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# 5 U.S. Code § 5941 - Allowances based on living costs and conditions of environment; employees stationed outside continental United States or in Alaska

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**(a)** Appropriations or funds available to an Executive agency, except a Government controlled corporation, for pay of employees stationed outside the continental United States or in Alaska whose rates of basic pay are fixed by

statute, are available for allowances to these employees. The allowance is based on—

- (1)** living costs substantially higher than in the District of Columbia;
- (2)** conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or
- (3)** both of these factors.

The allowance may not exceed 25 percent of the rate of basic pay. Except as otherwise specifically authorized by statute, the allowance is paid only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions, and classes of employees to which each rate applies. Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).

**(b)** This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

**(c)**

**(1)** The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

**(A)** January 1, 2010; and

**(B)** January 1 of each calendar year in which a locality-based comparability adjustment takes effect under paragraphs (2) and (3), respectively, of section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

**(2)**

**(A)** In this paragraph, the term "applicable locality-based comparability pay percentage" means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under paragraph (1), (2), or (3) of section 1914 of Non-Foreign Area Retirement Equity Assurance Act of 2009.

**(B)** Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

- (i)** subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and
- (ii)** dividing the resulting percentage determined under clause (i) by the sum of—
  - (I)** one; and
  - (II)** the applicable locality-based comparability payment percentage expressed as a numeral.

**(3)** No allowance rate computed under paragraph (2) may be less than zero.

**(4)** Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).

**(d)** An employee entitled to a cost-of-living allowance under section 5924 of this title may not be paid an allowance under subsection (a) of this section based on living costs substantially higher than in the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 111-84, div. A, title XIX, § 1912(b), Oct. 28, 2009, 123 Stat. 2620.)