

# Mutual Aid for Building Departments: Region 6

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.

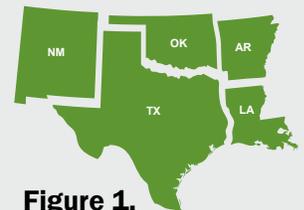
The **Emergency Management Assistance Compact (the Compact, or EMAC)** is an interstate mutual aid agreement which all 50 states, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands have passed. The Compact establishes a mutual aid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

	<b>Statewide opt-out program:</b> 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.
	<b>Statewide opt-in program:</b> 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.
	<b>Individual compacts:</b> 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.
	<b>No known significant IMAC program.</b>



**Figure 1.**  
**FEMA Region 6**  
**IMAC Types**



# FEMA



## ARKANSAS

**EMAC:** State law allows its EMAC<sup>1</sup> system to include volunteer health practitioners.<sup>2</sup>

**IMAC Public:** State adopts a statewide opt-out IMAC program.<sup>3</sup>



**IMAC Private:** State defines “Emergency Management” broadly as all activities intended to minimize damage resulting from disasters, and explicitly includes engineering.<sup>4</sup> State defines “Emergency Responder” to include any paid or volunteer person or entity with special skills that would be beneficial during an emergency.<sup>5</sup> State explicitly empowers the governor and political subdivisions to accept services and equipment from private entities for emergency management.<sup>6</sup>

**Protection:** State declares all emergency management activities to be governmental functions and, except in cases of willful misconduct, gross negligence, or bad faith, immunizes paid and unpaid volunteer emergency responders.<sup>7</sup> Emergency Responders performing emergency preparedness services pursuant to a mutual aid agreement enjoy the same immunities they would possess in their home jurisdiction.<sup>8</sup> Duly qualified, registered Emergency Responders receive workers’ compensation coverage.<sup>9</sup>

Absent wanton, willful, or intentional misconduct, in-state registered **architects** and licensed professional **engineers** who volunteer their services without compensation other than expense reimbursement, and in relation to a declared emergency, during or within 90 days of the emergency at the request or with the approval of a public authority believed by the professional to be acting in an official capacity, are not liable for civil damages for harm from their acts, errors, or omissions in rendering those professional services related to any structure, building, project utility, equipment, machine, process, piping, or other system.<sup>10</sup>



## LOUISIANA

**EMAC:** State law allows its EMAC<sup>11</sup> system to include volunteer health practitioners.<sup>12</sup>

**IMAC Public:** State enacts a statewide IMAC program encompassing all Louisiana parishes, which allows (but does not require) any parish to provide emergency assistance to any other parish upon request.<sup>13</sup>

**IMAC Private:** State establishes a private corps for assisting in disaster recovery<sup>14</sup> and empowers the governor to establish a registry of disaster volunteers to be deployed either by the state or local emergency management authority.<sup>15</sup>

<sup>1</sup> Arkansas Code § 12-76-202 (2019). Arkansas does also explicitly provide for the rendering of disaster relief by out-of-state businesses within the state following a disaster. *Id.* at §§ 12-88-101 to 12-88-109.  
<sup>2</sup> *Id.* at § 12-87-109.  
<sup>3</sup> *Id.* at § 12-75-119.

<sup>4</sup> *Id.* at § 12-75-103.  
<sup>5</sup> *Id.*  
<sup>6</sup> *Id.* at § 12-75-123.  
<sup>7</sup> *Id.* at § 12-75-128.  
<sup>8</sup> *Id.*  
<sup>9</sup> *Id.* at § 12-75-129.

<sup>10</sup> *Id.* at §§ 17-15-106 and 17-30-106.  
<sup>11</sup> Louisiana Revised Statutes § 29:733 (2018).  
<sup>12</sup> *Id.* at § 29:789.

<sup>13</sup> *Id.* at § 29:739.  
<sup>14</sup> The Louisiana Family Recovery Corps. *Id.* at § 29:726.1.  
<sup>15</sup> *Id.* at § 29:735.4.

This information is provided with the understanding that FEMA is not engaged in rendering legal or other professional services through this publication. The laws and regulations discussed and cited herein are based upon best available public records and sources at the time of research. This publication provides only a summary of the referenced laws and regulations; those laws and regulations may contain additional criteria, restrictions, or other qualifiers which are absent from the summary provided in this publication. This publication also may or may not be up-to-date as these laws and regulations can at any time be subsequently changed, updated, or repealed by the corresponding state legislatures and agencies. Consult the current, official law or regulation and consult with relevant state or territory authorities or a licensed attorney in the relevant state or territory to determine which laws and regulations currently will apply to your situation. Do not rely solely on this publication.



