Presidential Documents

Proclamation 4800 of October 13, 1980

Italian-American Heritage Week, 1980

By the President of the United States of America

A Proclamation

Columbus Day is a symbol of the debt our Nation owes to Italian-Americans.

During the past four hundred years, millions of Italians have become Italian-Americans. Many of them arrived in this country without money or property or friends. They had only the hope of opportunity and the strength of their character. They took advantage of opportunities which America offered and the result has been an extraordinary contribution to every facet of American life.

In recognition of the many contributions of Italian-Americans to our country, the Congress, by House Joint Resolution 568, has requested the President to designate the week of October 12 through October 19, 1980, as Italian-American Heritage Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week of October 12, through October 19, 1980, as Italian-American Heritage Week. I call upon the people of the United States, State and local agencies, and interested organizations to observe that week with appropriate ceremonies, activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-32307
Filed 10-14-80; 11:18 am]
Billing code 3195-01-M

Editorial Note: The President's remarks of October 13, 1980, on signing Proclamation 4800, are printed in the Weekly Compilation of Presidential Documents (vol. 16, No. 42, p.)

Rules and Regulations

Federal Register
Vol. 45, No. 201
Wednesday, October 15, 1980

GENERAL ACCOUNTING OFFICE

4 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 20, 21 and 22

Personnel System

AGENCY: General Accounting Office.

ACTION: Final regulations.

SUMMARY: These regulations establish the General Accounting Office (GAO) personnel system as provided for by the General Accounting Office Personnel Act of 1980, Public Law 96-191.

The General Accounting Office has amended the proposed rule published July 2, 1980, to reflect public comment and to provide greater clarity and ease of understanding.

EFFECTIVE DATE: These regulations will be effective on October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford I. Gould, Special Assistant to the Comptroller General, U.S. General Accounting Office, 441 G Street, NW, Washington, D.C. 20548, (202) 275-5940.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1980 (45 FR 44954) the General Accounting Office published proposed rules to establish the General Accounting Office personnel system. Comments were received from 26 individuals and organizations. As a result of these comments, as well as informal suggestions, GAO has modified the final regulations in several respects as set out below. GAO intends to issue further guidance and information through the GAO Operations Manual System which will speak to recommendations not properly included in the regulatory material establishing the personnel system.

Aside from editorial changes recommended for clarity which GAO has largely adopted, the following highlights the substantive comments and their disposition.

GAO Personnel Appeals Board

A number of individuals expressed concern that the regulation did not deal with the composition of the GAO Personnel Appeals Board and its independence from undue management influence.

Section 4 of the GAO Personnel Act of 1980 established the Personnel Appeals Board effective October 1, 1980. The act prescribes how appointments are made, eligibility of members, terms of office, authority of the Board, etc. The act is clear in requiring the Board to promulgate regulations providing for employee appeals and for establishing its operating procedures.

Accordingly, GAO management has not attempted to elaborate on the provisions of the act in order to avoid any impression of influencing how the Board will operate. We believe, however, that mention of the establishment of the Board by Congress is appropriate in the regulations establishing the GAO personnel system.

Merit System Principles

Numerous comments were received concerning "Merit System Principles," suggesting that individual principles were inconsistent with other principles, and many suggestions that other principles be added.

Sec. 3(b)(1)(A) of the GAO Personnel Act of 1980 requires that our personnel system shall embody the merit system principles described in section 2301(b) of title 5, United States Code, adopted by Congress as part of the Civil Service Reform Act of 1978. Accordingly, regardless of the merits of the proposed suggestions, Congress has prescribed the merit system principles for the GAO personnel system. GAO management lacks authority to modify those principles administratively.

Prohibited Personnel Practices

Several commentators suggested that we expand on the list of prohibited personnel practices. However, Sec. 3(b)(1)(B) of the GAO Personnel Act of 1980 requires that our system prohibit those personnel practices which are prohibited in section 2302(b) of title 5, United States Code. Therefore we have not added any other prohibited personnel practices.

Performance Appraisal

One organization suggested changing "evaluation of job performance on the basis of job-related criteria" to "on the basis of objective job-related criteria." The GAO Personnel Act requires that the system for performance appraisals meet the requirements of section 4302 of title 5, U.S.C. which says "on the basis of objective criteria." GAO believes that some subjectivity is inherent in any appraisal system. It is important that job-related criteria, which is more relevant and realistic, be used to measure performance. Accordingly, no change was made.

An organization suggested that a requirement be added to require evaluation of employees' performance at least annually. GAO agrees that performance should be evaluated at least annually and has added this requirement.

Removal for Unacceptable Performance

One commentator suggested adding the term pay level to cover any possible changes GAO might make to its personnel system such as a rank-in-person system. The commentator also suggested that the requirement of a 30-day advance notice to a GAO employee whose reduction in grade or removal is proposed under this section be deleted and that no specific time be included. In this regard it was pointed out that GAO may want to provide for different advance warning periods depending on the grade level or types of positions.

