



# SURVEY: MUTUAL AID AGREEMENTS WITH TRIBAL NATIONS

July 2017

National Emergency Management Association (NEMA)

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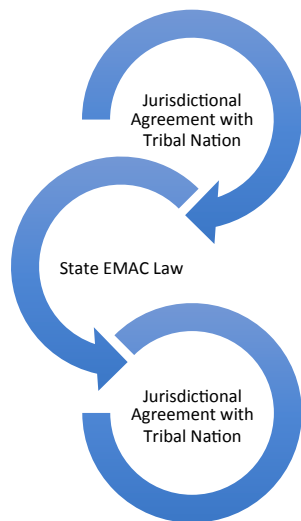
The *Mutual Aid Agreements with Tribal Governments Survey* paints the landscape of mutual aid agreements between State, Local, and Tribal government. As the emergency management industry broadens within partnerships to protect their communities, this survey conducted by the National Emergency Management Association (NEMA) in cooperation with the International Association of Emergency Managers (IAEM) and Big Cities Emergency Managers (BCEM) captures the scale of that landscape with a broader audience than when a similar survey was sent to State representatives in 2007.

The purpose of the survey is to update the knowledgebase of mutual aid agreements with Tribal Nations and identify commonalities and best practices for those who may need guidance in how to get the conversation moving with Tribal Councils and jurisdictions that share borders. The survey also provided the opportunity to explore any impact to policy that may have occurred since the implementation of the Sandy Recovery Improvement Act of 2013 that provides federally recognized Tribal governments the option to directly request a Presidential emergency or major disaster declaration.

## Executive Summary

Mutual aid agreements between Tribal Nations and U.S. Cities and States elevates in need as the severity of disasters increase and emergency management is called to assist in the safety and protection of their communities and surrounding communities. This survey found that Tribal Nations are supported through State networks and Local mutual aid agreements. Further, Tribal Nations are invited in participation of major exercises and training opportunities.

In comparison to the 2007 survey results, there is little change in mutual aid agreements at the State level. The biggest difference between the 2007 and 2017 surveys was broadening the audience to include local representation. This provided in-depth insight on the partnerships Tribal Nations have with other Tribal Nations in addition to their local jurisdictions.



While Local government supports resource requests; the States appear to be the authority when it comes to providing assistance to Tribal Nations through formalized mutual agreements. Further, the survey indicated no differences in mutual aid integration based upon whether or not a Tribal Nation was Federally or State recognized.

The best practice is clearly the use of statewide mutual aid agreements inclusive of Tribal Nations as jurisdictions to ensure the acceptance of when and how to provide support. These agreements also enable a State to utilize the Emergency Management Assistance Compact (EMAC) to support Tribal

Nations.

In 2010, the State of Arizona utilized EMAC to deliver supplies to the Navajo Reservation during statewide flooding<sup>1</sup>. EMAC also enables a State to share resources from a tribe outside of their State. Through the use of EMAC and supplemental jurisdictional agreements, it is possible for a Tribal Nation to share resources to another Tribal Nation should the need arise.

Best practices and thoughtful considerations are incorporated as guidance to those jurisdictions who may want to formalize agreements or further investigate how best to bring stakeholders to the table and begin the discussion of sharing resources.

The impact of the Sandy Recovery Improvement Act did not substantially change existing agreements or their implementation. States and Tribal Nations considered its implementation as awareness in the act of planning and updating their mutual agreements.

