

transactions requiring lower-tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

#### Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

##### § 2336.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

#### Subpart E—J—[Reserved]

#### Title 20—Employees' Benefits

#### CHAPTER III—SOCIAL SECURITY ADMINISTRATION

#### PART 436—[REMOVED]

##### ■ 2. Remove part 436.

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#### OFFICE OF PERSONNEL MANAGEMENT

#### 5 CFR Part 591

RIN 3206-AL12

#### Nonforeign Area Cost-of-Living Allowance Rates; U.S. Virgin Islands

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is publishing a final regulation to increase the cost-of-living allowance (COLA) rate received by certain white-collar Federal and U.S. Postal Service employees in the U.S. Virgin Islands (USVI). The increase is the result of living-cost surveys conducted by OPM in USVI, Puerto Rico, and the Washington, DC area in 2005. The final regulation increases the COLA rate for USVI from 23 percent to 25 percent.

**DATES:** *Effective date:* September 17, 2007. *Implementation date:* First day of the first pay period beginning on or after September 17, 2007.

**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 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. 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, 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.) 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.

OPM conducted living-cost surveys in Puerto Rico, the U.S. Virgin Islands, and the Washington, DC, area in the spring of 2005. We published the results of these surveys in the *2005 Nonforeign Area Cost-of-Living Allowance Survey Report: Caribbean and Washington, DC, Areas* in the **Federal Register** on October 27, 2006, at 71 FR 63179.

As described in the 2005 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 COLA areas. The results of the living-cost surveys indicated 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.

We 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 published the calculation of these interim adjustments in a notice in the **Federal Register** on October 27, 2006, at

71 FR 63178. The interim adjustments indicated that the COLA rates for the Hawaii and Guam COLA areas were set at the appropriate level but that the Anchorage, Fairbanks, and Juneau, Alaska, COLA rates should be reduced.

We published a proposed rule to increase the USVI COLA rate and reduce the COLA rates in Puerto Rico and Anchorage, Fairbanks, and Juneau, Alaska, in the **Federal Register** on October 27, 2006, at 71 FR 63176. However, 5 CFR 591.228(c) limits COLA rate decreases to 1 percentage point in a 12-month period, and we 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, we are changing only the USVI rate at this time. We will address the rate reductions, and comments received on these reductions, in a future **Federal Register** publication. We did not receive comments regarding the USVI rate increase.

#### 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, the Office of Personnel Management amends 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 to 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 .....	24.0
City of Fairbanks and 80-kilometer (50-mile) radius by road .....	24.0
City of Juneau and 80-kilometer (50-mile) radius by road .....	24.0
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 .....	10.5
U.S. Virgin Islands .....	25.0

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

#### 8 CFR Part 103

[Docket No. USCIS-2007-0040; CIS No. 2417-07]

RIN 1615-AB61

### Removal of Temporary Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule

**AGENCY:** U.S. Citizenship and Immigration Services, DHS.

**ACTION:** Final rule.

**SUMMARY:** This document amends the fee schedule for petitions and applications for immigration and naturalization benefits administered by U.S. Citizenship and Immigration Services. This rule re-adjusts the fees for Forms I-485, "Application to Register

Permanent Residence or Adjust Status," and applications for derivative benefits associated with Forms I-485. This rule removes the temporary adjustment of fees promulgated in previously and permits the application of the fees as were originally published in the final rule of May 30, 2007, that became effective on July 30, 2007.

**DATES:** *Effective Date:* This rule is effective August 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Efren Hernandez III, Business and Trade Services, Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, Suite 3000, Washington, DC 20529 telephone (202) 272-8400.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On May 30, 2007, USCIS published the final rule, effective July 30, 2007, "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," amending 8 CFR part 103 to prescribe new fees to fund the cost of processing applications and petitions for immigration and naturalization benefits and services, and USCIS' associated operating costs pursuant to section 286(m) of the Immigration and Nationality Act (INA), 8 U.S.C. 1356(m). 72 FR 29851. Then USCIS subsequently announced on July 17, 2007 that, beginning on as of that date and ending at the close of business on August 17, 2007, it will accept employment-based Forms I-485 filed by aliens whose priority dates are current under the Department of State's Visa Bulletin No. 107. Also, USCIS decided that aliens in employment-based categories filing applications pursuant to Visa Bulletin No. 107 should not be required to pay filing fees based on the fee schedule that was to become effective July 30, 2007, but, instead should be allowed to pay the fees that existed prior to July 30, 2007. This rule provides that the fee schedule that became effective for all immigration and naturalization petitions and applications as of July 30, will now apply for Forms I-485 filed pursuant to Visa Bulletin No. 107 and to all subsequent or "renewal" applications for advance parole and employment authorization based on pending Forms I-485 filed pursuant to Visa Bulletin No. 107. Applications that are submitted with the incorrect fee will be rejected.

Similarly, this rule amends the Biometric Services Fee that must accompany Forms I-485, or Forms I-131 or I-765 that are based on a pending I-485, that are submitted pursuant to

Visa Bulletin No. 107 to set it at \$80 as it is for all other benefits for which biometrics must be provided.

## II. Informal Rulemaking Requirements

This rule relates to internal agency management, procedure, and practice and is temporary in nature. 5 U.S.C. 553(b)(A). This rule does not alter substantive criteria by which USCIS will approve or deny applications or determine eligibility for any immigration benefit, but relieves certain requirements for a definite period of time for specific applications. As a result, DHS is not required to provide the public with notice of a proposed rule and the opportunity to submit comments on the subject matter of this rule. DHS finds that good cause exists for adopting this final rule, without prior notice and public comment because the urgency of adopting this rule make prior notice and comment impractical and contrary to the public interest. 5 U.S.C. 553(b)(B).

This rule relates to internal agency management, and, therefore, is exempt from the provisions of Executive Order Nos. 12630, 12866, 12988, 13045, 13132, 13175, 13211, and 13272. Further, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and is therefore exempt from the provisions of that Act. In addition, this rule is not subject to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. Ch. 17A, 25, or the E-Government Act of 2002, 44 U.S.C. 3501, note.

DHS finds that good cause exists for promulgating this rule without delaying the effective date of the rule because the rule terminates a relief from a requirement of existing regulations that are adopted simultaneously with this rule. This rule must be adopted with an effective date commensurate with the adoption of the rule granting the relief from the requirements. 5 U.S.C. 553(d)(1). This rule is promulgated only in conjunction with the temporary relief from requirements in the rule previously published elsewhere in the **Federal Register**.

This rule does not affect any information collections, reporting or recordkeeping requirements under the Paperwork Reduction Act.

#### List of Subjects in 8 CFR Part 103

Administrative practice and procedures; Authority delegations (government agencies); Freedom of Information; Privacy; Reporting and recordkeeping requirements; and Surety bonds.