The commentator also suggested clarifying language relating to the recordkeeping requirements for employees whose performance has improved during the notice period.

The above changes have been incorporated into the final regulations to provide greater flexibility for GAO's Personnel System.

Pay

Many respondents commented on the inconsistency between the phrase "equal pay for substantially equal work" in Sec. 5.1 and the phrase "equal pay for work of substantially equal value" in Sec. 2.4. Most suggested adopting the language "work of substantially equal value" for Sec. 5.1 pointing out that it constitutes a higher standard established by the Civil Service Reform Act of 1978. This inconsistency currently exists in title 5, United States Code

(Section 2301(b) and 5301(a)). The GAO Personnel Act of 1980 requires that we embody the principles in section 2301(b) and fix pay consistent with the principles of section 5301(a). Since the Civil Service Reform Act of 1978 language represents the most recent expression of congressional intent in personnel management, we believe the suggestions can be accommodated consistent with section 2301(b) of title 5, U.S.C. Accordingly, the phrase "equal pay for work of substantially equal value" has been adopted in Sec. 5.1.

An organization suggested that GAO include another "Part" covering a grading system or levels of work system to replace Chapter 51, title 5, U.S.C. The Congress specifically removed GAO from the provisions of Chapter 51, title 5, U.S.C. and provided GAO with the flexibility to adopt a system tailored to GAO's specific needs. GAO does not believe it should include provisions beyond the specific statutory requirement. GAO intends to issue further guidance and information through GAO Operations Manual System which will speak to this matter.

Political Activities

Several commentators raised questions concerning political contributions and whether GAO employees are prohibited from making any political contributions. In an attempt to clarify this matter, we have added a sentence pointing out that GAO employees are not precluded from making a financial contribution to a political party or organization.

Adverse Actions (Less Than 14 Days)

Several respondents expressed concern that Sec. 7.5 did not provide for a hearing or appeal to the GAO Personnel Appeals Board for suspensions of less than 14 days. At the same time, Sec. 7.5(c) requires Personnel to provide documentation to the Board upon its request. Sec. 3(f) of the GAO Personnel Act provides that the personnel system shall provide for the taking of other personnel actions consistent with Chapter 75 of title 5, United States Code. The expressed intent of Congress was to provide GAO employees rights and protections similar to those they enjoyed in the competitive service. The act did not grant additional appeal rights or protections. The procedures for suspensions of less than 14 days were adopted by Congress as part of the Civil Service Act of 1978 and incorporated in Chapter 75 of title 5. Those procedures do not provide for a hearing or appeal to the Merit Systems Protection Board. Accordingly, GAO has not provided for a hearing or appeal to the GAO Personnel Appeals Board. GAO believes the procedures established by Congress are adequate to protect individuals in these kinds of adverse actions. The requirement to furnish documentation to the Board for actions over which it has no authority is unnecessary and has been deleted.

Adverse Actions: Removals, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

Many responses raised questions about this section, suggesting that the regulations specify the reasons that would cause these actions to be taken and in general seeking further elaboration of the matters covered. The GAO Personnel Act of 1980 requires that the personnel system shall provide for the taking of personnel actions consistent with Chapter 75 of title 5, United States Code. Secs. 7.5 and 7.6 provide maximum consistency with subchapters I and II respectively, of Chapter 75 of title 5, U.S.C. supplemented by OPM final regulations (44 FR 47029). GAO does not believe it should regulate beyond the specific statutory requirement.

One commentator suggested that we omit section 7.6(c) which permits the Comptroller General to have a hearing in cases concerning adverse actions involving suspensions for more than 14 days, reduction in grade or pay, or furlough for 30 days or less. It was pointed out that our current procedures provide for a rapid disposition of such cases thereby insuring a final resolution in a more reasonable period than if a hearing was held. It was further pointed out that it would not deprive anyone of their "due process."

In view of the reasons stated above, we have adopted the suggestion and have deleted this provision from the final regulations.

Grievances

Two respondents suggested that employees should have the right to appeal the final decision of the grievance procedure to the GAO Personnel Appeals Board. The Congress recognized that an administrative grievance procedure was necessary for personnel actions not covered by discrimination appeals, adverse action appeals, and labor relations grievance procedures. Such actions are considered less severe than those specifically spelled out in the legislation and accordingly Congress has not required that they be appealable outside the employing organization. The GAO Personnel Act of 1980 did not give GAO employees superior rights over other Federal employees. Congress did not give employees a right to appeal adverse actions (suspensions of less than 14 days) which are typically more severe than matters handled under administrative grievance procedures. GAO does not believe it should regulate beyond the specific statutory requirement.

