

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<sup>1</sup> 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<sup>1</sup> 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<sup>1</sup>—

(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;

<sup>1</sup> See Change of Name note below.

<sup>1</sup> See Change of Name note below.