Public Law 96-191
96th Congress

An Act

To establish an independent personnel system for employees of the General Accounting Office.

Feb. 15, 1980
[H.R. 5176]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Personnel Act of 1980".

General Accounting Office Personnel Act of 1980.
31 USC 1 note.

GENERAL PERSONNEL AUTHORITY

SEC. 2. The Comptroller General of the United States (hereinafter referred to as the "Comptroller General") may appoint, pay, assign, and direct such personnel as the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office.

31 USC 52-1.

ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM

SEC. 3. (a) The Comptroller General shall, not later than the effective date established by section 9(a), establish by regulation a personnel management system for the General Accounting Office (hereinafter referred to as the "personnel system") which shall meet the requirements of subsections (b) through (h). Before promulgating any regulation or any amendment thereto under this section, the Comptroller General shall provide notice and an opportunity for public comment. No reprisal or threat of reprisal shall be made against any employee of the General Accounting Office as a result of comments provided with respect to any proposed regulation or amendment under this section.

31 USC 52-2.

Notice and public comment.

Reprisal.

(b)(1) The personnel system shall—

Functions.

(A) embody the merit system principles described in section 2301(b) of title 5, United States Code;

(B) prohibit the personnel practices prohibited in section 2302(b) of such title;

5 USC 2302.

(C) prohibit the political activities prohibited under subchapter III of chapter 73 of title 5, United States Code;

5 USC 7321.

(D) assure that all employees of the General Accounting Office are appointed, promoted, and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service; and

(E) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(2) Nothing in this section prohibits or restricts any lawful effort to achieve equal employment opportunity through affirmative action.

(c) The personnel system shall provide that the pay of the employees of the General Accounting Office shall be fixed by the Comptroller General consistent with the principles of section 5301(a) of title 5, United States Code. Under the personnel system—

Employee pay.

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Rates, publication.

(1) the Comptroller General shall publish a schedule of pay rates which shall apply to employees of the General Accounting Office and, except as provided in paragraph (3) of this subsection or section 5, the highest rate under such schedule shall not exceed the highest rate of basic pay payable for GS-15 under the General Schedule;

5 USC 5332 note.

(2) except as provided in section 5, the pay of the employees of the General Accounting Office shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule;

5 USC 5332 note.

(3) such schedule may provide for rates which do not exceed the maximum rate payable for grade GS-18 of the General Schedule for up to one hundred employees, reduced by the number of employees who are in the General Accounting Office Senior Executive Service established under section 5, except for employees in such service pursuant to section 5(a)(4); and

5 USC 5332 note.

(4) employees of the General Accounting Office shall be entitled to grade and pay retention, consistent with the principles of subchapter VI of chapter 53 of title 5, United States Code.

5 USC 5361. Employee performance appraisals.

(d) The personnel system shall include a system for performance appraisals of employees of the General Accounting Office which meets the requirements of section 4302 of title 5, United States Code. The personnel system shall provide that the Comptroller General has the same responsibility with respect to the performance appraisal system under this subsection as the Office of Personnel Management has with respect to the performance appraisal systems under such section. The Comptroller General shall implement the performance system required by this subsection as soon as practicable, but not later than October 1, 1981.

Labor-management relations program.

(e) The personnel system shall provide for procedures to ensure that each employee of the General Accounting Office has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization, or to refrain from such activity, and shall provide for a labor-management relations program, consistent with chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(f) The personnel system shall provide for the reduction in grade or removal of employees based on unacceptable performance consistent with section 4303 of title 5, United States Code, and the taking of other personnel actions consistent with chapter 75 of such title.

5 USC 7501 *et seq.*

Discrimination, prohibitions.

(g)(1) The personnel system shall provide that all personnel actions affecting employees or applicants for employment in the General Accounting Office shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition.

Minority recruitment program.

(2) The personnel system shall include a minority recruitment program consistent with section 7201 of title 5, United States Code.