Services to Employees

This section is being added to the final regulations since GAO is still subject to the provisions of Chapter 79 of title 5, United States Code.

GAO Senior Executive Service

Several respondents raised a question concerning GAO's Senior Executive Service meeting the requirement that it be administered so as to "provide for program continuity and policy advocacy in the management of public programs." GAO agrees that its role is not as policy advocate in the management of public programs. GAO has revised this requirement and believes it is consistent with section 3131 of title 5, U.S.C.

The General Accounting Office has carefully examined and considered all comments made during the public comment period. It has attempted to address the major points individuals and organizations have made both in writing and orally. Certain comments and suggestions were made concerning matters more properly handled through the GAO Operations Manual System.

Accordingly, Subchapters A and B of Title 4 of the Code of Federal Regulations are amended to read as follow:

(1) SUBCHAPTER A, which shall include Parts 1–19, is redesignated Personnel System.

SUBCHAPTER A—PERSONNEL SYSTEM

(2) SUBCHAPTER B, which shall include Parts 20–29, is designated General Procedures.

SUBCHAPTER B—GENERAL PROCEDURES

PARTS 1 AND 6 [REDESIGNATED]

(3) Parts 1 and 6 of Subchapter A are redesignated parts 11 and 12, respectively.

PARTS 10, 20, AND 21 [REDESIGNATED]

(4) Parts 10, 20, and 21 of Subchapter A are redesignated Parts 20, 21, and 22 of Subchapter B.

(5) Subchapter A is amended as follows:

a. Part 2 is added to read as follows:

PART 2—PURPOSE AND GENERAL PROVISION

Authority: Sec. 3, Pub. L. 96-191, 94 Stat. 27 (31 U.S.C. 52-2).

§ 2.1 Purpose, scope, and applicability.

This regulation establishes and sets forth the basic policy for the General Accounting Office (GAO) personnel system. Personnel management is a primary responsibility of all who plan, direct, or supervise the work of employees. The objective of personnel management is to contribute to the effective accomplishment of GAO's mission through proper acquisition, development, fair treatment, motivation, compensation and productive utilization of employees.

Nothing in this regulation prohibits or restricts any lawful effort to achieve equal employment opportunity through affirmative action.

§ 2.2 References.

(a) Public Law 96-191, 94 Stat 27 "The General Accounting Office Personnel Act of 1980."

(b) Title 5, United States Code.

§ 2.3 GAO Personnel Appeals Board.

The General Accounting Office Personnel Act of 1980 established a board to be known as the General Accounting Office Personnel Appeals Board. This board will promulgate regulations providing for employee appeals and establishing its operating procedures.

§ 2.4 Merit system principles.

Merit personnel systems are based on the principle that an organization is best served by motivated, competent, honest and productive workers. In a merit system, employees are hired, promoted, rewarded, and retained on the basis of individual ability and fitness for employment without regard to race, color, sex, religion, age, or national origin. Central to this principle is the protection of employees from discrimination, improper political influence and personal favoritism.

Equal employment opportunity is an integral part of every merit system. Affirmative action plans, designed to provide a work force reflective of the Nation's diversity, must assure that both in operation and results the merit system reflects equal opportunity at every step of the personnel process.

GAO personnel systems shall embody the following merit system principles:

(a) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(b) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(c) Equal pay should be provided for work of substantially equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(d) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(e) The work force should be used efficiently and effectively.

(f) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employes should be separated who cannot or will not improve their performance to meet required standards.

(g) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(h) Employees should be protected against arbitrary action, personal favoritism, or coercion from partisan political purposes and prohibited from using their official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for election.

(i) Employees should be protected against reprisal for the lawful disclosure of information which the employee reasonably believes evidences: a violation of any law, rule or regulation; or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

§ 2.5 Prohibited personnel practices.

Any GAO employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority engage in the following prohibited personnel practices.

(a) Discrimination. GAO employees shall not discriminate for or against any employee or applicant for employment—

(1) On the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000 e-16);

(2) On the basis of age, as prohibited under section 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(3) On the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(4) On the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

(5) On the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.

(b) Recommendations or statements. GAO employees shall not solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

(1) An evaluation of the work performance, ability, aptitude, or general qualifications of such individual, or

(2) An evaluation of the character, loyalty, or suitability of such individual.

(c) Political activity. GAO employees shall not coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.

(d) Compete for employment. GAO employees shall not deceive or willfully obstruct any person with respect to such person's right to compete for employment.

(e) Influencing competition. GAO employees shall not influene any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.

(f) Preference or advantage. GAO employees shall not grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(g) Relatives. GAO employees who are serving as public officials (as defined in section 3110(a)(2) of title 5, United States Code) shall not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a GAO position any individual who is a relative (as defined in section 3110(a)(3) of title 5, United States Code) of such employee.

