

## Mutual Aid and Assistance Agreements Fact Sheet

### Overview

Mutual aid agreements and other types of assistance agreements facilitate the rapid sharing of emergency aid and resources among governments and organizations at all levels. These can involve pre-existing agreements like the [Emergency Management Assistance Compact \(EMAC\)](#) or may require the creation of new instruments to address emerging events or parties outside of existing compacts. Depending on the nature and extent of an agreement, a state's laws may govern the formation and operation of the mutual aid arrangement.

### Mutual Aid and Assistance Agreements

Mutual aid agreements (MAAs) and other types of arrangements to provide assistance before, during, and after an emergency event facilitate the rapid mobilization of personnel, equipment, and supplies. The agreements can occur at multiple levels of government: between state/local agencies; between a state and localities in the state; between two or more states in a region; between states and tribes; or internationally between states and neighboring jurisdictions in Canada or Mexico. MAAs can also exist among a variety of organizational types, including governments, nonprofit organizations, and private businesses. The agreements can range in format from formal compacts adopted into statute by a state's legislature to informal memoranda of understanding that outline how governmental and private resources will provide aid within a specific community. Emergency MAAs typically address emergency management, fire, law enforcement, and medical response issues, although they can address other issues (see below). Participation in MAAs is seen as an important component of the federal [National Incident Management System \(NIMS\)](#), which is intended to provide a systematic approach to guide governments at all levels, nongovernmental organizations, and the private sector in collaborative emergency preparedness and response activities.<sup>1</sup>

### Authority for Mutual Aid

Depending on the type of MAA, a state legislature may have to formally approve a state's participation in the agreement and memorialize it in statute, such as in the case of EMAC (see below). State law or regulation may also establish legal requirements that govern the creation and operation of aid and assistance agreements in the state generally. These state-specific requirements can affect intrastate agreements between localities and other parties, as well as interstate agreements between the state and other parties. To operationalize MAAs, the federal government, states, localities, and other organizations party to aid agreements have developed specific policies, protocols, and resource-typing definitions that dictate delivery of aid. In addition to the legal requirements for administering aid, ongoing training, exercising, and updating of aid agreements and the policies and protocols implementing them is a key factor in effectively delivering mutual aid.

### Elements in Mutual Aid and Assistance Agreements

While an established MAA like EMAC or model aid agreement may require the inclusion of specific language in an agreement, the U.S. Department of Homeland Security has identified through NIMS a number of important elements that should generally be included in MAAs<sup>1</sup>:

- Definitions of key terms.
- Roles and responsibilities of individual parties.
- Procedures for requesting and providing aid.
- Payment, reimbursement, and allocation of costs.
- Workers' compensation.
- Liability and immunity.
- Notification procedures.
- Protocols for interoperable communications.
- Relationships to other MAAs.
- Recognition of licensures and certifications.
- Sharing agreements.
- Provisions to update and terminate the agreement.

### Reimbursement, Liability, and Compensation

Aid agreements expedite emergency response by establishing protocols for requesting and providing assistance and determining policies and procedures for reimbursement and compensation in advance, thereby eliminating or lessening the extent to which these issues must be negotiated with each new event. Formalized, pre-event aid agreements can also expedite FEMA reimbursement for services, equipment, and supplies delivered via mutual aid. FEMA will reimburse mutual aid costs if the aid was requested (i.e., no spontaneous responders), the assistance requested directly related to a disaster eligible for FEMA assistance, and occurred under a signed, written mutual aid agreement.<sup>2</sup> The aid agreement must apply in all situations, not just to events that trigger a federal [Stafford Act](#) emergency/disaster declaration or that are eligible for federal aid. Only the entity requesting mutual aid is eligible to apply for grant assistance directly from FEMA; entities providing aid must seek reimbursement from the requesting entity. FEMA will reimburse for verbal aid agreements, but these must be documented in

writing post-event and signed by an official of each entity as a condition to receive FEMA reimbursement.

## Emergency Management Assistance Compact (EMAC)

EMAC is a type of MAA that facilitates the sharing of assistance among states during emergency events, including natural and man-made disasters. EMAC was ratified by the U.S. Congress in 1996.<sup>3</sup> It is the most widely adopted MAA in the United States; EMAC has been adopted by all states, the District of Columbia, and some territories.<sup>4</sup> EMAC does not replace federal assistance but acts to complement federal resources or to provide resources when an event does not warrant federal assistance. EMAC is triggered by a requesting state through a gubernatorial declaration of emergency and a request for assistance made through the National Emergency Management Association (NEMA), the organization that administers EMAC.<sup>4</sup> Assisting states respond to the request and provide the requested resources.

