



Ensuring a safe and secure homeland for all North Dakotans

State of North Dakota Recommended Mutual Aid Agreement

*Developed by the ND Department
of Emergency Services*

December 2010



The implementation of formal mutual aid agreements is a rapidly growing trend in the United States. This document provides instructions and a Mutual Aid Agreement Template that meets the minimum requirements of North Dakota Century Code for jurisdictions and organizations in the event of disasters or other incidents requiring external assistance.

Recommendations for changes or questions should be directed to nddes@nd.gov or (701) 328-8100.

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■ Background

Today's public safety realities have highlighted the need for formal mutual aid agreements that can pool resources and assets in order to effectively respond to local incidents beyond a single jurisdiction or a single entity resource capability. Jurisdictions which require certain response capabilities should have access and jurisdictions that use taxpayer dollars to continually support entities with fewer assets should and must be able to recoup costs in order to sustain capability investments.

Many jurisdictions do not have adequate resources to effectively manage emergency events that may affect the health, security, safety, and property of jurisdictions and residents. To ensure the public safety community reaches optimal utilization of finite resources and maximum interoperability, mutual aid agreements set the conditions between and among sending and receiving response entities and/or jurisdictions. These agreements allow for partnerships among jurisdictions and response agencies which benefit public safety and public service officials.

After the Northwood tornado in 2007, it was discovered the statewide intrastate mutual aid language (NDCC 37-17.1-25) was not compliant with Federal Emergency Management Agency (FEMA) rules that implement Stafford Act reimbursements for mutual aid costs. During the 2009 Legislative Session, the North Dakota Department of Emergency Services (NDDDES) requested new language be created to require NDDDES to develop new mutual aid guidelines and templates which enable jurisdictions and entities that implement them full access to state and federal funding to offset mutual aid costs.

The state cannot prescribe a single intrastate mutual aid compact or agreement in century code due to multiple variables between large and small responder entities and jurisdictions. The approach developed within this document provides each response entity or group of entities owned by a jurisdiction the ability to develop and administer mutual aid at the level agreed upon. The recommendations presented within this document adhere to the following basic tenants of mutual aid agreements:

- A general description of the emergency service functions covered
- The type of personnel and equipment of general need
- Acceptance of licensures and certifications of supporting response disciplines and granting to them the same powers, duties, rights, privileges, and immunities afforded to disciplines performing within the jurisdiction
- Acknowledgement that response entities will be under the operational control of the incident commander
- Gaining jurisdiction assumes liabilities but not willful misconduct, gross negligence, or recklessness
- Reimbursement of operational and other costs associated in providing mutual aid support are addressed by level of cost share by operational periods
- Communications with regard to interoperability on scene
- Withdraw, pullout, or non-response criteria
- Implementation and withdrawal terms of the agreement

■ Instructions

The mutual aid agreement in this document supports legislative intent and meets federal guidelines. It is fully executable by itself but can be modified or supplemented to meet jurisdictional need. The options are open to have individual agreements or to collectively have an agreement among many jurisdictions and its response entities.

It is recommended that each emergency service provider, whether owned jurisdictionally, or supported by a jurisdiction or organized as a part of the protection district review the need for mutual aid. Need can be quantified by determining the difference between the capability and the likely emergency situations that may exceed it. It is recommended that jurisdictions, regardless of geographic location, enter into mutual aid agreements with entities possessing higher and lower level capabilities.

■ Basic Process:

- When initiated in a response entity to response entity situation, the basic process requires the authorized representative (police or fire chief, sheriff, etc.) to meet and agree to terms of the agreement and then complete a Responding Entity Reimbursement Requirements Schedule as an addendum to the basic agreement. While the attached agreement is generic and can accommodate most situations, modifications can either be made in the base document or provided for as attachments. Once completed, the documents are forwarded to the jurisdictional authority for approval (city council, county commission, fire protection board, etc.)
- When initiated in a jurisdiction to jurisdiction situation, the basic process will require a more coordinated effort to ensure jurisdictional response entities are afforded the opportunity to participate in the agreement. At the city level this could include the police and fire departments, ambulance services, public works, hazardous material teams, bomb and search and rescue teams, or other publicly support entities. Depending on the funding and support mechanism, there may be a need to amend or address specific requirements for participation through an addendum. At the county level, the agreements can be more complex if cities as well as the response entities within the cities are included.

