

THE SUPPORTING STATEMENT FOR OMB 0596-0066
BID FOR ADVERTISED TIMBER

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

This information collection is necessary to implement the various statutes, regulations, and policies designed to ensure that: 1) National Forest System timber is sold at not less than appraised value; 2) bidders meet specific criteria when submitting a bid; and 3) anti-trust violations do not occur during the bidding process.

Individuals, large and small businesses, and corporations wishing to purchase timber or forest products from national forests must enter into a timber sale or forest product contract with the Forest Service. Several statutes, regulations, and policies impose requirements on the Government and purchasers involved in the bidding process. The Uniform Commercial Code (UCC), although not binding upon the Federal Government, is a useful tool in determining the rights and liabilities of the contacting parties in the contract formation process.

STATUTES APPLICABLE TO THE NATIONAL FOREST TIMBER SALE AND STEWARDSHIP CONTRACT BIDDING PROCESS:

- a. **The National Forest Management Act (16 U.S.C. §472a)** requires:
 - 1) That all National Forest timber sales exceeding \$10,000 in appraised value be advertised unless extraordinary conditions exist as defined by regulation;
 - 2) That bidding methods ensure open and fair competition and that the Federal Government receives not less than the appraised value of the timber or forest product; and that
 - 3) The monitoring of bidding patterns for collusive bidding practices.
- b. **The 2003 Consolidated Appropriations Resolution (Pub. L. 108-7), Section 347** addressing stewardship contracting, specifically exempts the Forest Service from the National Forest Management Act requirement that sales of more than \$10,000 be advertised (16 U.S.C. 472 a (d)).
- c. **16 U.S.C. §620a, et seq.**, requires purchasers of National Forest System timber to follow the restrictions on exports of unprocessed timber originating from Federal lands.
- d. **P.L. 108-7 (16 U.S.C. 2104 Note)** requires stewardship contracts to be procured on a best value basis.

REGULATIONS APPLICABLE TO THE NATIONAL FOREST TIMBER SALE BIDDING PROCESS:

- a. **Title 7 CFR Part 3017** governs the government-wide non-procurement debarment or suspension of individuals, organizations, or other entities, including purchasers of timber sale contracts.
- b. **Title 13 CFR Part 121** governs small business size regulations for sales or lease of government property, including The Timber Sales Program and The Special Salvage Timber Sales Program between the Small Business Administration and Forest Service.
- c. **Title 26 CFR Part 31 Subpart G** governs the Internal Revenue Service's rules concerning employer's identification numbers.
- d. **Title 31 CFR Part 285 Subpart A** governs debt collection and administrative offset.
- e. **Title 36 CFR:**
 - 1) **Part 223** governs the sale and disposal of National Forest System timber and forest products on National Forest System lands.
 - 2) **Part 223, Subpart C** governs the debarment of a timber purchaser for violations of the **Forest Resources Conservation and Shortage Relief Act of 1990** (16 U.S.C. §620, *et seq.*).
- b. **Title 41 CFR Part 60-1** governs the obligations of contractors and subcontractors that have public contracts.
- c. **Title 48 CFR:** Federal Acquisition Regulations governing Federal procurement.

STATUTORY, REGULATORY, AND POLICY REQUIREMENTS THAT MAKE THIS COLLECTION NECESSARY:

Statutory Requirements:

- a. **The National Forest Management Act, 16 U.S.C. §472a** (see *Statutes Applicable to the National Forest Timber Sale and Stewardship Contract Bidding Process*)
 - 1) **Title 16 U.S.C. §620, et seq.** prohibits the export of unprocessed timber originating from Federal lands. Section 620b(a) of the Act prohibits the purchase of Federal timber if a person substitutes that timber for exported, unprocessed private timber, or if a person has exported unprocessed timber originating from private lands during the preceding 24-month period. Further, the Act provides for limited exceptions to the prohibitions against export and substitution.
 - 2) **Title 36 CFR §223.87** (as support for the Act) requires each bidder to certify that said bidder is eligible to purchase timber from National Forest lands consistent with the Act and its implementing regulations.
- b. **P.L. 108-7 - Stewardship Contracting End Results Contracting Projects** (16 U.S.C. Note 2104) requires contracts to be awarded on a best value basis.

