

2018
WILDLAND FIRE MANAGEMENT
ANNUAL OPERATING PLAN

PREAMBLE

This operating plan is prepared pursuant to the Wyoming Interagency Cooperative Fire Management Agreement USDA Forest Service 11-FI-11020000-020, USDI Bureau of Land Management BLM-MOU-WY-930-1202, USDI National Park Service 12491200001, USDI Bureau of Indian Affairs A12MA00028 and the USDI Fish and Wildlife Service 14-48-FF06R03000-12-K001.

PURPOSE

This is a Sub-Geographic Area Annual Operating Plan (AOP) meant to address issues affecting cooperation, interagency working relationships and protocols, financial arrangements, and joint activities across the State of Wyoming. The AOP details operating procedures applicable across the State and those applicable to specific districts. Procedures applicable to specific districts are included in Attachments A, B, C, D, and E, which are incorporated herein by this reference. Signatories to this AOP agree to the procedures applicable across the State and to those applicable to their specific district.

RECITALS

National Response Framework activities will be accomplished utilizing established dispatch coordination concepts. Situation and damage assessment information will be transmitted through established fire suppression intelligence channels.

Jurisdictional Entities are responsible for all planning documents i.e. land use, resource and fire management plans and decision support documents, for a unit's wildland fire and fuels management program.

Protecting Entities implement the actions documented and directed by the appropriate planning documents and decision support documents for initial and extended attack on wildfire incidents. They provide the supervision and support including operational oversight, direction and logistical support to Incident Management Teams.

INTERAGENCY COOPERATION

Interagency Dispatch Centers:

The entities agree to participate in the neighborhood dispatch system. The Entities give authority to the interagency dispatch center to provide the services requested in support of the appropriate center's charter and operating plan. Interagency Dispatch Centers will work together to ensure a positive communication flow and closest available resources will be utilized within capability. For specifics, see individual district attachments.

Mobilization Process for State and County Resources:

When resources, stated in ROSS, are ordered from their local dispatch center for initial attack, it is their responsibility to notify their respective Interagency Dispatch Center of their assignment. It is also their responsibility to notify the respective Interagency Center when they return home.

Standards:

Firefighter Qualifications:

1. Qualifications for local resources utilized for fire suppression within that respective county will meet local standards.
2. Except for County to County resources, all resources ordered through an interagency dispatch center will meet NWCG 310-1 standards. Certification for positions above single resource boss excluding HMGB is the responsibility of Wyoming State Forestry Division.

All Federal agencies will ensure the following minimum required elements are included in the agreement:

1. Local fire department personnel responding to incidents on Federal lands must:
 - a. Be 18 years of age or older
 - b. Have and use the required personal protective equipment (PPE) found in the Interagency Standards for Fire and Fire Aviation Operations ("Red Book" Ch.7);
 - c. Have a basic level of wildland fire training. The National Wildfire Coordinating Group (NWCG) course S-190 and S-130 are recommended, both courses can be modified to fit local needs.
2. Pre-identified incident communication protocols will be established and followed (e.g. frequencies plans, points of contact, and interoperable radio hardware).
3. The Incident Command System (ICS) will be used to manage all incidents.

The minimum elements are critical to ensure safe and effective response to wildfires. While on a Federal incident, local fire department leadership is responsible to only deploy personnel that are in compliance with these minimum elements.

PREPAREDNESS

Protection Areas and Boundaries:

If applicable, each entity will provide a Protection Area Map to be included in district specific attachments.

WSFD:

WSFD shall assume cost of its non-aviation related resources such as overhead, Smokebusters (WHCC), engines, or personnel for a maximum of 24 hours following the initial dispatch to the fire. This shall not be construed as automatic 24 hour dispatch. Any deviation or variation will be at the discretion of the WSFD Fire Duty Officer or their designee. An exception to the 24 hour reciprocal period is the Wyoming State Helitack, provisions are as follows:

1. For all dispatches: WSFD will assume the cost of the aircraft daily availability.
2. To promote safe and aggressive initial attack, fires on all jurisdictions that pose an imminent threat to State and/or Private lands: WSFD shall assume all associated costs of the Wyoming State Helitack for a full operational period to be determined by the WSFD Fire Duty Officer. Federal/other out of state personnel assigned to the Helitack may still be billed to the incident during this time.
3. Fires on Federal lands or those fires that pose no imminent threat to State and/or Private land, WSFD shall seek reimbursement for all costs associated with the Wyoming State Helitack with the exception of the aircraft daily availability.
4. Rates for the Helicopter and supporting costs shall be distributed upon execution of the contract.