NDDDES is available as a resource to facilitate coordination at the jurisdictional or department level through its regional response coordinators. The department is also prepared to serve as a repository for all mutual agreements once executed and will maintain the documents in WebEOC for reference by emergency management professionals, public safety personnel, and government leaders.

MUTUAL AID AGREEMENT

Memorandum of Understanding (MOU) between

And

- Whereas, the laws of the State of North Dakota provide that each political subdivision is empowered to make and enter into mutual aid agreements with other political subdivisions in order to more effectively respond and provide public safety services during emergency situations;
- Whereas, the undersigned political subdivisions that are parties to this mutual aid agreement must confront numerous threats to public health and safety, including but not limited to natural or manmade disasters;
- Whereas, none of the parties to this Agreement possesses all of the necessary resources to cope with every possible incident, emergency, or disaster by itself, and an effective, efficient response can best be achieved by the application and leveraging of the collective resources of these entities;
- Whereas, the parties to this Agreement have determined it is in their collective best interest to develop and implement preparedness plans and conduct joint exercises in advance of a sudden and immediate need in order to enhance the efficiency and effectiveness of their response to any emergency or disaster;
- Whereas, it is desirable that each of the parties hereto should voluntarily aid and assist each other in the event an emergency situation should occur, by the interchange of response services; and
- Whereas, it is necessary and desirable that a mutual aid agreement be executed for the interchange of such mutual assistance on a local, county, and/or regional basis; Now, therefore, it is hereby agreed by and between each and all of the parties hereto as follows:

■ Terms of the Agreement

- 1) Each party agrees that in the event of an emergency situation, each other party to this mutual aid agreement shall furnish such personnel, equipment, facilities, or services as are available, provided that such actions would not unreasonably diminish the assisting entity's ability to provide emergency services within its jurisdiction.
- 2) Each party shall designate the appropriate official within its jurisdiction who has the legal authority to bind its jurisdiction to this Agreement and who shall sign this Agreement.
- 3) In order to invoke assistance under the provisions of this Agreement, the authorized representative from the requesting entity shall be required to contact the Authorized Representative of the responding entity by voice communication system, in writing or through a message relay provided by an emergency dispatch center. Any request for aid hereunder shall include a statement of the amount and type

equipment and personnel requested, and shall specify the location to which the equipment and personnel are to be dispatched. The responding entity may request such information from the requesting entity as is necessary to confirm the emergency situation and to assess the types and amounts of assistance that shall be provided.

- 4) During an emergency situation, all personnel from responding entity shall report to and shall work under the direction of the designated incident commander/unified command. Personnel from either the requesting or the assisting entity may receive supervision from any command personnel from the combined participating entities if authorized by the incident commander or designee in the incident command structure. Tactical teams (e.g. bomb disposal, canine, and special weapons) shall operate under the direction of their tactical commander once they are authorized to undertake assignments.
- 5) Pursuant N.D.C.C. § 44-08-20, N.D.C.C. § 37-17.1-14 and N.D.C.C. § 12-63-03 sub 2 peace officers employed by parties named herein and acting pursuant to this agreement shall have the full and complete authority of a peace officer in any of the jurisdictions named herein.
- 6) In any emergency situation in which the mutual aid agreement has been invoked, radio communications will be established between the entities, where possible, through the use of the local public mutual aid radio system or utilization of the statewide frequency management interoperability plan.
- 7) Assisting entity personnel and equipment shall be released by the requesting entity when the resources are no longer needed. The assisting entity may also withdraw its personnel and equipment when deemed to be in the best interest of the assisting entity and following notice provided to the requesting entity of the intended action. The assisting entity may withdraw resources if it determines response conditions are beyond acceptable risk. There will be no liability for withdrawal placed on or transferred to the assisting entity.
- 8) The requesting entities agree to reimburse assisting entities for actual costs of personnel, equipment, facilities, and related resources used during the period of assistance unless mutually accepted costs associated with these resources have been pre-identified in addendum to this agreement. The providing jurisdiction and or discipline may waive all or any part of the payment for costs at its sole discretion depending on the size of the mutual aid package and the length of the deployment. Funding sources associated with this agreement may include any or all combinations of federal, state, local, and private funding. Signatories understand that federal reimbursement, as a result of declared disasters or emergencies, is contingent upon policy and practice. If participating jurisdictions routinely waive response costs, such costs normally acceptable for federal reimbursement will be ineligible. All reimbursement will be based upon proper documentation, accountings, inventories, receipts, and other evidence of expenses provided by the responding entity.
- 9) Any lending of a facility pursuant to this agreement is subject to the following conditions:
 - (a) Any request for aid hereunder shall include a statement of the amount of work space requested and type of support systems desired. This will be dependent on availability of resources.
 - (b) The host agency will provide oversight of requesting agency's technical experts tasked to establish and maintain information technology operating and communications systems.
 - (c) Requesting entity will not connect, disconnect, or otherwise modify any information technology operating or communications system without the expressed permission of host agency staff.
 - (d) Requesting entity shall vacate the facility when the facility no longer is operationally required by the requesting agency or the facility becomes operationally required by the host agency. The host agency shall provide notice to the requesting agency for the return of the facility.