Regulatory Requirements:

- a. **Title 7 CFR:**

- 1) **§3017.110** states that in order to protect the public interest, it is the policy of the Federal Government to conduct business only with responsible persons.
- 2) **§3017.325** requires each participant to certify that it and its principals are not presently suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded at the time the participant submits its bid in connection with a primary covered transaction. In addition, the rule requires each participant to obtain certifications from its lower tier covered transactions.
- 3) **§3017.630** allows the debarring and/or suspending official to extend a debarment or suspension to include any affiliate of the person if certain conditions are met.

b. **Title 36 CFR:**

- 1) **§223.49** authorizes the Forest Service to collect an additional down payment deposit for future timber sale contracts if the purchaser or an affiliate has failed to perform in accordance with the terms of a timber sale contract resulting in termination of the contract for breach or the contract expiring uncompleted.
- 2) **§223.86** requires that no bid be considered in the resale of timber remaining from any uncompleted timber sale contract from any person, or from an affiliate of such person, who failed to complete the original contract:
 - i. Because of termination for purchaser's breach; or
 - ii. Through failure to cut designated timber on portions of the sale area by the termination date, unless acceptance of such bid is determined to be in the public interest.
- 3) **§223.101** requires Contracting Officers to make an affirmative determination of a purchaser's responsibility before awarding a timber sale contract. In addition, the Contracting Officer shall consider the past performance of a purchaser's affiliates when determining the purchaser's responsibility. The rule requires the purchaser to have a satisfactory record of integrity and business ethics.
- 4) **§223.132** states that the Forest Service policy is to solicit and consider timber sale bids and award contracts only to/from responsible business concerns and individuals; and
- 5) **§223.140 and 223.145** allow the debarring official to extend a debarment to include any affiliate of the purchaser if certain conditions are met.

c. **Title 41 CFR §60-1.7** (codification of **Executive Order 11246, Part 1, Subpart B, §203(b), as amended** and dated September 24, 1965 (Non-discrimination in Employment), requires each agency to:

- 1) State in the bid form whether the bidder has participated in a previous contract that was subject to the provisions of section 202 of Executive Order 11246, as amended; and
- 2) Whether the bidder has submitted required compliance reports under such previous contracts.

d. **Title 48 CFR §3.404, the Federal Acquisition Rule**, requires that a "*Covenant against Contingent Fees*" provision be included in all solicitations and contracts. In addition 48 CFR §3.103-1 requires solicitations include a "*Certificate of Independent Price Determination*."

e. **The Uniform Commercial Code** states that consideration is an essential element of a binding contract. To constitute consideration there must be a bargain for a performance or a return promise.

In a timber sale contract, consideration is achieved by:

- 1) The Forest Service agreeing to sell and permit the purchaser to cut and remove timber or forest products designated in the timber sale contract; and
- 2) The purchaser agreeing to purchase, cut and remove included timber or forest products designated in the timber sale contract.

Contract provisions require that the purchaser complete all obligations of the contract by the termination date unless adjusted or extended pursuant to contract provisions.

Section 2-205: States that a sealed bid may not be withdrawn or modified by a bidder after bid opening. This policy is referred to as the "firm offer rule."

Section 2-316 provides direction to buyers to examine goods prior to bidding and provides direction to sellers to reduce risks of implied warranty by including language in solicitations to exclude implied warranty.

- f. **The Forest Service Small Business Timber Sale Set-aside Program**, developed in cooperation with the Small Business Administration, is designed to ensure that qualifying small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale. **Title 36 CFR §223.84** requires the bid form include provisions for a small business concern:

- 1) To elect road construction by the Forest Service;
- 2) To certify as to its small business status; and
- 3) Be informed of other road construction requirements in the bid and/or contract.

The Small Business Administration size regulations at **13 CFR §121.505** allow small business concerns to self-certify its small business status as part of an initial solicitation or bid.

