

Mutual Aid for Building Departments: Region 4

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

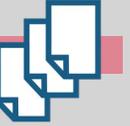
An **Intrastate Mutual Aid Compact (IMAC)** is a mutual aid agreement or system in which political subdivisions within a state or territory agree to share their resources during emergencies. An IMAC, unlike EMAC, exists in many different forms throughout the country, and not all areas have one.

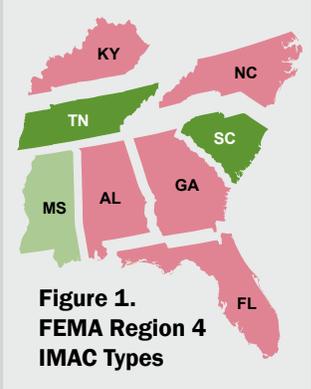
The **Emergency Management Assistance Compact (the Compact, or EMAC)** is an interstate mutual aid agreement which all 50 states, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands have passed. The Compact establishes a mutual aid 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

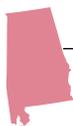
Historically, mutual aid laws and regulations generally do not allow for private sector resources. Now, many states recognize the need for more private sector inclusion.

- 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>



FEMA



ALABAMA

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

IMAC Public: State utilizes individual compacts.²

IMAC Private: State defines “Emergency Services” broadly as all activities intended to minimize damage resulting from disasters, and explicitly includes engineering.³ State explicitly empowers the governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.⁴

Protection: State deems all activities relating to emergency services to be governmental functions.⁵ State grants public and private emergency management workers the same immunity if serving subject to the control or pursuant to the request of the state or any political subdivision.⁶ Emergency workers responding through a mutual aid agreement possess the same immunities they would have if serving in their own jurisdiction.⁷ In-state licensed **engineers, architects**, surveyors, contractors, subcontractors, and persons working under the supervision of such licensed persons providing emergency response services within 90 days of a declared emergency, without compensation, and under the control of a public emergency response authority are not liable for civil damages for harm resulting from their acts or omissions in volunteering their uncompensated professional services if they acted as a reasonably prudent person would under similar circumstances.⁸



FLORIDA

EMAC: No known significant incorporation of private resources into EMAC.⁹

IMAC Public: State utilizes individual compacts.¹⁰

IMAC Private: State permits emergency management support forces to include persons not employed by the state or its political subdivisions.¹¹

Protection: Emergency support personnel not employed by the state or its political subdivisions but operating under the operational control of an emergency management authority receive the same rights and immunities as employees of the state, reimbursement for travel and subsistence expenses, and such compensation as determined by the Division of Emergency Management.¹² Licensed professionals providing their services without compensation during a declared emergency are not liable for **professional malpractice** if acting as an ordinary, reasonably prudent member of the profession would under similar circumstances.¹³



¹ Alabama Code § 31-9-40 (2018).

² The Alabama Emergency Management Agency enters into mutual aid agreements with political subdivisions of the state pursuant to the state Emergency Management Act of 1955 (codified at Alabama Code § 31-9-1 et. seq.).

³ *Id.* at § 31-9-3.

⁴ *Id.* at § 31-9-18.

⁵ *Id.* at § 31-9-16.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at § 6-5-332(f).

⁹ Florida Statutes §§ 252.921 to 252.9335 (2019).

¹⁰ The Florida Division of Emergency Management enters into mutual aid agreements with political subdivisions of the state pursuant to Florida Statutes § 252.40.

¹¹ *Id.* at § 252.41.

¹² *Id.*

¹³ *Id.* at § 768.1345.

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GEORGIA

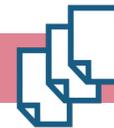


EMAC: State authorizes Mobile Support Units, which may consist of private personnel,¹⁴ to be deployed through EMAC.¹⁵

IMAC Public: State utilizes individual compacts.¹⁶

IMAC Private: State defines “Emergency Management” broadly as all activities intended to minimize damage resulting from disasters, and explicitly includes engineering.¹⁷ State explicitly empowers the governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.¹⁸ Political subdivisions may appoint or employ paid and unpaid emergency management workers.¹⁹

Protection: Personnel serving in a Mobile Support Unit under the control of an emergency management public authority receive compensation, identical rights and immunities with state employees, and reimbursement for travel and subsistence expenses.²⁰ State grants volunteer and auxiliary emergency management workers the same standard immunity as state employees.²¹ Persons providing goods or services voluntarily and without compensation or expectation of compensation for emergency management purposes during an emergency declared by the governor are not liable for civil damages for harm resulting from the acts or omissions in rendering such services except in cases of wanton negligence or willful misconduct.²²