(h) Reprisals. GAO employees shall not take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

(1) A disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) A violation of any law, rule, or regulation, or

(ii) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) A disclosure to the General Counsel of the GAO Personnel Appeals Board of information which the employee or applicant reasonably believes evidences—

(i) A violation of any law, rule, or regulation, or

(ii) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(i) Reprisals for appeals. GAO employees shall not take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation.

(j) Discrimination for conduct. GAO employees shall not discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or of the United States.

(k) Other personnel actions. GAO employees shall not take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule or regulation implementing, or directly concerning, the merit system principles described in section 2.4.

(l) Information to the Congress. Nothing in this section shall be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

§ 2.6 Veterans' preference.

GAO will provide preference, for any individual who would be a preference eligible in the executive branch, in a manner and to an extent consistent with preference eligibles in the executive branch.

Appeals from preference decisions will be heard by the GAO Personnel Appeals Board.

c. Part 3 is added to read as follows:

PART 3—EMPLOYMENT

Authority: Sec. 3, Pub. L. 96–191, 94 Stat. 27 (31 U.S.C. 52–2).

§ 3.1 Appointment, promotion, and assignment.

Employees of GAO shall be 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.

§ 3.2 Oath of office.

The provisions of Subchapter II of Chapter 33 of title 5, United States Code, and Office of Personnel Management implementing regulations apply to General Accounting Office employees.

§ 3.3 Assignments to and from States.

The provisions of Subchapter VI of Chapter 33 of title 5, United States Code, and Office of Personnel Management implementing regulations apply to General Accounting Office employees.

d. Part 4 is added to read as follows:

PART 4—EMPLOYEE PERFORMANCE AND UTILIZATION

Authority: Sec. 3, Pub. L. 96–191, 94 Stat. 27 (31 U.S.C. 52–2).

§ 4.1 Training.

The provisions of Chapter 41, of title 5, United States Code, and Office of Personnel Management implementing regulations apply to General Accounting Office employees.

§ 4.2 Performance appraisal.

The GAO shall develop one or more performance appraisal systems which provide for periodic appraisals of job performance of employees; encourages employee participation in establishing performance standards; and uses the results of performance appraisal as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

Each performance appraisal system shall provide for—

(a) establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of job-related criteria (which may include the extent of courtesy demonstrated to the public) for each GAO employee.

(b) as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to reach GAO employee the performance standards and the critical elements of the employee's position.

(c) annually evaluating each employee during the appraisal period on such standards.

(d) recognizing and rewarding employees whose performance so warrants.

(e) assisting employees in improving unacceptable performance.

(f) reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

§ 4.3 Removal for unacceptable performance.

GAO may reduce in grade/pay level or remove an employee for unacceptable performance in accordance with the provisions of this section.

(a) Employee entitlement. A GAO employee whose reduction in grade/pay level or removal is proposed under this section is entitled to—

(1) An advance written notice of the proposed action which identifies—

(i) Specifies instances of unacceptable performance by the employee on which the proposed action is based; and

(ii) The critical elements of the employee's position involved in each instance of unacceptable performance.

(2) Be represented by an attorney or other representative.

(3) A reasonable time to answer orally and in writing.

(4) A written decision which—

(i) Specific the instances of unacceptable performance by the employee on which the reduction in grade/pay level or removal is based.

(ii) Unless proposed by the Comptroller General or by a senior manager (e.g., the Deputy Comptroller General, an Assistant Comptroller General, or a Division or Office Director) has been concurred in by an employee who is in a higher position than the employee who proposed the action.

(b) Decisions to retain, reduce in grade/pay level or remove. The decision to retain, reduce in grade or remove a GAO employee—

(1) Shall be made within 30 days after the date of expiration of the notice period, and

(2) In the case of reduction in grade/pay level or removal, may be based only on those instances of unacceptable performance by the employee—

(i) Which occurred during the 1-year period ending on the date of the notice of the proposed action.

(ii) For which the notice and other requirements of this section are complied with.

(c) Performance improvement. If because of performance improvement by the employee during the notice period, the employee is not reduced in grade/pay level or removed, and the employee's performance continues to be acceptable for 1 year from the date of advance written notice, any records shall be retained only as prescribed by other recordkeeping requirements, such as grievances, adverse action appeals, or discrimination complaints. In these circumstances any entry or notation of unacceptable performance shall be removed from the employee's official personnel folder and maintained in separate files to be used only in connection with an employee initiated complaint.

(d) Appeals. A GAO employee who has been reduced in grade/pay level or removed under this section is entitled to appeal the action to the GAO Personnel Appeals Board.

