

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[DHS-2004-0010]

RIN 1660-ZA09

Maximum Pay Rate Table, National Urban Search and Rescue Response System (US&R)

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate (EP&R), Department of Homeland Security (DHS).

ACTION: Notice of Maximum Pay Rate Table, National Urban Search and Rescue Response System, with request for comments.

SUMMARY: The Department of Homeland Security is publishing this proposed Maximum Pay Rate Table (Table) in conjunction with its interim rule for National Urban Search and Rescue Response (US&R) System, which is also being published in this edition of the **Federal Register**. The interim rule standardizes the financing, administration and operation of the US&R System, and standardizes the relationships between DHS and "Sponsoring Agencies" of the US&R System—those State or local government agencies that agree to organize and administer a US&R Task Force. This notice seeks comment on the proposed Table, which establishes the maximum rates that DHS will pay for US&R Task Force physicians, engineers and canine handlers as "Affiliated Personnel" or for backfill positions for activated US&R System Members employed by or otherwise associated with a for-profit "Participating Agency."

DATES: Please submit written comments on or before April 11, 2005.

ADDRESSES: *Mail:* When submitting comments by mail, please send the comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472. To ensure proper handling, please reference RIN 1660-ZA09 and Docket No. DHS-2004-0010 on your correspondence. This mailing address may also be used for submitting comments on paper, disk, or CD-ROM.

Hand Delivery/Courier: The address for submitting comments by hand

delivery or courier is the same as that for submitting comments by mail.

Viewing comments: You may view comments and background material at: <http://www.epa.gov/feddoCKET>. You may also inspect comments in person at the Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Michael Tamillow, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 326, Washington, DC 20472, (202) 646-2549, or (e-mail) mike.tamillow@dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

The Federal Emergency Management Agency (FEMA) published a proposed rule, National Urban Search and Rescue Response (US&R) System, on December 18, 2002, 67 FR 77627-77640. The rule standardizes the financing, administration and operation of the US&R System, an emergency response program that locates, extricates and provides initial medical aid to victims trapped in collapsed structures and victims of weapons of mass destruction events, and other assigned tasks. The rule also standardizes the relationships between DHS and "Sponsoring Agencies" of the US&R System—those State or local government agencies that have signed a memorandum of agreement with DHS to organize and administer a US&R Task Force. On March 1, 2003, FEMA became a part of the Emergency Preparedness and Response Directorate, Department of Homeland Security (DHS). The US&R System is now a program in FEMA under the EP&R Directorate.

The Department of Homeland Security is publishing this proposed Maximum Pay Rate Table (Table) in conjunction with its interim rule for National Urban Search and Rescue Response (US&R) System (RIN 1660-AA07), which can be found elsewhere in this issue of the **Federal Register**. When FEMA published the proposed rule for the National Urban Search and Rescue Response System the Maximum Pay Rate Table was still being prepared and was unavailable for public comment. The Table establishes the maximum rates that DHS will pay for US&R Task Force physicians, engineers and canine handlers as "Affiliated Personnel" or backfill for activated

US&R System Members employed by or otherwise associated with a for-profit "Participating Agency." As there was no formal opportunity for public comment earlier, DHS now requests comments on the Table. DHS will review and evaluate all comments that it receives, and will incorporate any changes that it approves in the final rule for the US&R System.

Section 208.12 of the interim rule for the US&R System establishes the process for creating and updating the Table, and the procedures for using the Table to reimburse "Affiliated Personnel," individuals not normally employed by a "Sponsoring Agency" or "Participating Agency" as US&R System Members, and "Backfill" for Activated US&R "System Members" employed by or associated with for-profit "Participating Agencies." DHS expects to review and evaluate the Table periodically, and will publish any adjustments to the Table as Notices in the **Federal Register**.

The Maximum Pay Rate Table sets maximum rates that DHS will reimburse the "Sponsoring Agency" for compensation paid to "Affiliated Personnel" while activated for a US&R emergency, and for backfill for activated "System Members" from for-profit "Participating Agencies." "Participating Agencies" include not-for-profit and for-profit organizations that have executed an agreement with a "Sponsoring Agency" to participate in the US&R System by making certain personnel available during a US&R emergency. The "Sponsoring Agency" or "Participating Agency" may choose to compensate these individuals at a higher rate, but DHS will not reimburse the increment above the maximum rate specified in the Maximum Pay Rate Table.

Similarly, the "Sponsoring Agency" may choose to enter into a Participating Agency agreement with an individual's employer, rather than use the individual as an "Affiliated Personnel," in which case the Maximum Pay Rate Table would not apply. Consequently, only a "Sponsoring Agency's" choice to exceed the maximum rates set forth in the Maximum Pay Rate Table would result in an uncompensated expenditure, and the Table would not violate the principle of cost neutrality.

