

DRAFT MUTUAL AID AGREEMENT

Between the

State of _____
Department of Health
_____ Public Health Laboratory

and the

State of Maryland
Department of Health and Mental Hygiene
Laboratories Administration
201 west Preston Street, Baltimore, MD 21201

1. Parties:

This Mutual Aid Agreement (MAA) is being established between the State of _____ Department of Health, _____ Public Health Laboratory (_____) and the State of Maryland Department of Health and Mental Hygiene's Laboratories Administration (DHMHLA).

2. Purpose:

The purpose of this MAA is to establish a mechanism and plan by which a party (state public health laboratory) under this MAA may request or provide public health laboratory aid to another party (state public health laboratory) under this MAA in response to:

- a. A natural disaster (e.g., hurricane, flood);
- b. A need for surge capacity in response to a biological or chemical terrorism event; or
- c. Other emergencies (e.g., a facility fire, explosion, or contamination) that could result in temporary discontinuation of essential public health laboratory services.

3. Required Authorities for the MAA:

Each party entering this MAA shall append written documentation of the statutory authority required for each party to meet the responsibilities set forth in the following sections:

- a. Except as provided in paragraph “b” of this section, this MAA provides that a party requesting assistance under the MAA shall indemnify and hold harmless a party and/or its authorized personnel that provide aid, from any claim by a third party for property damage, personal injury, or wrongful death that arises out of activities, including travel, that are authorized under this MAA.
- b. The party that requests assistance need not indemnify the party that provides aid if:
 - (1) The party that provides aid does not cooperate in defending against a claim made by a third party;
 - (2) The claim by a third party arises out of a malicious or grossly negligent act of the party that provides aid; or
 - (3) The claim by a third party arises out of an act that is outside the scope of duties under this MAA of the party that provides aid.
- c. This MAA provides that each party to the MAA shall waive any claim against any other parties to the MAA if the claim arises out of the activities of a party that are within the scope of the MAA and that are performed without malice or gross negligence.
- d. (1) Subject to subparagraph (2) of this subsection, an employee of a public health laboratory who has been trained and certified by the director of the employee’s public health laboratory may travel to and provide services at the location of the emergency under this MAA at the request of the employee’s Secretary or Commissioner of Health, or the Secretary or Commissioner of Health’s designee with authority under this MAA.
 - (2) An employee may not travel to or provide services at the location of the emergency under this MAA until the employee’s Secretary or Commissioner of Health, or the Secretary or Commissioner of Health’s designee, approves the employee to travel to and provide services at the location of the emergency.
- e. For purposes of workers’ compensation law or any other employment benefit that would apply to an individual who is performing a service for a public health laboratory under this MAA:
 - (1) The individual shall be considered to have performed that service in the course of employment as a State employee and in the line of duty; and
 - (2) The workers’ compensation law or employment benefit of the state that employs the individual shall be provided by that state when an individual is performing a service in another state.

4. Requesting Aid:

Any party to this MAA may request aid from another party to this MAA. Unless stated otherwise in an attachment to this MAA, there is no guarantee or promise under this MAA that the requested aid will be forthcoming. However, each party will endeavor to provide aid whenever possible without interrupting the normal flow of business and within its testing capabilities and capacities, including bio-safety constraints.

- a- The requesting party's primary contact will initiate the mutual aid process by calling another party's primary contact and arranging mutually convenient times and places for assistance.
- b. Requests for aid may include analytical testing, training, technical assistance, loan of equipment and/or supplies, or other needs to be identified.
- c. Requests may be for aid may range from a part-time to 24/7 basis, subject to capacity and workload limitations of each party.
- d. If the party from which aid is requested is able to provide all or part of that aid, a General Plan shall be implemented under this MAA. A General Plan may include items not covered under section 5, below, with details to be worked out by each party and approved as an amendment or attachment to this MAA.