(e) Nonapplicability. This section does not apply to—

(1) The reduction to the grade/pay level previously held of a supervisor or manager who has not completed the trail period

(2) The reduction in grade/pay level or removal of a GAO employee who is serving a trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less

(3) Employees in the GAO Senior Executive Service.

§ 4.4 Incentive awards.

The provisions of Chapter 45 of title 5, United States Code and Office of Personnel Management implementing regulations apply to General Accounting Office employees.

e. Part 5 is added to read as follows:

PART 5—COMPENSATION

Authority: Sec. 3, Pub. L. 96–191, 94 Stat. 27 (31 U.S.C. 52–2).

§ 5.1 Pay.

(a) Pay principles. Pay of the employees of GAO shall be fixed by the Comptroller General consistent with the principles that—

(1) There be equal pay for work of substantially equal value.

(2) Pay distinctions be maintained in keeping with work and performance distinctions.

(3) Pay rates be comparable with private enterprise pay rates for the same levels of work.

(4) Pay levels be interrelated to the General Schedule.

(b) Pay rates.

(1) The Comptroller General shall publish a schedule of pay rates which shall apply to GAO employees. Except as provided in (2) and regulations for the GAO Senior Executive Service, the highest rate under such schedule shall not exceed the highest rate of basic pay payable for grade GS–15 under the General Schedule.

(2) 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 GAO Senior Executive Service, other than those in such service pursuant to section 5(a)(4) of the GAO Personnel Act of 1980.

(c) Pay adjustments. Except as provided in regulations for the GAO Senior Executive Service and the Merit Pay System, the pay of GAO employees shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule.

§ 5.2 Grade and pay retention.

(a) Change of positions. Any GAO employee who is placed in a lower grade position as a result of a reduction-in-force may be entitled to the retained grade of the higher position he or she previously held. The employee receives this entitlement (which is for a period of 2 years) if he or she has served for at least 52 consecutive weeks in one or more positions at a grade or grades higher than the new position. The 2-year period begins on the date of placement to the lower grade position.

(b) Reclassification. Any GAO employee who is in a position which is reduced in grade is entitled to have the grade of such position before reduction be treated as the retained grade of such employee for the 2-year period beginning on the date of reduction in grade. However, this section shall not apply to any reduction in the grade of a position which had not been classified at the higher grade for a continuous period of at least 1 year immediately before such reduction.

(c) Retained grade. For the 2-year period referred to in paragraphs a and b of this section, the retained grade of GAO employees shall be treated as the grade of the employee's position for all purposes (including pay and pay administration, retirement, life insurance and eligibility for training and promotion) except—

(1) For purposes of section 5.2(a).

(2) For purposes of applying any reduction-in-force procedures.

(3) For purposes of determining whether the employee is covered by a merit pay system.

(4) For such other purposes as the Comptroller General may provide by regulation.

(d) Termination of retained grade. The foregoing provisions of this section shall cease to apply to any GAO employee who—

(1) Has a break in service of 1 workday or more;

(2) Is demoted for personal cause or at the employee's request;

(3) Is placed in, or declines, a reasonable offer of, a position the grade of which is equal or higher than the retained grade; or

(4) Elects in writing to have the benefits of this chapter terminate.

(e) Pay retention. Any GAO employee: who ceases to be entitled to a retained grade by reason of the expiration of the 2-year period; or who (but for this paragraph) would be subject to a reduction in pay under circumstances prescribed by the Comptroller General by regulation to warrant the application of this paragraph is entitled to—

Basic pay at a rate equal to the employee's allowable former rate of basic pay, plus 50 percent of the amount of each increase in the maximum rate of basic pay payable for the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.

(f) "Allowable former rate of basic pay." This means the lower of—

(1) The rate of basic pay payable to the employee immediately before the reduction in pay; or

(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

(g) Termination of retained pay. The pay retention provisions in section 5.2(e) shall cease to apply to a GAO employee who—

(1) Has a break in service of 1 workday or more.

(2) Is entitled by operation of sections 5.1, 5.2, and 5.3 to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under section 5.2(e); or

(3) Is demoted for personal cause or at the employee's request.

(h) Remedial actions. Under regulations prescribed by the Comptroller General, Personnel shall—

(1) Obtain and make available to employees receiving benefits under this section, information on vacancies in other Federal agencies.

(2) Take such steps as may be appropriate to assure employees receiving benefits under this section have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of this section; and

(3) Establish a program under which employees receiving benefits under this section are given priority in the consideration for or placement in positions which are equal to their retained grade or pay.

(i) Appeals. In the case of the termination of any benefits to a GAO employee under this section on the grounds that such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than their retained grade or pay, after administrative remedies have been exhausted, such termination may be appealed to the GAO Personnel Appeals Board under procedures prescribed by the Board.

§ 5.3 Merit pay.

