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# GAO: Government Accountability Office and General Accounting Office

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# GAO: Government Accountability Office and General Accounting Office


## Summary

On July 7, 2004, an old congressional support agency was given a new name — while keeping same initials (GAO) — when the General Accounting Office, established in 1921, was re-designated the Government Accountability Office (P.L. 108-271). The renaming, which came at the request of its head, the Comptroller General (CG), is designed to reflect the agency's evolution and additional duties since its creation more than eight decades before. Importantly, the act also expands the CG's authority over pay and personnel matters.

The Government Accountability Office is the largest of three agencies that provide staff support, research, review, and analysis for Congress. GAO operates under the control and direction of the Comptroller General of the United States, who is appointed by the President, with the advice and consent of the Senate, for a 15-year nonrenewable term. A unique arrangement begins the process with a special bicameral commission of legislators from both parties making recommendations to the President.

GAO was established in 1921 as an independent auditor of government agencies and activities by the Budget and Accounting Act. The office was intended to be "independent of the executive departments," the entities it would audit and review. Sometimes called "Congress's watchdog" and its "investigative arm," GAO now provides a variety of services to Congress that extend beyond its original functions and duties. Current activities include oversight, investigation, review, and evaluation of executive programs, operations, and activities.

Throughout much of its history, the office has experienced growth in its powers, duties, and resources. In the mid-1990s, however, it was the subject of congressional hearings, studies, and proposals for change, connected with its mission, roles, and capabilities; these reviews were generated in part by criticisms of its perceived orientation. As a result, GAO's budget and authorities were reduced. Certain of the "executive powers" of the Comptroller General were abolished or transferred (to executive branch agencies) in 1996. In addition, GAO's budget was cut by 25% over a two-year period (FY1996 and FY1997), resulting in a 39% reduction in its staff over a seven-year period. In comparison to these reductions, however, the office's budget has since risen, from $358 million in FY1998 to $475 million in FY2005. Its staff size, however, has remained lower than in earlier periods. The high watermark of 4,324 FTEs in FY1995 is more than 1,000 positions or about 25% larger than the current level of 3,215.

## Contents



## List of Tables

# GAO: Government Accountability Office and General Accounting Office

## Introduction

The Government Accountability Office (GAO) is the largest of three agencies that provide staff support, research, review, and analysis for Congress; and it is the only one with a nationwide field structure.[1] GAO, which had been titled the General Accounting Office until 2004, operates under the control and direction of the Comptroller General of the United States (CG). The head is appointed by the President — after receiving recommendations from a special bicameral congressional commission — by and with the advice and consent of the Senate, for a 15-year nonrenewable term. The position, which had been vacant for two years, was filled in late 1998, when David M. Walker was sworn in and became only the seventh Comptroller General in GAO's history, which began more than eight decades ago.

GAO was established as an independent auditor of government agencies and activities by the Budget and Accounting Act of 1921 (42 Stat. 23). That enactment also created the Bureau of the Budget, the forerunner to the Office of Management and Budget, and established presidential authority over the budget formulation process. The basic authority for the office and its head is codified at 31 U.S.C. 701 et seq. and 3511 et seq. Numerous other statutory provisions affect the powers and duties of both GAO and the CG.

The office was designed to be "independent of the executive departments," which were placed under its audit and review powers (31 U.S.C. 702(a)). Sometimes characterized as "Congress's watchdog" and the "investigative arm of Congress," the GAO provides a variety of services to Congress, largely connected to the oversight, investigation, review, and evaluation of executive operations, activities, and programs.

The evolution of the office's authority, functions, and mandates over time, along with new pay and personnel powers for the Comptroller General, prompted him to request a change in its name: from the General Accounting Office to the Government Accountability Office (P.L. 108-271). GAO's current activities and services include:[2]

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[1] The other two are the Congressional Budget Office and the Congressional Research Service. A former support agency, the Office of Technology Assessment, was abolished in 1995, and the Government Printing Office serves different types of functions.

[2] Illustrations of products and services extend from identifying "high risk" areas in the executive to conducting specialized investigations of criminal matters and from auditing a narrow project to reviewing a broad program. A summary of GAO's current activities and

(continued...)

- auditing and evaluating federal programs and operations;
- conducting special investigations (through a small office) of alleged violations of federal criminal law, particularly conflict of interest or procurement and contract fraud;
- providing various legal services to Congress, including advice on legal issues involving government programs and activities;
- resolving bid protests that challenge government contract awards;
- prescribing accounting principles and standards for the executive branch, advising federal agencies on fiscal and other policies and procedures, and setting standards for auditing government programs;
- assisting the professional audit/evaluation community in improving and keeping abreast of ongoing developments in such matters as audit methodology and approaches; and
- detailing GAO staff to work directly for congressional committees (in these temporary transfers, the assigned staffs represent the committees and not GAO itself).[3]

Over the past decade, GAO has been the subject of congressional hearings, studies, and proposals for change connected with its mission, roles, capabilities, and personnel system. After a lengthy period of growth — in its powers, duties, and resources — the office experienced reductions in these areas in the mid-1990s. In 1996, for instance, certain of the "executive powers" of the Comptroller General were abolished or transferred to executive branch agencies. In addition, GAO's budget was cut by 25% over a two-year period (FY1996 and FY1997), representing the largest reduction in a seven-year downsizing (1992-1999). Since then, however, its budget authority has increased, from a low of $358 million in FY1998 to a high of $475 million in FY2005. In the past decade, however, full-time-equivalent