- g. **The Internal Revenue Service (IRS)** requires employers to have an Employee Identification Number (Tax Identification Number) before filing the various tax returns needed by a business. A sole proprietor who has no employees and who files no excise or pension tax returns is the only business person who does not need a Tax Identification Number. The IRS allows a sole proprietor to use his or her Social Security Number as the Tax Identification Number (**26 CFR §31.6019-1**).

The Debt Collection Improvement Act of 1996 (**P.L. 104-134**) and codified at **Title 31 CFR §208.1** requires Federal agencies to convert from paper checks to electronic funds transfer. Taxpayer Identification Numbers will be included on all payment transactions. This provides Federal Finance Centers with the information necessary to build vendor files, enabling centers to query each other for debt collection purposes. The Act also requires agencies to deliver all Federal payments by electronic funds transfer by January 1, 1999. The Tax Identification Number is required to facilitate these payments.

Policy Requirements:

- a. A bid guarantee of 10 percent of the advertised value of the timber is required for National Forest timber sale bids (59 FR 4901, February 2, 1994).
- b. The timber sale contract requires a purchaser to purchase, cut, and remove the included timber or forest product by the termination date.
- c. Best value, as described in the Federal Acquisition Regulations, shall be the basis for evaluating proposals for awarding stewardship contracts and agreements.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)

There are six versions of bid forms divided into three categories. The same information is requested within each category, with minor differences in how respondents display the bid. The Forest Service decides on the form used for a sale or contract prior to advertising. A variety of factors affects the decision, including size, complexity, value and length of the contract. Respondents must use the form identified/provided by the Forest Service and cannot submit a response in a different format.

New Form: The unit rate version of the best value form (FS-2400-14BVU) is new. Use of this form will begin upon approval of OMB. The three groups of forms are:

- (1) FS-2400-14TV (total value), FS-2400-14UR (unit rate), FS-2400-14WA (weighted average), and FS-2400-14sb¹
- (2) FS-2400-14BV (best value, total value) and FS-2400-14BVU (best value, unit rate).
- (3) FS-2400-42a

Table 1 – Forms: FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, FS-2400-14sb, FS-2400-14BV and FS-2400-14BVU

Information Collected	Rationale for Information Collection	Location of Requirement on Bid Form
Price Bid for the timber	16 U.S.C. §472a	Block 14g
Name, Address, and Signature	Confirmation of Firm Offer: UCC §2-205; 31 CFR §285.2	Address Block
Tax Identification Number	26 CFR §31.6109-1; 31 CFR §285.2	TIN Block
Amount and type of bid guarantee	59 FR 4901, February 2,	Block 15b

¹ Form FS-2400-14sb is not a stand-alone form. It includes two additional variations of block 18 and one additional variation of block 25 to be substituted on any of the FS-2400-14 bid forms when the conditions for one or more of the substitute blocks is met. The instructions for when to use the substitute blocks are included on the FS-2400-14sb form. The substitute blocks do not change the reporting burden when used.

