, 2000]; or

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

''(3) SAVINGS PROVISIONS.—If, before the effective date determined under paragraph (2), specific notice of a reduction-in-force action is given to an individual in accordance with section 1 of chapter 5 of GAO Order 2351.1 (dated February 28, 1996), then, for purposes of determining such individual's rights in connection with such action, the amendment made by paragraph (1) shall be treated as if it had never been enacted.''

Pub. L. 106–303, §3(b)(2), Oct. 13, 2000, 114 Stat. 1068, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 13, 2000].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–326 effective Oct. 1, 1984, see section 2 of Pub. L. 98–326, set out as a note under section 731 of this title.

PAY ADJUSTMENT RELATING TO CERTAIN PREVIOUS YEARS

Pub. L. 110–323, §3, Sept. 22, 2008, 122 Stat. 3540, provided that:

''(a) APPLICABILITY.—This section applies in the case of any individual who, as of the date of the enactment of this Act [Sept. 22, 2008], is an officer or employee of the Government Accountability Office, excluding—

''(1) an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) [set out as a note below]; and

''(2) an officer or employee who received both a 2.6 percent pay increase in January 2006 and a 2.4 percent pay increase in February 2007.

''(b) PAY INCREASE DEFINED.—For purposes of this section, the term 'pay increase', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under sections 731(b) and 732(c)(3) of title 31, United States Code, in such year.

''(c) PROSPECTIVE EFFECT.—Effective with respect to pay for service performed in any pay period beginning after the end of the 6-month period beginning on the date of the enactment of this Act (or such earlier date

as the Comptroller General may specify), the rate of basic pay for each individual to whom this section applies shall be determined as if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, subject to subsection (e).

''(d) LUMP-SUM PAYMENT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each individual to whom this section applies a lump-sum payment. Subject to subsection (e), such lump-sum payment shall be equal to—

''(1)(A) the total amount of basic pay that would have been paid to the individual, for service performed during the period beginning on the effective date of the pay increase for 2006 and ending on the day before the effective date of the pay adjustment under subsection (c) (or, if earlier, the date on which the individual retires or otherwise ceases to be employed by the Government Accountability Office), if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, minus

''(B) the total amount of basic pay that was in fact paid to the individual for service performed during the period described in subparagraph (A); and

''(2) increased by 4 percent of the amount calculated under paragraph (1).

Eligibility for a lump-sum payment under this subsection shall be determined solely on the basis of whether an individual satisfies the requirements of subsection (a) (to be considered an individual to whom this section applies), and without regard to such individual's employment status as of any date following the date of the enactment of this Act or any other factor.

''(e) CONDITIONS.—Nothing in subsection (c) or (d) shall be considered to permit or require—

''(1) the payment of any rate (or portion of the lump-sum amount as calculated under subsection (d)(1) based on a rate) for any pay period, to the extent that such rate would be (or would have been) inconsistent with the limitation that applies (or that applied) with respect to such pay period under section 732(c)(2) of title 31, United States Code; or

''(2) the payment of any rate or amount based on the pay increase for 2006 or 2007 (as the case may be), if—

''(A) the performance of the officer or employee involved was not at a satisfactory level, as determined by the Comptroller General under paragraph (3) of section 732(c) of such title 31 for purposes of the adjustment under such paragraph for that year; or

''(B) the individual involved was not an officer or employee of the Government Accountability Office on the date as of which that increase took effect.

As used in paragraph (2)(A), the term 'satisfactory' includes a rating of 'meets expectations' (within the meaning of the performance appraisal system used for purposes of the adjustment under section 732(c)(3) of such title 31 for the year involved).

''(f) RETIREMENT.—

''(1) IN GENERAL.—The portion of the lump-sum payment paid under subsection (d) to an officer or employee as calculated under subsection (d)(1) shall, for purposes of any determination of the average pay (as defined by section 8331 or 8401 of title 5, United States Code) which is used to compute an annuity under subchapter III of chapter 83 or chapter 84 of such title—

''(A) be treated as basic pay (as defined by section 8331 or 8401 of such title); and

''(B) be allocated to the biweekly pay periods covered by subsection (d).

''(2) CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

''(A) EMPLOYEE CONTRIBUTIONS.—The Government Accountability Office shall deduct and withhold from the lump-sum payment paid to each employee under subsection (d) an amount equal to the difference between—

''(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, if the portion of the lump-sum payment as calculated under subsection (d)(1) had been additionally paid as basic pay during the period described under subsection (d)(1) of this section; and

''(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period.

''(B) AGENCY CONTRIBUTIONS AND PAYMENT TO THE FUND.—Not later than 9 months after the Government Accountability Office makes the lump-sum payments under subsection (d), the Government Accountability Office shall pay into the Civil Service Retirement and Disability Fund—

''(i) the amount of each deduction and withholding under subparagraph (A); and

''(ii) an amount for applicable agency contributions under section 8334 or 8423 of title 5, United states Code, based on payments made under clause (i).

