

Mutual Aid for Building Departments: Region 5

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.


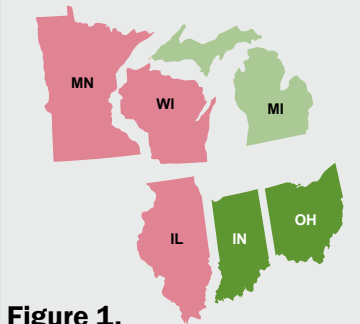



	<p>Statewide opt-out program: the state creates a mutual aid program and automatically incorporates all political subdivisions into it, leaving the burden on jurisdictions to opt out if they so choose. Some states even forego an opt-out provision. This is the most robust IMAC approach.</p>	
	<p>Statewide 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 5 IMAC Types





ILLINOIS

EMAC: State explicitly provides for incorporation of volunteer health practitioners¹ into its EMAC² apparatus. Illinois allows licensed professionals serving in mobile support units, or the like, from other states to render emergency relief services in Illinois pursuant to their home state governor’s order without being licensed in Illinois.³

IMAC Public: State uses individual compacts.⁴

IMAC Private: State defines “Emergency Services” broadly as all activities to minimize damage resulting from disasters.⁵ State explicitly empowers governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.⁶

Protection: Volunteers who are working under the direction of an emergency services agency accredited by the Illinois Emergency Management Agency (IEMA), pursuant to a plan approved by that Agency, during circumstances approved by that Agency or a disaster declared by the governor, are deemed employees of the state in certain cases.⁷ Volunteers duly qualified and enrolled as volunteers with IEMA or an IEMA-accredited emergency services agency, who are participating in a disaster, are treated as state employees for workers’ compensation purposes.⁸ Except in cases of willful misconduct, persons and organizations under the direction of the state or a political subdivision thereof are not civilly liable for harm resulting from the performance of a contract with the state or subdivision made pursuant to the Illinois Emergency Management Agency Act.⁹ Except in cases of willful misconduct, persons and organizations rendering advice or assistance at the request of the state or a political subdivision thereof under the Illinois Emergency Management Act during an actual or impending disaster are not civilly liable for harm resulting from such advice or assistance.¹⁰

Except in cases of willful and wanton misconduct, professional and structural **engineers, architects,** and land surveyors providing professional services in good faith, and without fee, in response to a disaster are not liable for civil damages for harm resulting from the acts or omissions in rendering those professional services if rendered during or within 60 days following the disaster.¹¹

¹ 225 Illinois Compiled Statutes 140/9 (2019).

² 45 Illinois Compiled Statutes 151/5.

³ 20 Illinois Compiled Statutes 3305/16.

⁴ *Id.* at 3305/13.

⁵ *Id.* at 3305/4.

⁶ *Id.* at 3305/17.

⁷ *Id.* at 3305/10(k), deeming said volunteers employees of the state for cases in the Illinois Court of Claims.

⁸ *Id.*

⁹ *Id.* at 3305/21.

¹⁰ *Id.*

¹¹ 745 Illinois Compiled Statutes 49/72.

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INDIANA

EMAC: State authorizes Mobile Support Units, which may consist of private personnel,¹² to be deployed through EMAC.¹³

IMAC Public: State adopts a statewide opt-out IMAC program.¹⁴



IMAC Private: State allows participating jurisdictions to engage private companies in the provision of mutual aid.¹⁵ State defines “Emergency Management Worker” to include paid and volunteer employees of any organization performing emergency management services in Indiana under the control or request of the state or a political subdivision.¹⁶

Protection: Personnel serving in a Mobile Support Unit under the control of an emergency management public authority may be compensated and reimbursed by the state for travel, subsistence, and maintenance expenses, and for losses of or damage to supplies and equipment; they are also given the same immunity as state employees and are considered temporary state employees for workers’ compensation purposes.¹⁷ Personnel provided by a participating jurisdiction are considered agents of that jurisdiction while rendering aid and while en route to or from a jurisdiction which has requested the aid.¹⁸

In-state registered **architects**, surveyors, and professional **engineers** who, voluntarily and without compensation other than expense reimbursement, provide their professional services related to a declared emergency at the request or with the approval of a Federal or state official having law enforcement, public safety, or building inspection authority in the jurisdiction are not liable for civil damages for harm resulting from their acts, errors, or omissions in the performance of such services.¹⁹

¹² Indiana Code § 10-14-3-19 (2019).