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[2] (...continued)
services is in CRS Report RL30240, *Congressional Oversight Manual*, pp. 96-97. For elaboration, see U.S. Congress, Senate Committee on Governmental Affairs, *Oversight of GAO: What Lies Ahead for Congress' Watchdog?*, hearing, 108th Cong., 1st sess. (Washington: GPO, 2003); David M. Walker, Comptroller General: "GAO: Serving the Congress in the 21st Century," NAPA Fall Meeting 1999, Washington, D.C., Nov. 18, 1999; U.S. General Accounting Office, *Fiscal Year 2005 Budget Request: U.S. General Accounting Office*, GAO-04-474T (Washington: GAO, 2004); *GAO: Transformation, Challenges, and Opportunities*, GAO-03-116T (Washington: GAO, 2003); and *GAO's Strategic Plan for Serving the Congress, 2004-2009* (Washington: GAO, 2003); and *U.S. General Accounting Office: The Role of GAO in Assisting Congressional Oversight*, statement by J. Christopher Mihm, GAO-02-816T.

[3] The office's criteria, standards, and procedures for responding to congressional requests are contained in U.S. General Accounting Office, *GAO's Congressional Protocols*, GAO-04-310G (Washington: GAO, 2004). Its work with federal agencies is governed by *GAO's Agency Protocols*, GAO-03-232SP (Washington: GAO, 2002).

employees are fewer than in previous years, with 3,215 currently compared to 4,324 in FY1995, the highest level. In fact, in the midst of the cutbacks in the 1990s, GAO experienced an overall reduction of 39%.

# Establishment and Evolution of GAO

## 1921 Establishment

The Budget and Accounting Act of 1921, which created the General Accounting Office, built upon efforts over a considerable period of time to develop a new budget process and involved trade-offs between the legislature and executive.[4] The legislation gave the President substantial responsibilities and authority over the federal budget formulation process. To assist in this endeavor, the statute also created the Bureau of the Budget in the Treasury Department. (The bureau was later moved to the Executive Office of the President and is now known as the Office of Management and Budget.) As a counterweight to these enhancements of executive power in the budget process, Congress established the General Accounting Office in the legislative branch, in large part through the transfer of comptroller and auditor duties from the Treasury Department.

Congressional work on what was to become the 1921 act began two years earlier with legislative proposals to transfer the duties and responsibilities of the comptrollers and auditors from the Treasury Department to an entity independent of the executive departments and, indeed, located in the legislative branch. This initial legislation was vetoed by President Woodrow Wilson, who objected to a section

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[4] For background on the establishment and evolution of GAO and the Comptroller General, see, among others: Darrell Hevenor Smith, *The General Accounting Office: Its History, Activities, and Organization* (Baltimore: Johns Hopkins University Press, 1927); Harvey C. Mansfield, *The Comptroller General* (New Haven, CT: Yale University Press, 1939); Thomas D. Morgan, "The General Accounting Office: One Hope for Congress to Regain Parity of Power with the President," *North Carolina Law Review*, vol. 51, Oct. 1973, pp. 1279-1368; Frederick C. Mosher, *The GAO: The Quest for Accountability in American Government* (Boulder, CO: Westview Press, 1979); Frederick C. Mosher, *A Tale of Two Agencies: A Comparative Analysis of the General Accounting Office and the Office of Management and Budget* (Baton Rouge, LA: Louisiana State University Press, 1984); Joseph Pois, *Watchdog on the Potomac: A Study of the Comptroller General of the United States* (Washington: University Press of America, 1979); Roger R. Trask, *GAO History, 1921-1991*, GAO Report OP-3-HP (Washington: GAO, 1991), along with a series of historical studies produced by GAO; U.S. Congress, Joint Committee on the Organization of Congress, *Support Agencies*, hearing, 103rd Cong., 1st sess. (Washington: GPO, 1993), pp. 5-27, 287-375; Frederick M. Kaiser, "The Comptroller General: History and Independence," in U.S. Congress, Senate Committee on Government Operations, Subcommittee on Reports, Accounting, and Management, *GAO Legislation*, hearing, 94th Cong., 1st sess. (Washington: GPO, 1975); U.S. Congress, Senate Committee on Governmental Affairs, *The Roles, Mission and Operation of the U.S. General Accounting Office: A Report by the National Academy of Public Administration*, Senate Print 103-87, 103rd Cong., 2nd sess. (Washington: GPO, 1994); and Wallace E. Walker, *Changing Organizational Culture: Strategy, Structure, and Professionalism in the U.S. General Accounting Office* (Knoxville: University of Tennessee Press, 1986).

allowing for the removal of the new Comptroller General by Congress alone, through a concurrent resolution.[5] This provision was later changed to allow for the removal of the Comptroller General by adoption of a joint resolution. The joint resolution, which must be signed by the President, is subject to presidential veto and the possibility of a veto override.

The 1921 act abolished the post of Comptroller and Assistant Comptroller of the Treasury, along with the six auditors in the department. Their personnel, records, and resources were transferred to the new General Accounting Office. The establishing authority also vested GAO with the powers and responsibilities of the auditors and Comptroller of the Treasury, some of which dated to the Treasury Act of 1789.