Agreements/MOUs for Fire Suppression Responsibilities:

Agreements/MOUs between entities establishing fire suppression responsibilities will be recognized by this Annual Operating Plan. Entities providing this protection may represent the interest of the jurisdictional entity whose lands are being protected. Unless specified otherwise, the lands protected under Agreement/MOU will be afforded the same conditions/terms as the protecting entity's lands (i.e. mutual aid periods, etc.). All signatories to this Annual Operating Plan will be notified, in writing, of changes or modifications to fire suppression responsibilities by the entity providing protection at the time of an approved Agreement/MOU.

Joint Projects and Project Plans:

On fires that threaten, or involve, the Wildland Urban Interface, the County's Community Wildfire Protection Plan should be referred to for suppression priorities and other information that could prove beneficial to the suppression efforts.

Fire Prevention/Education/Mitigation:

The Entities agree to cooperate in the development and implementation of fire prevention/education/mitigation programs. Entities will collaborate on ways to prevent unwanted wildfires. This program will have an overarching goal of lessening the risk of wildfire impacts to the public and private land and structures especially in the WUI.

Fire Restrictions:

Fire Restrictions and/or Closures will be communicated and coordinated between the Entities to include initiating, implementing, and lifting.

Prescribed Fire (Planned Ignitions) and Fuels Management:

1. Fuels management and prescribed fire projects will be coordinated with the Entities to this agreement.
2. Wildland fires(s) resulting from escaped prescribed fires at the direction or under the supervision of one of the Entities to this agreement shall be the responsibility of that Entity. All suppression costs exclusive of reciprocal periods shall be borne by the responsible Entity. The responsible agency on federal lands shall be the jurisdictional agency. An Entity may take appropriate suppression action when lands under its protection responsibility are involved in or threatened by the fire. Such suppression action may be taken on its own initiative or at the request of the responsible Entity. An Entity may take appropriate suppression action, at the request of the responsible Entity, when lands under its protection are not involved in or threatened by the fire. The responsible Entity shall reimburse the other Entity for all suppression costs incurred in accordance with this clause.
3. Escaped prescribed fires ignited by individual(s) not party to this agreement will be considered as wildland fires requiring suppression action under the terms and conditions of this agreement.

4. Entities agree to share and reimburse, according to the rates established in the Wyoming Wildland Fire Resource Mobilization Guide for resources used on prescribed fire projects, based on availability, qualifications, and need. For Forest Service prescribed fire projects, a separate agreement will be executed.

Smoke Management:

Within their authorities, the Parties to this Agreement agree to cooperate in smoke management efforts. The Wyoming Department of Environmental Quality, Air Quality Division, Smoke Management Program has access to the Wyoming State Forestry Division Wildfire Reporting Program and will assist in the coordination of smoke management within the state in support of the Wyoming Air Quality Standards & Regulations Chapter 10, Section 4, Smoke Management Requirements.

OPERATIONS

Fire Notifications and Reporting:

All fires and initial action on or near land under the protection of an Entity to this agreement and all initial action will be reported as soon as possible to the protecting Entity through the appropriate Interagency Dispatch Center and further instructions agreed upon. The appropriate Interagency Dispatch Center will in turn, notify the appropriate Entity of all fires within their respective fire District boundaries.

Initial Attack:

If one or more Entities to this agreement arrive on initial attack, the first Entity on the scene will assume command or turn command over to another Entity if they have more qualified supervisory personnel. Once protection responsibilities are established, the protecting Entity will either assume command or request a supporting Entity to do so.

Independent Action on Lands Protected by Another Entity:

Nothing herein shall prohibit any Entity, on its own initiative, with notification and coordination with the protecting Entity and without requesting reimbursement from going upon lands known to be protected by another Entity to engage in suppression of wildland fires, when such fires are a threat to lands within that Entity's protection responsibility.

Special Management Considerations:

Heavy Equipment

Heavy equipment will not be used on any lands without authorization and approval by the land use owner/entity.