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, which provides—

§ 5401. Purpose

(a) It is the purpose of this chapter to provide for—

(1) a merit pay system which shall—

(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

(B) use performance appraisals as the basis for determining merit pay adjustments;

(C) within available funds, provide for training to improve objectivity and fairness in the evaluation of performance; and

(D) regulate the costs of merit pay by establishing appropriate control techniques; and

(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

§ 5.4 Pay administration.

The provisions of Chapter 55 of title 5, United States Code and the Office of Personnel Management implementing regulations apply to General Accounting Office employees.

§ 5.5 Travel, transportation, and subsistence.

The provisions of Chapter 57 of title 5, United States Code and the implementing regulations for the Executive Branch apply to General Accounting Office employees.

§ 5.6 Allowances.

The provisions of Chapter 59 of title 5, United States Code and the implementing regulations for the Executive Branch apply to General Accounting Office employees.

f. A new Part 6 is added to read as follows:

PART 6—ATTENDANCE AND LEAVE

Sec.

Authority: Sec. 3, Pub. L. 96-191, 94 Stat. 27 (31 U.S.C. 52-2).

§ 6.1 Applicable law and regulations.

The provision of Subpart E, Title 5, United States Code and the Office of Personnel Management implementing regulations regarding "Attendance and Leave" apply to General Accounting Office employees. This includes hours of work, annual leave, sick leave, and other paid leave.

g. Part 7 is added to read as follows:

PART 7—PERSONNEL RELATIONS AND SERVICES

Sec.

Authority: Sec. 3, Pub. L. 96-191; 94 Stat. 27 (31 U.S.C. 52-2).

§ 7.1 Labor management relations.

(a) Policy. Each employee of GAO has the right, freely and without fear of penalty or reprisal, to form, join, or assist an employee organization, or to refrain from such activity.

(b) Labor relations program. A labor relations program consistent with chapter 71 of title 5, United States Code will be developed for the General Accounting Office.

§ 7.2 Equal employment opportunity.

(a) Policy. All personnel actions affecting employees or applicants for employment in GAO shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status or handicapping condition.

(b) Equal opportunity recruiting program. GAO shall conduct continuing programs for the recruitment of members of minorities and women for positions in GAO in a manner designed to eliminate underrepresentation of minorities and women in the various categories of employment in GAO. Special efforts will be directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited. GAO will conduct a continuing program of evaluation and oversight of such recruiting programs to determine their effectiveness in eliminating minority and women underrepresentation.

(c) Statutory rights and remedies. Nothing in this order shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in GAO—

(1) By section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

(2) By sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(3) By section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(4) By sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a); or

(5) 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.

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 concerning oversight and appeals shall be exercised by the GAO Personnel Appeals Board. Other responsibilities shall be exercised by the Comptroller General.

§ 7.3 Political activities.

(a) Political contributions and services. GAO employees are not obliged, by reason of employment, to contribute to a political fund or to render political service, and they may not be removed or otherwise prejudiced for refusal to do so.

(b) Use of authority or influence. GAO employees may not use their official authority or influence to coerce the political action of a person or body.

(c) Political contributions. GAO employees may not request or receive from, or give to, an employee, a Member of Congress, or an officer of the uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from employment. It should be noted, however, that this does not preclude GAO employees from making a financial contribution to a political party or organization.

(d) Elections; political campaigns. GAO employees may not use their official authority or influence for the purpose of interfering with or affecting the results of an election; or take part in political management or in political campaigns.

Employees retain the right to vote as they choose and to express their opinions on political subjects and candidates.

An employee who violates this section shall be removed from employment. However, if the GAO Personnel Appeals Board, finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30-days suspension without pay shall be imposed by direction of the GAO Personnel Appeals Board.

(e) Nonpartisan political activity permitted. Section 7.3(d) does not prohibit political activity in connection with (1) a nonpartisan campaign and election (where none of the candidates represent a political party which had candidates for presidential elector in the last presidential election), or (2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States. (This includes questions relating to constitutional amendments, referendums, approval of municipal ordinances and others of a similar nature.)

(f) Political activity permitted in certain municipalities. The Comptroller General may permit GAO employees to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Comptroller General considers it to be in their domestic interest, when—

(1) The municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the United States Government; and

(2) The Comptroller General determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees to permit that political participation.

§ 7.4 Employment limitations, foreign gifts and decorations, and misconduct.

The provisions of Subchapters II, IV, and V of Chapter 73 of title 5, United States Code and implementing regulations thereunder continue to apply to this office.

§ 7.5 Adverse actions: Suspensions for 14 days or less.

(a) Policy. A GAO employee may be suspended for 14 days or less for such cause as will promote the efficiency of GAO (including discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any 1-year period or any other pattern of discourteous conduct). Suspension means placing an employee, for disciplinary reasons, temporarily in a status without duties and pay.