¹³ *Id.* at §§ 10-14-5-1 to 5-16.

¹⁴ *Id.* at § 10-14-3-10.8.

¹⁵ *Id.*

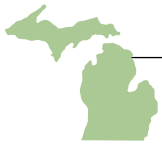
¹⁶ *Id.* at § 10-14-3-3.

¹⁷ *Id.* at § 10-14-3-19.

¹⁸ *Id.* at § 10-14-3-10.8(g).

¹⁹ *Id.* at § 34-30-27-1.

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MICHIGAN

EMAC: State's IMAC agreement²⁰ empowers Michigan, as the requesting party, to call upon its IMAC resources in order to deploy them to another state via EMAC.²¹

IMAC Public: State creates an opt-in system through a master mutual aid agreement called the Michigan Emergency Management Assistance Compact (MEMAC).²²



IMAC Private: State defines "Disaster Relief Forces" to include private and volunteer personnel.²³

Protection: Disaster Relief Forces serving under the control of the disaster relief authority in the area where they are serving are given the same rights and immunities as state employees and are reimbursed for all actual and necessary travel and subsistence expenses.²⁴ Emergency responders from another state are separately provided the same immunity as state employees when providing mutual aid pursuant to a written mutual aid agreement authorized by Michigan's Interstate Mutual Emergency Aid Act.²⁵



MINNESOTA

EMAC: State law allows its EMAC²⁶ system to include volunteer health practitioners.²⁷

IMAC Public: State utilizes individual compacts.²⁸



IMAC Private: State allows private individuals and entities to register with the state or its political subdivisions to assist during disasters and emergencies.²⁹ State may authorize private individuals to be "emergency response personnel."³⁰ State explicitly empowers governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.³¹

²⁰ Available online at https://www.michigan.gov/documents/MEMACFINAL7-3-03_69499_7.pdf.

²¹ Michigan Compiled Laws §§ 3.991 and 3.1001 (2019).

²² Michigan's intrastate mutual aid system, called the Michigan Emergency Management Assistance Compact (MEMAC), is carried out pursuant to §§ 30.410(2) and 30.407a(4)(j), and is effectuated via an agreement developed and administered by the Michigan State Police, Emergency Management and Homeland Security Division.

https://www.michigan.gov/msp/0,4643,7-123-72297_60152_69727_69730_69743-9460--,00.html.

MEMAC is viewable online at https://www.michigan.gov/documents/MEMACFINAL7-3-03_69499_7.pdf.

²³ Michigan Compiled Laws § 30.402.

²⁴ *Id.* at § 30.411(c).

²⁵ *Id.* at § 3.975, citing the Michigan Interstate Mutual Emergency Aid Act, Michigan Compiled Laws §§ 3.971 to 3.977.

²⁶ Minnesota Statutes § 192.89 (2019).

²⁷ *Id.* at § 192.90.

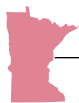
²⁸ Minnesota's IMAC system, consisting of individual agreements, is carried out pursuant to § 12.27. Minnesota Counties have published a model county agreement: <https://www.mcit.org/resource/model-mutual-aid-agreement>. Minnesota cities, likewise, have published a model city agreement: <https://www.lmc.org/media/document/1/mutualaidagreement.docx>.

²⁹ Minnesota Statutes § 12.22.

³⁰ *Id.* at § 12.35.

³¹ *Id.* at § 12.22.

