

STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVAEGA

**before the
House Committee on Oversight and Government Reform's Subcommittee on
Federal Workforce, Postal Service, and the District of Columbia**

“Federal Compensation- Part I”

**July 31, 2007
2:00 p.m.**

Chairman Davis, Ranking Member Marchant, Members of the Subcommittee:

Thank you for giving me this opportunity to testify before you on an ongoing issue regarding COLA practices that discriminate against federal employees in my district of American Samoa.

I am deeply concerned that federal employees in American Samoa do not receive the non-foreign area cost-of-living allowance (COLA) that the Office of Personnel Management (OPM) provides in the other non-foreign areas in which federal employees are eligible to receive additional compensation.

As you know, OPM is authorized to designate places in non-foreign areas eligible to receive additional compensation by virtue of living costs that are substantially higher than in the Washington, D.C. area. 5 U.S.C. 5941 provides authorization for COLA and Executive Order 10000 establishes two separate programs providing compensation in non-foreign areas including COLA (based on higher costs), and post-differential pay (as an incentive to work in a non-foreign area with extraordinarily difficult living conditions). Regulations governing administration of the COLA program are found in Title 5, Code of Federal Regulations (CFR), Part 591.

Section 201 of EO 10000 defined the non-foreign areas in which federal employees are eligible to receive COLA to include “the territories and possessions of the United States” and 5 CFR 291.205(b)(3) specifically states that American Samoa is included within the scope of EO 10000 as a non-foreign area for COLA purposes.

To determine eligibility for COLA and the rate of COLA payment, OPM conducts price surveys for comparison with prices in the base area of Washington, D.C. Using these survey results, OPM has determined that federal employees in all non-foreign areas except American Samoa are eligible to receive COLA.

In response to a recent inquiry from my office seeking data to determine why federal employees in American Samoa do not receive COLA, OPM staff explained that OPM has never conducted a survey in American Samoa. Since American Samoa clearly falls within OPM's definition of "non-foreign area," it seems unreasonable that OPM asserts that the cost of living in American Samoa is not high enough to justify payment of COLA when no survey has ever been conducted in American Samoa.

Although I have discussed these concerns with OPM officials, I have yet to receive an explanation that justifies withholding non-foreign COLA from American Samoa's federal workforce. Overall, my discussions with OPM have not proven fruitful. At this point, I am looking to explore other options that could lead to the fair and equitable treatment of federal employees in American Samoa.

Given that American Samoa faces the same issues driving higher prices for goods, services and travel that face all other territories in similar situations, it seems highly discriminatory that OPM chooses not to survey American Samoa or provide COLA to federal employees in my district.

It also seems discriminatory that OPM uses its authority to waive the price survey for some and not others. For example, OPM waived the price survey for the Commonwealth of the Northern Mariana Islands (CNMI) and, since 1992, federal employees in CNMI have received COLA payments based on Guam's price survey. Again, without ever conducting a price survey in CNMI, OPM designated CNMI as eligible for COLA. However, when I asked OPM to designate American Samoa eligible based on Guam's price survey, OPM refused.

When I asked OPM to explain this discriminatory practice, OPM responded by saying that American Samoa living costs are not substantially higher than living costs in the Washington, DC area. For the record, I want to point out that in the areas of transportation, food, energy, and shelter, prices in American Samoa are comparable to or greater than in CNMI. In fact, a comparison of commodity prices from the two territories published as part of their consumer price indexes shows comparable prices for basic food items and higher prices in American Samoa for transportation and even energy at \$.25 per kilowatt/hour versus \$.11 per kilowatt/hour in CNMI.

Unable to justify its actions on this point, OPM has since contended that it also considers the concentration of employees in the federal workforce in establishing the boundaries of COLA areas (5 CFR 291.206(a)(3)). As a result, OPM has designated the federal workforce in American Samoa as small. But, again, the federal workforce in CNMI is also small making OPM's arguments questionable at best.

Certainly, I am not here to criticize how CNMI received COLA. But it is clear that OPM has not taken the proper steps in addressing COLA in American Samoa, and OPM's continued exclusion of American Samoa and its federal workers is unfair and entirely unacceptable. For this reason, I have introduced H.R. 1786 to amend Title 5,

U.S. C. and provide that Federal employees in American Samoa shall be paid the same non-foreign COLA as if stationed in Guam or CNMI.

As part of the President's Budget FY 2008, the administration proposed a change in compensation policy for non-foreign COLA and phase-in locality pay for federal employees in Alaska, Hawaii and all territories *excluding*, here again, American Samoa. I also understand that OPM has submitted a legislative proposal to the Senate that is being carefully reviewed before submission. This is just a further example of the discrimination placed on federal employees residing in my district.

Today, I am here before you to seek your guidance and support in amending the law to include American Samoa eligible for non-foreign COLA and to include American Samoa in the legislative proposal that has been submitted by OPM to phase-in locality pay for Alaska, Hawaii, and all territories that should also *include* American Samoa. This issue has been ongoing for too long and it needs to be addressed immediately.

Thank you again for this opportunity and I am looking forward to answering your questions.