

# Mutual Aid for Building Departments: Region 9

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 9 IMAC Types



# FEMA



### AMERICAN SAMOA

**EMAC:** Not a participating EMAC jurisdiction.<sup>1</sup>

**IMAC Public:** No known significant IMAC program.



**IMAC Private:** Territory recognizes professional or skilled qualifications of persons credentialed outside American Samoa when they are rendering emergency services in American Samoa.<sup>2</sup>

**Protection:** No known legislation extending legal protections to private, non-medical emergency responders.



### ARIZONA

**EMAC:** State law extends EMAC<sup>3</sup> by authorizing the governor to deploy private personnel as well as public personnel via EMAC.<sup>4</sup>

**IMAC Public:** State authorizes individual compacts between political subdivisions.<sup>5</sup>



**IMAC Private:** State defines “emergency worker” as any person, paid or volunteer, registered with a local or state emergency management organization.<sup>6</sup> State recognizes out-of-state professional, mechanical, or other skilled qualifications of persons rendering those credentialed services in-state in response to an emergency.<sup>7</sup>

**Protection:** Emergency management workers engaged in emergency management functions under certain statutorily defined conditions receive the same immunities and disability workers’ compensation benefits as state employees performing similar work.<sup>8</sup> If necessary, under certain statutorily defined conditions the state or its political subdivisions will provide liability coverage, including legal defense, of any emergency worker acting within the course and scope of assigned duties, and engaged in an authorized activity under supervision of the state or its political subdivisions, but not for actions involving willful misconduct, gross negligence, or bad faith.<sup>9</sup>

Members, agents, and registrants of the Board of Technical Registration (including **architects**) volunteering professional services for emergency management at the scene of a disaster as part of an authorized Board program are not liable for harm resulting from such services if acting in good faith within the scope of their authority.<sup>10</sup>

<sup>1</sup>American Samoa authorizes the governor to enter into such mutual aid emergency management agreements, however, American Samoa Code Annotated § 26.0108.

<sup>2</sup> *Id.*

<sup>3</sup> Arizona Revised Statutes § 26-402 (2019).

<sup>4</sup> *Id.* at § 26-404.

<sup>5</sup> *Id.* at § 26-309.

<sup>6</sup> *Id.* at § 26-301.

<sup>7</sup> *Id.* at § 26-310.

<sup>8</sup> *Id.* at § 26-314.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at § 32-110.

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## CALIFORNIA

**EMAC:** No known significant incorporation of private resources into EMAC.<sup>11</sup>

**IMAC Public:** State creates a statewide opt-in system through a Master Mutual Aid Agreement.<sup>12</sup>



**IMAC Private:** Licensed architects and engineers may register as volunteer Disaster Service Workers for the Safety Assessment Program administered by the California Office of Emergency Services to provide safety assessments of damaged facilities during emergencies.<sup>13</sup>

**Protection:** Registered Disaster Service Workers receive workers' compensation coverage.<sup>14</sup> State grants volunteers registered with the Office of Emergency Services, or any disaster council of any political subdivision, and unregistered persons duly impressed into service during a state of emergency or local emergency the same immunity as state employees.<sup>15</sup>

In-state licensed **architects** and professional **engineers** (including statutorily defined branches thereof) providing structural inspection services of a structure used for human habitation or a structure owned by a public entity for structural integrity or nonstructural elements affecting life and safety, voluntarily and without compensation at the scene, and within 30 days, of a declared earthquake, flood, riot, or fire disaster at the request of a public authority are not liable in negligence for harm resulting their good faith but negligent inspection of those structures except in cases of gross negligence or willful misconduct.<sup>16</sup>

<sup>11</sup> California Government Code § 179.5 (2019).

<sup>12</sup> See <https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/CAMasterMutaidAgreement.pdf>.

See also California Government Code §§ 8615 to 8619.5.

<sup>13</sup> See California's Disaster Service Worker Volunteer Program, codified at California Code of Regulations tit. 19, §§ 2570 to 2573.3. See also California Code of Regulations tit. 19, §§ 2570 to 2573.3. See also <https://www.caloes.ca.gov/cal-oes-divisions/recovery-disaster-mitigation-technical-support/technical-assistance/safety-assessment-program>.

<sup>14</sup> California Code of Regulations tit. 19, § 2573.3.

<sup>15</sup> California Government Code § 8657.

<sup>16</sup> California Business & Professions Code §§ 5536.27 (architects) and 6706 (engineers).

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### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**EMAC:** No known significant incorporation of private resources into EMAC.<sup>17</sup>

**IMAC Public:** No known significant IMAC program. Commonwealth tasks its Office of Homeland Security and Emergency Management with developing a Memorandum of Understanding or Memorandum of Agreement with other CNMI government units or private organizations for emergency management purposes.<sup>18</sup>



**IMAC Private:** No known significant private mutual aid policies.

**Protection:** No known legislation extending legal protections to private, non-medical emergency responders.



### GUAM

**EMAC:** No known significant incorporation of private resources into EMAC.<sup>19</sup>

**IMAC Public:** No known significant IMAC program.



**IMAC Private:** No known significant private mutual aid policies.

**Protection:** No known legislation extending legal protections to private, non-medical emergency responders.

### HAWAII

**EMAC:** No known significant incorporation of private resources into EMAC.<sup>20</sup>

**IMAC Public:** No known significant IMAC program.



**IMAC Private:** No known significant private mutual aid policies.

**Protection:** Volunteers engaged in emergency management services for the state or a county, whose services have been accepted by any authorized person, are deemed employees of the state or county,<sup>21</sup> and are immune from civil liability in performing those services except in cases of gross negligence, willful misconduct, or recklessness.<sup>22</sup>

<sup>17</sup> 1 Northern Mariana Islands Code § 20148 (2019). <sup>21</sup> *Id.* at § 127A-8.

<sup>19</sup> Guam Public Law 29-29 (2007). <sup>22</sup> *Id.* at § 127A-9.

<sup>20</sup> Hawaii Revised Statutes § 128F-2 (2018).

<sup>18</sup> *Id.*

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## NEVADA

**EMAC:** State authorizes the governor to deploy Incident Management Assistance Teams, which may consist of private personnel, to serve outside the state, although the statute<sup>23</sup> does not explicitly mention EMAC.<sup>24</sup>

**IMAC Public:** State adopts a statewide opt-out program called the Nevada Intrastate Mutual Aid System.<sup>25</sup>



**IMAC Private:** State authorizes the governor to create and deploy Incident Management Assistance Teams, which may include private personnel.<sup>26</sup>

**Protection:** Personnel serving on an Incident Management Assistance Team under the control of the relevant emergency management public authority are compensated \$10 per day, are reimbursed for travel and subsistence expenses, and are given the same immunity as state employees.<sup>27</sup> Volunteers working on behalf of jurisdictions participating in the Nevada Intrastate Mutual Aid System are deemed to be performing governmental functions and are not liable for any act or omission while providing or attempting to provide such assistance in good faith, which does not include willful misconduct, gross negligence, or recklessness.<sup>28</sup>

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<sup>23</sup> Nevada Revised Statutes § 414.080 (2017).

<sup>24</sup> *Id.* at § 415.010.

<sup>25</sup> *Id.* at §§ 414A.010 to 414A.180.

<sup>26</sup> *Id.* at §§ 414.0359 and 414.080.

<sup>27</sup> *Id.* at § 414.080.

<sup>28</sup> *Id.* at §§ 414A.035, 414A.070, and 414A.180.

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