#### **The Tribal Nation Accurately Captured the Value of Mutual Aid**

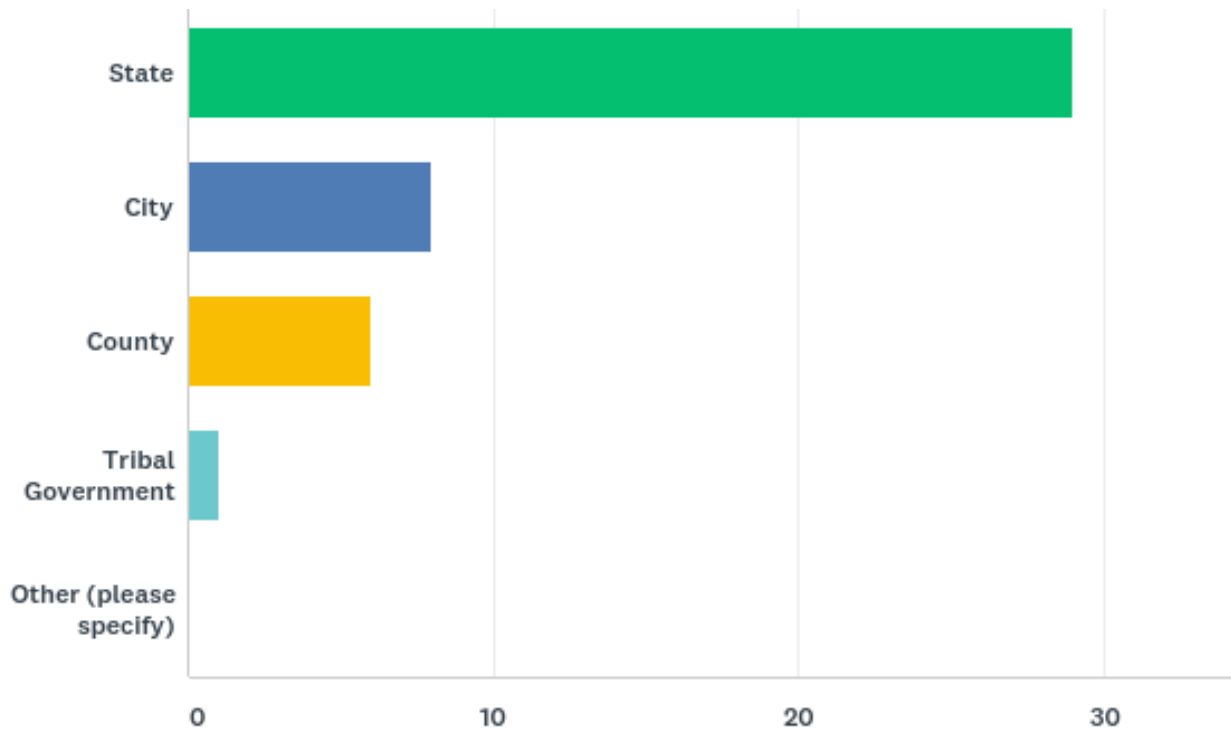
**“The initiation of their mutual aid agreement was deemed one of the few times where counties, cities and five Tribal Nations came to an agreement in assisting each other.”**

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<sup>1</sup> EMAC Events Archive: Arizona Flooding. January 2010.