Maximum Pay Rate Table

US&R Task Force physicians, engineers and canine search specialists will be paid using the following rates:

Task Force Physician	GS-15 Step 5	\$51.84/hour plus locality adjustment.
Task Force Engineer	GS-15 Step 5	\$46.39/hour plus locality adjustment.

Canine Handler	GS-12 Step 5	\$28.06/hour plus locality adjustment.
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DHS derived these pay scales by using the annual salary from the 2003 Special Salary Rate Tables Medical Officers 0290 and the Salary Table 2003 GS. Annual rates were then divided by 2080 hours, the number of work-hours per year based on a 40-hour workweek. These pay rate tables can be found at: <http://www.opm.gov/oca/03tables/SSR/HTML/0290.asp> and <http://www.opm.gov/oca/03tables/html/g.asp>.

Locality Pay Areas

There are 32 locality pay areas (including the "Rest of U.S." area). Unless otherwise noted, all of the components are counties. Locality Pay Areas are found at: <http://www.opm.gov/oca/03tables/locdef.asp>.

Rationale for the Selection of These Maximum Pay Rate Table Rates

After the September 11, 2001 US&R deployment, DHS reviewed the claims and reimbursement process for compensating professionals participating in US&R emergencies, which revealed a wide range of salaries and reimbursement mechanisms for compensating US&R Task Force physicians, engineers and canine handlers. The lack of uniformity led to confusion in the reimbursement process and highlighted the need for a standardized payment schedule for selected System Members. This proposed maximum pay rate table adds the standardization and credibility necessary to continue the life saving US&R program.

The United States Office of Personnel Management (OPM) sets the hourly and biweekly salary rates for General Schedule (government) employees. 5 U.S.C. 5504. To ensure an equitable and reasonable maximum pay rate standard, DHS is relying upon OPM's salary rates as the cornerstone of its pay rate schedule for US&R System Members. Taking System Members' experience

into consideration, DHS set maximum pay rates at the maximum grade, middle step for each position, which demonstrates an experience level of five years.

OPM publishes salary schedules for each calendar year.¹ Because the Federal government employs physicians, DHS used the 2003 Special Salary Rate Table for Medical Officers (Clinical) Worldwide in developing this maximum pay rate matrix for Task Force Physicians. DHS initially averaged engineers' and canine handlers' salaries using the data gathered during the September 11, 2001 deployment reimbursement process. The DHS review of that salary information revealed a close correlation to the OPM's 2003 General Schedule pay scale for both positions. In addition, DHS compared canine handlers' salaries to rescue specialists and further compared them to the General Schedule pay scale to ensure parity with like specialties on a task force.

Relation of Maximum Pay Rate Table to the Interim Rule for US&R System

Section 208.12 of the interim rule for US&R System establishes how DHS will create, update and use the Table to reimburse "Affiliated Personnel" and "Backfill" for "Activated System Members." The Table applies only to US&R Task Force Physicians, US&R Task Force Engineers and Canine Handlers. DHS will publish the initial Maximum Pay Rate Table and subsequent revisions to the Table in the **Federal Register**.

Previous Comments on Maximum Pay Rate Table

Several "Sponsoring Agencies" commenting on the previously published proposed rule for US&R

¹ In some years, the applicable pay schedule may be from a previous year. For instance, OPM did not change its pay rates for calendar year 2004, and the 2003 schedules applied during 2004.

Systems expressed concern that highly trained civilians such as physicians, structural engineers and canine handlers are typically Affiliated Personnel, and reimbursement for backfill expenses is important to secure the participation of these individuals in the System. The comments argued that a restriction on backfill costs for Affiliated Personnel could limit the ability of Sponsoring Agencies to recruit and retain these highly trained civilians.

The commenters are essentially correct in that the way that DHS reimburses Affiliated Personnel for backfill costs is normally through Sponsoring Agencies to Participating Agencies. DHS only has a direct relationship with Sponsoring Agencies, and does not have direct relationships with Participating Agencies or Affiliated Personnel. If reimbursement for backfill expenses is a problem for Affiliated Personnel, DHS encourages them to have their employers or professional association seek Participating Agency status. Note that compensation costs, for the purposes of reimbursement and backfill, refer to the System Member's actual compensation, or the compensation of the individual who backfills a position (which includes salary and benefits, as described in §§ 208.39 and 208.40 of the interim rule for US&R System), rather than billable or other rates that might be charged for services rendered to commercial clients or patients.

Request for New Comments

Accordingly, DHS asks for written comments on the Maximum Pay Rate Table.

Dated: February 3, 2005.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

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