(3) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the General Accounting Office by section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), by sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), by section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), by sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), or by any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; except that, with respect to employees and applicants for employment in the General Accounting Office, authorities granted thereunder to the Equal Employment Opportunity Commission,

Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch—

(A) involving oversight and appeals, shall be exercised by the General Accounting Office Personnel Appeals Board established by section 4; and

(B) involving other responsibilities, shall be exercised by the Comptroller General.

(h) The personnel system shall provide procedures for the processing of complaints and grievances which are not otherwise provided for under subsections (e), (f), and (g). Complaints and grievances.

GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD

SEC. 4. (a)(1) There is established within the General Accounting Office a board to be known as the General Accounting Office Personnel Appeals Board (hereinafter referred to as the "Board"). The Board shall be composed of five members appointed by the Comptroller General in accordance with this subsection. 31 USC 52-3.

(2) Each appointment made by the Comptroller General under paragraph (1) shall be made— Appointments.

(A) from a written list of candidates submitted to the Comptroller General by any organization eligible to make such a submission under paragraph (4); and

(B) after consultation with organizations which represent employees of the General Accounting Office and with the member or members of each committee of the Congress having legislative jurisdiction over the personnel system who are designated by the chair of each such committee to consult with the Comptroller General.

(3) An individual shall be eligible for appointment as a member of the Board only if such individual— Eligibility.

(A) has a total of three years of full-time or part-time experience in the adjudication or arbitration of personnel matters;

(B) is not a current or former officer or employee of the General Accounting Office;

(C) has the demonstrated ability, background, training, and experience necessary to be especially qualified to serve as a member of the Board; and

(D) demonstrates a capacity and willingness to devote sufficient time to service as a member of the Board in order to enable the Board to dispose of cases under this section in a timely manner.

(4) An organization shall be eligible to submit a list of candidates to the Comptroller General under paragraph (2)(A) if, in the opinion of the Comptroller General, the membership of the organization is composed primarily of individuals who are experienced in the adjudication or arbitration of personnel matters. The submission of any list under this paragraph shall be made in the form, at the time, and according to the procedures, which the Comptroller General may require.

(b)(1) Except as provided in paragraph (2), members of the Board shall be appointed for terms of three years. Terms of office.

(2) Of the members first appointed to the Board two shall be appointed for a term of three years, two shall be appointed for a term of two years, and one shall be appointed for a term of one year, as designated by the Comptroller General at the time of appointment.

(3) Members of the Board shall not be eligible for reappointment.

(4) Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment. Any individual Vacancies.

appointed to fill a vacancy shall serve only for the unexpired portion of the term with respect to which such vacancy has occurred, except that, if the unexpired portion is less than one year, the Comptroller General may appoint the individual for a term which is equal to three years plus that unexpired portion.

(5) A member of the Board may continue to serve after the expiration of the term for which the member was appointed until a successor has taken office, except that the member may not so continue to serve for more than six months after the date on which the term for which the member was appointed otherwise would expire under this subsection.

Removal procedures.

(c)(1) A member of the Board may be removed from the Board—

(A) by majority vote of the members of the Board (other than the member who is the subject of the proposed action of removal); and

(B) only for inefficiency, neglect of duty, or malfeasance in office.

Notice and hearing.

Waiver.

(2) Any member of the Board who is the subject of any proposed action of removal under this subsection shall be given notice and opportunity for a hearing before the Board prior to any vote of the members of the Board under paragraph (1)(A). The Board may dispense with the opportunity for a hearing only upon the submission of a written waiver of the hearing to the Chair by the member subject to the proposed action.

Compensation.

5 USC 5332 note.

(d) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate payable for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be entitled to travel expenses and per diem allowances in accordance with section 5703 of title 5, United States Code.

Chairperson.

(e) The members of the Board shall select from among the members of the Board a Chair who shall be the chief executive and administrative officer of the Board.

General Counsel.

(f)(1) The Chair shall select and the Comptroller General shall appoint an individual to serve as General Counsel of the Board (hereinafter referred to as the "General Counsel"). The General Counsel shall be eligible for reappointment and shall serve at the pleasure of the Chair.

(2) The Chair shall fix the rate of pay of the General Counsel, except that the rate of pay shall not exceed the maximum rate payable for GS-15 of the General Schedule.