Along with this, the originating legislation gave the Comptroller General broad authority to "investigate, at the seat of government or elsewhere, all matters relating to the receipt, disbursement, and application of public funds" (42 Stat. 25). To augment this, the Comptroller General was given extensive access to information in "all departments and establishments ... regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective office as he may from time to time require" (42 Stat. 26).

Adding to the new position, the law authorized the Comptroller General to recommend legislation "to facilitate the prompt and accurate rendition and settlement of accounts and concerning such other matters relating to the receipt, disbursement, and application of public funds as he may think advisable" (42 Stat. 25-26). The initial authority, moreover, established new requirements for reporting to Congress and directed the Comptroller General to make special investigations and reports when ordered by either House of Congress or by any committee with jurisdiction over revenue, appropriations, and expenditures.

## Expansion and Extension of Authority and Jurisdiction

Since 1921, the scope of GAO's powers, mandates, and jurisdiction has been expanded by public laws. Its current functions and duties have grown out of its existing powers over finances and expenditures of the federal government, the two major legislative branch reorganizations (in 1946 and 1970), and additions to the Comptroller General's specific responsibilities.[6]

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[5] For President Wilson's veto message and the House action, which sustained the veto by a vote of 178 to 103, see *Congressional Record*, vol. 59, June 4, 1920, pp. 8609-8613.

[6] Two exceptions to GAO's otherwise extensive jurisdiction over the executive branch and independent agencies are (1) the Central Intelligence Agency, which views its own statutory authority as exempting it from GAO audits and reviews (e.g., the Central Intelligence Agency Act of 1949, 63 Stat. 213, and the General Accounting Office Act of 1980, 94 Stat. 311); and (2) foreign operations and money market policies of the Federal Reserve (31 U.S.C 714(b)). In addition, the President may proscribe GAO access to certain foreign intelligence and counterintelligence information and prevent its auditing of unvouchered funds involved in such areas (31 U.S.C. 716(b) and 3524(c)). For further discussion, see *U.S. General Accounting Office, Central Intelligence Agency: Observations on GAO Access*

(continued...)

**Additional Responsibilities.** The Government Corporation Control Act of 1945, for instance, granted GAO audit authority over mixed-ownership government corporations (59 Stat. 600-601). And the Budget and Accounting Procedures Act of 1950 directed the Comptroller General to prescribe principles and standards for accounting in executive agencies (64 Stat. 835). Building on this, the Federal Manager's Financial Integrity Act of 1982 required each agency to establish internal accounting and administrative controls in accordance with standards prescribed by the Comptroller General (96 Stat. 814). In addition, the Chief Financial Officers Act of 1990 gave the Comptroller General enhanced audit authority and the power to review financial audits conducted by an inspector general or an external auditor (104 Stat. 2852-2854).

Along these same lines, GAO has a prominent role in monitoring and reviewing the development and implementation of the Government Performance and Results Act of 1993 (GPRA) (107 Stat. 285).[7] GAO has been involved not only in the training of executive personnel and congressional staff who are to implement and oversee GPRA, but also in the evaluation of pilot programs, strategic plans, annual performance plans and goals, and followup reports from the agencies.

In the 106th Congress, GAO was authorized to review federal agency rules and regulations, under the Truth in Regulating Act of 2000. But the program was not implemented because of a lack of funding.[8]

In order to fulfill its mission, the office has been given broad powers to gain access to information and materials of government entities, based on its original authority as well as later supplements (31 U.S.C. 712 and 716).[9] These are designed to provide access — fully and directly in most cases — or, barring that, provide an

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[6] (...continued)
*to Information on CIA Programs and Activities*, statement of Henry J. Hinton, GAO-01-975T (Washington: GAO, 2001); and Frederick M. Kaiser, "GAO Versus the CIA: Uphill Battles Against an Overpowering Force," *International Journal of Intelligence and Counterintelligence*, vol. 15, Summer 2003, pp. 330-389.

[7] For an overview of and further citations to GPRA and GAO's involvement, see U.S. General Accounting Office, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO Report GGD-96-118 (Washington: GAO, 1996); *Managing for Results: Using GPRA to Assist Congressional and Executive Branch Decisionmaking*, T-GGD-97-43 (Washington: GAO, 1997); and Mihm, *The Role of GAO in Assisting Congressional Oversight*.

[8] P.L. 106-312 established a three-year pilot program, whereby the Comptroller General would review any "economically significant rule" (e.g., a rule having an annual impact of $100 million on the economy or other specified economic effects), at the request of a chairman or ranking member of any committee of jurisdiction, and report his findings to Congress. Background information and debate on these proposals are included in: U.S. Congress, Senate Committee on Governmental Affairs, *Congressional Accountability for Regulatory Information Act of 1999; Report to Accompany S. 1198*, S.Rept. 106-225 (Washington: GPO, 1999); and *Congressional Record*, vol. 146, pp. S3782-S3785 and H6851-H6855.