Under EMAC the requesting state is responsible for compensating the assisting state for any expenses incurred.<sup>5</sup> EMAC also addresses licensing, liability, and compensation issues for personnel deployed pursuant to an EMAC request. Those rendering aid under the compact are considered agents of the requesting state for tort liability and immunity purposes; no assisting state or its officers, employees, or others deployed by the state through EMAC are subject to liability for an act or omission that occurs in good faith.<sup>6</sup> Willful misconduct, gross negligence, or recklessness are excluded from EMAC immunity. Because EMAC only applies to state officers or employees and others deployed by the state through EMAC, immunity protections and license reciprocity will not automatically extend to volunteers who provide services outside of EMAC. Volunteers would have to be made temporary government employees to be assured of coverage under EMAC. Similarly, local governments and their employees are not parties to EMAC unless they are specifically deemed to be state forces through an MAA with the state. The “Model State-County Mutual Aid Deployment Contract” is a model intergovernmental contract that allows local emergency responders to deploy under the auspices of EMAC.<sup>7</sup> Some states have developed intrastate mutual aid systems that allow localities to request and provide aid within the state.<sup>7</sup>

## Other Aid and Cooperation Agreements

In addition to EMAC, other compacts and mutual aid agreements have been created in some regions. These include, for example, the “Pacific Northwest Emergency Management Agreement” and the “California, Nevada, and Oregon Chempack Sharing Procedures.”<sup>7</sup> Other cooperation agreements that relate to public health activities generally but that also support emergency preparedness and response include the “Great Lakes Border Health Initiative Public Health Data Sharing Agreement” and the “Guidelines for U.S.-Mexico Coordination on Epidemiologic Events of Mutual Interest.”<sup>7</sup> The “Model Intrastate Mutual Aid Legislation” was developed by NEMA to facilitate intrastate mutual aid among jurisdictions within a state.<sup>4</sup> The subject matter of public health and emergency response-related MAAs can include emergency management and public health emergency management broadly, as well as focus on issues like public health data sharing, pandemic influenza preparedness, influenza surveillance, laboratory resource sharing, tuberculosis treatment and control, and animal health emergency management.

Interstate agreements that address the needs of specific populations (e.g., the mentally or physically disabled, the elderly) or issues that may be outside the organizational control of a state public health agency (e.g., environment, agriculture) can also provide important resources and expertise when responding to public health and other emergencies. MAAs also exist between private businesses within particular sectors such as water and power utilities and healthcare operations.<sup>8,9</sup>

### Sources

<sup>1</sup> U.S. Dept. of Homeland Security. *National Incident Management System* (December 2008).

<sup>2</sup> FEMA. “Mutual Aid Agreements for Public Assistance and Fire Management Assistance” (Disaster Assistance Policy 9523.6). August 13, 2007. Available at [www.fema.gov/government/grant/pa/9523\\_6.shtm](http://www.fema.gov/government/grant/pa/9523_6.shtm). Accessed January 31, 2012.

<sup>3</sup> Emergency Management Assistance Compact, Pub. L. No. 104-321.

<sup>4</sup> Emergency Management Assistance Compact website. Available at [www.emacweb.org](http://www.emacweb.org). Accessed January 31, 2012.

<sup>5</sup> Emergency Management Assistance Compact, *Articles of Agreement*. Available at [www.emacweb.org](http://www.emacweb.org). Accessed January 31, 2012.

<sup>6</sup> CDC, Public Health Law Program. “Selected Federal Legal Authorities Pertinent to Public Health Emergencies” (September 2009).

<sup>7</sup> CDC, Public Health Law Program. “Mutual Aid” webpage. Available at <http://www2a.cdc.gov/phlp/mutualaid/index.asp>. Accessed January 31, 2012.

<sup>8</sup> U.S. EPA. “Mutual Aid and Assistance” webpage. Available at <http://water.epa.gov/infrastructure/watersecurity/mutualaid/index.cfm>. Accessed January 31, 2012.

<sup>9</sup> American Hospital Association, “Model Hospital Mutual Aid Memorandum of Understanding” (March 2002). Available at [www.aha.org/aha/issues/Emergency-Readiness/hospreaidness.html](http://www.aha.org/aha/issues/Emergency-Readiness/hospreaidness.html). Accessed January 31, 2012.

### Practice Notes

- Identify any statutory and regulatory provisions that govern the creation and operation of MAAs in your state.
- Identify the various MAAs and any other cooperation agreements through which the state and its agencies can receive or provide aid.
- Identify any gaps in emergency response capacity that may be addressed through MAAs.
- Understand the legal requirements contained in the MAAs and the legal processes through which they are operationalized.
- Understand how MAAs are operationalized by agencies and programs in your state, including the circumstances under which an incident command system (ICS) or emergency operations center (EOC) will be activated.

This document was compiled from June-December 2011 and reflects laws and programs current at the time. It reflects selected portions of the laws relevant to public health emergencies and is not intended to be exhaustive of all relevant legal authority. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice. The document was funded by CDC Award No. 1U38HM000454 to the Association of State and Territorial Health Officials; Subcontractor PI Elliott, Logan Circle Policy Group LLC.