(e) Requesting entity shall return facility to host agency in like condition as when requesting agency first occupied the workspace.

10) Liability, Workers' Compensation, Property Damage.

a) Workers' Compensation Coverage: Each member political subdivision will be responsible for its own actions and those of its employees and is responsible for complying with the rules established within the State of residence of the entity. Coverage under this Act may be obtained (1) by a policy with an insurance company licensed to do business in the State of residence of the political subdivision (2) by being a qualified self-insured, or (3) by being a member of a group self-insurance association. Each member political subdivision should understand that workers' compensation coverage does not automatically extend to volunteers. Each political subdivision may obtain workers' compensation coverage for any volunteer at the political subdivision's discretion. Workers' compensation coverage for certain volunteers (e.g., volunteer fire fighters, volunteer lifesaving or volunteer rescue squad members, volunteer law enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, volunteer emergency medical technicians, and members of volunteer search and rescue organizations) may be obtained by adding this exposure to the locality's workers compensation coverage. As an alternative, the individual volunteer department or person may obtain workers' compensation insurance coverage for this exposure.

b) Automobile Liability Coverage: Each member political subdivision is responsible for its own actions and is responsible for complying with the motor vehicle financial responsibility laws of the state of residence of the political subdivision. Coverage under these laws may be obtained (1) by a policy with an insurance company licensed to do business in the state of residence of the political subdivision, (2) by being a qualified self-insured, or (3) by being a member of a group self-insurance association. Each member locality agrees to obtain automobile liability coverage with at least a \$250,000.00 per person and \$500,000.00 per occurrence limit and coverage extended to owned, non-owned, and hired vehicles. It is understood that the member political subdivision may include in the emergency response volunteer companies that have motor vehicles titled in the name of the volunteer company. It is the responsibility of the member political subdivision to determine if the volunteer company has automobile liability coverage as outlined in this section. This provision is met by being a qualified self-insured or by being a member of a group self-insurance association.

c) General Liability, Public Officials Liability, and Law Enforcement Liability:

(1) Each member political subdivision is responsible for its own actions.

(2) For the purposes of North Dakota Century Code (NDCC 32-12.1 Governmental Liability) only, the employees and officers of the assisting entity are deemed to be employees of the requesting entity.

(3) Under no circumstance, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in NDCC 32-12.1, applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party.

11) On a regular basis, each party shall develop and update a plan providing for effective mobilization of resources and facilities.

12) Interagency assistance plans may be developed and updated on a regular basis by the parties hereto and are operative between the parties in accordance with the provisions of such plans. In addition to the emergency response plans set forth in this agreement, the parties herein may develop and implement memorandums of agreement relating to additional assistance on a routine non-emergency basis.

13) The parties agree to meet on a regular basis to review interagency assistance plans and the provisions of this Agreement.

14) Nothing within this agreement shall prevent any of the parties herein from entering into similar agreements with any other entity.

