

STATEWIDE MUTUAL AID AGREEMENT

A new law adopted during the 2003 legislative session creates a Statewide Mutual Aid Agreement. This new law, which went into effect on May 7, 2003, automatically makes each unit of government (county, city, town and township) in Indiana part of this new Statewide Mutual Aid Agreement. If a county, city, town or township does not want to be part of this Statewide Mutual Aid Agreement, they do have the ability to opt out of the Agreement, but opting out may make the unit of government ineligible to receive certain future state or federal funding. This Agreement does not effect existing or future mutual aid and interlocal agreements between local fire departments or law enforcement agencies.

The text of this new Statewide Mutual Aid Agreement, IC 10-14-3-10.6 and IC 10-14-3-10.7 [as added by SECTIONS 6 and 7 of Public Law 205-2003 (Senate Enrolled Act 216)], is as follows:

Sec. 10.6. (a) As used in this section, "participating unit" refers to a unit that does not opt out under subsection (c) from participating in the statewide mutual aid program.

(b) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(c) A unit may choose not to participate in the statewide mutual aid program if the unit:

(1) adopts an ordinance or a resolution declaring that the unit will not participate in the statewide mutual aid program; and

(2) provides a copy of the ordinance or resolution to:

(A) the local emergency management organization that serves the unit; and

(B) the department.

(d) Each participating unit shall establish an incident management system and a unified command system to be used in a response to a disaster or an emergency.

(e) A participating unit may request the assistance of at least one (1) other participating unit to:

(1) manage disaster response or recovery; or

(2) conduct disaster response or recovery related exercises, testing, or training.

(f) A request for assistance to a participating unit under subsection (e) shall be made by and to the executive of the unit or the executive's authorized representative. A request may be oral or in writing. A written request shall be made on forms developed by the department. An oral request shall be confirmed in writing not later than twenty-four (24) hours after the oral request is made.

(g) A request must include the following information:

(1) A description of the disaster response and recovery functions for which assistance is needed, including the following:

(A) Fire.

(B) Law enforcement.

(C) Emergency medical.

- (D) Transportation.
- (E) Communications.
- (F) Public works and engineering.
- (G) Building inspection.
- (H) Planning and information assistance.
- (I) Mass care.
- (J) Resource support.
- (K) Health and other medical services.
- (L) Search and rescue.

(2) The amount and type of services, equipment, supplies, materials, personnel, and other resources needed and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting participating unit's provision of assistance and a point of contact at that location.

(h) A participating unit that is requested to render assistance shall take the necessary action to provide and make available the requested services, equipment, supplies, materials, personnel, and other resources.

(i) A participating unit's obligation to provide assistance is subject to the following restrictions:

(1) A participating unit's request to receive assistance is effective only:

- (A) upon declaration of a local disaster emergency by the executive officer of the unit under section 23 of this chapter; or
- (B) upon the commencement of the exercises, testing, or training.

(2) The assistance shall continue as long as:

- (A) the state of emergency remains in effect and the loaned resources are required by the receiving participating unit or the loaned resources remain in the receiving participating unit; or
- (B) the exercises, testing, or training is in progress.

(3) The participating unit rendering the assistance may withhold resources or recall loaned resources to the extent necessary to provide for the participating unit's own reasonable protection.

(4) Emergency forces providing assistance shall continue under the command and control of their regular leaders, but operationally those forces shall be under the control of the incident commander or unified commander designated by the requesting participating unit.

Sec. 10.7. (a) As used in this section, "participating unit" has the meaning set forth in section 10.6(a) of this chapter.

(b) Each participating unit shall provide for the payment of compensation and benefits to:

- (1) an injured member; and
- (2) a representative of a deceased member;

of the participating unit's emergency forces if the member is injured or killed while rendering assistance under section 10.6 of this chapter in the same manner and on the same terms as if the

injury or death were sustained while the member was rendering assistance for or within the member's own unit. Expenses incurred under this subsection are not reimbursable under subsection (c).

(c) A participating unit rendering assistance for disaster response or recovery to another participating unit under section 10.6 of this chapter shall be reimbursed by the participating unit receiving the assistance for the following:

- (1) A loss of, damage to, or expense incurred in the operation of any equipment in answering the request for assistance.
- (2) An expense incurred in the provision of a service in answering the request for assistance.
- (3) An expense incurred in answering the request for assistance.

(d) Except as provided by an agreement entered into under subsection (e), the following labor and equipment reimbursement rates apply to reimbursement under subsection (c):

- (1) The labor reimbursement rates are as follows:
 - (A) The straight time costs of the labor force of the participating unit rendering assistance shall be reimbursed at the normal pay rates for responding personnel.
 - (B) The overtime costs of the labor force of the participating unit rendering assistance shall be reimbursed at one hundred fifty percent (150%) of the normal pay rates for the responding personnel if it is the normal practice of the requesting unit to pay these personnel overtime.
- (2) The equipment reimbursement rates are the lesser of the following:
 - (A) The rates for equipment costs reimbursement established by the Federal Emergency Management Agency or its successor agency.
 - (B) The equipment costs established by the participating unit rendering assistance.

(e) At least two (2) participating units may enter into agreements establishing a different allocation of loss, damage, expense, or costs among themselves than that specified in subsections (c) and (d).

(f) Officers and employees of a participating unit rendering assistance to another participating unit under this section shall be considered agents of the requesting unit for the purpose of tort liability and immunity.

(g) This section does not prevent any participating unit from entering into a mutual aid or other agreement with another unit or affect any other agreement to which a unit is a party, including an agreement entered into under this chapter or IC 36-1-7.

Prepared by Brad S. Gavin, General Counsel
State Emergency Management Agency
Department of Fire and Building Services
Public Safety Training Institute
302 West Washington Street, Rm. E208
Indianapolis, Indiana 46204
phone: 317-233-4928
fax: 317-232-3895
e-mail: bgavin@sema.state.in.us