5. General Plan Standards:

Any general plan agreed to by parties under this MAA shall include of the following standards:

- a. Reimbursement. The party requesting and receiving aid agrees to reimburse the party providing aid for the actual cost of aid-related transportation, per diem expenses, salaries and fringe, services, reagents, personal protective equipment, laboratory supplies, use of loaned equipment, loaned equipment repairs, reporting lab results, telephone/fax costs, shipping and postage fees, etc. upon presentation of an itemized invoice.
- b. Employees and Agents. The employees or agents of each party who are engaged in carrying out this MAA remain employees or agents of that party and are not considered for any purpose to be employees or agents of another party.
- c. Specimen/Sample Transport. The party requesting aid is responsible for costs and operations related to transporting samples/specimens, ensuring their integrity, and meeting any state or federal safety standards for protecting the public's health. Special transport agreements may be established for specific requests.
- d. Testing Equipment. Analytical equipment may be made available at either party's laboratory depending upon workload and scheduling needs at the discretion of and coordination between the primary contacts.
 - (1) Each party is responsible for maintenance and calibration of its own equipment while that equipment remains on its own premises; and
 - (2) The requesting party is responsible for calibration, maintenance, and repair of borrowed instruments while in the borrower's possession.
- e. Personnel Access. Upon mutual agreement of the primary contacts, personnel of the requesting party will be provided access to the aiding party's laboratory during normal business hours. Access outside of normal working hours may be addressed under an amendment or attachment to this General Plan. Where required, the party providing aid shall:
 - (1) Provide temporary identification badges or other access credentials;

- (2) Provide facility-specific safety and other training to requesting party personnel working on-site; and
- (3) When lending equipment, provide any necessary equipment-specific training to personnel using the equipment.
- f. Laboratory Policies. While in each other's laboratory, personnel agree to abide by the rules, regulations, procedures, policies and safety and security protocols of the other.
- g. Security Access. Where required, a party shall provide proof upon request that personnel hold appropriate security clearances/approvals prior to accessing security areas within each laboratory.
- h. Bioterrorism Testing.
 - (1) A testing laboratory conducting confirmatory testing of suspected bioterrorism agents shall use CDC-approved Laboratory Response Network protocols and reagents.
 - (2) All parties shall adhere to chain-of-custody protocols approved by the FBI and make available to one another any necessary documentation required to maintain chain-of-custody.
- i. Staff Training:
 - (1) Each party agrees to make staff and laboratory time available to provide training to the other party as needed.
 - (2) Such training will be provided at no cost and will be pre-arranged between the primary contacts, subject to time and workload constraints.
- j. Reporting Test Results:

It is the sole responsibility of the aiding party performing analytical testing to provide reliable and timely results to the party requesting aid.

 - (1) The testing (aiding) party will report all test results (positive and negative) to the laboratory director of the party requesting the testing (aid).
 - (2) The testing party shall also comply with the Laboratory Response Network protocols regarding notification, if testing involves bioterrorism agents.
 - (3) All testing results will be kept confidential and will not be disclosed by the testing party to any third party, except as authorized by law, and with prior notice to the laboratory director of the party being aided.
 - (4) All parties agree to provide expert testimony or statements, as requested by one another, concerning services, testing activities, protocols, or test results relating to aid provided under this MAA.
- k. Disposition of Specimens/Samples:

The testing laboratory, upon request, shall return positive samples/specimens to the party being aided, at that party's expense and consistent with that party's instructions.

 - (1) The party requesting testing (aid) is responsible for integrity and chain-of-custody of specimens/samples shipped to the party providing aid.
 - (2) The testing laboratory will destroy negative samples/specimens according to its established procedures.
 - (3) The laboratory directors must agree in writing to any other arrangement for disposing or returning samples/specimens.