## LOUISIANA (cont'd)

**Protection:** Except in cases of gross negligence or willful misconduct, persons gratuitously and voluntarily rendering disaster relief services are not liable for harm to the recipient thereof, except for services which require a license.<sup>16</sup>

In-state registered/licensed **architects, engineers,** and land surveyors volunteering their architectural, engineering, or land surveying services, respectively, without compensation during a declared emergency at the request or with the approval of public officials acting in an official capacity are not liable for civil damages for harm resulting from their acts, errors, or omissions in rendering those services for any structure, building, piping, or other engineered system except in cases of gross negligence or wanton, willful, or intentional misconduct.<sup>17</sup>



## NEW MEXICO

**EMAC:** State law allows its EMAC<sup>18</sup> system to include volunteer health practitioners.<sup>19</sup> State provides for out-of-state business and employee participation in disaster relief in-state.<sup>20</sup>

**IMAC Public:** State adopts a statewide opt-out IMAC program.<sup>21</sup>



**IMAC Private:** State explicitly authorizes itself and political subdivisions to accept aid from private entities for emergency management.<sup>22</sup>

**Protection:** Persons responding to a request for aid by a participating jurisdiction and operating under its control are considered employees of that jurisdiction for civil liability purposes.<sup>23</sup> Persons holding an in-state or out-of-state license, certificate, or other permit that evidences the meeting of qualifications for professional, mechanical, or other skills may be credentialed by the Department of Health or the Homeland Security and Emergency Management Department to render aid involving those skills to meet a declared emergency, and shall be considered a public employee for purposes of the New Mexico Tort Claims Act when approved to perform those duties.<sup>24</sup>

<sup>16</sup> *Id.* at § 29:735.3.1.

<sup>17</sup> *Id.* at § 37:1736.

<sup>18</sup> New Mexico Statutes Annotated § 12-10-15 (2019).

<sup>19</sup> *Id.* at §§ 12-12A-9 and 12-12A-10.

<sup>20</sup> *Id.* at § 12-10-11.1.

<sup>21</sup> *Id.* at §§ 12-10B-1 and 12-10B-4. New Mexico also authorizes additional intrastate mutual aid agreements in § 12-10-6.

<sup>22</sup> *Id.* at § 12-10-7.

<sup>23</sup> *Id.* at § 12-10B-10.

<sup>24</sup> *Id.* at §§ 12-10-11, 12-10-12, and 12-10-13.

This information is provided with the understanding that FEMA is not engaged in rendering legal or other professional services through this publication. The laws and regulations discussed and cited herein are based upon best available public records and sources at the time of research. This publication provides only a summary of the referenced laws and regulations; those laws and regulations may contain additional criteria, restrictions, or other qualifiers which are absent from the summary provided in this publication. This publication also may or may not be up-to-date as these laws and regulations can at any time be subsequently changed, updated, or repealed by the corresponding state legislatures and agencies. Consult the current, official law or regulation and consult with relevant state or territory authorities or a licensed attorney in the relevant state or territory to determine which laws and regulations currently will apply to your situation. Do not rely solely on this publication.



## OKLAHOMA

**EMAC:** State law allows its EMAC<sup>25</sup> system to include volunteer health practitioners.<sup>26</sup>

**IMAC Public:** State adopts a statewide opt-out IMAC program.<sup>27</sup>



**IMAC Private:** State IMAC legislation defines “Emergency Responder” as any individual with special skills and qualifications useful during an emergency.<sup>28</sup> State provides for licensed out-of-state architects and engineers to provide certain emergency building safety and habitability inspections without an in-state license under certain statutorily defined conditions.<sup>29</sup>

**Protection:** State provides for compensation and death benefits to injured members of emergency forces injuring while rendering aid pursuant to an IMAC request.<sup>30</sup>

Absent gross negligence and wanton or willful misconduct, in-state licensed **architects** and professional **engineers** who voluntarily, without compensation other than expense reimbursement, provide architectural, structural, electrical, mechanical, or other design professional services related to a declared emergency, at the request or with the approval of a public authority believed by the professional to be acting in an official capacity, are not liable for civil damages for harm resulting from their acts or omissions in rendering those professional services related to any structure or building or certain components or systems thereof and rendered during the emergency or within 90 days following the declared emergency period, unless extended by the governor.<sup>31</sup> Out-of-state licensed **architects** and professional **engineers** providing certain statutorily defined emergency building safety and habitability inspection services under certain statutorily defined conditions are also not liable for civil damages for harm from their acts or omissions in the performance of such services except in cases of gross negligence or wanton or willful misconduct.<sup>32</sup>

<sup>25</sup> Oklahoma Statutes tit. 63, §§ 684.1 to 684.13 (2018).

