OFFICE OF PERSONNEL MANAGEMENT

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Subject: Inquiries relating to the retirement provisions of Non-foreign Area Retirement Equity Assurance Act (NAREA)

A provision in the National Defense Authorization Act (NDAA) signed into law in October 2009 allows employees working in non-foreign areas (Alaska, Hawaii, Puerto Rico, and other U.S. territories or possessions as defined in 5 CFR 591.205) to credit a portion of their Cost-of-Living Allowance as basic pay for retirement purposes. Employees who retire between January 3, 2010, and December 31, 2012, must pay a deposit to their employing agency when they retire in order to receive this credit.

Detailed guidance for implementing this provision will be issued in a Benefits Administration Letter (BAL) soon. **Until that BAL is issued, agencies should contact Benefits Officer Training and Development for guidance on assisting employees working in non-foreign areas who will be retiring prior to the release of the BAL.** The point of contact in Benefits Officer Training and Development for this effort is:

Sharon Appel
724-794-2005 ext 3127
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General information about the non-foreign area provision in the NDAA, the Non-foreign Area Retirement Equity Assurance Act (NAREA), is provided below.

Approximately 41,000 federal employees working in certain non-foreign areas outside the contiguous 48 states receive Cost of Living Allowances (COLAs), which compensate for the higher cost of living. Federal employees working within the contiguous United States, however, receive locality-based comparability payments (locality pay). The difference between COLAs and locality pay is that COLAs are not subject to federal income or payroll taxes. Locality Pay is taxed. COLAs are not included in basic pay for the calculation of retirement benefits while locality pay is included.

Under the Non-foreign Area Retirement Equity Assurance Act (NAREA), employees working in non-foreign areas will start receiving locality pay in lieu of COLAs. The transition from COLAs to locality pay is being phased in over a

three year period beginning in 2010. In 2010, NAREA set locality pay at the Rest of U.S. (RUS) locality pay rate for all the non-foreign areas. Under the three year phase in requirement, in 2010, employees in all the non-foreign areas are receiving 4.72% locality pay (one-third the 14.62% locality pay for RUS). The COLA they receive is reduced by 65% of the locality pay received. By 2012, employees working in non-foreign areas will be receiving the full locality pay.

Employees who separate for immediate retirement between January 3, 2010, and December 31, 2012, are permitted under NAREA to elect to credit a portion of their COLA in 2010 and 2011 as basic pay for retirement purposes. The employees must pay retirement deductions on the portion of the COLA that is being credited as basic pay, and the employing agency also must pay employer contributions on the "basic pay" portion of the COLA. For 2010, the portion of the COLA that may be credited as basic pay for retirement purposes equals the difference between the basic pay plus locality rate for RUS and the basic pay plus locality rate for employees in the non-foreign area.

Only employees who have separated from Federal service for immediate retirement are permitted to make an election to credit a portion of their COLA as basic pay for retirement. The employing agency must calculate the amount of deposit the employee owes for the credit, bill the employee, receive payment from the employee, submit the payment to OPM along with the appropriate agency contribution amount, and document the payment and the appropriate salary rates.

Remember agencies should contact Sharon Appel in Benefits Officer Training and Development for guidance on assisting employees working in non-foreign areas **who will be retiring prior to the release** of the BAL.