Information Collected	Rationale for Information Collection	Location of Requirement on Bid Form
(Not required on FS-2400-14BV or FS-2400-14BVU)	1994	
Certification that the bidder has not paid a contingent fee or retained any person or company to secure the contract	48 CFR §3.404	Block 16a & 16b
Certification that the bidder meets the responsibility requirements in 36 CFR §223.101	36 CFR §223.101	Block 16c
Certification that the bidder will complete the consideration requirements of the contract	UCC §2-205; UCC §2-316	Block 16d
Certification regarding debarment, suspension and other responsibility matters	7 C.F.R §3017.325	Block 16a(a)
Certification that the bidder is not indicted or has had a criminal or civil conviction within a 3-year period	36 C.F.R §223.132; 7 C.F.R §3017.325	Block 16a(a), 16a(b) & 16a(c)
Certification that the bidder has not defaulted on a public contract or agreement in the last 3 years	36 C.F.R §223.132; 7 C.F.R §3017.325; 36 C.F.R §223.49	Block 16a(d)
Information on whether the bidder has participated in a previous contract covered by section 202 of Executive Order 11246	41 CFR §60-1.7	Block 16b(a)
Information concerning size requirements for qualifying for the Small Business set-aside program	13 CFR §121.504	Block 16b(b)
Certification of independent price determination	48 CFR §3.103-1	Block 17
Selecting the road construction option	36 CFR §223.84	Block 18
Agreement to submit down payment (Not required on FS-2400-14BV or FS-2400-14BVU); Agreement to furnish performance bond	36 CFR 223.49 36 CFR 223.35	Block 19
Information concerning increased down payment amount (Not required on FS-2400-14BV or FS-2400-14BVU)	36 CFR 223.49	Block 20
Certification of a firm offer	UCC §2-205	Block 21
Certification that the bidder expressly adopts the terms of the bid and sample contract.	UCC §2-316	Block 22
Warranty that the bidder: 1) Inspected the sale area, 2) Reviewed the requirements of the sample contract, 3) Took steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs of the offered timber or forest product and 4) Holds the Forest Service harmless for any implied warranty	UCC §2-316	Block 23
Certification the bidder will comply with the Forest Resources Conservation and Shortage	36 CFR §223.87	Block 24

Information Collected	Rationale for Information Collection	Location of Requirement on Bid Form
Relief Act of 1990, as amended, as required by 36 CFR §223.87.		
Certification of bidder size for Small Business Set-aside sales	13 CFR §121.504	Block 25 or Block 26
Certification of non-affiliation for sales re-offered following termination for breach or failure to cut by the termination date.	36 CFR §223.86	Block 27
Certification of affiliation listing bidder's affiliates	36 CFR §223.49; 36 CFR §223.101 36 CFR §223.140; 36 CFR §223.145	Block 28
Price Bid for service work (FS-2400-14BV and FS-2400-14BVa only)		Block 14g
Submission of Technical Proposal (FS-2400-14BV and FS-2400-14BVa only)	Pub.L. 105-277	Instruction 2

Table 2 - Form: FS-2400-42a

Information Collected	Rationale for Information Collection	Location of Requirement on Bid Form
Price Bid for the timber	16 U.S.C. §472a	Price Bid Column
Name, address, and signature	Confirmation of Firm Offer: UCC §2-205; 31 CFR §285.2	Name, Address, & Signature Block
Tax identification number	31 CFR §285.2	TIN Block
Certification regarding debarment, suspension and other responsibility matters	7 C.F.R §3017.510	Attached to Bid Form
Warranty that the bidder: 1) Inspected the sale area, 2) Reviewed the requirements of the sample contract, 3) Took steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs of the offered timber or forest product and 4) Holds the Forest Service harmless for any implied warranty	UCC §2-316	Warranty Block

b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.

The information will be collected from individuals and business entities including partnerships, limited liability companies, and corporations wanting to be awarded a National Forest System timber sale or stewardship contract.

c. What will this information be used for - provide ALL uses?

Contracting officers will use the information from the forms to complete the contract prior to award. The contracting officer enters the tax identification number of each bidder into a computerized bid monitoring system, which helps determine if speculative bidding or bid collusion is occurring.

If the bidder checks the road option block on Small Business Administration (SBA) set-aside sales, the contracting officer determines if the bidder meets the qualifications for the program. The contacting officer uses the size information provided to complete the record keeping requirements of the SBA set-aside program, including the 6-month report and the 5-year re-computation.

The bidder's self-certification helps determine the bidder's history of responsibility and/or whether to require an additional down payment. The list of affiliates is included in debarment or suspension referrals sent to the Debarring and/or Suspending Official.

The information collected for each contract becomes a part of the contract files and is subject to the retention requirements for those contracts. Currently the retention period for timber sale contracts is 6 years (file code 2450-3) and the retention period for integrated resource contracts is also 6 years (file code 2460).

d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the information? If so, what are they?

The Forest Service provides the paper forms and sealed envelopes used to collect the information from bidders. Regulations require that the bid/offer remain confidential until the appointed time for receipt of all bids or offers; therefore, no other methods for submitting this information are permitted.

e. How frequently will the information be collected?