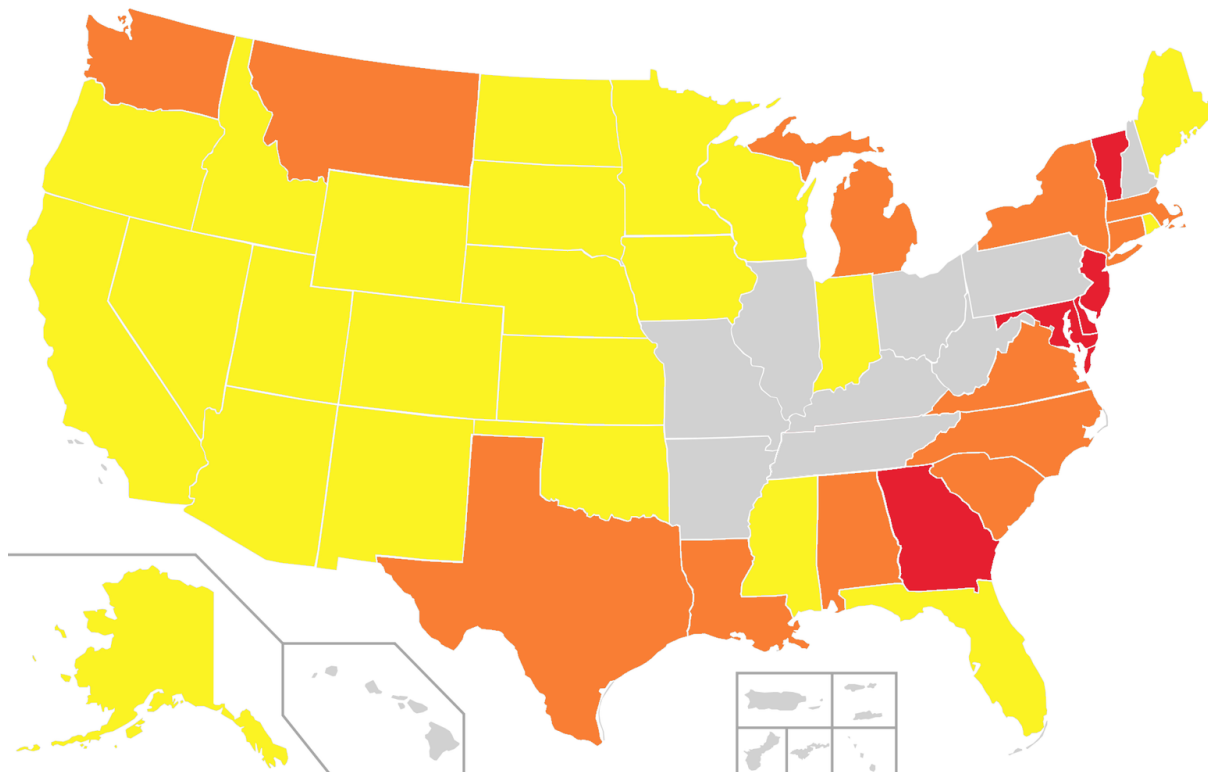
## Survey Response Rate

Forty-four (44) entities responded to the survey providing an update to the 2007 survey data.



The State response was the highest with 65.91% of the survey responses from States. Note that eight (8) of the U.S. States do not have State or Federally recognized Tribal Nations. Local government was the second largest response rate at 31.82%. The bulk of these responses were from the Big Cities Emergency Managers. One Federally recognized Tribal Nation also submitted a response.

In July 2015, the United States Federal Register listed 566 Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs.<sup>2</sup> The map, below, uses a color code to indicate if a State has Federal or State recognized tribes.<sup>3</sup>



**Color Legend:**

Yellow: Federal recognized tribes  
Orange: Federal and State recognized tribes

Red: State recognized tribes  
Grey: Neither Federal nor State recognized tribes

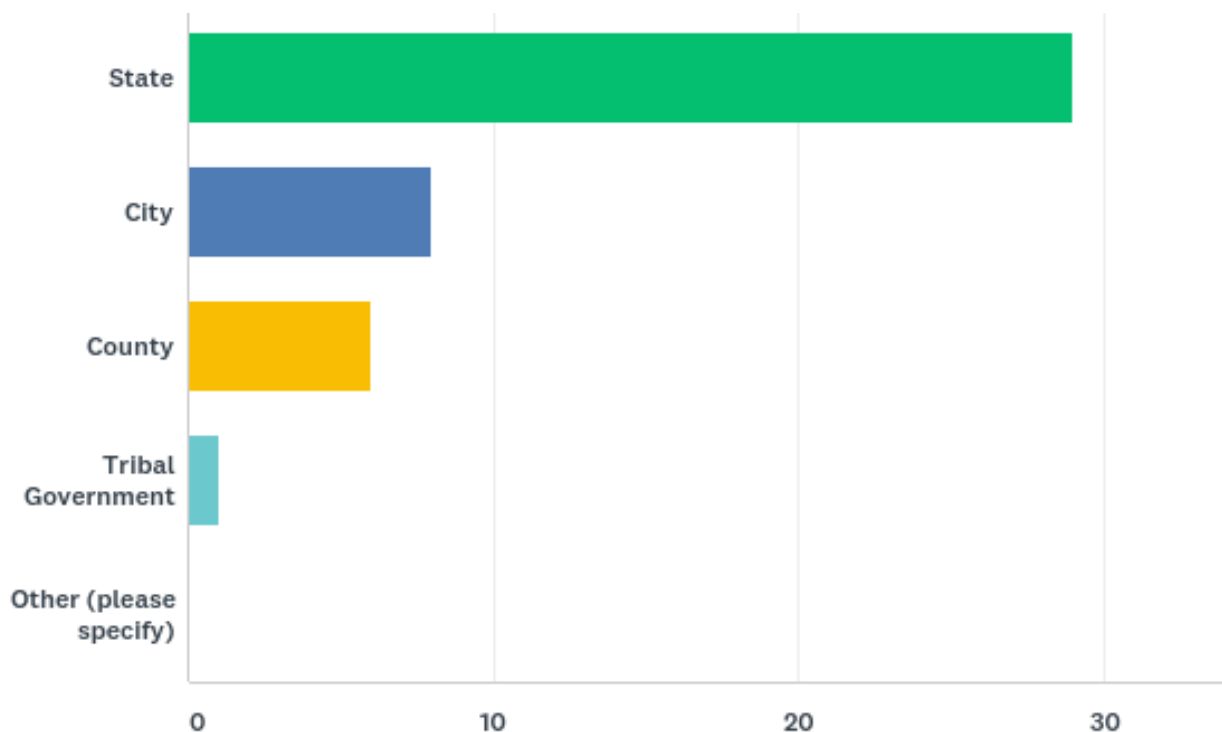
This assists in identifying any impacts within their authority language or structure as it relates to mutual aid agreements.