<sup>26</sup> *Id.* at § 684.33.

<sup>27</sup> *Id.* at §§ 695.1 to 695.10.

<sup>28</sup> *Id.* at § 695.2.

<sup>29</sup> *Id.* at tit. 76, § 5.8.

<sup>30</sup> *Id.* at tit. 63, § 695.8.

<sup>31</sup> *Id.* at tit. 76, § 5.8.

<sup>32</sup> *Id.*

This information is provided with the understanding that FEMA is not engaged in rendering legal or other professional services through this publication. The laws and regulations discussed and cited herein are based upon best available public records and sources at the time of research. This publication provides only a summary of the referenced laws and regulations; those laws and regulations may contain additional criteria, restrictions, or other qualifiers which are absent from the summary provided in this publication. This publication also may or may not be up-to-date as these laws and regulations can at any time be subsequently changed, updated, or repealed by the corresponding state legislatures and agencies. Consult the current, official law or regulation and consult with relevant state or territory authorities or a licensed attorney in the relevant state or territory to determine which laws and regulations currently will apply to your situation. Do not rely solely on this publication.



## TEXAS

**EMAC:** State law allows its EMAC<sup>33</sup> system to include volunteer health practitioners.<sup>34</sup>

**IMAC Public:** State law creates the Texas Statewide Mutual Aid System, which allows (but does not require) any political subdivision to provide mutual aid assistance upon request by any other political subdivision<sup>35</sup>

**IMAC Private:** State empowers its Division of Emergency Management to employ and pay disaster reservists “with specialized skills in disaster recovery, hazard mitigation, community outreach, and public information to temporarily augment its staff.”<sup>36</sup>

State provides for license portability within its IMAC system.<sup>37</sup>

**Protection:** State deems emergency volunteers acting at the direction of state or local authorities to be members of the Texas military forces and to be acting in that capacity for civil liability purposes.<sup>38</sup> A person assigned duties by a local government entity responding to an IMAC request is entitled to the same pay and benefits as though providing the services for that local government entity employing the person.<sup>39</sup>

Except in cases of gross negligence or wanton or willful misconduct, in-state licensed or registered **architects** and professional **engineers**, as well land surveyors, are not liable for civil damages for harm resulting from their acts, errors, or omissions in rendering those professional services related to structures, buildings, roadways, piping, or other systems, if rendering such services voluntarily and without receiving or expecting compensation, during a declared emergency at the request or with the approval of a public official, subject to certain other statutorily defined conditions.<sup>40</sup>

<sup>33</sup>Texas Health and Safety Code § 778.001 (2019).

<sup>34</sup>Texas Occupation Code § 115.009.

<sup>35</sup>Texas Government Code §§ 418.111 to 418.1181. The Texas Statewide Mutual Aid System does not abolish any existing or future mutual aid agreements amongst political subdivisions. *Id.* at § 418.111.

<sup>36</sup>*Id.* at § 418.045.

<sup>37</sup>*Id.* at § 418.117

<sup>38</sup>*Id.* at § 418.006.

<sup>39</sup>*Id.* at § 418.116.

<sup>40</sup>Texas Civil Practice & Remedies Code § 150.003.

This information is provided with the understanding that FEMA is not engaged in rendering legal or other professional services through this publication. The laws and regulations discussed and cited herein are based upon best available public records and sources at the time of research. This publication provides only a summary of the referenced laws and regulations; those laws and regulations may contain additional criteria, restrictions, or other qualifiers which are absent from the summary provided in this publication. This publication also may or may not be up-to-date as these laws and regulations can at any time be subsequently changed, updated, or repealed by the corresponding state legislatures and agencies. Consult the current, official law or regulation and consult with relevant state or territory authorities or a licensed attorney in the relevant state or territory to determine which laws and regulations currently will apply to your situation. Do not rely solely on this publication.