[9] See note 6 above for citations to the few specific limitations.

auxiliary means to compel recalcitrant offices to release information. To enforce this, the Comptroller General has power, rarely used, to sue a noncomplying agency for the production of requested records (31 U.S.C. 716). Under this authority, the CG makes a written request to the agency head, who has 20 days to explain why the records are not being made available. At that time, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the head of the relevant agency, and Congress. Twenty days after this action, the CG may file suit in the district court for the District of Columbia to require the agency head to produce the requested records. GAO's access, however, may be precluded by the President, if it involves certain records such as foreign intelligence and counterintelligence activities, or instances where the records are statutorily exempted from disclosure (31 U.S.C. 716(d)).[10]

**Legislative Reorganization Act Changes.** Major legislative reorganization efforts have also augmented GAO's powers and independence. The Legislative Reorganization Act (LRA) of 1946 specifically directed the Comptroller General "to make an expenditure analysis of each agency in the executive branch of Government (including Government corporations), which, in the opinion of the Comptroller General, will enable Congress to determine whether public funds have been economically and efficiently administered and expended" (60 Stat. 837). In the 1970 LRA, Congress significantly expanded GAO's assistance to congressional committees and strengthened its program evaluation responsibilities (84 Stat. 1167-1171).

**Other Duties Assigned to the Comptroller General.** In addition to the office's assignments and powers, the Comptroller General himself has been given a variety of specific responsibilities in public law, some of which are temporary while others are permanent. Over the years, these have included the power to bring suit to require the release of impounded funds (2 U.S.C. 687); a duty to impose civil penalties under the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6385(a));

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[10] An attempt to use this authority in 2001 resulted in a conflict with the executive. In this case, the Comptroller General was denied access to records of an executive commission — the National Energy Policy Development Group (NEPDG), established by a presidential memorandum and headed by the Vice President. Still denied access after issuing a demand letter, the Comptroller General sued. In 2002, however, the District Court for the District of Columbia held that GAO lacked standing to sue the Vice President to compel the release of information pertaining to NEPDG. The decision has not been appealed. Walker v. Cheney, 230 F.Supp.2nd 51 (D.D.C., 2002). For further coverage, see Louis Fisher, "Congressional Access to Information: Using Legislative Will and Leverage," *Duke Law Journal*, vol. 52, 2002; CRS Report RL31397, *Walker v. Cheney: Statutory and Constitutional Issues Arising from the General Accounting Office's Suit Against the Vice President*, by T. J. Halstead; and T. J. Halstead, "Walker v. Cheney: Legal Insulation of the Vice President from GAO Investigations," *Presidential Studies Quarterly*, vol. 33, Sept. 2003. Statements from the principals are available at [http://www.house.gov/reform/min/inves_energy/energy_cheney.htm]: Richard Cheney, U.S. Vice President, "Letter to the House of Representatives," Aug, 2, 2001; and U.S. General Accounting Office, "Statement on the NEPDG," 2001, "Letter to Vice President Cheney," July 18, 2001, and "Report to the House of Representatives," Aug. 17, 2001. Additional information appears in David M. Walker, "Decisions of the Comptroller General Regarding NEPDG Litigation," Jan. 30, 2003, available at [http://www.gao.gov/cgdecnepdg.pdf].

the assignments to serve as a member of the Chrysler Corporation Loan Guarantee Board (15 U.S.C. 1862) and of the Board of Directors of the United States Railway Association (45 U.S.C. 711(d)); and the authority to consider bid protests under the Competition in Contracting Act of 1984 (31 U.S.C. 3551-3556).

The Comptroller General, along with the Secretary of the Treasury and Director of OMB, serves as a principal on the Federal Accounting Standards Advisory Board. It considers and recommends issuance of accounting standards and principles and provides interpretations of existing ones. In the past, the CG had co-chaired the Cost Accounting Standards Review Panel, consisting of public officials and defense industry representatives. The panel had examined operations and activities of the Cost Accounting Standards Board (CASB), an executive agency in OMB (41 U.S.C. 422).

The Comptroller General also chaired the Commercial Activities Panel (CAP), a now-defunct interagency group consisting of representatives from executive departments (i.e., the Office of Personnel Management and Department of Defense), as well as from private organizations and public sector unions. The congressionally mandated panel, which completed its mission in 2002, studied and made recommendations for improving the policies and procedures governing the transfer of commercial activities from the government to contractor personnel.[11]

In 1985, a constitutional conflict arose over powers delegated to the Comptroller General, when Congress gave him specific budget-reduction authority under the Balanced Budget and Deficit Control Act.[12] The CG was to review recommendations about such reductions and report his findings to the President, who, in turn, was to issue a sequestration order mandating spending reductions specified by the CG. Additional legislative mechanisms (or "fallback" provisions) to cut spending were also included in the statute. The Supreme Court held, however, that the delegation of authority to the CG was unconstitutional, concluding that "the powers vested in the Comptroller General under section 251 violate the command of the Constitution that the Congress play no direct role in the execution of the laws."[13]

## Recent Changes in Authority

In contrast to GAO's long-term expansion, the mid-1990s witnessed a cutback in its authority and, perhaps more importantly, in its resources (which are discussed below). The General Accounting Office Act of 1996 abolished or transferred — to the Director of the Office of Management and Budget or the head of an executive department or agency — certain specific powers of the Comptroller General (110 Stat. 3826). These related to his authority to make certain determinations about executive agency assistance and services, resolve disputes over certain purchases

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[11] David M. Walker, *Commercial Activities Panel: Improving Sourcing Decisions of the Federal Government*, GAO-02-866T, June 26, 2002; and U.S. Commercial Activities Panel, *Improving Sourcing Decisions of the Government: Final Report* (Washington: CAP, 2002).