Use of Aerial Retardant on Federal Lands

Pursuant to agency policy, each federal management unit has identified areas where aerial retardant may not be applied, unless a decision by the Incident Commander determines that human life or safety is threatened and retardant will mitigate that threat. These areas are identified on a map for each unit and may include areas within 300 feet of waterways (streams and lakes); where threatened, endangered, or sensitive species habitat occurs that could be impacted by retardant; and/or where cultural resources exist that have been identified for exclusion from retardant. If retardant is applied in these areas, the agency administrator must be notified for reporting requirements to be met.

Special Lands Designations

On Wilderness lands (Congressional Designated, Wilderness Study Areas, and Recommended/Proposed/Potential Wilderness), and Areas of Critical Concerns (BLM) special tactics must be used. No motorized equipment may be used without proper approval including chainsaws, portable pumps and helicopter landings. Minimum Impact Suppression Tactics (MIST) will be utilized in order to minimize adverse impacts of management actions. Fire management resources will be advised of this and briefed on MIST. Sage Grouse – General Habitat, Priority Habitat and Sagebrush Focal Areas are identified as high value areas to protect from disturbances from wildfires. Aggressive actions and coordination will be taken on all wildfire incidents with these identified areas.

Decision Process:

Escaped Fires or Fires Threatening Other Jurisdictions

Field personnel, involved in fire suppression action, will contact the other protecting Entities as soon as possible after a fire escapes or threatens to escape initial attack near intermingled ownership (defined as different ownership within 1 mile of the fire or it is anticipated that other ownerships may be involved) and a Unit Administrator Group (see Glossary) will be assembled by the initial attack Entity to represent the jurisdictional Entities involved with that fire. For a list of the designated representatives for creating a unit administrator group, see the directory in (Attachment A, B, C, D, and E)

1. Guidelines for assembling the Unit Administrator Group:

- a. A wildland fire that escapes initial attack or threatens other jurisdictions.
- b. The fire is to be determined at a Type III or higher complexity level.
- c. Containment is not anticipated before the next burning period.

2. The Unit Administrator Group's functions is:

- a. To participate in development and approval of wildfire decision documents for managing a fire incident.
- b. To recommend to the appropriate Line Officer(s) the level at which the incident should be managed.
- c. To prepare a Delegation of Authority for Line Officer(s) signature.
- d. To act as the representative for the respective Entity.
- e. To develop incident management objectives and agree on management actions needed.
- f. To initiate a written cost share agreement for Line Officer(s) approval with signatures prior to the end of the fire. (See Example in Wyoming Wildland Fire Resource Mobilization Guide)
- g. To agree to all expenditures whenever the suppression plan must be modified including mop-up, rehab and patrol after demobilization of the fire.
 - 1) The Incident Commander/Unified Command will provide the Unit Administrator Group with an estimated fire cost daily.
 - 2) The Incident Commander/Unified Command and the Unit Administrator Group will reach mutual agreement when the fire situation is such that the group can be demobilized.

Delegation of Authority:

It is recognized that initial attack and rapidly expanding incidents often involve multi-jurisdictions. Determining the appropriate jurisdictions and obtaining delegations of authority in an efficient and effective manner is often difficult and may be further hampered by the remoteness of incidents in relationship to Entities having authority and jurisdictional responsibility.

The Entities which are party to the Annual Operating Plan agree that initial attack delegation will be valid until a qualified incident commander from the entity having jurisdiction is on scene, or a revised or updated incident specific delegation of authority is signed. The Incident Commander being delegated authority should be confirmed through the dispatch log for that position from the Interagency Dispatch Center. Incidents that have been declared as exceeding initial attack and transition to extended attack should have an incident specific delegation of authority in place as soon as possible.

Preservation of Evidence/Fire Cause Determination:

Each Entity is responsible for investigating and taking appropriate law enforcement action for all fires on lands under their jurisdiction. The initial attack Incident Commander will take all responsible precautions to preserve evidence found.

Entities shall render mutual assistance in investigation and law enforcement activities and in court prosecutions to the fullest extent possible. Each Entity shall be responsible for fire-related law enforcement activities on wildfires that originate on their respective lands. To the extent permitted by Federal and State law, the protecting Entity will provide investigation files relative to the fire to the Jurisdictional Entity for legal action and/or prosecution.

