



# **Agreements Training**

## **USDA Forest Service**

# PROCUREMENT vs AGREEMENT

How do you know which it



# PROCUREMENT vs AGREEMENT

How do you know which it is?

FSM 1580.6

FEDERAL GRANTS AND COOPERATIVE AGREEMENTS ACT OF  
1977 (31 U.S.C. 6301-6308, PUB L 95-224) (FGCA)

# PROCUREMENT vs AGREEMENT

How do you know which it is?

Relationship determines:

- *procurement contract* or
- *federal financial assistance*

# PROCUREMENT vs AGREEMENT

How do you know which it is?

Two choices under FGCA:

1. Federal Financial Assistance Transaction –  
**Grants** - Forest Service is not substantially involved.  
**Cooperative agreements** - Forest Service is substantially involved.
2. Procurement Transaction – procurement contract or purchase order.

# PROCUREMENT vs AGREEMENT

## TRANSACTIONS **NOT COVERED**

- Sale of Government property and services for full value
- Collection Agreements
- Interagency and Intra-Agency Agreements
- Leases, licenses, or permits
- Gifts or donations

# **PROCUREMENT vs AGREEMENT**

## **TRANSACTIONS EXEMPT BY OMB APPROVAL**

- Cooperative Law Enforcement Agreements
- Cooperative Forest Road Agreements
- Cooperative Fire Protection Agreements

# PROCUREMENT vs AGREEMENT

## TRANSACTIONS EXEMPT BY SPECIFIC STATUTORY LANGUAGE

- Participating Agreements
- Challenge Cost-Share Agreements
- Joint Venture Agreements
- Cost-Reimbursable Agreements
- Cooperative Research and Development Agreements





# Partnership Elements

# PARTNERSHIP ELEMENTS

- ❑ **Appropriate legal authority**
  - Mutual interest in some goal or value
  - Mutual non-monetary benefit
  - A state of participating or sharing
  - No conflict of interest
  - Agreement must be executed before costs are incurred or work commences
  - A specific relationship between the parties (written agreement)
  - Voluntary participation

# PARTNERSHIP ELEMENTS

❑ Appropriate legal authority

❑ **Mutual interest in some goal or value**

Mutual non-monetary benefit

A state of participating or sharing

No conflict of interest

Agreement must be executed before costs are incurred or work commences

A specific relationship between the parties (written agreement)

Voluntary participation

# PARTNERSHIP ELEMENTS

- ❑ Appropriate legal authority
- ❑ Mutual interest in some goal or value

- ❑ **Mutual non-monetary benefit**

A state of participating or sharing

No conflict of interest

Agreement must be executed before costs are incurred or work commences

A specific relationship between the parties (written agreement)

Voluntary participation

## PARTNERSHIP ELEMENTS

- ❑ Appropriate legal authority
- ❑ Mutual interest in some goal or value
- ❑ Mutual non-monetary benefit
- ❑ **A state of participating or sharing**

No conflict of interest

Agreement must be executed before costs are incurred or work commences

A specific relationship between the parties (written agreement)

Voluntary participation

# PARTNERSHIP ELEMENTS

- ❑ Appropriate legal authority
- ❑ Mutual interest in some goal or value
- ❑ Mutual non-monetary benefit
- ❑ A state of participating or sharing
- ❑ **No conflict of interest**

Agreement must be executed before costs are incurred or work commences

A specific relationship between the parties (written agreement)

Voluntary participation

# PARTNERSHIP ELEMENTS

- ❑ Appropriate legal authority
- ❑ Mutual interest in some goal or value
- ❑ Mutual non-monetary benefit
- ❑ A state of participating or sharing
- ❑ No conflict of interest
- ❑ **Agreement must be executed before costs are incurred or work commences**

A specific relationship between the parties (written agreement)

Voluntary participation

## PARTNERSHIP ELEMENTS

- ❑ Appropriate legal authority
- ❑ Mutual interest in some goal or value
- ❑ Mutual non-monetary benefit
- ❑ A state of participating or sharing
- ❑ No conflict of interest
- ❑ Agreement must be executed before costs are incurred or work commences
- ❑ **A specific relationship between the parties (written agreement)**