[12] Sec. 251, P.L. 99-177, 99 Stat. 1038 (1985).

[13] *Bowsher v. Synar*, 478 U.S. 714, at 734 (1986).

made by executive agencies, conduct identified audits of executive accounts, or prescribe regulations for specified executive operations (110 Stat. 3838-3840). Since then, however, GAO has experienced a regrowth in its budget and staff and the CG has received new authority over its internal pay and personnel matters.

## GAO Resources

The Government Accountability Office, like the other congressional support agencies, operates under a permanent authorization and an annual appropriation. A 1994 bill based on the recommendations of the Joint Committee on the Organization of Congress would have mandated an eight-year authorization period for all congressional support agencies to replace their permanent authorizations.[14] No action, however, was taken on the proposal.

**Table 1** provides statistics on total new budget authority (gross) and on full-time equivalent employees (FTEs) for the GAO from FY1995 through FY2006 (request).

### Table 1. GAO Resources, FY1995-FY2006

| Fiscal Year | Total New Budget Authority (in millions of dollars) | FTEs |
|---|---|---|
| 2006 (request) | 493 | 3,215 |
| 2005 (est.) | 475 | 3,215 |
| 2004 | 468 | 3,224 |
| 2003 | 458 | 3,269 |
| 2002 | 436 | 3,210 |
| 2001 | 405 | 3,110 |
| 2000 | 380 | 3,275 |
| 1999 | 368 | 3,275 |
| 1998 | 358 | 3,245 |
| 1997 | 359 | 3,341 |
| 1996 | 379 | 3,677 |
| 1995 | 448 | 4,342 |

[14] Legislative Reorganization Act of 1994, S. 1824, 103rd Congress. The House and Senate Members of the Joint Committee issued separate reports, but both agreed to the specific recommendation of ending the permanent authorization status for congressional support agencies. U.S. Congress, Joint Committee on the Organization of the Congress, *Organization of the Congress: Final Report of the House Members*, H.Rept. 103-413, vol. I, 103rd Cong., 1st sess. (Washington: GPO, 1993), p. 20; and *Organization of the Congress: Final Report of the Senate Members*, S.Rept. 103-215, 103rd Cong., 1st sess. (Washington: GPO, 1993), p. 17.

## Budget Levels

GAO's budget authority and personnel levels have fluctuated over the past decade. In the mid-1990s, the office experienced a substantial cut in its funding, with a combined 25% reduction in total new budget authority for fiscal years 1996 and 1997 by comparison to its FY1995 total. This continued a downward trend that had begun in FY1992 and ebbed in1998. Since then, GAO's budget level has risen: from $358 million in FY1998 to $475 million (including direct appropriations and offsetting collections) in FY2005. The FY2006 submission requests $493 million, for an increase of $18 million or 3.8% over FY2005.

## Personnel Levels

In the mid-1990s, GAO also saw a reduction in its personnel levels, as a result of the budget cuts. Because employee compensation constitutes about 80% of GAO's budget, its cost-saving actions resulted in a sizable staff downsizing at the time. According to 1997 testimony by the Acting Comptroller General, the cutbacks "have necessitated a loss of people. Today, as a result of those reductions, GAO staffing is at its lowest level since before World War II."[15]

In 1999, Comptroller General David Walker elaborated on the effects of the seven-year downsizing of GAO (from FY1992 through FY1998). One result was a 39% reduction in its workforce during this span, from 5,325 in FY1992 to 3,245 in FY1998. In 1999 testimony, the CG recounted that the office also

> instituted a reduction-in-force; closed regional offices; imposed a 5-year hiring freeze; eliminated performance rewards; curtailed technology investments; and reduced travel, training, supplies, and other support costs to achieve the overall mandated reduction in spending. GAO is now facing a number of critical human capital, information technology, and work process challenges that it needs to address.[16]

GAO's budget and personnel requests dealt with some of these areas since then. But the office has not seen its staff size exceed the 3,275 FTEs of FY1999 and FY2000; and it witnessed smaller numbers in the two following years (with 3,110 in FY2001 and 3,210 in FY2002). By comparison to these low figures, however, personnel levels rose to 3,269 FTEs in FY2003.[17] Since then, the number has decreased to 3,224 in 2004 and 3,215 in 2005.

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[15] James F. Hinchman, Acting Comptroller General, U.S. General Accounting Office, *Fiscal Year 1998 Budget Estimates for the U.S. General Accounting Office*, GAO T-OCG-97-01 (Washington: GAO, 1997), p. 4. See also *GAO's Downsizing Efforts*, GAO T-OCG-96-4 (Washington: GAO, 1996).

[16] U.S. Congress, House Subcommittee on Legislative Appropriations, *Legislative Branch Appropriations for 2000*, hearings, 106th Cong., 1st sess. (Washington: GPO, 1999), part 2, pp. 203-204. Also, see GAO testimonies on this matter: T-OCG-99-22 and T-OCG-99-24 (Washington: GAO, 1999), pp. 8-10 and 19.

[17] For elaboration, see *GAO, Fiscal Year 2005 Budget Request*.

## Personnel System

Legislation enacted in 2004 granted the Comptroller General further personnel flexibilities over the GAO workforce. This augmented authority from 1980, 1988, and 2000, which provided the basis for GAO's personnel system at GAO.