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MINNESOTA (cont'd)

Protection: Emergency response personnel, while activated by the state, are considered state employees and have the same rights, privileges, and immunities as such.³² Uncompensated volunteers who register with the state or a political subdivision thereof, and render emergency assistance under the direction and control of the state or subdivision, are considered employees of the state or subdivision for liability and workers' compensation purposes.³³



OHIO

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

IMAC Public: State adopts statewide opt-out program.³⁵



IMAC Private: State maintains a registry of volunteers to be deployed to respond to disasters.³⁶ State allows jurisdictions to engage private companies in the provision of mutual aid.³⁷

Protection: Personnel provided by a participating jurisdiction are considered agents of that jurisdiction for liability immunity purposes while rendering aid and while en route to or from a jurisdiction which has requested the aid.³⁸ Personnel deploying to an adjacent state pursuant to a mutual aid agreement are deemed to be exercising governmental functions and granted the same immunity protections as employees of political subdivisions.³⁹ Individuals authorized to perform emergency management pursuant to any mutual aid agreement or arrangement are not liable for any harm to persons or property during emergency management operations, except in cases of willful misconduct.⁴⁰

Absent wanton, willful, or intentional misconduct, in-state certified **architects** and registered professional **engineers** and surveyors, as well as certain contractors and tradespersons, who volunteer their professional services during or 90 days following a declared emergency, without compensation and without a contract relating to the emergency, are not liable for civil damages for harm resulting their acts, errors, or omissions in the performance of those professional services at the request or with the approval of an appropriate public authority acting in an official capacity, and which relate to any structure, building, piping, or other engineered system.⁴¹

³² *Id.* at § 12.35.

³³ *Id.* at § 12.22.

³⁴ Ohio Revised Code § 5502.40 (2019). But Ohio does explicitly allow political subdivisions to develop mutual aid agreements with each other and with political subdivisions in adjacent states and does incorporate some private resources into its mutual aid agreements. See *id.* at § 5502.29.

³⁵ *Id.* at § 5502.41. See also *id.* at § 5502.29.

³⁶ *Id.* at § 5502.281.

³⁷ *Id.* at § 5502.29.

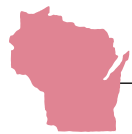
³⁸ *Id.* at § 5502.41.

³⁹ *Id.* at § 5502.29. See *id.* at §§ 2744.02 and 2744.03 for specific immunity protections.

⁴⁰ *Id.* at § 5502.30.

⁴¹ *Id.* at § 2305.2310.

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WISCONSIN

EMAC: No known significant incorporation of private resources into EMAC.⁴²

IMAC Public: State utilizes individual compacts.⁴³



IMAC Private: Volunteers may register with a state or local emergency management agency to provide emergency management services.⁴⁴ Governor may accept services and equipment from any source for emergency management purposes and may authorize other state and local units of government to do the same.⁴⁵

Protection: Members of a regional structural collapse team that contracts with the Division of Emergency Management in the Department of Military Affairs for regional structural collapse emergency services are immune from civil liability for acts or omissions related to carrying out responsibilities under that contract.⁴⁶ Unpaid volunteers registered with a state or local emergency management agency for emergency management services are treated as government employees for liability⁴⁷ and workers' compensation⁴⁸ purposes. Except for reckless, wanton, or intentional misconduct, persons who provide emergency services or equipment under the direction of a state or local authority are not liable for civil damages for harm resulting from those services.⁴⁹

⁴² Wisconsin Statutes § 323.80 (2019). State does however make limited legal provisions for disaster relief services from out-of-state businesses and employees in § 323.12.

⁴³ *Id.* at §§ 66.0301 and 323.14.

⁴⁴ *Id.* at § 323.18. See also *id.* at § 323.41.

⁴⁵ *Id.* at § 323.12.

⁴⁶ *Id.* at § 895.483. Note that the contract must be pursuant to and under § 323.72(1) (Wisconsin's Regional Structural Emergency Response statute).

⁴⁷ *Id.* at § 323.40. This provision does not apply if § 257.03 (pertaining to volunteer health practitioners) applies.

⁴⁸ *Id.* at § 323.41. This provision does not apply if § 323.45 below applies.

⁴⁹ *Id.* at § 323.45 This provision does not apply if § 323.41 above applies.

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