Voluntary participation



# PARTNERSHIP ELEMENTS

- ❑ Appropriate legal authority
- ❑ Mutual interest in some goal or value
- ❑ Mutual non-monetary benefit
- ❑ A state of participating or sharing
- ❑ No conflict of interest
- ❑ Agreement must be executed before costs are incurred or work commences
- ❑ A specific relationship between the parties (written agreement)
- ❑ **Voluntary participation**

# Essential Features of Each Partnership



## ESSENTIAL FEATURES OF EACH PARTNERSHIP

### **EACH PARTNERSHIP MUST MEET THE FOLLOWING:**

**Competent Parties** - Sufficient resources to complete project.

**Proper Subject Matter** - Project must benefit NF lands and support mission.

**Sufficient Participation** - Active involvement, not just providing funding in support of project.

**Meeting of the Minds** - All parties must understand the end result

## ESSENTIAL FEATURES OF EACH PARTNERSHIP

Questions to ask prior to entering into a partnership

## ESSENTIAL FEATURES OF EACH PARTNERSHIP

Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

## ESSENTIAL FEATURES OF EACH PARTNERSHIP

Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

## ESSENTIAL FEATURES OF EACH PARTNERSHIP

### Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

Is there a conflict of interest?

# ESSENTIAL FEATURES OF EACH PARTNERSHIP

## Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

Is there a conflict of interest?

Will the cooperator actually be a “straw man”?



## ESSENTIAL FEATURES OF EACH PARTNERSHIP

### Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

Is there a conflict of interest?

Will the cooperator actually be a “straw man”?

Is it a donation/gift? Conditions?

# ESSENTIAL FEATURES OF EACH PARTNERSHIP

## Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

Is there a conflict of interest?

Will the cooperator actually be a “straw man”?

Is it a donation/gift? Conditions?

Can the cooperator meet its obligations?

# ESSENTIAL FEATURES OF EACH PARTNERSHIP

## Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

Is there a conflict of interest?

Will the cooperator actually be a “straw man”?

Is it a donation/gift? Conditions?

Can the cooperator meet its obligations?

Can the Forest Service meet its obligations?

Is there sufficient lead time?

# ESSENTIAL FEATURES OF EACH PARTNERSHIP

## Questions to ask prior to entering into a partnership

Have all the appropriate personnel been involved?

Can the appropriated funds be used for the purpose intended?

Is there a conflict of interest?

Will the cooperator actually be a “straw man”?

Is it a donation/gift? Conditions?

Can the cooperator meet its obligations?

Can the Forest Service meet its obligations?

Is there sufficient lead time?

Does the activity belong on National Forest System lands?

# MEMORANDUM OF UNDERSTANDING (MOU)



# MEMORANDUM OF UNDERSTANDING (MOU)

FSM 1586

FSH 1509.11 CHAPTER 50

A Memorandum of Understanding (MOU) documents a **relationship**, or a **framework for cooperation**.

There are no specific authorities for an MOU.

# **MEMORANDUM OF UNDERSTANDING (MOU)**

## **CAN do:**

- **Document coordinated effort**
- **Cooperators include -**
  - **Federal, state and local governments**
  - **Educational institutions**
  - **Private for-profit and nonprofit organizations**
  - **Individuals**
  - **Foreign agencies and organizations**

# **MEMORANDUM OF UNDERSTANDING (MOU)**

## **CANNOT do:**

- **Obligate or fund projects**
- **Exchange anything of value**
- **Perform work not authorized by program legislation**



**MEMORANDUM OF UNDERSTANDING  
(MOU)**

***MOU's don't  
authorize work or  
obligate funds.***

# INTERAGENCY AGREEMENTS (IA)



## **INTERAGENCY AGREEMENTS (IA)**

FSM 1585.12

FSH 1509.11 CHAPTER 40

ECONOMY ACT OF JUNE 30, 1932

(31 USC 1535, SEC. 601)

## **INTERAGENCY AGREEMENTS (IA)**

The Economy Act authorizes us to buy goods and services from another federal agency, or provide goods and services to another federal agency.