**Antecedent Authority.** The General Accounting Office Personnel Act of 1980 was designed to construct an "independent personnel system" (P.L. 96-191, 94 Stat. 27). The new structure replaced GAO's reliance on requirements from several executive branch entities, especially the Office of Personnel Management (OPM) and the Merit System Protection Board. According to the Senate Committee on Governmental Affairs, which reported the proposal favorably, "this independence from regulation by executive branch entities is the principal objective of the legislation."[18] The change, requested by the Comptroller General, was seen as necessary to remove even the appearance of a conflict of interest, as GAO had increased oversight of these agencies and the federal personnel system.[19] The act gave the CG authority to "appoint, pay, assign, and direct such personnel as the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office" (94 Stat. 27). Accompanying this general grant were requirements to meet specified provisions of Title 5 of the *U.S. Code*, which set merit system principles and prohibit certain personnel practices, among other matters (94 Stat. 27).

Amendments to the personnel act were approved in 1988 (P.L. 100-426, 102 Stat. 1598-1602). These revised provisions concerned GAO's personnel appeals board membership and judicial review of its decisions. The amendments also changed the retirement qualifications for the Comptroller General and Deputy, allowing them to remain in office past the otherwise mandatory retirement age of 70; and the statutory changes brought the CG's survivor benefits into conformity with those available to federal judges.

In 2000, the CG's powers over personnel were enhanced through a three-year pilot program allowing for specific personnel flexibilities (P.L. 106-303, 114 Stat. 1063-1070).[20] This legislation gave qualified authority to the Comptroller General to offer certain voluntary separation incentives, along with early retirements, and to implement a reduction in force.

**Additional Authority in 2004.** The GAO Human Capital Reform Act (P.L. 108-271), among other things, grants the Comptroller General authority over pay and personnel. It allows him to offer early retirement and buy-out incentives; establish an exchange program with the private sector; and make employee relocation benefits

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[18] U.S. Congress, Senate Committee on Governmental Affairs, *General Accounting Office Personnel Act of 1979*, S.Rept. 96-540, 96th Cong., 1st sess. (Washington: GPO, 1979), p. 2.

[19] Ibid.

[20] An article on changes at GAO at the time is by Susannah Zak Figura, "The Human Touch," *Government Executive*, Sept. 2000, pp. 22-27.

more flexible.[21] Most far-reaching is a section that allows the CG to set annual pay raises tied more closely with performance appraisal ratings (as opposed to granting automatic yearly increases). In so doing, the CG could also use factors other than the Consumer Price Index, Employment Cost Index, and locality pay surveys to determine the amounts.[22]

Other provisions emerging after committee deliberations are designed to meet several objectives: protect the merit principle of "equal pay for work of equal value," keep the pay rates of employees who have been demoted because of workforce restructuring or job reclassification at their current levels, and set qualifications on exchanges with the private sector.

As described by the Comptroller General, the overall transformation is intended to "further GAO's ability to enhance our performance, assure our accountability, and ensure that we can attract, retain, motivate, and reward a quality and high-performing workforce currently and in future years."[23] Changes in this realm and their source — coming from Congress's largest support agency and its chief examiner of executive personnel systems — however, raised concerns over several matters. These include whether the changes might have an adverse effect on employee morale, whether they can be implemented fairly across-the-board, whether they can produce the desired results, and whether they will prompt (or endorse) requests for similar authority in other government entities.

## Appointment and Removal of the Comptroller General and Deputy

Since its inception in 1921 as the General Accounting Office, GAO has been headed by only seven Comptrollers General, three of whom served the full 15-year term.

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[21] For discussion, see U.S. Congress, Senate Committee on Governmental Affairs, *GAO Human Capital Reform Act of 2003*, S.Rept. 108-216, 108th Cong., 1st sess. (Washington: GPO, 2003); U.S. Congress, House Committee on Government Reform, *GAO Human Capital Reform Act of 2003*, H.Rept. 108-380 (Washington: GPO, 2003); U.S. Congress, House Committee on Government Reform and Senate Committee on Governmental Affairs, hearings on H.R. 2751 and S. 1522, 108th Cong., 1st sess., respectively; U.S. General Accounting Office, *GAO: Additional Human Capital Flexibilities Are Needed*, Statement by David M. Walker, Comptroller General, Report GAO-03-1024T (Washington: GAO, 2003); and U.S. General Accounting Office, *GAO's Proposed Human Capital Legislation: View of the Employee Advisory Council*, Statement by Christopher A. Keisling, Council Member, Report GAO-03-1020T (Washington: GAO, 2003); and GAO, *Fiscal Year 2004 Budget Request (2003)*.

[22] GAO has contracted with Watson Wyatt to assist in developing a new market-based compensation system for the agency's employees. "Contract Awarded to Develop Market-Based Pay Scales for Analysts, Attorneys, and Specialists," *GAO Management News*, vol. 31, July 26-30, 2004.

[23] Walker, *GAO: Additional Human Capital Flexibilities Are Needed*, p. 5.

