

Mutual Aid for Building Departments: Region 10

The Disaster Recovery and Reform Act of 2018 (DRRA), Sec. 1206, authorizes FEMA funding to reimburse certain costs of deploying mutual aid responders for building department support. Following a declared disaster, communities may need additional emergency responder support for building department functions, including building safety evaluations, substantial damage estimates, and permit review. Mutual aid arrangements enable jurisdictions to share personnel for response and recovery efforts, while maintaining their liability protections and credentials, licenses, and certifications.

Intrastate and Interstate Mutual Aid Programs





An **Intrastate Mutual Aid Compact (IMAC)** is a mutual aid agreement or system in which political subdivisions within a state or territory agree to share their resources during emergencies. An IMAC, unlike EMAC, exists in many different forms throughout the country, and not all areas have one.

The **Emergency Management Assistance Compact (the Compact, or EMAC)** is an interstate mutual aid agreement which all 50 states, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands have passed. The Compact establishes a mutual aid system allowing participating jurisdictions to share personnel during emergencies, and allowing them to give and receive liability protections and reimbursements for those shared personnel.

Private Sector Utilization

Historically, mutual aid laws and regulations generally do not allow for private sector resources. Now, many states recognize the need for more private sector inclusion.

- Some states legislate liability protections & EMAC deployment eligibility for certain classes of private personnel.
- Other states designate certain private personnel as government agents/employees within mutual aid compacts.
- This guide provides a summary of selected liability protections and other laws and regulations. Additional criteria, restrictions, or other qualifiers may be present in the official text but absent from the summary in this publication.

	<p>Statewide opt-out program: the state creates a mutual aid program and automatically incorporates all political subdivisions into it, leaving the burden on jurisdictions to opt out if they so choose. Some states even forego an opt-out provision. This is the most robust IMAC approach.</p>
	<p>Statewide opt-in program: the state creates a mutual aid program but leaves the burden on individual jurisdictions to opt in to the program. This is less robust than an opt-out program.</p>
	<p>Individual compacts: Individual jurisdictions enter into mutual aid agreements with each other, often in the form of a Memorandum of Understanding or Memorandum of Agreement. This is the least efficient approach because of the geographic limitations of each individual agreement and the possibility for variations among individual agreements within a given area.</p>
	<p>No known significant IMAC program.</p>

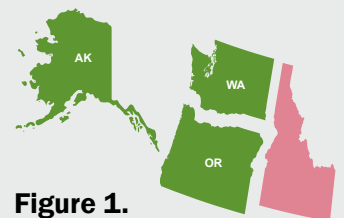


Figure 1.
FEMA Region 10
IMAC Types



FEMA



ALASKA

EMAC: No known significant incorporation of private resources into EMAC.¹

IMAC Public: State adopts a statewide opt-out IMAC program.²



IMAC Private: State authorizes creation of an emergency response corps consisting of volunteers who register with the state.³ State authorizes requesting subdivisions to recognize out-of-state licenses, certificates, and other credentials of out-of-state emergency responders during emergencies.⁴

Protection: All persons responding under the operational control of the requesting political subdivision are deemed agents of that subdivision.⁵ Persons providing equipment or services at the request of a governmental agency during a declared state of emergency are not liable for harm resulting from such services except in cases of gross negligence or intentional or reckless conduct.⁶



IDAHO

EMAC: No known significant incorporation of private resources into EMAC.⁷ State recognizes out-of-state professional licenses of emergency responders responding to a governor-declared emergency in Idaho.⁸

IMAC Public: State encourages individual compacts among political subdivisions.⁹



IMAC Private: State recognizes out-of-state licenses, certificates, and other credentials of out-of-state emergency responders during emergencies.¹⁰

Protection: Persons under contract with the state or an agency or political subdivision thereof to provide equipment or services for emergency or disaster relief are not liable for harm resulting from that activity except in cases of willful misconduct or gross negligence.¹¹

¹ Alaska Statutes §§ 26.23.135 and 23.136 (2019).

² *Id.* at §§ 26.23.500 to 23.549.

³ *Id.* at § 26.23.045.

⁴ *Id.* at § 26.23.515.

⁵ *Id.* at § 26.23.540. This statute explicitly immunizes officers and employees of the requesting political subdivision, but is silent on the immunity of agents as such. Alaska's IMAC legislation elsewhere specifically excludes emergency responders from being employees of the requesting political subdivision (see § 26.23.520, although the focus there is on employment benefits), but is silent on the issue of tort immunity. Thus Alaska's IMAC legislation, on its face, is not explicitly clear as to the immunity of private emergency responders.

⁶ *Id.* at § 09.65.091.