# INTERAGENCY AGREEMENTS (IA)

## GENERAL REQUIREMENTS:

- Recover full direct and indirect (overhead) costs

# INTERAGENCY AGREEMENTS (IA)

## GENERAL REQUIREMENTS:

- Recover full direct and indirect (overhead) costs
- Economy Act Justification and Determination

# INTERAGENCY AGREEMENTS (IA)

## GENERAL REQUIREMENTS:

- Recover full direct and indirect (overhead) costs
- Economy Act Justification and Determination
- Reimbursement or advance

# INTERAGENCY AGREEMENTS (IA)

## GENERAL REQUIREMENTS:

- Recover full direct and indirect (overhead) costs
- Economy Act Justification and Determination
- Reimbursement or advance
- Format
  - Standard narrative template
  - AD-672
  - Other Agency format



## **INTERAGENCY AGREEMENTS (IA)**

Do not provide funding to another Federal Agency in order to accomplish the function of that Federal Agency, as that would constitute an augmentation of their appropriations.

## **INTERAGENCY AGREEMENTS (IA)**

This authority **CANNOT** be used with Tribal Governments.

They are sovereign nations, not Federal agencies.

# INTRA-AGENCY AGREEMENTS (IA)



## INTRA-AGENCY AGREEMENTS (IA)

FSM 1585.14 (a) (1)

No statutory authority is required for one Forest Service unit to perform work for another Forest Service unit.

## **INTRA-AGENCY AGREEMENTS (IA)**

- Document work between Forest Service units.
- Funding may be transferred between units.
- FS-6500-46, Authorization for In-Service Expenditures.

## COLLECTION AGREEMENTS (CO)



# **COLLECTION AGREEMENTS (CO)**

FSM 1584

FSM 2720 SPECIAL USES ADMINISTRATION

FSM 1950 ENVIRONMENTAL POLICY &  
PROCEDURES

FSM 5400 LANDOWNERSHIP

FSH 1509.11 CHAPTER 30

## **COLLECTION AGREEMENTS (CO)**

Used for the acceptance of money, equipment, property or products by the Forest Service from a non-Federal party to carry out a purpose authorized by law.



## **COLLECTION AGREEMENTS (CO)**

Used for the acceptance of money, equipment, property or products by the Forest Service from a non-Federal party to carry out a purpose authorized by law.

Advances and reimbursements.

## **COLLECTION AGREEMENTS (CO)**

Used for the acceptance of money, equipment, property or products by the Forest Service from a non-Federal party to carry out a purpose authorized by law.

Advances and reimbursements.

No solicitation.

## **COLLECTION AGREEMENTS (CO)**

Used for the acceptance of money, equipment, property or products by the Forest Service from a non-Federal party to carry out a purpose authorized by law.

Advances and reimbursements.

No solicitation.

Applying for grants.

# **COLLECTION AGREEMENTS (CO)**

FSM 1584.11

COOPERATIVE FUNDS ACT OF JUNE 30, 1914,  
as amended (16 USC 498)

# COLLECTION AGREEMENTS (CO)

## COOPERATIVE FUNDS ACT

- Cash, checks or money orders only
- Advance or reimbursement
- Work is responsibility of Forest Service
- Voluntary contributions
- Collect overhead (unless agreed to be waived)
- Waived overhead to be covered by benefiting Forest Service project
- Reduced overhead rate can be negotiated
- Funds must be accounted for separately – CWFS/NFEX
- No conflict of interest or appearance of
- No endorsement

## **COLLECTION AGREEMENTS (CO)**

### COOPERATIVE FUNDS ACT

Examples of types of work:

- Construction and maintenance of NF improvements.
- Protection of NF from fire, insects, disease, etc.
- Management activities like planning, analysis and studies related to resource activities.

# **COLLECTION AGREEMENTS (CO)**

FSM 1584.12

GRANGER-THYE ACT OF APRIL 24, 1950 (16 USC  
572)

# COLLECTION AGREEMENTS (CO)

## GRANGER-THYE ACT

- Collect full costs in advance
- Reimbursement only allowed with State and Local governments
- Responsibility of the cooperator
- Public benefit
- Voluntary contribution
- No endorsement
- Overhead CANNOT be waived
- Forest Service not liable
- Acceptance of services is not authorized



# COLLECTION AGREEMENTS (CO)

## GRANGER-THYE ACT

Examples of types of work:

- Land exchange surveys
- Biological evaluations
- Cultural resource surveys
- Concessionaires

# **COLLECTION AGREEMENTS (CO)**

FSM 1584.13

ACCEPTANCE OF GIFTS ACT OF OCTOBER 10, 1978 (7 USC 2269)

# COLLECTION AGREEMENTS (CO)

## ACCEPTANCE OF GIFTS ACT

The Secretary of Agriculture may accept gifts.

