

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206-AL72

Nonforeign Area Cost-of-Living Allowances; 2008 Interim Adjustments

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. 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 the Pacific and Alaska COLA areas. The proposed rate changes are the result of interim adjustments OPM calculated based on relative Consumer Price Index differences. The proposed regulations would reduce the COLA rates for the Pacific allowance areas and Anchorage, Fairbanks, and Juneau, Alaska, by 1 percentage point.

DATES: We will consider comments received on or before February 9, 2009.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. 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 Commonwealth of the Northern Mariana Islands (CNMI), Puerto Rico, and the U.S. Virgin Islands. Executive Order 10000, as amended, delegates to the U.S. 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 cost-of-living surveys in the Caribbean, Alaska, and Pacific COLA areas on a 3-year rotating basis, and in the Washington, DC, area on an annual 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 *Caraballo et al. v. United States*, No. 1997-0027 (D.V.I.), August 17, 2000. *Caraballo* was a class-action lawsuit that resulted in many changes in the COLA methodology and regulations.

2007 Pacific Survey Results

We conducted living-cost surveys in the Hawaii COLA areas (Honolulu, Hawaii County, Maui, and Kauai), Guam, and the Washington, DC, area in the spring of 2007. We publish the results of these surveys in the 2007 *Nonforeign Area Cost-of-Living Allowance Survey Report: Pacific and Washington, DC, Areas*, which accompanies this proposed rule in this separate part.

As described in the 2007 survey report, we compared the results of the COLA area surveys with the results of the DC area survey to compute a living-cost index for each of the Pacific COLA areas. Table 1 shows the final 2007 Pacific survey living-cost indexes. These indexes are superseded by the 2008 interim CPI adjustment indexes as discussed in the section that follows.

TABLE 1—2007 PACIFIC SURVEY INDEXES

Allowance area	Index
Honolulu County, HI	121.37
Hawaii County, HI	111.71
Kauai County, HI	118.14
Maui County, HI	123.62
Guam/CNMI	119.98

2008 Interim Adjustments

We computed 2008 interim adjustments for the Alaska and Pacific COLA areas based on the relative change in the CPIs for these areas compared with the Washington, DC, area. As required by 5 CFR 591.225, we used the CPI, All Urban Consumers (CPI-U), published by the Bureau of Labor Statistics (BLS) for Anchorage, Honolulu, and the Washington-Baltimore area for the comparisons. We did not compute interim adjustments for Puerto Rico and the U.S. Virgin Islands

because we conducted surveys in these areas in 2008.

Alaska Interim Adjustments

We computed the change in prices for the Anchorage area compared with the change in prices for the Washington-Baltimore area using the CPI-U for each area. Table 2 shows this process.

TABLE 2—ANCHORAGE AND WASHINGTON-BALTIMORE CPI-U CHANGES 2006 TO 2008

Survey area	CPI-U
Anchorage 2006 CPI-U First Half	176.7
Anchorage 2008 CPI-U First Half	187.659
Anchorage change	6.202%
DC-Baltimore 2006 CPI-U first half	127.7
DC-Baltimore 2008 CPI-U first half	138.49
DC-Baltimore change	8.4495%

Next, we multiplied the *price* indexes from the four 2006 Alaska surveys—Anchorage, Fairbanks, Juneau, and Rest of the State of Alaska (represented by Kodiak)—by the change in the Anchorage CPI-U and divided that by the change in the Washington-Baltimore CPI-U. We used the Alaska area price indexes from the 2006 Alaska survey report, published on January 3, 2008, at 73 FR 774. The price index is the COLA survey index before the addition of the adjustment factor specified in 5 CFR 591.227. The adjustment factor reflects differences in need, access to and availability of goods and services, and quality of life in the COLA area relative to the DC area and is a fixed amount. Therefore, it is not adjusted by the change in the CPI.

Table 3 shows the interim adjustment process. For example, the 2006 Fairbanks COLA survey adjusted index, as published in the **Federal Register**, is 118.90. The Fairbanks adjustment factor is 9 points. Therefore, subtracting the adjustment factor shows 109.90 as the *price* index from the 2006 survey. We increased this price index by 6.202 percent (i.e., multiplied by 1.06202), the change in the Anchorage CPI-U, and reduced it by 8.4495 percent (i.e., divided by 1.084495), the change in the Washington-Baltimore CPI-U, to give a new price index of 107.62. We then added the 9-point adjustment factor to the new price index, which yields a 2008 Fairbanks interim adjustment COLA rate of 116.62.