Each contract offering requires respondents complete and submit all of the required information using the form provided by the Forest Service. See section 12 for additional information.

f. Will the information be shared with any other organizations inside or outside USDA or the government?

In the event of a bid protest, the General Accounting Office (GAO) may use the information from the forms to determine whether the bid or offer was responsive to the solicitation.

Information provided by individual respondents may be shared with the Small Business Administration (SBA) if it is consulted regarding the size classification or financial responsibility of a specific respondent.

The National Finance Center uses the tax identification number to facilitate electronic payments to the purchaser.

g. If this is an ongoing collection, how have the collection requirements changed over time?

No new information collection requirements have been added since the last OMB approval. Form FS-2400-14BVU has been added to provide another option for how timber bid amounts may be displayed, but this form does not affect the reporting burden.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The information collected includes an original signature on the bid form. Electronic technology is not appropriate for sealed bidding. Telegraphic and facsimile bids/offers are not accepted since a bid guarantee is required with the sealed bid. Confidentiality of amounts bid/offered prior to the designated time for opening bids and offers cannot be assured. A respondent's name, address, and tax identification number may be stored electronically, but respondents are still required to provide this information with each bid or offer.

The use of information technology was considered as a way to reduce the information burden on the public, but none is applicable for the sealed bid/offer process.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collected is different each time it is collected. There is no duplication of information and the information is only available from the individual respondent.

It is not possible to combine forms FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, FS-2400-14BV and FS-2400-14BVU, because each has different formats for bidding. Combining the forms would cause confusion, increasing errors and bid protests.

It is possible to eliminate FS-2400-42a (used for small contracts); however, use of the FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, FS-2400-14sb², FS-2400-14BV and FS-2400-14BVU for small contracts would be overly burdensome on the public. Form FS-2400-42a is used for soliciting and receiving bids on sales informally advertised for less than 30 days (not published in a newspaper), less than \$10,000 in advertised value, not set-aside for small business, not containing specified roads, and not previously offered. Many of the information requirements on the FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, FS-2400-14BV and FS-2400-14BVU forms are not required for sales less than \$10,000.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

Although small businesses purchase most Forest Service timber sales, the impacts of this information collection constitute just a small percentage of the costs of operating a timber sale. This information collection should not have a significant impact on a substantial number of small business entities. Small businesses and individuals can minimize the burden by only bidding on smaller sales that require bid submittals to be on FS-2400-42a (short form bid).

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The Multiple Use Sustained Yield Act of 1960 (16 U.S.C. §528) establishes that the national forests shall be administered for outdoor recreation, range, timber, watershed, and wildlife. Congress annually appropriates public funds to the Forest Service to offer and award timber sales.

The National Forest Management Act (16 U.S.C. §472a) requires that:

- a. All national forest timber sales exceeding \$10,000 in appraised value be advertised, unless extraordinary conditions exist as defined by regulation;
- b. Bidding methods ensure open and fair competition and that the Federal Government receives not less than the appraised value of the timber or forest product; and

² Form FS-2400-14sb is not a stand-alone form. It includes two additional variations of block 18 and one additional variation of block 25 to be substituted on any of the FS-2400-14 bid forms when the conditions for one or more of the substitute blocks is met. The instructions for when to use the substitute blocks are included on the FS-2400-14sb form. The substitute blocks do not change the reporting burden when used.

c. That bidding patterns be monitored for collusive bidding practices.

However §347 of the 2003 Consolidated Appropriations Resolution (Pub. L. 108-7), addressing stewardship contracting, specifically exempts the Forest Service from the National Forest Management Act requirement that sales of more than \$10,000 be advertised (16 U.S.C. 472a (d)). The resolution authorizes the Forest Service to select a contractor on a best-value basis. The information collected on the FS-2400-14BV forms is necessary to formulate a contract, regardless of whether the contract is formally advertised. This form simplifies the collection of this needed information.