Four of the survey respondents were from States that do not have State or Federally recognized Tribal Nations.

<sup>2</sup> [Federal Register, Volume 80, Number 9 dated January 14, 2015](#) and [Federal Acknowledgment of the Pamunkey Indian Tribe 2015](#)

<sup>3</sup> By User:Bellerophon5685, User:Yuchitown - updated version of File:Tribal recognition by state.png, CC BY-SA 3.0, <https://commons.wikimedia.org/w/index.php?curid=46588727>

Most survey respondents identified Federally recognized Tribal Nations (54.17%) while some, (20.83%) identified both State and Federal tribes; and a few (8.33%), identified State only recognized Tribal Nations.



## Authorities

Across all respondents, there is no language stated within any constitution, ordinance, statute, regulation, policy, opinion, interpretation of the law or other authority that would prevent or inhibit the ability of any Tribal Nation from acting as a sub-grantee when the State is a grantee of the Federal government. There is a common ground among state government that Tribal Nations may have the same rights and receive the same level of support as county governments with regards to emergency management.

Examples of authority language provided are listed in state statutes:

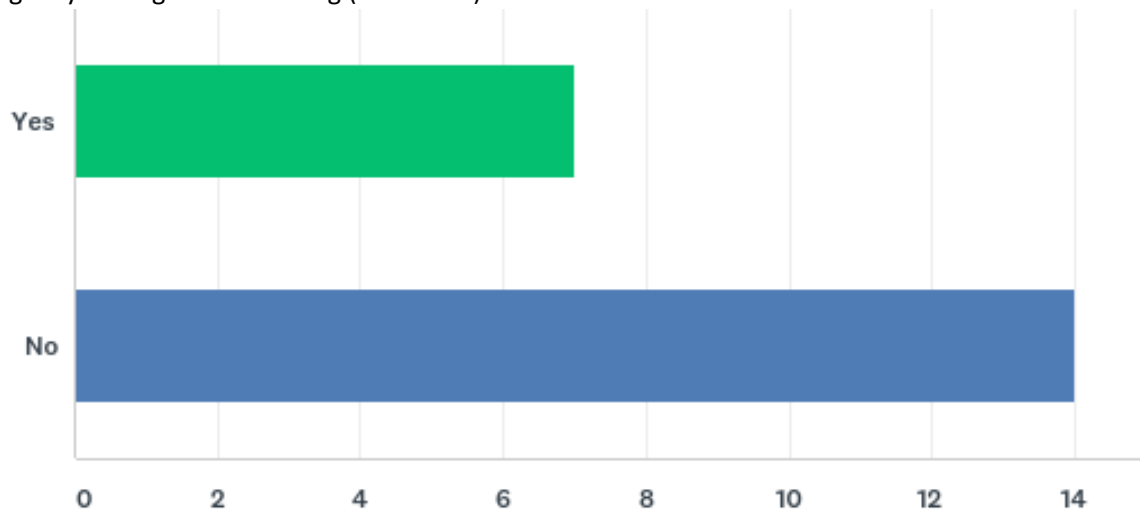
Oregon Military Department, Office of Emergency Management, Division 10, 104-010-0005 provisions, [“Participation of Local and Tribal Governments in the Emergency Management Performance Grants \(EMPG\) Program of the Federal Emergency Management Agency \(FEMA\)”](#)

[2016 Florida Statutes, Section 285.18](#), authorizes the Federal recognized tribes of Seminole Tribe of Florida and the Miccosukee Tribe of Indians as respective governing bodies of “special improvement districts” which further describes the duty and power those governing bodies oversee.