⁷ Idaho Code § 46-1018A (2019).

⁸ *Id.* at § 46-1010.

⁹ *Id.* at § 46-1014.

¹⁰ *Id.* at § 46-1010.

¹¹ *Id.* at § 46-1017.

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IDAHO (cont'd)

Except in cases of unreasonable acts, gross negligence, or willful or wanton misconduct, **architects**, and **engineers**¹² providing certain statutorily defined professional services consistent with how a reasonable architect or engineer would have acted under the same or similar circumstances, voluntarily and without compensation, at the request or with the approval of a governmental authority in response to a declared disaster are not liable for harm resulting from those services if rendered during the 90 days following the end of the declared emergency, unless extended by the governor.¹³



OREGON

EMAC: State explicitly provides for incorporation of volunteer health practitioners¹⁴ into its EMAC¹⁵ apparatus.

IMAC Public: State adopts a statewide opt-out IMAC program.¹⁶



IMAC Private: No known significant private mutual aid policies.

Protection: Except in cases of gross negligence or intentional torts, **architects** and **engineers** registered in-state, or licensed or registered under the laws of another state, are not liable for civil damages for harm resulting from their provision of architectural or engineering services, respectively, within 60 days after the governor declares a state of emergency,¹⁷ for the purpose of assisting with relief efforts related to that emergency, without compensation.¹⁸

Certain in-state certified building evaluators and inspectors are not liable for civil damages for harm resulting from their building code inspections, plan reviews, or post-disaster building evaluations if performing those services within 60 days after the governor declares a state of emergency,¹⁹ for the purpose of assisting with relief efforts related to that emergency, without compensation, and within the scope of their certification.²⁰

¹² *Id.* at § 5-345. The statute does not make clear whether the architects and engineers have to be licensed by or registered in Idaho.

¹³ *Id.* The statute also provides the same immunity to contractors without requiring their services to be voluntary and without compensation. But the boundaries of the term "contractor" are unclear, as the statute does not define or specify exactly who is and who is not a "contractor."

¹⁴ Oregon Revised Statutes § 401.661 (2017). Said volunteers must be registered under § 401.654.

¹⁵ *Id.* at § 402.105.

¹⁶ *Id.* at §§ 402.200 to 402.240.

¹⁷ Declared pursuant to *id.* at § 401.165.

¹⁸ *Id.* at § 30.788.

¹⁹ Declared pursuant to *id.* at § 401.165.

²⁰ *Id.* at § 30.788.

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WASHINGTON

EMAC: State law allows for incorporation of volunteer health practitioners²¹ into its EMAC²² apparatus, but state policy is not to utilize private sector volunteers through EMAC due to their lack of liability protections within EMAC.

IMAC Public: State adopts a statewide opt-out IMAC program called the Intrastate Mutual Aid System (IMAS)²³ and allows for additional voluntary mutual aid agreements between local emergency management organizations.²⁴



IMAC Private: No known significant private mutual aid policies.

Protection: Except in cases of willful misconduct, gross negligence, or intoxication, volunteer **architects** and **engineers** who are acting as part of an approved emergency management organization and within the course of their duties as emergency management workers are not liable for civil damages for harm resulting from those services.²⁵ Except in cases of gross negligence or willful or wanton misconduct, volunteer emergency workers who are registered with a local emergency management organization²⁶ or the state and have an emergency responder identification card issued by the local or state entity are not liable for harm resulting from their services if done: (1) during an emergency or disaster or while traveling to or from such, (2) within the scope of their assigned duties, (3) under the direction of an appropriate public authority, and (4) without compensation.²⁷

²¹ Washington Revised Code § 70.15.080 (2019).

²² *Id.* at § 38.10.010.

²³ *Id.* at §§ 38.56.010 to 56.080.

²⁴ *Id.* at § 38.52.091.

²⁵ *Id.* at §§ 38.52.195 and 38.52.1951. Those sections do not make clear whether the volunteer architects and engineers must be licensed or registered in Washington.

²⁶ WAsafe is one such organization and is a coalition of building professional associations, including: Washington Association of Building Officials; Structural Engineers Association of Washington; American Institute of Architects, Washington Council; and American Society of Civil Engineers, Seattle Section. WAsafe operates under a Memorandum of Understanding with the Washington State Emergency Management Division and requires that dispatched volunteers register as temporary emergency workers with the local requesting jurisdiction before field deployment. For instructions on how to register as a WAsafe volunteer, visit https://wabo.memberclicks.net/assets/pdfs/Education/How%20to%20Register%20as%20a%20WAsafe%20Volunteer2019_10_11.pdf.

²⁷ Washington Revised Code §§ 38.52.010 and 52.180.

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