The information is collected once from respondents for each contract. The Forest Service cannot meet its statutory requirements as outlined in Title 16 of the United States Code or the annual Appropriations Act if the information is not collected.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**

Respondents must provide the information for each contract on which they bid or submit an offer. This may result in respondents providing required information more than once in a quarter if respondent bids or submits offers on more than one contract during that time.

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

In emergency situations, when prompt removal of timber included in a sale is essential to avoid deterioration or to minimize the likelihood of the spread of insects, pursuant to 36 CFR 223.81, the approving officer may authorize shortening the advertising period to not less than 7 days.

- **Requiring respondents to submit more than an original and two copies of any document;**

No response

- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

The information collected for each timber sale or integrated resource sale contract becomes a part of the contract files and is subject to the applicable retention requirements. Currently the retention period for timber sale contracts is 6 years (file code 2450-3) and the retention period for integrated resource contracts is also 6 years (file code 2460).

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

No response

- **Requiring the use of a statistical data classification that has not**

been reviewed and approved by OMB;

No response

- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

No response

- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

This is a request for an extension of a previously approved information collection. The Notice/request for comments was published in the Federal Register on May 12, 2006, 71 FR 27670. No comments were received.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Several individuals were contacted and asked to comment on this information collection. Specifically, they were asked about the amount of time they typically spend reviewing contract documents, conducting field reviews of contract area, and completing the information for the different classification of forms addressed in item 2. The size, complexity and location of the contract affects the time burden, particularly as it relates to conducting field reviews of proposed timber sales prior to preparing a bid. The time burdens documented in item 12 reflect that variability and appear reasonable based on the responses from the individuals contacted. Following are the names and phone numbers of five of the people who were contacted:

- o Sierra Forest Products, Jeff Gletne and Larry Duysen, 559-535-4893
- o Auberry Forest Products, Matt Allen, 559-855-6255
- o Trinity River Lumber Company, Joe Miller, 530-623-5561
- o Aspen Wallwood, Dewayne Findley, 970-882-7366
- o Intermountain Resources, Randy Harrison, 970-249-0812

9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

No payment or gift will be provided to respondents other than the reenumeration of contractors or grantees.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The Federal Acquisition Regulations at 52.215-1 restricts the information that may be released when best value procedures are used and applies to information provided by respondents on the best value forms FS-2400-14BV and FS-2400-14BVU.

Privacy Act System of Record USDA/OFM-3 (Administrative Billings and Collections, USDA/OFM) covers individuals who are indebted to the Department for any reason; this includes self-employed individuals who are awarded timber sale and/or integrated resource contracts. The records in this system are used to issue bills and collect funds due to the Government in compliance with the Debt Collection Act of 1982, Pub. L. No. 97-365, 96 Stat. 1749, as amended by Pub. L. No. 98-167, 97 Stat. 1104.

Other than the aforementioned, there is no assurance that the information submitted by a company/corporation shall be confidential. Information submitted may be released to the public upon receipt of a Freedom of Information Act request.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no sensitive questions associated with this information collection.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

a) Description of the collection activity

- b) Corresponding form number (if applicable)**
- c) Number of respondents**
- d) Number of responses annually per respondent,**
- e) Total annual responses (columns c x d)**
- f) Estimated hours per response**
- g) Total annual burden hours (columns e x f)**

Table 3

(a) Description of the Collection Activity	(b) Form Number	(c) Number of Responden ts	(d) Number of responses annually per Responde nt	(e) Total annual respons es (c x d)	(f) Estimat e of Burden Hours per respons e	(g) Total Annual Burden Hours (e x f)
Prepare bid	FS-2400-42a	550	1.8	990	3.0	2,970
Prepare bid	FS-2400-14TV FS-2400-14UR FS-2400- 14WA	900	3.9	3,510	14.4	50,544
Prepare offer	FS-2400-14BV FS-2400- 14BVU	110	1.2	132	34.4	4,541
Totals	---	1,560	---	4,632	---	58,055

Information on burden calculations:

During fiscal years 2004 and 2005, the Forest Service sold 1,181 informally advertised sales, using form FS-2400-42a. The agency received 1,587 bids from 892 respondents for these sales. The annual averages for this data are 590 sales, 445 respondents and 795 bids. The average number of responses per respondent was 1.8.