[Utah Code, 53-2a-104](#) authorizes political subdivisions within each designated State region provisions of coordination.

## Emergency Management Funding

Seven (7) of the twenty-one (21) State respondents indicated that the Tribal Nation receive formalized emergency management funding (i.e. EMPG).



## Mutual Aid Agreements

Emergency management related mutual aid agreements between State, Local, and/or Tribal government and Tribal Nations vary in structure from a national perspective.

Over half of the responses (69.57%) indicated as 'other' as those governments do not have a mutual aid agreement with a Tribal Nation or it is not specific in definition to pinpoint in the categories offered in the survey.

For example, Tribal Nations are actively working with VOADs like the Red Cross with mutual aid agreements or may have mutual aid agreements with their Local Fire or EMS (ambulance) departments for emergency services. NEMA would suggest outreach to the Red Cross to determine the scope of Red Cross engagement with Tribal Nations.

The results reflect more State/Tribal mutual aid agreements (30.43%) now than in 2007 but that may be due, in part, to the larger State representative response. The comments from the Local representatives indicated that most formalized mutual aid does concentrate at the State level. This is particularly true in cases where States provide EMPG funding to their Federally recognized tribal governments. Local/Tribal mutual aid agreements (collectively 21.74%) are indicated but without any examples.

While outside the scope of this survey, Tribal Nation to Tribal Nation mutual aid agreements do exist. The United South and Eastern Tribes, Inc. (USET) membership is



at twenty-six (26) members. USET has been the national lead in the development of mutual aid agreements between tribes. NEMA would suggest outreach to USET for an update on mutual aid activities between Tribal Nations.

**NEMA updated the survey data from 2007 with 2017 survey data:**

State	Enabling Mechanism
Alabama	<a href="http://intrastatema.insct.org/wp-content/uploads/2012/11/Alabama.pdf">http://intrastatema.insct.org/wp-content/uploads/2012/11/Alabama.pdf</a>
Arizona	The Arizona Mutual Aid Compact
Connecticut	Currently Limited to Law Enforcement Mutual Aid, Connecticut Public Act 17-4; Tribes are treated as Mutual Aid partners under CGS section 28-22a; although they are not explicitly members of the intrastate compact.
Florida	Statewide Mutual Aid Agreement includes Tribal Nations as it would Local governments
Iowa	Code of Iowa 29c.22
Kansas	Kansas does not have any specific state statute that creates an intrastate mutual aid system that includes tribal governments, however tribal governments may seek assistance from their county emergency management agency, State of Kansas, or enter into other inter-jurisdictional mutual aid agreements with political subdivisions.
Louisiana	Louisiana Rev Stat § 29:725.6 (2016) 725.6. State Unified Command Group
Maine	Maine's four recognized Tribes are covered by the Statewide Mutual Aid Agreement: <a href="https://www.maine.gov/MEMA/incident/mema_im_mutual.shtml">https://www.maine.gov/MEMA/incident/mema_im_mutual.shtml</a>
Michigan	Michigan Emergency Management Act (MEMAC), Article II states, "The State of Michigan, counties, municipalities, townships, political subdivisions, federally recognized tribal nations and interlocal public agencies of the State of Michigan may become a party to this agreement by executing a copy of this agreement and providing a copy with original signatures and authorizing resolution(s) to the Emergency Management Division."
Montana	2005 Mutual Aid Law
Nebraska	Nebraska Emergency Management Act
New Mexico	An Indian nation, tribe or pueblo located within the boundaries of the state may become a member jurisdiction upon adoption by the tribal government of a resolution declaring the tribe's desire to be a member jurisdiction and intent to comply with the provisions of the Intrastate Mutual Aid Act and the guidelines and procedures adopted by the committee. Participation becomes official upon receipt by the New Mexico Office of Emergency Management, Response and Recovery Bureau of a copy of the resolution.
North Carolina	<a href="http://www.ncem.org/MUTUAL/index.htm">http://www.ncem.org/MUTUAL/index.htm</a>
Oregon	SB 62 allows Oregon's tribes to opt in to the Oregon Resource Coordination Assistance

	Agreement (ORCAA): <a href="https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB62">https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB62</a>
South Carolina	The South Carolina statewide mutual aid agreement includes the County governments in which the tribes are located. The tribes access the mutual aid system through County government.
South Dakota	South Dakota has a statewide mutual aid law in SDCL 34-42. It encompasses tribal nations.
Utah	U.C.A. 53-2a-104: Statewide mutual aid act which includes the Federally recognized Tribes
Wisconsin	2005 WI Act 257 and Administrative Rule WEM 8 specifically anticipates and includes tribal nations as participants in MABAS.