- Gifts may include:
  - Cash
  - Real or personal property
  - Net proceeds from liquidation of any real or personal property
  - Proceeds from any insurance on any gift property
- Acceptance of gifts cannot be contingent on endorsement of firms or products
- Acceptance of services is not authorized under this Act (Volunteer Act)
- Gifts cannot be accepted from interested parties (7 CFR 0.735-12(a))
- Donated funds are a voluntary, gratuitous transfer of cash to the Forest Service

\*\*\*\*\*

- Memorandum - A memo to the donator should cite the authority that this gift is being accepted under, and if known, what the gift will be

## INTERESTED PARTY/PROHIBITED SOURCE

An entity or individual who is or seeks to be engaged in contractual, financial, or business relations with the Forest Service, and who has a legally recognized private interest that may be substantially affected by the proposed activity.

Interested parties include Forest Service permittees, vendors, bidders and potential bidders on Forest Service timber sales, licensees, and organizations engaging in activities regulated by the Forest Service.

This concept applies to gifts of real or personal property and donated funds.

# CHALLENGE COST SHARE AGREEMENTS (CS)



# **CHALLENGE COST SHARE AGREEMENTS (CS)**

**FSM 1587.12**

**FSH 1509.11 CHAPTER 60**

**INTERIOR AND RELATED AGENCIES  
APPROPRIATIONS ACT OF 1992 (Pub L 102-154)**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

## **What does a CS do?**

- **Cooperate on mutually beneficial projects**
- **Requires matching funds**
- **Public and private cooperators**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**



# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **No advance payments allowed.**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **No advance payments allowed.**
- **Appropriated funds cannot be used for improvements on non-federal lands.**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **No advance payments allowed.**
- **Appropriated funds cannot be used for improvements on non-federal lands.**
- **Match can be cash, real or personal property, services, and/or in-kind contributions.**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **No advance payments allowed.**
- **Appropriated funds cannot be used for improvements on non-federal lands.**
- **Match can be cash, real or personal property, services, and/or in-kind contributions.**
- **Financial plans required prior to start of work.**

## **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **No advance payments allowed.**
- **Appropriated funds cannot be used for improvements on non-federal lands.**
- **Match can be cash, real or personal property, services, and/or in-kind contributions.**
- **Financial plans required prior to start of work.**
- **Program income resulting from project must be shown on financial plan.**

# **CHALLENGE COST SHARE AGREEMENTS (CS)**

- **Expenditures shall be commensurate with value received.**
- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **No advance payments allowed.**
- **Appropriated funds cannot be used for improvements on non-federal lands.**
- **Match can be cash, real or personal property, services, and/or in-kind contributions.**
- **Financial plans required prior to start of work.**
- **Program income resulting from project must be shown on financial plan.**
- **Modifications do not need to retain the cost share ratio, but do need to be commensurate with level of effort or**

# CHALLENGE COST SHARE AGREEMENTS (CS)

- Expenditures shall be commensurate with value received.
- Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.
- **No advance payments allowed.**
- **Appropriated funds cannot be used for improvements on non-federal lands.**
- **Match can be cash, real or personal property, services, and/or in-kind contributions.**
- **Financial plans required prior to start of work.**
- **Program income resulting from project must be shown on financial plan.**
- **Modifications do not need to retain the cost share ratio, but do need to be commensurate with level of effort or funding provided.**
- **Federal Acquisition Regulations might apply (50% rate).**



# **PARTNERSHIP PROCUREMENT GUIDELINES**

## **Funding Issues:**

**If cooperator pays 100% of purchase of item, FAR's do not apply.**

**Cooperator contracts awarded competitively.**

# **PARTNERSHIP PROCUREMENT GUIDELINES**

## **Shared financing scenarios:**

**1. Forest Service pays >50% of cost of item**

**a) Follow federal procurement regs.**

**b) FS performs as contracting agent**

# **PARTNERSHIP PROCUREMENT GUIDELINES**

## **Shared financing scenarios:**

### **1. Cooperator pays >50% of cost of item.**

**a) Contractor may act as contracting agent**

**b) Must meet tests:**

- Federal labor laws (Davis/Bacon and Service Contract Act)**
  - Cooperator procurement process allows maximum competition**
  - Cooperator has written policies on conflict of interest and ethic standards**