1. Records Maintenance. Each party to this MAA shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by any party in the performance of the MAA.
 - (1) These records shall be subject to inspection, review or audit by personnel of each party, other personnel duly authorized by one of the parties, the office of a state auditor, and federal officials authorized by law.
 - (2) All books, records, documents, and other material related to this MAA, except medical/laboratory records containing identifiable personal health information, shall be retained for three years after expiration of this MAA, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.
 - (3) Medical/laboratory records containing individually identifiable personal health care information shall be maintained consistent with the laws of each state possessing or using them.
 - (4) Records and other documents, in any medium, furnished by one party of this MAA to another party, shall remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third party without first giving notice to the furnishing party and giving it a reasonable opportunity to respond.

6. Governances:

This MAA is entered into pursuant to and under the authority granted by the laws of the States of Maryland and _____, and by any applicable federal laws.

- a. The provisions of this MAA shall be construed to conform to those laws.
- b. The parties agree that activity pursuant to this MAA shall be in accordance with all applicable current or future federal, state and local laws, rules and regulations.
- c. If any provision of this MAA violates any statute, regulation, administrative rule, or case law of the States of Maryland or _____, it is considered modified to conform to that statute or rule of law.

7. Disputes:

In the event that a dispute arises under this MAA, the parties will make every effort to resolve the disagreement at the lowest organizational level.

- a. If those efforts are not successful, the parties shall seek input from their next higher decision-making authority.
- b. Unresolved disputes shall be brought before a Dispute Board.
 - (1) Each party to this MAA shall appoint one member to the Dispute Board.
 - (2) The members so appointed shall jointly appoint one additional member to the Dispute Board.
 - (3) The Dispute Board shall review the facts, applicable statutes and rules, and make a determination regarding the dispute.

- (4) If there is a conflict of laws, then the laws of the state performing the testing shall apply.
- (5) The parties agree to abide by determinations of the Dispute Board.

8. Severability:

The provisions of this MAA are severable. If any provision of this MAA is found to be invalid by any court, that finding shall not affect the other provisions of the MAA.

9. Amendments:

The parties to this MAA may mutually amend it. Such amendments will not be binding unless they are in writing and signed by personnel of each agency who have the authority or delegated authority to give binding approval on behalf of each party.

10. Integration:

This MAA, any attachments, and approved amendments contain all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this MAA shall be deemed to exist or binding on any of the parties.

11. Period of Performance and Termination:

This MAA will commence on the date of execution, which is the latest date of signatures noted below in section 12 of this MAA.

- a. Since this document describes a continuous relationship between the parties, it will be reviewed biennially by all parties on the anniversary of the date of execution.
- b. If not modified at the biennial review, the MAA is deemed renewed.
- c. Any party may terminate its participation in this MAA upon 30 days advance written notice to the remaining parties.

12. Signatories:

The signatories of this MAA will be responsible for activating it at their discretion when a disaster occurs. For their respective state laboratories:

For: Maryland Department of Health and Mental Hygiene, Laboratories Administration

Signature	_____
Printed name and title	John Colmers, MPH, Secretary, DHMH
Date	_____

For: _____ Department of Health, Public Health Laboratory

Signature	_____
Printed name and title	
Date	_____

Attachment A: Key Contacts and Delegated Authorities

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| <p>a. Key Contacts for Maryland:</p> <ul style="list-style-type: none"> (1) Printed name and title (2) Telephone number(s) (3) Fax number(s) (4) Address | <p>c. Delegated Authority(ies) for Maryland:</p> <ul style="list-style-type: none"> (1) Printed name and title (2) Telephone number(s) (3) Fax number(s) (4) Address |
| <ul style="list-style-type: none"> (1) Printed name and title (2) Telephone number(s) (3) Fax number(s) (4) Address | <p>d. Delegated Authority(ies) for _____</p> <ul style="list-style-type: none"> (1) Printed name and title (2) Telephone number(s) (3) Fax number(s) (4) Address |
| <p>a. Key Contacts for _____:</p> <ul style="list-style-type: none"> (1) Printed name and title (2) Telephone number(s) (3) Fax number(s) (4) Address | |
| <ul style="list-style-type: none"> (1) Printed name and title (2) Telephone number(s) (3) Fax number(s) (4) Address | |