

**OFFICE OF PERSONNEL
MANAGEMENT**

5 CFR Part 591

RIN 3206-AL65

Nonforeign Area Cost-of-Living Allowances; 2007 Interim Adjustments: Alaska and Puerto Rico

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing to change the cost-of-living allowance (COLA) rates received by certain white-collar Federal and U.S. Postal Service employees in Anchorage, Fairbanks, and Juneau, Alaska, and in Puerto Rico. The proposed rate changes are the result of interim adjustments OPM calculated based on relative Consumer Price Index differences between the COLA areas and the Washington, DC, area. The proposed regulations would reduce the COLA rates for Anchorage, Fairbanks, and Juneau by 1 percentage point and would increase the rate for Puerto Rico by 1 percentage point.

DATES: We will consider comments received on or before October 24, 2008.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7300B, 1900 E Street, NW., Washington, DC 20415-8200; fax: (202) 606-4264; or e-mail: COLA@opm.gov.

FOR FURTHER INFORMATION CONTACT: J. Stanley Austin, (202) 606-2838; fax: (202) 606-4264; or e-mail: COLA@opm.gov.

SUPPLEMENTARY INFORMATION: Section 5941 of title 5, United States Code, authorizes Federal agencies to pay cost-of-living allowances (COLAs) to white-collar Federal and U.S. Postal Service employees stationed in Alaska, Hawaii, Guam and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands (USVI). Executive Order 10000, as amended, delegates to the Office of Personnel Management (OPM) the authority to administer nonforeign area COLAs and prescribes certain operational features of the program.

OPM conducts living-cost surveys in each allowance area and in the Washington, DC, area to determine whether, and to what degree, COLA area living costs are higher than those in the DC area. We set the COLA rate for each area based on the results of these surveys.

As required by section 591.223 of title 5, Code of Federal Regulations, we conduct COLA surveys once every 3 years on a rotating basis. For areas not surveyed during a particular year, we adjust COLA rates by the relative change in the Consumer Price Index (CPI) for the COLA area compared with the Washington, DC, area. (See 5 CFR 591.224-226.) We adopted these regulations pursuant to the stipulation for settlement in *Carballo et al. v. United States*, No. 1997-0027 (D.V.I), August 17, 2000. *Carballo* was a class-action lawsuit which resulted in many changes in the COLA methodology and regulations.

We computed interim adjustments based on the relative change in the CPI for the Alaska and Caribbean COLA areas. A separate notice on the calculation of these interim adjustments accompanies this proposed rule. The interim adjustments indicate that the Anchorage, Fairbanks, and Juneau, Alaska, COLA rates should be reduced by 1 percentage point in each area.

We published a proposed rule on January 3, 2008, that would, when implemented, reduce the COLA rates in Anchorage, Fairbanks, and Juneau from 24 percent to 23 percent based on the results of the 2006 COLA survey in Alaska. The 1 percentage point reduction proposed in this rule would further reduce the rates in these areas to 22 percent. However, 5 CFR 591.228(c) limits COLA rate decreases to 1 percentage point in a 12-month period. Therefore, we will not implement COLA rate reductions under this proposed rule until 12 months have elapsed since the effective date of the proposed reductions based on the 2006 survey results. For example, if the proposed reductions based on the 2006 survey results become effective in mid-October of this year, the reductions proposed under this rule would not be implemented before mid-October of 2009.

The 2007 interim adjustments would also increase the COLA rate for Puerto

Rico by 1 percentage point. We published a final rule on May 29, 2008, at 73 FR 30727, that increased the Puerto Rico COLA rate to 13 percent. The 2007 interim adjustment would further raise the COLA rate for Puerto Rico to 14 percent when published as final. We plan to implement this increase separately from the Alaska reductions to avoid the 12-month delay imposed by 5 CFR 591.228(c).

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management

Michael W. Hager,

Acting Director.

Accordingly, OPM proposes to amend subpart B of 5 CFR part 591 as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

1. The authority citation for subpart B of 5 CFR part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943-1948 Comp., p. 792; and E.O. 12510, 3 CFR, 1985 Comp., p. 338.

2. Revise appendix A of subpart B to read as follows:

Appendix A to Subpart B of Part 591—Places and Rates at Which Allowances Are Paid

This appendix lists the places approved for a cost-of-living allowance and shows the authorized allowance rate for each area. The allowance rate shown is paid as a percentage of an employee's rate of basic pay. The rates are subject to change based on the results of future surveys.

Geographic coverage	Allowance rate (percent)
State of Alaska:	
City of Anchorage and 80-kilometer (50-mile) radius by road	22
City of Fairbanks and 80-kilometer (50-mile) radius by road	22
City of Juneau and 80-kilometer (50-mile) radius by road	22

Geographic coverage	Allowance rate (percent)
Rest of the State	25
State of Hawaii:	
City and County of Honolulu	25
Hawaii County, Hawaii	18
County of Kauai	25
County of Maui and County of Kalawao	25
Territory of Guam and Commonwealth of the Northern Mariana Islands	25
Commonwealth of Puerto Rico	14
U.S. Virgin Islands	25

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