To accommodate a potential increase in the program over the next 3 years the number of solicitations and respondents on tables 3, 4, and 5 was increased by 25 percent. The resulting totals still represent a significant decrease from previous agency estimates. The principal reason for this change is an increase in small sales (less than \$10,000 in value, sold without having to solicit bids).

During these same fiscal years, the Forest Service sold 2,541 formally advertised sales, using forms FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, and FS-2400-14sb. The agency received 5,550 bids from 1,420 respondents for these sales. The annual averages for this data are 1,270 sales, 710 respondents, and 2,775 bids. The average number of responses per respondent was 3.9. To accommodate a potential increase in the program over the next 3 years, the number of solicitations and respondents addressed in on table 3, 4, and 5 was increased by 25 percent.

Form FS-2400-14BV was approved by OMB in 2003 and first used by the Forest Service in fiscal year 2005. The Forest Service received 45 offers from an estimated 38 respondents for 34 contracts. The average number of responses per respondent was 1.2. The number of contracts that will be offered annually on the FS-2400-14BV and FS-2400-14BVU bid forms is expected to triple, so for the purpose of this analysis the fiscal year 2005 data was tripled.

Previous agency estimates of time burden do not appear to have included the time spent by respondents conducting on-site reviews of proposed timber sales as part of the bid preparation process. This is a highly variable component. The time spent in bid preparation varies by individual respondent, as well as the size, complexity and location of the sale.

For informally advertised sales using form FS-2400-42a, it is estimated that approximately 25 percent of the bidders will spend about 8 hours inspecting the sale area; reviewing the requirements of the sample contract; taking other steps reasonably necessary to ascertain the location, estimated volumes, and operating costs; and completing the bid form. The other 75 percent of the bidders will not review the sale area but will spend approximately 1 hour reviewing the sample contract and completing the bid form. The average for all respondents is estimated to be 3 hours.

For formally advertised sales using forms FS-2400-14TV, FS-2400-14UR, and FS-2400-14WA, it is estimated that approximately 20 percent of the bidders will spend 40 hours inspecting the sale area; reviewing the requirements of the sample contract; taking other steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs; and completing the bid form. Approximately 40 percent of the bidders will spend about 12 hours completing these same tasks. Approximately 40 percent of the bidders will not inspect the sale area, but will spend an estimated 4 hours reviewing documents

provided with the bid package and completing the bid forms. The average for all respondents is 14.4 hours.

For contracts formally advertised on forms FS-2400-14BV and FS-2400-14BVU it is estimated that 80 percent of the respondents will spend approximately 40 hours inspecting the contract area, reviewing the requirements of the sample contract, and taking other steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs, and completing the form including the technical proposal. It is estimated that the remaining 20 percent of the responders will spend approximately 12 hours on these same tasks. The average for all respondents is estimated to be 34.4 hours.

Respondents spend an average of approximately 30 minutes or 0.5 hours to enter the required information on the individual forms prior to submitting them to the Forest Service.

Record keeping burden should be addressed separately and should include columns for:

- a) Description of record keeping activity:**
- b) Number of record keepers:**
- c) Annual hours per record keeper:**
- d) Total annual record keeping hours (columns b x c):**

There are no record keeping requirements for respondents

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Table 4

(a) Description of the Collection Activity	(b) Estimated Total Annual Burden on Respondents (Hours)	(c) Estimated Average Income per Hour	(d) Estimated Cost to Respondents
Gather info., complete FS-2400-42a	2,970	\$28.00	\$83,160
Gather info, complete FS-2400-14TV Gather info, complete FS-2400-14UR Gather info, complete FS-2400-14WA Gather info, complete FS-2400-14sb	50,544	\$35.00	\$1,769,040
Gather info, complete FS-2400-14BV Gather info, complete FS-2400-14BVU	4,541	\$35.00	\$158,928
Totals	58,055	---	\$2,011,128

The Bureau of Labor statistics for March 2006 indicates that the average total compensation for a worker in a natural resources occupational group is \$28.07

per hour. This figure was used for respondents submitting information on form FS-2400-42a, as they are predominately individuals or very small businesses.