USE AND REIMBURSEMENT OF INTERAGENCY FIRE RESOURCES

Cost Share Agreement: See Wyoming Wildland Fire Resource Mobilization Guide

In situations where an incident encompasses land under the protection or jurisdictional responsibility of more than one Entity, a cost share agreement will be initiated as soon as possible prior to containment.

When fires are managed for multiple management objectives, a cost share agreement will be negotiated on a case by case basis.

Where agreement cannot be reached regarding incident strategies, tactics or costs, the discussion will be elevated to the next level of Entity administrators representing each Entity.

For incidents that go beyond the reciprocal period (mutual aid) it should be noted in the Cost Share Agreement that reciprocal (mutual aid) period will not apply; all costs will begin at the start of the incident, unless otherwise specified by an individual district attachment. (i.e. For the sake of this cost share agreement, all cost will be collected from the beginning of the incident and no mutual aid period will apply.)

Private Lands:

The protection of privately owned land and structures are the responsibility of the local Entity that has jurisdiction for the private property.

Federal Lands w/Private Structures:

The protection of privately owned structures on federal lands are the responsibility of the local Entity that has jurisdiction for the private structures. Structure protection responsibilities of the local Entity include actions taken directly on the structure or the immediate area surrounding

structure. The federal agencies will be responsible for keeping the fire from reaching the structures within the scope of agency policy and guidelines.

Entities that elect not to suppress an ignition with intent to manage the fire for resource benefits are responsible for the cost associated with that fire. This includes the cost of protecting private land, structures and infrastructure, as well as other State and Federal managed lands, unless negotiated with the other affected jurisdictions. For incidents that have an initial response objective of protection (suppression) and it is later determined that there is also an opportunity to effectively manage a portion of the incident for resource benefit objectives, Entities should follow the standard cost share principles and many need to develop additional cost share agreements based on changes in the situation and objectives.

The local Entity is responsible for developing structure protection plans and coordinating with the incident management team to implement the plan. This could include the local Entity preparing the plan themselves or working with the incident management team to obtain resources to prepare and implement the plan. The local Entity is responsible for determining any actions to be applied directly to a structure such as wrapping; applying foam, fire gels, or other retardants; sprinkler on roofs, etc.

State Trust Lands w/Private Structures:

The protection of privately owned structures on state trust lands are the responsibility of the local fire service Entity that has jurisdiction for the private structures. Structure protection responsibilities of the local fire service Entity include actions taken directly on the structure of the immediate area surrounding structure. Wyoming State Forestry Division will be responsible for costs associated with keeping the fire from reaching the structures.

Training:

The Entities party to this agreement will coordinate wildland fire training locally, within the county, state and the Geographic Area.

Communication Systems:

Communication frequencies to be used for initial attack are included in each district's attachment.

All Entities will utilize the current year Standard Air to Ground naming convention adopted by the National Interagency Incident Communication Division.

All Entities to this agreement give permission for the use of their respective entities radio frequencies for emergency use only.

Aviation Operations:

1. Aerial resources may be used with prior approval of the jurisdictional Entity unless otherwise specified under “Special Management Considerations” of this plan.
2. Aerial resources will be paid for by the requesting Entity if prior approval has not been obtained.
3. Air to air and air to ground frequencies with designated ground contacts need to be established with dispatch.
4. Aviation use will be requested through the appropriate interagency dispatch center.

Billing Procedures:

- a. **Federal Billings:** Federal Agencies will not bill each other for fire suppression. See sub-paragraph d under this section for State and County billings.
- b. When non-federal resources respond to non-federal incidents outside the State of Wyoming, bill should be submitted to the jurisdictional agency where an existing payment mechanism has been implemented. If an agreement and payment mechanism do not exist, bill should be submitted to the appropriate USDA Forest Service, Rocky Mountain Region, or Intermountain Region.

Wyoming State Forestry Division will coordinate resources, audit bills for services, and forward all completed bills for services to the Forest Service under these qualifying conditions:

- I. When non-federal resources respond to incidents which are outside the State of Wyoming but are within USDA Forest Service Jurisdiction.
- II. When the USDA Forest Service is the Lead Agency for Payment.

All completed bills then be sent to the Forest Service at the address listed below.

