

**§ 591.239 How do agencies treat COLAs and post differentials for the purpose of overtime pay and other entitlements?**

(a) Agencies include COLAs in the employee's straight time rate of pay and include COLAs and post differentials in an employee's regular rate of pay for computing overtime pay entitlements for nonexempt employees under the Fair Labor Standards Act of 1938, as amended.

(b) Agencies may not include a COLA or post differential as part of an employee's rate of basic pay for the purpose of computing entitlements to overtime pay, retirement, life insurance, or any other additional pay, COLA, or post differential under title 5, United States Code.

(c) Payment of a COLA or post differential is not an equivalent increase in pay within the meaning of 5 U.S.C. 5335.

**§ 591.240 How are agency and employee representatives involved in the administration of the COLA and post differential programs?**

(a) OPM may establish a COLA Advisory Committee in each COLA survey area. The committees are composed of agency and employee representatives from the COLA survey area and one or more representatives from OPM.

(b) To the extent practical, the COLA Advisory Committees coordinate and work with the Survey Implementation Committee established pursuant to *Caraballo, et al. v. United States*, No. 1997-0027 (D.V.I.).

**§ 591.241 What are the key activities of the COLA Advisory Committees?**

(a) The COLA Advisory Committees may—

- (1) Advise and assist OPM in planning living-cost surveys;
- (2) Provide or arrange for observers for data collection during living-cost surveys;
- (3) Advise and assist OPM in the review of survey data;
- (4) Advise OPM on its administration of the COLA program, including survey methodology; and
- (5) Assist OPM in disseminating information to affected employees about

the living-cost surveys and the COLA program.

(b) The committees also may advise OPM on special situations or conditions, such as hurricanes and earthquakes, as they relate to OPM's authority under § 591.223(b) to conduct interim surveys or implement some other change in response to conditions caused by a natural disaster or similar emergency.

**§ 591.242 What is the tenure of a COLA Advisory Committee?**

OPM may establish a COLA Advisory Committee in each area prior to each living-cost survey conducted in that area. OPM will appoint committee members for 3-year renewable terms. To the extent practical, the committee will continue to exist between surveys, but OPM may periodically review with the committee whether there is a continuing need for the committee.

**§ 591.243 How many members are on each COLA Advisory Committee?**

A COLA Advisory Committee has up to 12 members composed of OPM representatives and other agency and employee representatives, unless OPM determines that the committee should be larger. In determining the number of committee members, OPM considers the amount of work the committee is likely to be requested to do (based on the size and complexity of the local living-cost survey) and the availability of employee and agency representatives to participate as committee members.

**§ 591.244 How does OPM select COLA Advisory Committee members?**

(a) In establishing a COLA Advisory Committee, OPM invites local agencies and employee organizations to nominate committee members. OPM also invites COLA Defense Corporations and the local Federal Executive Board or Federal Executive Association each to nominate committee members. Subject to § 591.243, OPM selects committee members from these nominations in a manner designed to achieve a balanced representation that is reflective of agencies and employee organizations in the area. In consultation with the committee, OPM may select additional nominees to serve as alternates to the

primary committee members. OPM designates not more than two OPM representatives to serve on each committee.

(b) Each Executive agency, as defined in 5 U.S.C. 105, must cooperate and release appointed employees for committee proceedings and activities unless the agency can demonstrate that exceptional circumstances directly related to accomplishing the mission of the employee's work unit require his or her presence on the job. Executive agency employees serving as committee members are considered to be on official assignment to an inter-agency function, rather than on leave, and are eligible to receive reimbursement for authorized travel expenses from their respective agencies.

APPENDIX A TO SUBPART B TO 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. The allowance percentage 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 .....	25.00
City of Fairbanks and 80-kilometer (50-mile) radius by road .....	25.00
City of Juneau and 80-kilometer (50-mile) radius by road .....	25.00
Rest of the State .....	25.00
State of Hawaii:	
City and County of Honolulu .....	25.00
County of Hawaii .....	16.50
County of Kauai .....	23.25
County of Maui and County of Kalawao .....	23.75
Territory of Guam and Commonwealth of the Northern Mariana Islands .....	
Commonwealth of Puerto Rico .....	11.50
U.S. Virgin Islands .....	22.50

APPENDIX B TO SUBPART B TO PART 591—PLACES AND RATES AT WHICH DIFFERENTIALS ARE PAID

This appendix lists the places where a post differential has been approved and shows the differential rate to be paid to eligible employees. The differential percentage rate shown is paid as a percentage of an employee's rate of basic pay.

Geographic coverage	Percentage differential rate
American Samoa (including the island of Tutuila, the Manua Islands, and all other islands of the Samoa group east of longitude 171° west of Greenwich, together with Swains Island) .....	25.0
Johnston Atoll .....	25.0
Midway Atoll .....	25.0
Territory of Guam and Commonwealth of the Northern Mariana Islands .....	20.0
Wake Atoll .....	25.0

**Subpart C—Allowance Based on Duty at Remote Worksites**

AUTHORITY: 5 U.S.C. 5942; sec. 8, E.O. 11609, 3 CFR 1971-1975 Comp., p. 591; 5 U.S.C. 1104, Pub. L. 95-454, 92 Stat. 1120 and Sec. 3(5) of Pub. L. 95-454; 92 Stat. 1120.

SOURCE: 44 FR 55134, Sept. 25, 1979, unless otherwise noted.

**§ 591.301 Purpose.**

This subpart prescribes the regulations required by section 5942 of title 5, United States Code, for the payment of an allowance based on duty at remote worksites.

**§ 591.302 Coverage.**

(a) *Agencies.* This subpart applies to executive departments as defined in section 101 of title 5, United States Code, and to independent establishments as defined in section 104 of title 5, United States Code, but does not apply to Government corporations as defined in section 103 of title 5, United States Code.

(b) *Employee.* This subpart applies to each employee assigned to a permanent duty station at or within a designated remote duty post, except an employee who is a permanent or temporary resident at the remote duty post, and except foreign nationals employed at remote duty posts in foreign countries.

**§ 591.303 Responsibilities of agencies and the Office of Personnel Management.**

(a) Each agency is responsible for:  
 (1) Establishing and subsequently adjusting, in accordance with the provisions of this subpart, an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(1) of