**Table 2. Comptrollers General, 1921-Present**

| Comptroller General | Dates of Service |
|---|---|
| John Raymond McCarl | 1921-1936 |
| Fred Herbert Brown | 1939-1940 |
| Lindsay C. Warren | 1940-1954 |
| Joseph Campbell | 1954-1965 |
| Elmer B. Staats | 1966-1981 |
| Charles A. Bowsher | 1981-1996 |
| David M. Walker | 1998- |

Otherwise, GAO has been headed by an acting comptroller general. The longest period without a confirmed Comptroller General was three years, 1936-1939. The second longest hiatus was a two-year vacancy, beginning on September 30, 1996, when Charles Bowsher completed his term, until November 9, 1998, when David Walker began his.

## Appointment

Under GAO's current statutory charter, the Comptroller General and Deputy Comptroller General are nominated by the President, following recommendations from a special congressional commission, and are confirmed by the Senate. The Comptroller General is limited to a single 15-year term, a statutory provision designed to protect his or her independence, professional integrity, and objectivity.

**Current Process.** When a vacancy occurs in the office of the Comptroller General or the Deputy, a special congressional commission, consisting of members of both chambers and both parties, is established to recommend individuals to the President for appointment. Added by the General Accounting Office Act of 1980 (94 Stat. 314-315), this process became operational the following year. Under the arrangement, the recommending commission consists of the Speaker of the House, the President pro tempore of the Senate, the majority and minority leaders of the House and Senate, the chairmen and ranking minority members of the Senate Committee on Governmental Affairs and the House Committee on Government Reform, and, when the Deputy's post is vacant, the Comptroller General. The commission determines the criteria and standards for its nominees.

The current process includes examination of the backgrounds and future plans of potential nominees, including, of course, their credentials, accomplishments, and relevant work experience in the private sector and public office. These examinations are conducted by the commission members and staff through interviews and meetings with the candidates, as well as with interested and knowledgeable parties, and a review of relevant materials and documents. Later examinations are held by the

Senate Committee on Governmental Affairs, which reports the nomination to the full Senate.[24]

The commission must recommend at least three individuals but the President may ask for additional names for consideration (or nominate someone else). The original bill called for five names to be submitted. However, the number was reduced, according to the report of the Senate Committee on Governmental Affairs, because "three names is a more realistic figure. Considering the high qualifications for the Office of Comptroller and Deputy Comptroller General, a requirement to generate five names might be extremely difficult to satisfy."[25]

The reporting panel also recognized that the President could still nominate an individual not recommended by the commission, in light of "the President's authority under the Appointments Clause .... However, it is expected that the President would give great weight to the Commission's recommendations."[26] This expectation has been met. On the two occasions since the 1980 enactment when a vacancy in the office of Comptroller General arose, Presidents Reagan in 1981 and Clinton in 1998 each selected a nominee from the initial congressional list.

The provision for a bicameral commission gives both chambers of Congress a formal and direct role in selecting the head of this legislative branch agency. The Senate Committee on Governmental Affairs endorsed the new arrangement:

> In view of the relationship between the Comptroller General and the Congress, the Committee believes it is appropriate that both Houses be given a role in the selection process .... [The new provision] reflects the special interests of both Houses in the choice of an individual whose primary function is to provide assistance to Congress.[27]

**Recent Nominations.** This process went into effect in 1981, resulting in the appointment of Charles A. Bowsher, whose 15-year term expired in September, 1996.[28]

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[24] For the most recent illustration, see U.S. Congress, Senate Committee on Governmental Affairs, *Nominations of Edward J. Gleiman, Dana B. Covington, and David M. Walker*, hearings, 105th Cong., 2nd sess. (Washington: GPO, 1998), pp. 17-18 and 70-130.

[25] U.S. Congress, Senate Committee on Governmental Affairs, *General Accounting Office Act of 1980*, S.Rept. 96-570, 96th Cong., 2nd sess. (Washington: GPO, 1980), p. 10. Despite the scaling back to three recommendations, eight names were submitted the first time the new procedure was used, in 1981.

[26] Ibid.

[27] Ibid., p. 9.

[28] U.S. Congress, Senate Committee on Governmental Affairs, *Nomination of Charles A. Bowsher*, hearing, 97th Cong., 1st sess. (Washington: GPO, 1981); "Nomination of Charles A. Bowsher to Be Comptroller General of the United States," *Congressional Record*, vol. 127, Sept. 29, 1981; and U.S. President Ronald Reagan, "Remarks Announcing Intention to Nominate Charles A. Bowsher" (July 9, 1981), *Public Papers of the Presidents: Ronald Reagan, 1981* (Washington: GPO, 1982), pp. 612-614. Bowsher was one of eight persons

(continued...)

A second congressional commission met afterwards, to recommend a successor. On January 22, 1998, the commission sent the names of three individuals who "had received majority support from the members of the Commission" to President Clinton for his consideration, as provided in the 1980 statute.[29] Independently, six days later, Democratic members of the commission submitted four additional names.[30] On October 5, 1998, President Clinton nominated David M. Walker, one of the three original recommendations of the commission majority. He was confirmed by the Senate on October 21, following hearings by the Governmental Affairs Committee on October 7, and its favorable report on October 9.[31]

The two-year interregnum marked the second longest period without a confirmed Comptroller General. And the nearly 10 months before the President submitted a nomination based on the congressional commission's recommendation prompted interest in making the Comptroller General position exclusively a legislative branch officer. But this was not acted on.[32] By so doing, Congress would have made the appointment itself, as it does, for instance, with the Director of the Congressional Budget Office.[33] (By comparison, other legislative branch offices — the Librarian of Congress, Architect of the Capitol, and Public Printer, who heads the Government Printing Office — are filled by presidential nominees who are confirmed by the Senate.)