USDA Forest Service, Rocky Mountain Region
Attn: Incident Business – Regional Budget Office
1617 Cole Boulevard, Building 17
Lakewood, CO 80401-3305

USDA Forest Service, Intermountain Region
Attn: Incident Business – Regional Budget Office
324 25th Street
Ogden, UT 84401

- c. When non-federal resources respond outside the State of Wyoming to incidents that are under US DOI Jurisdiction or where the US DOI is the Lead Agency for Payment, Wyoming State Forestry Division will coordinate resources, audit bills for services, and forward all completed bills for services to the appropriate DOI Agency at the address listed below in sub-paragraph d.
- d. **State and County Billings:** When State or County resources are used and the fire management activity is within the State of Wyoming, the State or County will bill the protecting host unit.

When the State is the jurisdictional Agency, the Federal Agencies will submit their individual billings to the State and the State will reimburse each individual Agency. When the County is the jurisdictional entity, the Federal Agencies will submit their individual billings to the County and the County will reimburse each individual Agency.

Payment for Wyoming State/County resources will be made direct to the appropriate State/County identified in the billing. The State will coordinate billing questions or disputes with the appropriate County.

Billing Addresses: All bills for services provided to the Wyoming State Forestry Division or to Counties will be mailed to addresses identified in the Appropriate Annual Operating Plans or as listed below:

All bills for services provided to Wyoming State Forestry Division will be mailed to:

Wyoming State Forestry Division
Headquarters Office
5500 Bishop Blvd.
Cheyenne, WY 82002

All bills for services provided to a County in Wyoming:

Refer to the Wyoming Wildland Fire Resource Mobilization Guide on the following website for the County are you to bill: <http://wsfd.wyo.gov/fire-management/fire-business>

All bills for services provided to the Bureau of Reclamation will be mailed to:

Ben Woolf
Group Chief, Lands
Provo Area Office
302 East 1860 South
Provo, UT 84606

All bills for services provided to the Rocky Mountain Region – Forest Service will be mailed to:

USDA Forest Service, Rocky Mountain Region
Attn: Incident Business – Regional Budget Office
1617 Cole Boulevard, Building 17
Lakewood, CO 80401-3305

All bills for services provided to the Intermountain Region – Forest Service will be mailed to:

USDA Forest Service, Intermountain Region
Attn: Incident Business – Regional Budget Office
324 25th Street
Ogden, UT 84401

All bills for services provided to the DOI Department of Interior/BLM will be mailed to:

BLM Wyoming State office
Attn: Fire Program Analyst
PO Box 1828
5353 Yellowstone Road
Cheyenne, WY 82009

All bills for services provided to the DOI Department of Interior/NPS Intermountain Region will be mailed to:

NPS – Intermountain Region
Attn: Fire Budget Analyst
12795 W. Alameda Parkway
Lakewood, CO 80228

All bills for services provided to the DOI Department of Interior/BIA will be mailed to:

Bureau of Indian Affairs – Rocky Mountain Region
Branch of Fire & Forestry
Attn: Budget Analyst
2021 4th Avenue North
Billings, MT 59101

All bills for services provided to the DOI Department of Interior/FWS will be mailed to:

US Fish & Wildlife Service
Mountain Prairie Region 6
134 Union Blvd, Suite 300
Lakewood, CO 80226

The non-federal Entities of Wyoming are cooperators, not contractors. Rates established in the annual Wyoming Fire Mobilization Plan or Mini Fire Mobilization Plan for Wyoming Firefighters Pay Plan and Equipment Use Rates have been agreed upon and accepted by all Entities. Emergency Equipment Rental Agreements will only be executed for equipment not listed in above.

The Jurisdictional Entity is not obligated to reimburse the Supporting Entity for costs incurred during the Reciprocal (Mutual Aid) period unless otherwise specified in a cost share agreement.

Fire Numbers: Entities will share their respective individual fire numbers for cross referencing purposes.

Billing Estimates/Time Frames: On fires where costs are incurred pursuant to the terms of this agreement, the billing Entity shall submit a bill or estimate for reimbursement as soon as possible, but not later than 120 days after the fire is controlled. If the total cost is not known at the time of initial billing, a partial bill, so identified, may be submitted. A final bill, so identified, will be issued within 270 days after control of the fire.

Billing deadlines set forth herein are intended merely to encourage prompt billing, and failure to meet billing deadlines shall not be construed as a release or waiver of claims for reimbursement against the other Entity.