(b) Employee entitlement. An employee against whom a suspension for 14 days or less is proposed is entitled to—

(1) An advance written notice stating the specific reasons for the proposed action;

(2) A reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(3) Be represented by an attorney or other representative; and

(4) A written decision and the specific reasons therefore at the earliest practicable date.

(c) Documentation. Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by Personnel and shall be furnished to the employee affected upon the employee's request.

(d) Nonapplicability. This section is not applicable to—(1) An employee who is serving a trial period under an initial appointment in GAO or who has not completed 1 year of current continuous employment in the same or similar positions in GAO under other than a temporary appointment limited to 1 year or less.

(2) A suspension in the interest of national security. § 7.6 Adverse actions: Removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less.

§ 7.6 Adverse actions: Removal, suspension for more than 14 days, reduced in grade, reduced in pay or furloughed for 30 days or less.

(a) Policy. A GAO employee may be removed, suspended for more than 14 days, reduction in grade or pay, or furlough for 30 days or less for such cause as will promote the efficiency of GAO. Furloughed means placing an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

(b) Employee entitlement. An employee against whom an action is proposed under this section is entitled to—

(1) At least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action,

(2) A reasonable time to answer orally and in writing and to furnish affidavits and other documents in support of the answer.

(3) Be represented by an attorney or other representative; and

(4) A written decision and the specific reasons therefor at the earliest practicable date.

(c) Appeals. After administrative remedies have been exhausted, an employee against whom an action is taken under this section is entitled to appeal to the GAO Personnel Appeals Board.

(d) Documentation. Copies of the notice of proposed action, the answer of the employee if written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order affecting an action covered by this section, together with any supporting material, shall be maintained by Personnel and shall be furnished to the GAO Personnel Appeals Board upon its request and to the employee affected upon the employee's request.

(e) Nonapplicability. This section does not apply to—

(1) Employees who are serving a trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less.

(2) A suspension or removal of an employee in the interests of national security.

(3) A reduction in force.

(4) The reduction in grade of a supervisor or manager who has not completed the probationary period.

(5) A reduction in grade or removal for unacceptable performance under part 4.

(6) An action ordered by the GAO Personnel Appeals Board.

§ 7.7 Other appeals and grievances.

The personnel system shall provide procedures for the processing of complaints and grievances which are not otherwise provided for.

§ 7.8 Services to employees.

The provisions of Chapter 79 of title 5, United States Code, and the Office of Personnel Management implementing regulations apply to General Accounting Office employees.

h. Part 8 is added to read as follows:

PART 8—INSURANCE AND ANNUITIES

Sec.
8.1 Applicable law and regulations.

Authority: Sec. 3, Pub. L. 96-191; 94 Stat. 27 (31 U.S.C. 52-2).

§ 8.1 Applicable law and regulations.

The provisions of Subpart G, title 5, United States Code and implementing regulations for the Executive Branch covering compensation for work injuries, retirement, unemployment compensation, life insurance, and health insurance apply to General Accounting Office employees.

i. Part 9 is added to read as follows:

PART 9—SENIOR EXECUTIVE SERVICE

Sec.
9.1 GAO Senior Executive Service.

Authority: Sec. 5, Pub. L. 96-191; 94 Stat. 31 (31 U.S.C. 52-4).

§ 9.1 GAO Senior Executive Service.

(a) The Comptroller General may promulgate regulations establishing a General Accounting Office Senior Executive Service which meets the requirements set forth in section 3131 of title 5, United States Code, which provides—

§ 3131 The GAO Senior Executive Service

The Senior Executive Service shall be administered so as to—

(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent senior executives;

(2) ensure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organizational performance (including such factors as improvements in efficiency, productivity, quality of work or service, cost efficiency, and timeliness of performance and success in meeting equal employment opportunity goals);

(3) assure that senior executives are accountable and responsible for the effectiveness and productivity of employees under them;

(4) recognize exceptional accomplishment;

(5) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

(6) provide for severance pay, early retirement, and placement assistance for senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

(7) protect senior executives from arbitrary or capricious actions;

(8) provide for program continuity in the management of GAO programs;

(9) maintain a merit personnel system free of prohibited personnel practices;

(10) ensure accountability for honest, economical, and efficient Government;

(11) ensure compliance with all applicable personnel laws, rules, and regulations, including those related to equal employment opportunity, political activity, and conflicts of interest;

(12) provide for the initial and continuing systematic development of highly competent senior executives;

(13) provide for an executive system which is guided by the public interest and free from improper political interference; and

(14) appoint career executives to fill Senior Executive Service positions to the extent practicable, consistent with the effective and efficient implementation of agency policies and responsibilities.