5 USC 5332 note.

Duties.

(g) The General Counsel shall—

(1) investigate any allegation concerning prohibited personnel practices referred to in section 3(b)(1)(B) of this Act to the extent necessary to determine whether there are reasonable grounds to believe that any such practice has occurred, exists, or is to be taken by any employee of the General Accounting Office;

(2) investigate any allegation concerning prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(3) investigate matters under the jurisdiction of the Board if so requested by the Board or any member of the Board; and

(4) otherwise assist the Board in carrying out its functions.

Corrective or disciplinary action, Board authority.

(h) The Board may consider, decide, and order corrective or disciplinary action (as appropriate) in cases arising from—

(1) employee appeals concerning any removal, suspension for

more than fourteen days, reduction in grade, reduction in pay, or furlough of thirty days or less;

(2) prohibited personnel practices referred to in section 3(b)(1)(B);

(3) prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(4) determinations of appropriate units of employees for collective bargaining;

(5) elections and certifications of collective bargaining representatives;

(6) any labor practice prohibited under the labor-management system established under section 3(e) and any other matter appealable to the Board under that system;

(7) actions involving discrimination prohibited under section 3(g); and

(8) any other issue relating to the personnel of the General Accounting Office which the Comptroller General, by regulation, determines is most appropriately resolved by the Board.

(i) The Comptroller General shall promptly implement any corrective action ordered by the Board, in cases in which the Comptroller General has the authority to do so.

(j) The Board shall have authority to designate a panel of its members, or an individual member, to take any action which the Board is authorized to take under subsection (h). Any decision made under subsection (h) by a panel or individual member designated under this subsection shall be considered to be a final decision of the Board unless the decision is reopened and reconsidered by the Board under subsection (k).

(k) The Board may, on the motion of any party or on its own motion, reopen and reconsider any decision under subsection (h) within thirty days after the decision is rendered. Decisions, reconsideration.

(l)(1) Any final decision of the Board (or of any panel or individual member designated under subsection (j)) under subsections (h) (1), (2), (3), (6) and (7) may be appealed to the United States Court of Appeals for the circuit in which the petitioner resides or to the United States Court of Appeals for the District of Columbia. Any appeal under this subsection shall be in accordance with the procedures of chapter 158 of title 28, United States Code. Notwithstanding any other provision of law, any petition for review of a final decision of the Board shall be filed within thirty days after the date the petitioner receives notice of the final decision of the Board. Appeal. 28 USC 2341 *et seq.*

(2) In any case filed under paragraph (1), the court shall review the record and set aside any agency action, findings, or conclusions found to be— Case review.

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) obtained without procedures required by law, rule, or regulation having been followed; or

(C) unsupported by substantial evidence.

(m) The Board shall promulgate regulations— Regulations.

(1) providing for employee appeals, consistent with the principles of sections 7701 and 7702 of title 5, United States Code; and

(2) establishing its operating procedure.

GAO SENIOR EXECUTIVE SERVICE; MERIT PAY SYSTEM

SEC. 5. (a)(1) The Comptroller General may promulgate regulations establishing a General Accounting Office Senior Executive Service (hereinafter referred to as the GAO Senior Executive Service) which— 31 USC 52-4.

(A) meets the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

(B) provides that positions in the GAO Senior Executive Service meet requirements which are consistent with the provisions of section 3132(a)(2) of such title;

5 USC 3132.

(C) provides rates of pay for the GAO Senior Executive Service which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and which are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

5 USC 5382.

(D) provides a performance appraisal system for the GAO Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

5 USC 4311.

(E) permits the Comptroller General to award ranks to members of the GAO Senior Executive Service consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of such title;

5 USC 4507.

(F) provides for removal consistent with section 3592 of such title, and removal or suspension consistent with section 7543 of such title; and

5 USC 3592.
5 USC 7543.

(G) permits the Comptroller General to pay performance awards to members of the GAO Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title.

5 USC 5384.

(2) Except as otherwise provided in paragraph (1), the Comptroller General may make applicable for the GAO Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service.

Exception.