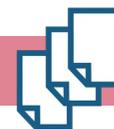


KENTUCKY

EMAC: No known significant incorporation of private resources into EMAC.²³

IMAC Public: Commonwealth utilizes individual compacts.²⁴

IMAC Private: Commonwealth defines “Emergency Responder” broadly to include anyone required to possess credentials for their field of expertise and whose assistance is desirable during an emergency.²⁵



¹⁴ Georgia Code Annotated § 38-3-26 (2019).

¹⁵ *Id.* at § 38-3-81.

¹⁶ The Georgia Emergency Management Agency enters into mutual aid agreements with political subdivisions of the state pursuant to Georgia Code Annotated § 38-3-29.

¹⁷ *Id.* at § 38-3-3.

¹⁸ *Id.* at § 38-3-31.

¹⁹ *Id.* at § 38-3-27(b)(3).

²⁰ *Id.* at § 38-3-26.

²¹ *Id.* at § 38-3-35. However, although Georgia defines emergency management broadly, and empowers jurisdictions to appoint emergency

management workers, Georgia does not actually define emergency management worker.

²² *Id.* at § 51-1-29.2.

²³ Kentucky Revised Statutes Annotated § 39A.950 (2019).

²⁴ *Id.* at § 39B.040. Kentucky authorizes each local emergency management agency director to enter into mutual aid agreements with special districts and other public and private agencies, and requires the agreements to be consistent with the Kentucky Emergency Operations Plan, the local emergency management plan, and the comprehensive emergency management program of the commonwealth.

²⁵ *Id.*

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KENTUCKY

Protection: Commonwealth provides limited civil immunity to volunteer and auxiliary emergency management workers enrolled or registered with a local disaster and emergency services organization or with the Kentucky Division of Emergency Management.²⁶ In-state licensed **architects** and **engineers** are not liable for civil damages for harm resulting from their acts, errors, or omissions in rendering their professional services if acting as uncompensated volunteers and at the request of a governmental authority related to a declared emergency and acting as an ordinary reasonably prudent member of the profession would have acted under the same or similar circumstances.²⁷



MISSISSIPPI

EMAC: No known significant incorporation of private resources into EMAC.²⁸

IMAC Public: State creates an opt-in system called the Statewide Mutual Aid Compact (SMAC).²⁹



IMAC Private: State authorizes the Mississippi Emergency Management Agency to create Mobile Support Units which may include private personnel.³⁰ State explicitly empowers the governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.³¹

Protection: Personnel serving in a Mobile Support Unit under the control of an emergency management public authority receive compensation, identical rights and immunities with state employees, and reimbursement for travel and subsistence expenses.³² Except in cases of willful misconduct, private individuals engaged in emergency management activities as agents or representatives of the state or its political subdivisions are not liable for civil damages for harm resulting from those activities while engaged in those activities.³³

²⁶ *Id.* at § 39A.280. Kentucky withholds this immunity to the extent that the emergency worker maintains liability insurance or self-insurance for an act or omission covered by § 39A.950(3).

²⁷ *Id.* at § 39A.280. Again, Kentucky withholds this immunity to the extent that the person maintains liability insurance or self-insurance for an act or omission covered within that subsection.

²⁸ Mississippi Code Annotated § 45-18-3 (2019).

²⁹ Mississippi's SMAC, available at <https://www.msema.org/wp-content/uploads/2018/10/SMAC.pdf>, aims to standardize mutual aid agreements between political subdivisions and allows them to enter into a mutual aid agreement with the state as well. SMAC is authorized by Mississippi Code Annotated § 33-15-19(a).

³⁰ *Id.* at § 33-15-15.

³¹ *Id.* at § 33-15-27.

³² *Id.* at § 33-15-15.

³³ *Id.* at § 33-15-21. Accord *Ecker v. U.S.*, No. 09-60365 (5th Cir. 2009) (per curiam) (holding that this immunity attaches to private individuals: (1) engaged in emergency management activities for the state of Mississippi and (2) subject to the control of the governor or his or her subordinate).