15) This Agreement shall become effective when approved and executed by the appropriate political subdivision of each party to this Agreement. The Agreement shall remain in effect between each and every party until participation in this Agreement is terminated by the party. Termination of participation in this Agreement by a response entity shall not affect the continued operation of this Agreement between and among the remaining parties. Any party to this Agreement may terminate participation in this Agreement upon thirty days written notice addressed to the designated public official of each of the other signatory political subdivisions that are parties to this Agreement. This Agreement is binding on future political subdivisions boards and commissions and participating response entities unless affirmative measures have been taken to terminate the Agreement as defined herein.

16) The execution of this Agreement shall not give rise to any liability or responsibility for failure to respond to any request for assistance made pursuant to this Agreement. This Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action whatsoever hereunder for any cause whatsoever.

In witness whereof, this Agreement has been executed and approved and is effective and operative as to each of the parties as herein provided.

Jurisdiction/ Organization

Jurisdiction/ Organization

Name

Name

Date: _____

Date: _____

Attest:

Attest:

Title

Title

■ Addendum - Responding Entity Reimbursement Requirements

Schedule

This addendum to the Mutual Aid Agreement between _____ and _____ identifies the supporting costs that will be billed and sought after rendering aid mutually in accordance with the agreement. The costs associated with the _____ have been pre-identified below and made known to all parties to this agreement.

The _____ as a contributing response entity to this agreement identifies that the following cost schedule, representing less than 100 percent of the actual costs will be billed within _____ days of supporting mutual aid requests conducted under this agreement. The supporting entity requires payment _____ days after receipt of the billed expenses. The right to waive reimbursement costs for extenuating or unusual circumstances is retained and reserved for the authorized representative or in the absence a designee.

| | | | |
|--|------------------------------------|---|--------|
| Department: | | | |
| Address: | | | |
| Authorized Representative: | | | |
| Authorized Designee: | | | |
| Effective Date of Cost Schedule: | | | |
| Operational Period: | | | |
| All periods or hours All hours after _____ hour/s | | All periods after _____ period/s Other: | |
| Reimbursement Requirements: | | | |
| Fuel and oil: | Actual costs based on receipts: | Flat rate of _____ per mile | Other: |
| Consumable Supplies: | Actual costs based on consumption: | Flat rate of _____ per response | Other: |
| Return to station cleanup: | Actual costs based on time: | Flat rate of _____ per vehicle per response | Other: |
| Equipment damage repair and replacement: | Actual costs based on receipts: | Actual costs less depreciation: | Other: |
| Responding personnel: | Actual salary costs: | Actual stipend costs: | Other: |
| Backfill personnel: | Actual salary costs: | Actual stipend costs: | Other: |

Signature of Authorized Representative

Date

Department

■ Agreement Policy and Procedures

A. Purpose

This agreement is intended to define assistance policy that relates to the capabilities and obligations of participating entities/jurisdictions to respond to emergency situations outside individual jurisdictional boundaries. The signatories shall participate in the Agreement in order to strengthen the collective response to emergency situations.

B. Scope of Agreement

1. The signatory jurisdictions and participating response entities with consent of their governing bodies, in accordance with state law and local authorization, have entered into a cooperative memorandum of understanding whereby each may request temporary emergency assistance from any or all other member entities.

2. The Agreement may be invoked by authorized personnel in a formal request for assistance from member jurisdictions or entities during emergencies, as defined herein.

3. Under terms of the Agreement, the undersigned entities are committed to provide personnel, equipment, facilities and specialized units to a participating party to the extent it will not endanger emergency response capabilities or services of the assisting jurisdiction.

4. In order to maintain efficient implementation of the Agreement, authorized representative of member entities or their designee will have the following responsibilities:

- a. Meet with other member entity representatives to formulate or revise emergency plans, share information, and assess general emergency needs of the region.
- b. Provide data, upon request, to member entities concerning each member entity's available manpower per shift, equipment, facilities, and specialized units, and receive similar information from the other member entities.
- c. Negotiate modifications to the Agreement.

5. The costs of salaries or wages, pensions, relief and workers' compensation for loaned personnel resulting from mutual assistance duty, shall be allocated according to the Agreement or addendum to it.

C. Requests for Assistance

1. Requests for assistance by an entity shall be forwarded to the authorized representative of the providing entity in a timely manner through the chain of command.