Most survey respondents indicated they have not utilized the mutual aid agreements they have in place to date (72.22%) or may not have records to validate utilization. Of those who have utilized mutual agreements (27.78%), it was primarily in response to flooding, fires, and EMS.

Along with the mutual aid agreements most obtain written procedures that document how to support the aid (72.22%).

## Mutual Aid Best Practices Identified

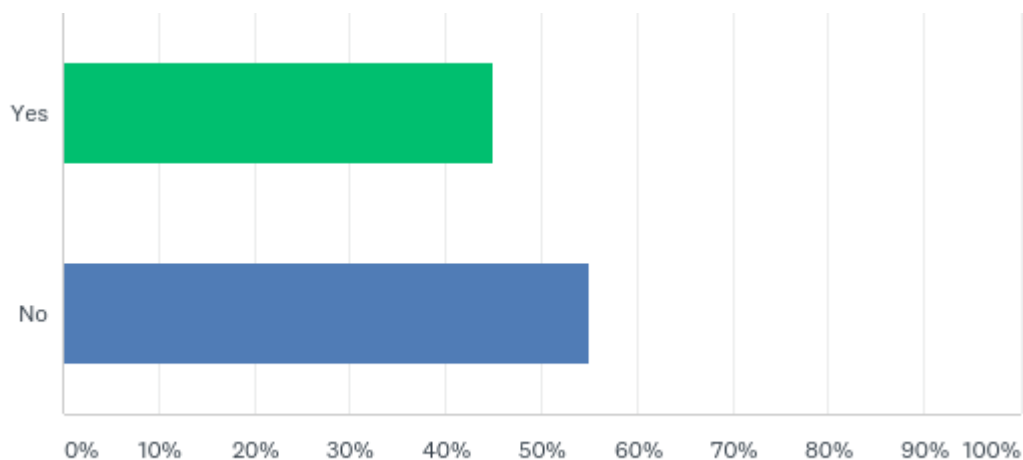
NEMA identified the following best practices:

- The inclusion of Tribal Nations in statewide mutual aid agreements enables a State to provide support to a Tribal Nation as they do counties. This also enables Tribal Nation to utilize EMAC.
- The Michigan Midland flooding in June 2017 highlighted the success of the strong support provided in the Local EOC from the Tribal liaison.
- The utilization of the mutual aid agreement deemed one of the few times where counties, cities and five Tribal Nations came to an agreement in assisting each other.
- Even with no mutual aid agreement in place, states and Tribal Nations still participate in exercises and large-scale incidents.

A unique perspective on lessons learned: “As with [larger size] local government jurisdictions, tribal governments in our county have varying capabilities based on their varying resources. Prioritization has been placed on developing first response capabilities before more emergency management capabilities. Fire and rescue mutual aid is a much more defined, established, and practiced process and the tribes in our county are well integrated into that. We don’t have emergency management mutual aid, but we do coordinate and communicate, and its primarily been built off working and developing relationships with the public safety personnel of the Tribe (i.e. fire, security/law, environmental health). Once mutual aid gets into the content lawyers need to review issues of sovereign and immunity and the like can be a challenging item to work through. Handshake agreement level mutual aid may be all that is possible in some situations. Not the ideal, but the reality in some cases.”

## Intrastate Mutual Aid Systems

Through implementing a structure designed for mutual aid within a State, some States established an intrastate mutual aid system authorized through statute. The survey indicated that over half of the states do not have an intrastate mutual aid system or if they do have a system it does not include Tribal Nations (55.00%).



States that have emergency management acts and statewide mutual aid agreements along with enabling mechanisms for Local government to deploy through EMAC are more likely to include Tribal Nations.