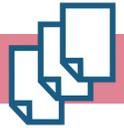
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NORTH CAROLINA

EMAC: No known significant incorporation of private resources into EMAC.³⁴

IMAC Public: State utilizes individual compacts.³⁵



IMAC Private: State defines “Emergency Management” broadly as all activities to minimize adverse effects of any type of emergency.³⁶ State defines “Emergency Management Worker” as any paid or volunteer employee of any US jurisdiction or organization performing emergency management services subject to the control of the state or a subdivision.³⁷ State explicitly empowers the governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.³⁸

Protection: State deems all activities relating to emergency services to be governmental functions.³⁹ State grants Emergency Management Workers operating through mutual aid agreements the same immunities they would ordinarily possess in their own jurisdiction.⁴⁰ Except in cases of willful misconduct, gross negligence, or bad faith, private entities engaged in emergency services are immune from civil liability if compensated no more than actual expenses, and if acting under the control of the governor, a municipality, or a county.⁴¹ This immunity is waived to the extent said entity is indemnified through liability insurance.⁴²

Except in cases involving gross negligence, wanton or intentional misconduct, or operation of a motor vehicle, in-state licensed **architects, engineers,** and land surveyors who render their professional services for emergency management purposes at the scene of a declared disaster, and within 45 days of such declaration, and at the request of a public official are not liable for civil damages for harm resulting from the acts or omissions in the performance of such services.⁴³

³⁴ North Carolina General Statutes §§ 166A-40 to 53 (2017).

³⁵ North Carolina authorizes mutual aid compacts between political subdivisions and between the state and political subdivisions in North Carolina General Statutes § 166A-19.72.

³⁶ *Id.* at § 166A-19.3.

³⁷ *Id.* at § 166A-19.60.

³⁸ *Id.* at § 166A-19.71.

³⁹ *Id.* at § 166A-19.60.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at §§ 83A-13.1 (architects) and 89C-19.1 (engineers and land surveyors).

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SOUTH CAROLINA

EMAC: No known significant incorporation of private resources into EMAC.⁴⁴

IMAC Public: State creates a statewide mutual aid system by authorizing (not requiring) any municipality or emergency management entity in the state to provide mutual assistance upon request by any other municipality or emergency management entity in the state during a significant event or disaster.⁴⁵

IMAC Private: State defines “South Carolina Emergency Management (Civil Defense) Organization” as including enrolled volunteers and persons recruited via agreement or operation of law.⁴⁶

Protection: Volunteers in state service are protected by sovereign immunity to the same extent as employees.⁴⁷ Except in cases of gross negligence or recklessness, in-state licensed **architects** and **engineers** who volunteer their professional services for disaster relief and receive no compensation are not liable for civil damages for harm resulting from the acts, errors, or omissions in the rendering of those professional services at the scene of a declared emergency, at the request of the governor, within 30 days of the event giving rise to the declared state of emergency, and relating to a structure, building, piping, or other engineered system.⁴⁸ This immunity does not cover professionals serving under an emergency waiver of licensing and credentialing requirements pursuant to South Carolina Code § 40-22-75,⁴⁸ nor does it cover architects merely registered in the state pursuant to South Carolina Code § 40-3-260.⁴⁹



TENNESSEE

EMAC: No known significant incorporation of private resources into EMAC.⁵⁰

IMAC Public: State creates a statewide mutual aid system by authorizing (not requiring) any governmental entity in the state to provide mutual aid assistance upon request by any other governmental entity in the state.⁵¹

IMAC Private: No known explicit incorporation of private resources into IMAC program.

Protection: Absent gross negligence or willful misconduct, in-state licensed **architects** and **engineers** who volunteer their professional services without compensation or expectation of compensation are not liable in negligence for harm caused by their good faith but negligent inspection of certain statutorily-defined structures for structural integrity or nonstructural elements affecting life and safety, if the inspection is performed at the scene of a declared emergency and by request of a public safety officer or city or county building inspector for 90 days following the emergency declaration.⁵²

⁴⁴ South Carolina Code § 25-1-420 (2018).

⁴⁵ *Id.* at § 6-11-1810.

⁴⁶ *Id.* at § 25-1-430.

⁴⁷ *Id.* at § 8-25-40(b).

⁴⁸ *Id.* at §§ 40-3-325 (architects) and 40-22-295 (engineers).

⁴⁹ *Id.* at § 40-3-325.

⁵⁰ Tennessee Code § 58-2-403 (2019).

⁵¹ *Id.* at §§ 58-8-101 to 115.

⁵² *Id.* at § 62-2-109.

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