2. Before requesting assistance from another entity, the authorized representative shall ascertain the following:

- a. Nature of the emergency
- b. Measures taken to control the situation and reasons the measures have proved insufficient.
- c. Estimates of amount of equipment, personnel, facilities, or special units that will be necessary to

manage the incident.

3. Requests may be made by voice communication, in writing, or through a message relay provided by an emergency dispatch center and are subject to confirmation.
4. The requesting entity is responsible for providing member entities with information necessary to determine the type and amount of assistance required.
5. Each member entity is only committed to providing assistance only to the extent that it does not endanger primary operations and may, with proper notice, withdraw loaned personnel or equipment when circumstances require redeployment in their jurisdiction.
6. All member entities, whether or not requested to provide assistance, shall remain on alert status during the term of the emergency.

D. Emergency Scene Responsibilities

1. The incident commander or member of the unified command with discipline responsibility of the requesting entity shall be in charge of operations at the emergency site. All loaned personnel shall follow the lawful orders of the designated supervisor. However, when the provided assistance involves the loan of a specialized SWAT, hostage negotiation, bomb disposal, or canine unit teams, the commander of that specialized unit shall be responsible for implementation of the mission, as determined by the incident commander or unified command of the requesting entity.
2. When taking law enforcement actions at the emergency site, including uses of force, peace officers from member entities shall follow the guidance and direction of the requesting department or in the absence of direction, the base policy of supporting department. Peace officers shall utilize only those weapons and tactics they have been trained and deemed qualified to use.
3. Responders on loan from the providing entity at an emergency site shall regularly apprise their sponsor entity's immediate supervisor concerning the continued status of the emergency, line-of-duty injuries, or need for relief.

E. Withdrawal or Redeployment

1. The assisting entity may withdraw or redeploy its personnel and equipment when it is deemed to be in the best interest of the assisting entity and following notice provided to the requesting entity of the intended action.
2. Withdrawal or redeployment may occur when:
 - a. Termination of event has been declared.
 - b. The event has downgraded to a point the requesting entity can assume full operational control and releases assisting entity.
 - c. Emergency events occurring within assisting entity's jurisdiction take precedence and/or require immediate action.
 - d. A higher priority incident occurs within the jurisdiction of another party to this agreement and assistance has been requested.
 - e. Scene safety is in question.

■ Glossary of Terms

- **Addendum.** An addition to a completed written document. Most commonly this is an explanation in a contract, or some point that has been subject of negotiation after the contract was originally proposed by one party. Although often they are not, addenda should be signed separately and attached to the original agreement so that there will be no confusion as to what is included or intended.
- **Agreement.** Means this Memorandum Of Understanding which sets forth the services provided as well as the terms and conditions under which the services are provided and includes its exhibits, attachments, and any renewals or attachments.
- **Authorized Representative.** Individual or designee (police or fire chief, etc.) normally responsible for entity, who has authorization to request, offer, or provide assistance under the terms of this Agreement.
- **Backfill.** Replacement personnel who perform the regular duties of other personnel while they are performing eligible emergency work under this agreement.
- **Declared Emergency or Major Disaster.** An emergency or major disaster as defined at 44 CFR § 206.2 (a)(9) and (17), respectively.
- **Emergency.** Any incident(s), human-caused or natural, that requires responsive action to save lives; protect property, and public health and safety; or to lessen or avert the threat of a catastrophe and which is beyond the capacity of an entity to effectively control.
- **Incident Commander.** The ranking official responsible for overseeing the management of emergency relating to operations, planning, logistics, and finances of the field response.
- **Period of Assistance.** The period of time beginning with the departure of any personnel and/or equipment of the assisting party from any point for the purpose of traveling to provide assistance exclusively to the requesting entity, and ending on the return of all of the assisting party's personnel and equipment to the regular place of work or assignment.
- **Providing Entity.** The entity providing mutual aid assistance to a requesting entity pursuant to a local or statewide mutual aid agreement.
- **Requesting Entity.** An entity that requests mutual aid assistance from a providing entity for emergency work resulting from a local incident, emergency, or major disaster within its legal jurisdiction.
- **Staging Area.** Location established where resources can be placed while awaiting a tactical assignment.