

agency publishes a notice of its intention to continue such payments in the FEDERAL REGISTER for notice and comment.

(d) Before establishing a higher initial maximum uniform allowance rate under this section, an agency shall publish in the FEDERAL REGISTER for notice and comment—

(1) A description and justification of the circumstances requiring a higher initial maximum uniform allowance rate;

(2) An estimate of the number of employees affected;

(3) The specific items required for the basic uniform and the average total uniform cost for the affected employees;

(4) The amount of the proposed higher initial maximum uniform allowance rate to be paid during the year the employee first becomes subject to the uniform requirement;

(5) The proposed effective date of the higher initial maximum uniform allowance rate; and,

(6) The intent of the agency (if any) to divide the cost of a minimum basic uniform and continue to make higher initial maximum basic uniform allowance payments in the year following the year the employee first becomes subject to the uniform requirement.

(e) So that OPM can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of a higher initial maximum uniform allowance rate, each agency concerned shall maintain such other records and submit to OPM such other reports and data as OPM shall require.

(f) When OPM determines that an agency is using this authority inappropriately, OPM may require its prior approval before that agency establishes any future higher initial maximum uniform allowance rate.

(g) An agency may increase a higher initial maximum uniform allowance rate only as a result of an increase in the average total uniform cost for the affected employees. Before effecting an increase under this paragraph, an agency shall follow the notice and comment procedures required by paragraph (d) of this section.

(h) To establish a higher initial maximum uniform allowance rate applicable to the initial year a new style or type of minimum basic uniform is required for a category of employees, an agency shall use the higher initial maximum uniform allowance procedures provided under this section.

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

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.

SOURCE: 67 FR 22340, May 3, 2002, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart B of part 591 appear at 70 FR 31313, May 31, 2005.

#### § 591.201 Definitions.

In this subpart—

*Agency* means an Executive agency as defined in section 105 of title 5, United States Code, but does not include Government-controlled corporations.

*Bureau of Labor Statistics (BLS)* means the Bureau of Labor Statistics of the Department of Labor.

*Commonwealth of the Northern Mariana Islands (CNMI)* means the Commonwealth of the Northern Mariana Islands, which is part of the Guam/CNMI COLA area.

*Consumer Expenditure Survey (CES)* means the BLS survey of consumers and their expenditures.

*Consumer Price Index (CPI)* means the BLS survey of the change of consumer prices over time.

*Cost-of-living allowance (COLA)* means an allowance that the Office of Personnel Management (OPM) establishes under 5 U.S.C. 5941 at a location in a nonforeign area where living costs are substantially higher than in the Washington, DC, area.

*Cost-of-living allowance area* means a geographic area for which OPM has authorized a COLA. COLA areas are listed in § 591.207.

*Detailed Expenditure Category (DEC)* means the lowest level of expenditure shown in tabulated nationwide CES data.

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*Major Expenditure Group (MEG)* means one of the nine major groups into which OPM categorizes expenditures. These categories are food, shelter and utilities, clothing, transportation, household furnishings and supplies, medical, education and communication, recreation, and miscellaneous.

*Nonforeign area* means one of the areas listed in § 591.205.

*Office of Personnel Management (OPM)* means the Office of Personnel Management.

*Official worksite* means the official location of an employee's position of record as determined under 5 CFR 531.605.

*Position of record* means an employee's official position (defined by grade, occupational series, employing agency, law enforcement officer status, and any other condition that determines coverage under a pay schedule (other than official worksite)), as documented on the employee's most recent Notification of Personnel Action (Standard Form 50 or equivalent) and the current position description, excluding any position to which the employee is temporarily detailed. For an employee whose change in official position is followed within 3 workdays by a reduction in force resulting in the employee's separation before he or she is required to report for duty in the new position, the position of record in effect immediately before the position change is deemed to remain the position of record through the date of separation.

*Post differential* means an allowance OPM establishes under 5 U.S.C. 5941 at a location in a nonforeign area where conditions of environment differ substantially from conditions of environment in the contiguous United States and warrant its payment as a recruitment incentive.

*Post differential area* means a geographic area for which OPM authorizes a post differential. Post differential areas are listed in § 591.231.

*Primary Expenditure Group (PEG)* means one of approximately 40 expenditure groups into which OPM categorizes expenditures. A PEG is the first level of categorization under the MEG.

*Rate of basic pay* means the rate of pay fixed by statute for the position held by an individual, including any supplement included as part of basic pay under this subpart by law or regulation (e.g., a special rate supplement under 5 CFR part 530, subpart C), before any deductions and exclusive of additional pay of any other kind, such as overtime pay, night differential, extra pay for work on holidays, or other allowances and differentials. For firefighters covered by 5 U.S.C. 5545b, straight-time pay for regular overtime hours is basic pay, as provided in § 550.1305(b) of this chapter.

*Washington, DC, area* or *DC area* means the District of Columbia; Montgomery County, MD; Prince Georges County, MD; Arlington County, VA; Fairfax County, VA; Prince William County, VA; and the independent cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, Virginia; and in the context of certain survey items, includes additional geographic locations beyond these jurisdictions.

[67 FR 22340, May 3, 2002, as amended at 69 FR 59762, Oct. 6, 2004; 70 FR 31314, May 31, 2005]

### COST-OF-LIVING ALLOWANCES AND POST DIFFERENTIALS

#### § 591.202 Why does the Government pay COLAs?

The Government pays COLAs as additional compensation to certain civilian Federal employees in specified nonforeign areas in consideration of higher living costs in the local area compared with living costs in the Washington, DC, area.

#### § 591.203 Why does the Government pay post differentials?

The Government pays post differentials to certain civilian Federal employees in specified nonforeign areas as a recruitment incentive based on conditions of environment in the local area compared with conditions in the continental United States. Post differentials are designed to attract persons from outside the area to work for the Federal Government in the post differential area.