(3) Employees in the GAO Senior Executive Service shall not be subject to the provisions of the personnel system established under section 3 (c), (d), (e) and (f).

(4) The GAO Senior Executive Service may include positions referred to in—

(A) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(B) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b); and

(C) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)).

Merit pay system.

(b) The Comptroller General may promulgate regulations establishing a merit pay system for such employees of the General Accounting Office as the Comptroller General considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

NONCOMPETITIVE APPOINTMENTS; TECHNICAL ASSISTANCE

31 USC 52-5.

SEC. 6. (a) Notwithstanding any other provision of law, any employee of the General Accounting Office who has completed at least one year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) The Director of the Office of Personnel Management shall, on request from the Comptroller General, provide technical and consulting services to the Comptroller General in the establishment of the personnel system for the General Accounting Office.

COORDINATION WITH CERTAIN OTHER PROVISIONS OF LAW

SEC. 7. (a) Except as provided under section 5(a)(4), nothing contained in this Act shall be construed as repealing, amending, or otherwise affecting the provisions of— 31 USC 52-6.

(1) sections 302 and 303 of the Budget and Accounting Act, 1921 (31 U.S.C. 42 and 43), or subsections (a) and (b) of section 203 of the Federal Legislative Salary Act of 1964 (31 U.S.C. 42a (a) and (b));

(2) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(3) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(4) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)); or

(5) section 401 of the General Accounting Office Act of 1974 (31 U.S.C. 52c).

(b) Except as specifically provided in this Act, nothing contained in this Act shall be construed to repeal, amend, or limit the application of any provision of law applicable to employees of the General Accounting Office.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 2108(3) of title 5, United States Code, is amended by inserting "or the General Accounting Office" after "the Senior Executive Service".

(b) Subsection 5102(a)(1) of such title is amended by striking out "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by adding at the end thereof the following: 5 USC 5102.

"(ix) the General Accounting Office;".

(c)(1) Paragraph (1) of section 5108(c) of such title is repealed. 5 USC 5108.

(2) Paragraphs (2), (3), and (4) of such section are redesignated paragraphs (1), (2), and (3), respectively.

(d) Section 5342(a)(1) of such title is amended by striking out "or" at the end of subparagraph (H), by inserting "or" at the end of subparagraph (I), and by adding at the end thereof the following: 5 USC 5342.

"(J) the General Accounting Office;".

(e)(1) Subchapter III of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7328. General Accounting Office employees 5 USC 7328.

"The preceding provisions of this subchapter shall not apply to employees of the General Accounting Office.".

(2) The chapter analysis for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7327 the following new item:

"7328. General Accounting Office employees.".

(3) Subsections (a), (b), and (d) of section 311 of the Budget and Accounting Act, 1921 (31 U.S.C. 52) are amended to read as follows: Comptroller General's authority.

"(a) The Comptroller General shall appoint, fix the pay of, and remove employees of the General Accounting Office under the General Accounting Office Personnel Act of 1980. *Ante*, p. 27.

"(b) All officers and employees of the General Accounting Office shall perform such duties as may be assigned to them by the Comptroller General.".

(4) Subsections (e) and (f) of such section are redesignated subsections (c) and (d), respectively.

(f) Section 13 of the Federal Employees Pay Act of 1946 (31 U.S.C. 46a) is repealed. Repeal.

(g) Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended by striking out "(other than the General Accounting Office)".

AUTHORIZATION

31 USC 52-7.

SEC. 9. There are hereby authorized to be appropriated beginning fiscal year 1981 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

31 USC 52-1 note.

SEC. 10. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on—

(1) October 1, 1980; or

(2) if later, one hundred and twenty days after the date of the enactment of this Act.

(b) The provisions of section 3 shall take effect on the date of the enactment of this Act, except the personnel system established by the Comptroller General under that section shall take effect on the effective date established by subsection (a).

Approved February 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-494 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-540 accompanying S. 1879 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): Jan. 25, S. 1879 considered and passed Senate.
Jan. 30, Senate vitiated passage of S. 1879; H.R. 5176, amended, passed in lieu.
Feb. 4, House concurred in Senate amendment.