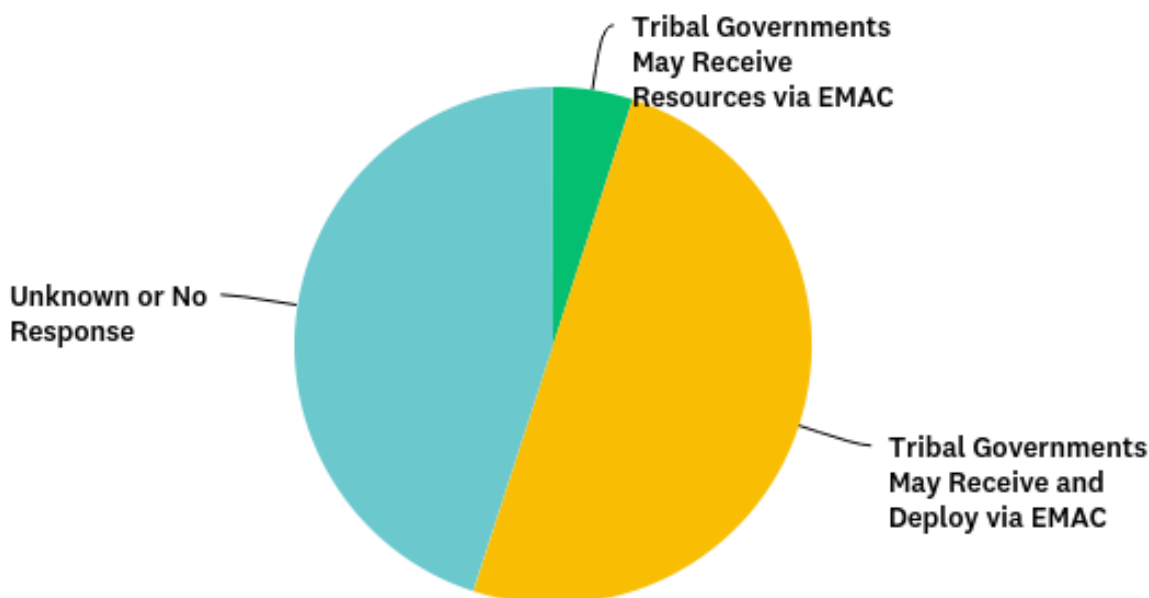
In some cases, States noted they did have an intrastate mutual aid system for specific disciplines. For example, *Connecticut Public Act 17-4* currently is limited to law enforcement. Tribal Nations are treated as mutual aid partners under CGS section 28-22a; although they are not specifically called out as members of the intrastate compact.

Local and State resources are the foundation of the EMAC system. Resources that are pre-identified, trained, exercised, and integrated into an intrastate mutual aid system whether it be by legislation of memorandums of agreement/understanding are more likely to be utilized outside the State. As the federal government looks for areas where costs can be trimmed from the budget, the focus on Local, State, and Tribal Nation resources should rise to the forefront. These assets are trained for the jobs they do on a daily basis. Leveraging these resources for national response through EMAC benefits the resources as they gain experience they can take home to implement lessons learned as well as lowering the overall cost of disasters nationally.

## EMAC

While Tribal Nations cannot join EMAC as a Member, half (50%) of respondents indicated that Tribal Nations may receive and deploy resources via EMAC through State enabling mechanisms.

This is significant as it demonstrates that while States have varying implementation procedures for aid to be processed through EMAC, approximately 50% of states have the authority through their statutes, codes and mutual aid agreements to facilitate an EMAC request to a Tribal Nation and to deploy Tribal Nation resources through an EMAC mission.



These supplemental agreements are highlighted as a best practice for the remainder of the States that share jurisdictional boundaries with Tribal Nations.

Given the number of States that are able to deploy Tribal Nation resources, it is possible that at some point in the future EMAC could be utilized for a Tribal Nation to support a Tribal Nation through EMAC utilizing supplemental jurisdictional agreements.

## Future Mutual Aid Opportunities

NEMA does not track if resources are deployed to support response in a Tribal Nation nor does NEMA track if resources deployed through EMAC are from Local government or a Tribal Nation. However, records from 2010 demonstrate the State of Arizona utilized EMAC to deliver supplies to the Navajo Reservation during statewide flooding<sup>4</sup>.

While outside the scope of this survey, it would be interesting to note if States that did not respond are the same States that do not have enabling mechanisms passed as legislation but rather rely upon memorandums of understanding or agreement.

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<sup>4</sup> EMAC Events Archive: Arizona Flooding. January 2010.