TABLE 3—ALASKA COLA AREA CPI-U PRICE INDEX ADJUSTMENTS

	Anchorage	Fairbanks	Juneau	Kodiak
2006 COLA Survey Indexes	109.81	118.90	120.08	132.82
Adjustment Factors	7	9	9	9
2006 COLA Survey Price Indexes	102.81	109.90	111.08	123.82
2008 CPI Adjusted Price Indexes	100.68	107.62	108.78	121.25
2008 COLA Indexes with Adj. Factors	107.68	116.62	117.78	130.25

Pacific Interim Adjustments

The process we used to compute the interim adjustments for the Pacific areas (i.e., Honolulu, Hawaii County, Kauai, Maui, and Guam/CNMI) is identical to the one for the Alaska areas except we used the BLS CPI-U for Honolulu, as specified in § 591.225. Table 4 shows the relative change in the Honolulu CPI-U compared with the Washington-Baltimore CPI-U.

TABLE 4—HONOLULU AND WASHINGTON-BALTIMORE CPI-U CHANGES 2007 TO 2008

Survey area	CPI-U
Honolulu 2007 CPI-U First Half	216.62
Honolulu 2008 CPI-U First Half	227.334
Honolulu change	4.946%
DC-Baltimore 2006 CPI-U first half	132.0
DC-Baltimore 2008 CPI-U first half	138.49
DC-Baltimore change	4.9167%

We multiplied the price indexes from the five 2007 Pacific surveys—Honolulu, Hawaii County, Kauai, Maui, and Guam—by the change in the Honolulu CPI-U and divided that by the change in the Washington-Baltimore CPI-U. We used the Pacific area price indexes from the 2007 Pacific survey report, which accompanies this proposed rule. Table 5 shows the indexes, the interim adjustment process, and the final results.

TABLE 5—PACIFIC COLA AREA CPI-U PRICE INDEX ADJUSTMENTS

	Honolulu	Hawaii Co.	Kauai	Maui	Guam
2007 COLA Survey Indexes	121.17	111.72	118.15	123.63	119.97
Adjustment Factors	5	7	7	7	9
2007 COLA Survey Price Indexes	116.17	104.72	111.15	116.63	110.97
2008 CPI Adjusted Price Indexes	116.40	104.74	111.17	116.65	111.01
2008 COLA Indexes with Adj. Factors	121.40	111.74	118.17	123.65	120.01

COLA Rate Reductions

As a result of the interim adjustments, we are proposing to reduce the COLA rates for Anchorage, Fairbanks, Juneau, and the Pacific allowance areas because we have determined costs in these areas have decreased *in relation to* the DC area. Section 5941 of title 5, U.S. Code, requires that the nonforeign area cost-of-living allowance be based on living costs in an area that are substantially higher than living costs in the DC area.

On January 3, 2008, at 73 FR 772, we published a proposed rule to reduce the COLA rates in Anchorage, Fairbanks, and Juneau from 24 percent to 23 percent based on the results of the 2006 COLA surveys in Alaska. On August 25, 2008, at 73 FR 50174, we published a second proposed rule that would further reduce the COLA rates in Anchorage, Fairbanks, and Juneau from 23 percent to 22 percent based on the results of the 2007 interim CPI adjustments.

The 1-percent decrease proposed in this rule would further reduce the rates in these areas to 21 percent. However, 5 CFR 591.228(c) limits COLA rate reductions to 1 percentage point in a 12-month period. Therefore, we would not implement COLA rate reductions in the Alaska areas under this proposed rule

until at least 12 months after the effective date of the 2007 interim adjustment reductions. For example, if the proposed reductions based on the 2006 survey results become effective in mid-December of this year, we would not implement the proposed 2007 interim adjustment reductions before mid-December of 2009, and would not implement the reductions proposed under this rule before mid-December of 2010. Under this timeframe, the 2009 Alaska survey indexes may supersede the 2008 CPI adjustment indexes.

The rate reductions proposed for the Pacific areas are not affected by the 12-month delay on reductions under 5 CFR 591.228(c). Therefore, we plan to implement the Pacific and Alaska reductions in separate actions.

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	21
City of Fairbanks and 80-kilometer (50-mile) radius by road	21
City of Juneau and 80-kilometer (50-mile) radius by road	21
Rest of the State	25
State of Hawaii:	
City and County of Honolulu	24
Hawaii County, Hawaii	17
County of Kauai	24
County of Maui and County of Kalawao	24
Territory of Guam and Commonwealth of the Northern Mariana Islands	24
Commonwealth of Puerto Rico	14
U.S. Virgin Islands	25