''(g) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any individuals to whom this section applies (as described in subsection (a)) have for any claim that they are owed any monies denied to them in the form of a pay increase for 2006 or 2007 under section 732(c)(3) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such individuals that they were due money in the form of a pay increase for 2006 or 2007 pursuant to such section 732(c)(3) or any other law.''

LUMP-SUM PAYMENT FOR CERTAIN PERFORMANCE-BASED COMPENSATION

Pub. L. 110–323, §4, Sept. 22, 2008, 122 Stat. 3543, provided that:

''(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act [Sept. 22, 2008], the Comptroller General shall, subject to the availability of appropriations, pay to each qualified individual a lump-sum payment equal to the amount of performance-based compensation such individual was denied for 2006, as determined under subsection (b).

''(b) AMOUNT.—The amount payable to a qualified individual under this section shall be equal to—

''(1) the total amount of performance-based compensation such individual would have earned for 2006 (determined by applying the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006) if such individual had not had a salary equal to or greater than the maximum for such individual's band (as further described in subsection (c)(2)), less

''(2) the total amount of performance-based compensation such individual was in fact granted, in January 2006, for that year.

''(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term 'qualified individual' means an individual who—

''(1) as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

''(A) an individual holding a position subject to section 732a or 733 of title 31, United States Code (disregarding section 732a(b) and 733(c) of such title);

''(B) a Federal Wage System employee; and

''(C) an individual participating in a development program under which such individual receives performance appraisals, and is eligible to receive permanent merit pay increases, more than once a year; and

''(2) as of January 22, 2006, was a Band I staff member with a salary above the Band I cap, a Band IIA staff member with a salary above the Band IIA cap, or an administrative professional or support staff

member with a salary above the cap for that individual's pay band (determined in accordance with the orders cited in subsection (b)(1)).

''(d) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any officers and employees (as described in subsection (c)) have for any claim that they are owed any monies denied to them in the form of merit pay for 2006 under section 731(b) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body in the United States, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such officers or employees that they were due money in the form of merit pay for 2006 pursuant to such section 731(b) or any other law.

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'performance-based compensation' has the meaning given such term under the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006; and

''(2) the term 'permanent merit pay increase' means an increase under section 731(b) of title 31, United States Code, in a rate of basic pay.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 732a. Critical positions

(a) The Comptroller General may establish senior-level positions to meet critical scientific, technical or professional needs of the Government Accountability Office. An individual serving in such a position shall—

(1) be subject to the laws and regulations applicable to the General Accounting Office Senior Executive Service[1] under section 733 of this title, with respect to rates of basic pay, performance awards, ranks, carry over of annual leave, benefits, performance appraisals, removal or suspension, and reductions in force;

(2) have the same rights of appeal to the General Accounting Office Personnel Appeals Board[1] as are provided to the Office Senior Executive Service;

(3) be exempt from the same provisions of law as are made inapplicable to the Office Senior Executive Service under section 733(d) of this title, except for section 732(e) of this title;

(4) be entitled to discontinued service retirement under chapter 83 or 84 of title 5 as if a member of the Office Senior Executive Service; and

(5) be subject to reassignment by the Comptroller General to any position in the Office Senior Executive Service under section 733 of this title, as the Comptroller General determines necessary and appropriate.

(b) Senior-level positions under this section may include positions referred to in paragraph (1) or (2) of section 731(e) of this title.

(Added Pub. L. 106–303, § 4(a)(1), Oct. 13, 2000, 114 Stat. 1068; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–323, § 9(b)(1), Sept. 22, 2008, 122 Stat. 3548.)

Editorial Notes

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–323 substituted ''paragraph (1) or (2) of section 731(e)'' for ''section 731(d), (e)(1), or (e)(2)''.

2004—Subsec. (a). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

§ 733. Senior Executive Service

(a) The Comptroller General may establish a General Accounting Office Senior Executive Service[1]—

(1) meeting the requirements of section 3131 of title 5;

(2) providing requirements for positions consistent with section 3132(a)(2) of title 5;

(3) providing rates of basic pay—

(A) not more than the maximum rate or less than the minimum rate for the Senior Executive Service under section 5382 of title 5; and

(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;

(4) providing a performance appraisal system consistent with subchapter II of chapter 43 of title 5;

(5) allowing the Comptroller General to award ranks to officers and employees in the Office Senior Executive Service consistent with section 4507 of title 5;

(6) providing for removal consistent with section 3592 of title 5, and for removal or suspension consistent with section 7543 of title 5;

(7) allowing the Comptroller General to reassign an officer or employee in the Office Senior Executive Service to any senior-level position established under section 732a of this title, as the Comptroller General determines necessary and appropriate; and

(8) allowing the Comptroller General to pay performance awards to officers and employees of the Office Senior Executive Service consistent with section 5384 of title 5.

(b) Except as provided in subsection (a), the Comptroller General may apply any part of title 5 that applies to an applicant for or officer or employee in the Senior Executive Service under title 5 to the Office Senior Executive Service.

(c) The Office Senior Executive Service may include positions referred to in section 731(c), (e)(1), or (e)(2) of this title.

[1] See Change of Name note below.

[1] See Change of Name note below.