(b) Requirements for positions included in the GAO Senior Executive System. The GAO Senior Executive Service may include—

a. The 100 positions authorized by section 3(c)(3) of the GAO Personnel Act of 1980;

b. The position of the General Counsel authorized by section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a); and

c. The 5 positions authorized by section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51b); and

d. The 10 positions authorized by section 204(d) of the Legislative Reorganization Act of 1970.

(31 U.S.C. 1154(d))

Elmer B. Staats,
Comptroller General of the United States.

[FR Doc. 80-31931 Filed 10-14-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This amendment will expand the scope and applicability of the Department's uniform rules of practice governing adjudicatory proceedings to include actions initiated under the Egg Research and Consumer Information Act, as amended (7 U.S.C. 2701, amended Pub. L. 96-276, 94 Stat. 541, effective June 17, 1980). The Egg Research and Consumer Information Act was amended on June 17, 1980, to authorize assessment of civil penalties and issuance of cease and desist orders by the Secretary of Agriculture against any person found to be in violation of the Act, the Egg Research and Promotion Order (7 CFR 1250.301 *et. seq.*) or the Regulations thereunder (7 CFR 1250.500 *et. seq.*). Accordingly, this action will make the Department's uniform rules applicable to the administrative adjudications now authorized under the Act, and will thus permit the orderly conduct of any such adjudications as may be initiated by the Secretary.

EFFECTIVE DATE: October 15, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Chernauska, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447-5935.

SUPPLEMENTARY INFORMATION: This action has been determined to be exempt from the procedures under Executive Order 12044 because it is administrative in nature.

Effective June 17, 1980, the Egg Research and Consumer Information Act was amended to authorize administrative adjudications to enforce the provisions of the Act, the Order, and the regulations thereunder, against any person found to be in violation thereof, through the imposition of civil penalties and the issuance of cease and desist orders by the Secretary. The amendments to the Act provide that before any penalty or cease and desist order can be issued the affected person shall be provided with an opportunity for a hearing. Prior to June 17, 1980, the enforcment of violations of the Act and Order was limited to actions prosecuted in the Federal District Courts, thus, there was no need for administrative rules of practice before that date.

The Department's uniform rules of practice (7 CFR Part 1, subpart H), which govern the conduct of adjudicatory proceedings under numerous statutes, have been in effect since February 1, 1977. Accordingly, to insure consistency and uniformity in the conduct of the Department's administrative proceedings, it has been determined that proceedings initiated under the amended Egg Research and Consumer Information Act should also be governed by these uniform procedures.

Since 5 U.S.C. 553 does not apply to the promulgation of agency rules of procedure and since existing rules of practice are simply being adopted for this new statutory program, it has been determined that it is unnecessary to provide an opportunity for the submission of comments on this action. For these same reasons it has been determined that good cause exists to make this action effective upon publication in the Federal Register.

In consideration of the foregoing, 7 CFR Part 1, subpart H, is amended as follows:

Dated: October 6, 1980.

Bob Bergland,

Secretary.

PART 1—ADMINISTRATIVE REGULATIONS SUBPART H—RULES OF PRACTICE GOVERNING FORMAL ADJUDICATORY PROCEEDINGS INSTITUTED BY THE SECRETARY UNDER VARIOUS STATUTES

§ 1.131 [Amended]

§ 1.131(a) should be amended by inserting the following statutory reference in the list of statutes in alphabetical order:

Egg Research and Consumer Information Act, as amended, 7 U.S.C. 2714, Pub. L. 96-276, 94 Stat. 541.

(7 U.S.C. 2701 *et. seq.*, as amended, Pub. L. 96-276, 94 Stat. 541, effective June 17, 1980)

[FR Doc. 80-32039 Filed 10-14-80; 8:45 am]

BILING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 906

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1980-81 fiscal period, to be collected from handlers to support activities of the Texas Valley Citrus Committee which locally administers the Federal marketing order covering oranges and grapefruit grown in Texas.

DATES: Effective August 1, 1980, through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." This final rule is issued under Marketing Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations and information submitted by the Texas Valley Citrus Committee, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). The order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruit handled from the beginning of such period, which began August 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, a new § 906.220 is added to read as follows (this section is effective through July 31, 1981, and will not be published in the annual Code of Federal Regulations):

§ 906.220 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1980, through July 31, 1981, will amount to $830,000.

(b) The rate of assessment for said period payable by each handler in accordance with § 906.34 is fixed at $0.045 per 7/10 bushel carton of oranges or grapefruit.

(c) Unexpended funds in excess of expenses incurred during fiscal period ended July 31, 1980, shall be carried over as a reserve in accordance with § 906.35.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 8, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-32037 Filed 10-14-80; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 908

[Valencia Orange Regulation 666, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period October 3-October 9, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: The amendment is effective for the period October 3-October 9, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the