The current unique nomination process has not been used for the post of Deputy Comptroller General, which has remained vacant since the 1980 enactment. Instead of a confirmed Deputy, the Comptroller General has relied upon his own appointee(s) in one or two posts over the past several decades. In the past, a single special

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[28] (...continued)
recommended by the commission, which had an equal number of Democrats and Republicans. See Trask, *GAO History*, p. 97; "Accountant Bowsher Named New GAO Head," *Congressional Quarterly*, July 18, 1981, p. 1301; and Greg Rushford, "Veteran of Capital Hardball Chosen for Top GAO Post," *Federal Times*, July 20, 1981, p. 6.

[29] Letter from Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich, to President William Clinton, Jan. 22, 1998, regarding recommendations for Comptroller General. See also Stephen Barr, "GOP Leaders Offer Three to Head GAO," *Washington Post*, Jan. 27, 1998, p. A15.

[30] "Democrats, Objecting to Republican Move, Send 7 Names to Clinton for GAO," *Washington Post*, Feb. 2, 1998, p. A17.

[31] *Congressional Record*, vol. 144, Oct. 21, 1998, p. S12980. See also Robert Pear, "A C.P.A. at Center Stage: David Michael Walker," *New York Times*, Oct. 23, 1998, p. A14; and Senate Committee on Governmental Affairs, *Nomination of ... David M. Walker*.

[32] "GOP May Seek to Strip Clinton of Power to Name GAO Head," *CQ Daily Monitor*, July 29, 1998, p. 5.

[33] Earlier proposals along this line, incidentally, were raised in the mid-1970s, prior to the change setting up the congressional commission to make recommendations to the President. See Mosher, *The GAO*, p. 288. The bills introduced in 1975 were H.R. 8616, 94th Cong., 1st sess., sponsored by Rep. Jack Brooks, and S. 2066, 94th Cong., 1st sess., sponsored by Sen. Lee Metcalf, with hearings on the latter. U.S. Congress, Senate Committee on Government Operations, Subcommittee on Reports, Accounting, and Management, *GAO Legislation*, hearing, part 1, 94th Cong., 1st sess. (Washington: GPO, 1975).

assistant to the comptroller general served as second in command. Currently, two officials — the chief operating officer and the chief mission support officer — carry out the appropriate duties and functions.

### Removal

The Comptroller General or Deputy may be removed by impeachment or by adoption of a joint resolution of Congress. Removal by joint resolution can occur only after notice and an opportunity for a hearing and only for certain specified reasons: permanent disability, inefficiency, neglect of duty, malfeasance, felony conviction, or conduct involving moral turpitude. No Comptroller General or Deputy has been subject to either impeachment or removal by a joint resolution.

## Concluding Summary

Created in 1921, the General Accounting Office, now the Government Accountability Office, is Congress's largest support agency, with a budget of $475 million and a staff of 3,215 in FY2005. The office, headed by the Comptroller General, has broad jurisdiction over the executive, substantial independence from it, and extensive authority to gain access to its records and investigate, audit, and evaluate its operations.[34] These attributes support a wide variety of services and activities, most connected with congressional oversight of the executive, that GAO can initiative on its own or, more usually, at the request of Congress, its members, and panels.

In the mid-1990s, GAO underwent a substantial downsizing — in funding and staffing — in part because of congressional criticism of its perceived orientation towards the previous two administrations and concerns about its missions and roles. Since then, questions have also arisen over other matters: the process (and resulting delay) for selecting the Comptroller General; the absence of a confirmed Deputy for more than two decades; the unsuccessful attempt to gain access to information from

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[34] GAO is one of a number of comparable organizations worldwide — collectively known as Supreme Audit Institutions (SAIs) — that audit, investigate, and/or review government activities, operations, and programs. These counterparts have similar but not identical responsibilities, functions, powers, and degrees of independence (from the entities they audit and investigate), which are reflected to a degree in their different titles: e.g., the Supreme Chamber of Control (in Poland), Court of Audit (Belgium), Office of the Comptroller and Auditor General (Ireland), National Audit Office and Northern Ireland Audit Office (United Kingdom), Tribunal of Contras (Portugal), and Cour des Comptes (France). Among them, GAO probably ranks highest across such key criteria as independence, authority, jurisdiction, responsibilities, and resources. Although there is no current, systematic, comprehensive comparison of SAIs internationally, descriptions of individual ones are found in International Organization of Supreme Audit Institutions, *Survey and Description of Selective National Audit Offices* (loose-leaf collection) (Vienna: INTOSAI, 1996); National Audit Office, *State Audit in the European Union* (London: NAO, 1996); and S. N. Swaroop, *Supreme Audit Institutions in Different Countries* (New Delhi: Ashish Publishing House, 1991).

a presidentially-established panel, headed by the Vice President; and certain personnel flexibilities granted to the CG.

Notwithstanding these developments, GAO has experienced a regular increase in its annual budget over the past six years and has added staff in the past three. In 2004, moreover, the Comptroller General garnered new authority over pay and personnel in the re-designated Government Accountability Office.