For obligation purposes, the Federal Entities will submit unpaid obligational figures to the non-federal Entities by May 15. The non-federal Entities will submit unpaid

obligational figures to the appropriate federal Entity by September 15 for the previous federal fiscal year.

After the final billing has been sent and additional costs are identified, a supplemental billing may be issued if agreeable to applicable Entities.

Billing Content: A separate bill will be submitted for each fire. Bills or State Form WSFD-41, Exhibit B Invoice Form for Wyoming Firefighters and Equipment (WSFD-41) will be summarized by major categories. Bills or WSFD-41 will include incident name, location, accounting code, jurisdictional unit, incident number, appropriate resource order number, inclusive dates, and will be supported by originals or copies of the following:

Fire Time Reports, OF-288
Summary of travel charges
Equipment Use Invoice and Daily Shift Tickets
Credit card bill, list of purchases
Cost Share Agreement, when applicable
Copy of Resource Order

For out of state resources used on state or private land incidents, their bills will be sent to the address below. Wyoming State Forestry Division will either make payment or forward the bill to the appropriate Entity for payment.

Shielah Esterholdt
Wyoming State Forestry Division
5500 Bishop Blvd.
Cheyenne, WY 82002

INCIDENTS OUTSIDE OF THE STATE OF WYOMING:

Any time non-federal Entity resources respond outside of the State of Wyoming, all bills for services will be sent to the address below, where they will be audited and forwarded on as appropriate. Wyoming State Forestry Division (WSFD) will coordinate resources, audit bills for services, and forward all completed bills for services (Exhibit B's) on to the US Forest Service, Rocky Mountain Regional Incident Business – Regional Budget Office

Shielah Esterholdt
Wyoming State Forestry Division
5500 Bishop Blvd.
Cheyenne, WY 82002

Payment Due Dates: All bills will have a payment due date 30 days after the date of issuance. If payment cannot be made before the 30 days expire, then a 30-day extension, with oral or written justification, may be requested. Voucher difference statements will accompany any payment made that is different than the amount billed.

Disputed Billings: Written notice that a bill is contested will be mailed to the billing agency within 30 days of issuance of the final bill, and will fully explain the area of dispute. Contested items will be resolved within the designated waiver period.

Fire Cost Meeting: The Entities that are party to the cost share agreement will gather their suppression costs and meet to discuss these costs. Contested items will be resolved by signature parties if consensus cannot be reached, these costs will be elevated to the next higher level of management for resolution. After costs for fire suppression have been agreed upon then a bill will be issued to the owing party.

All supporting Entities are subject to examination and audit for 3 years after final payment.

In order to receive EFT payments, Wyoming counties shall register in SAM, www.sam.gov, and follow the instructions on line.

Cost Recovery:

The Authorized Representatives of affected Entities will attempt to reach mutual agreement, as soon as possible after a fire start, on the strategy that will be used to recover suppression costs and damages from the individuals liable for such costs and damages. Such strategy may alter interagency billing procedures, timing and content as otherwise provided in this Agreement. Any Entity may independently pursue civil actions against individuals to recover suppression costs and damages. In those cases where costs have been recovered from an individual, reimbursement of initial attack, as well as suppression costs to the extent included in the recovery, will be made to the Entity taking reciprocal action.

GENERAL PROVISIONS

Personnel Policy:

Employees of the Entities to this Agreement shall be subject to the personnel rules, law and regulations of their respective Entity, unless they are employed temporarily by another Entity to this Agreement and the authority under which such temporary employment is authorized

provides that such employees shall be subject to the employing Entity's personnel laws and regulations.

Modifications:

Modifications within the scope of this Agreement shall be made by mutual consent of the Entities, by the issuance of a written modification request with a minimum of 20 day notice, signed and dated by all Entities, prior to any changes being performed. No Entity is obligated to fund any changes not properly approved in advance.

Annual Review:

This Annual Operating Plan is reviewed annually. Wyoming State Forestry Division will be the lead Entity responsible for preparing the plan.

Duration of Agreement:

This Annual Operating Plan remains in effect until superseded. This plan becomes effective on the date signed by each Entity. It may be terminated upon 20 days written notice to all Entities.

Sovereign Immunity:

The parties do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them pursuant to State and Federal law.