

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206-AL12

Nonforeign Area Cost-of-Living Allowance Rates; Alaska, Puerto Rico, and the U.S. Virgin Islands

AGENCY: Office of Personnel
Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is publishing a proposed regulation to change the cost-of-living allowance rates received by certain white-collar Federal and U.S. Postal Service employees in Alaska, Puerto Rico, and the U.S. Virgin Islands. The changes are the result of living-cost surveys conducted by OPM in 2005 and interim adjustments OPM calculated based on relative Consumer Price Index differences between the cost-of-living allowance areas and the Washington, DC area.

DATES: We will consider comments received on or before December 26, 2006.

ADDRESSES: Send or deliver written comments to Jerome D. Mikowicz, Acting Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415-8200; fax: (202) 606-4264; or e-mail: COLA@opm.gov.

FOR FURTHER INFORMATION CONTACT: Donald L. Paquin, (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. OPM sets 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, OPM conducts COLA surveys once every 3 years on a rotating basis. For areas not surveyed during a particular year, OPM adjusts 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.) OPM adopted these regulations pursuant to the stipulation of settlement in *Caraballo et al. v. United States*, No. 1997-0027 (D.V.I), August 17, 2000. *Caraballo* was a class-action lawsuit which resulted in many changes in the COLA methodology and regulations. Although most of the changes were effective in 2002 when the new regulations became effective, this is the first year that OPM will apply the interim adjustments because the settlement and regulations provide that OPM must apply CPI-based interim adjustments beginning with the effective date of the results of the 2005 survey conducted in Puerto Rico and the U.S. Virgin Islands. (See 5 CFR 591.224(b).)

OPM conducted living-cost surveys in Puerto Rico, the U.S. Virgin Islands, and the Washington, DC area in the spring of 2005. We are publishing the results of these surveys in the *2005 Nonforeign Area Cost-of-Living Allowance Survey Report: Caribbean and Washington, DC, Areas*, which accompanies this proposed rule.

As described in the 2005 survey report, OPM 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 COLA areas. The results of the living-cost surveys indicate an increase in the COLA rate for the U.S. Virgin Islands from 23 percent to 25 percent and a decrease in the COLA rate for Puerto Rico from 10.5 percent to 9.5 percent.

OPM also computed interim adjustments based on the relative change in the CPI for the Alaska, Hawaii, and Guam and the Northern Mariana Islands COLA areas. We are publishing the calculation of these interim adjustments in a notice, which also accompanies this proposed rule. The interim adjustments indicate that the COLA rates for the Hawaii and Guam COLA areas are currently set at the appropriate level but that the Anchorage, Fairbanks, and Juneau, Alaska, COLA rates should be reduced by 1 percentage point in each area, from 24 percent, which is the current COLA rate in each of these areas, to 23 percent.

However, 5 CFR 591.228(c) limits COLA rate decreases to 1 percentage

point in a 12-month period, and OPM implemented COLA rate decreases in Anchorage, Fairbanks, Juneau, and Puerto Rico effective on the first pay period beginning on or after September 1, 2006. Therefore, under this proposed rule, the COLA rate reductions in these areas would take effect on the first day of the first pay period beginning 12 months after the effective date of the 2006 reduction. For example, if the COLA rate reduction in 2006 was effective on Sunday, September 3, 2006, the 2007 COLA rate reduction would take effect on Sunday, September 16, 2007.

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.

Linda M. Springer,
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	¹ 23.0
City of Fairbanks and 80-kilometer (50-mile) radius by road	¹ 23.0
City of Juneau and 80-kilometer (50-mile) radius by road	¹ 23.0
Rest of the State	25.0
State of Hawaii:	
City and County of Honolulu	25.0
Hawaii County, Hawaii	17.0
County of Kauai	25.0
County of Maui and County of Kalawao	25.0
Territory of Guam and Commonwealth of the Northern Mariana Islands	25.0
Commonwealth of Puerto Rico	¹ 9.5
U.S. Virgin Islands	² 25.0

¹ The next COLA rate reductions in these areas would take effect on the first day of the first pay period beginning 12 months after the effective date of the 2006 reduction because 5 CFR 591.228(c) limits COLA rate decreases to 1 percentage point in a 12-month period.

² The effective date for this COLA rate would be the first pay period beginning 30 days on or after the effective date of the final rule implementing the COLA rate.

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