Employees of larger businesses or corporations who earn more than the occupational average more commonly prepare the other forms. For this analysis, the estimated average salary was 125 percent of the occupational average or \$35.00 per hour.

- 13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life and (b) a total operation and maintenance and purchase of services component.**

There are no capital operation and maintenance costs.

14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The response to this question covers the actual costs the agency will incur because of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:

Employee labor and materials for developing, printing, storing forms

Employee labor and materials for developing computer systems, screens, or reports to support the collection

Employee travel costs

Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information

Employee labor and materials for collecting the information

Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information

The Forest Service maintains forms FS-2400-42a, FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, FS-2400-14sb, FS-2400-14BV and FS-2400-14BVU electronically for internal processing. Respondents cannot obtain or submit these forms electronically. Forms for each contract are printed in local Forest Service offices in quantities to meet the needs of the estimated number of respondents for each contract. The number of forms printed for potential respondents for each contract offer varies by interest but averages approximately 20.

Table 5 - Material costs

	FS-2400-42a	FS-2400-14TV; FS-2400-14UR; FS-2400-14WA; FS-2400-14sb	FS-2400-14BV FS-2400-14BVU
# forms used (20/solicitation)	15,000	32,000	2000
# pages/form	3	9	7
Cost/page	\$0.10	\$0.10	\$0.10
Total cost to print/copy forms	\$4500	\$28,800	\$1400
Cost of envelopes @ \$0.15 each	\$2300	\$3200	\$300
Cost of postage @ \$0.63/form	\$9500	\$20,000	\$1260
Total material costs	\$16,300	\$52,000	\$2,960

Labor costs include clerical time for printing, mailing, and collecting forms; and professional time spent analyzing, evaluating, summarizing, and/or reporting on the collected information. Clerical costs are estimated to be \$11.85/hour and professional costs are estimated to be \$24.35/hour. Professional time to open,

review and evaluate bids and proposals averages 2 hours/solicitation except for those using the FS-2400-14BV forms which average 6 hours per solicitation.

Table 6 - Labor Costs

Form #	# of Solicitations	Clerical Hours/Solicitation	Professional Hrs/Solicitation	Total Labor Costs
FS-2400-42a	750	4 @ \$11.85/Hr	2 @ \$24.35	\$72,075
FS-2400-14's	1600	4 @ \$11.85/Hr	2 @ \$24.35	\$153,760
FS-2400-14BV's	100	4 @ \$11.85/Hr	6 @ \$24.35	\$19,350
				\$245,165

Total annualized cost for materials and labor associated with this information collection is estimated to be:

Table 7 - Materials and Labor

Form	Materials Costs	Labor Costs	Total Costs
FS-2400-42a	\$16,300	\$72,075	\$88,375
FS-2400-14's	\$52,000	\$153,760	\$205,760
FS-2400-14BV's	\$2,960	\$19,350	\$22,310
Totals	\$71,260	\$245,185	\$316,445

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

The overall estimated burden increased. Factors involved in the net increase:

- o There was a decrease in estimated response for FS-2400-42a based on experience/reports from field.
- o The increase in estimated response for FS-2400-14 (all associated forms) is based on experience/reports from field.
- o Newer versions of forms were introduced, FS-1400BV/FS-1400BVU. These are new versions of the Best Value bid form and will be used for soliciting and receiving bids on contracts advertised for 30 days or longer and on contracts greater than \$10,000 in advertised value.

There was an increase in the number of responses, as well as recalculations of the amount of time respondents are spending reviewing timber sales before preparing their bids. Respondents appear to be spending more time physically inspecting the timber sales on the ground as part of pre-work associated with preparing a bid. The burden associated with completing and submitting the actual bid forms has changed very little since the previous approval.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

There are no plans to publish the information collected.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The agency is not seeking approval to omit the OMB number from forms associated with this collection.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."

None