# **PARTNERSHIP PROCUREMENT GUIDELINES**

**Shared financing scenarios:**

**1. Cooperator pays >50% of cost of item.**

**a) Contractor may act as contracting agent**

**b) Must meet tests:**

- Cooperator-arranged procurement must be more effective or efficient**
- Will it draw criticism from local vendors/contractors?**
- Has FS done majority of prep work?**
- Are we allowing cooperator to do third party contract to circumvent Federal reg or policy?**

# PARTICIPATING AGREEMENTS (PA)



# **PARTICIPATING AGREEMENTS (PA)**

**FSM 1587.11**

**FSH 1509.11 CHAPTER 60**

**PUBLIC LAW 94-148**

**COOPERATIVE FUNDS AND DEPOSITS ACT OF  
DECEMBER 12, 1975**

## **PARTICIPATING AGREEMENTS (PA)**

**Authorizes the Forest Service to enter into cooperatively performed, mutually beneficial projects with:**

- Public and Private agencies**
- Organizations**
- Institutions**
- Persons**

# **PARTICIPATING AGREEMENTS (PA)**

**Cooperative Funds and Deposits Act of December 12, 1975**

**Four areas:**

- **Cooperative Pollution Abatement**
- **Cooperative Manpower, Job Training and Development Programs**
- **Develop and Publish Cooperative Environmental Education and Forest History Materials**
- **Forestry Protection - Work can include: fire prevention, fuels management, insect & disease control, noxious weed control, tree planting & seeding, erosion control, abandoned mine reclamation, land restoration, hazardous materials identification, water testing & protection, and air pollution abatement.**

**Prohibited Activities: Operation and maintenance projects such as for road & trail construction/reconstruction, recreation sites and facilities, fishery & wildlife, range improvement, and work in a non-forest environment (warehouses, shops,**



# **PARTICIPATING AGREEMENTS (PA)**

## **General Requirements:**

- **May provide reimbursable or advance payments.**
- **Modifications do not need to retain the cost share ratio, but do need to be commensurate with level of effort or funding provided.**
- **FAR might apply.**
- **Partnership procurements**
- **Tort Liability/OWCP - Only when FS supervises work.**
- **Match can be cash, property, services, and/or in-kind.**

# **PARTICIPATING AGREEMENTS (PA)**

## **General Requirements:**

- **Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can NOT be based on value, but must be actual costs incurred in support of the project.**
- **Dollar-for-dollar match not required.**
- **Financial plans required prior to work start.**
- **Program income resulting from project must be shown on financial plan.**
- **Printing under certain conditions.**
- **Forest Service publications and Cooperator's publications**

# **PARTNERSHIP PUBLICATIONS**

**FSM 1580 and 1630**

**FSH 1509.11 and 1609.11**

**Federal Acquisitions Regulations**

**Federal Printing Regulations**

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**Should partnership publications be discouraged?**

## **Should partnership publications be discouraged?**

**Answer:**

No. In fact we should be looking for opportunities to “partner” with others in this arena when certain tests are met. It’s true that Federal publications are highly regulated. However, we can usually find a lawful way to accomplish our best partnership publication ideas.

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**What kinds of questions should be asked before entering into a publication partnership?**

# What kinds of questions should be asked before entering into a publication partnership?

## Answer:

- Name and extent of the contribution of the cooperator.
- Whose publication will it be? The cooperator's or the Forest Service?
- Does the cooperator want a copyright?
- What authority will we cite to enter into the partnership?
- How does the FS benefit?
- Will the product be sold?
- Will the FS name and shield appear on the product?
- Who/how do you propose to print the product?
- Does the cooperator have in-house production capability?
- What is the purpose of the publication?



# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**If federal dollars are spent, does it have to be printed through GPO?**

# If federal dollars are spent, does it have to be printed through GPO?

## Answer:

It depends on what type of agreement is being used.

Under P.L. 94-148, Participating Agreements, the following criteria applies:

- Determine ownership. If any partner contributes 50% or more of the total value of the publication, they own it.
- If the FS owns the publication, it must be printed at GPO
- If the cooperator owns the publication, then:
  1. If total cost of printing is paid by FS, printing will be done by GPO.
  2. If total cost of printing is paid by cooperator, cooperator can have printed.
  3. If 50% or more of printing is paid by cooperator, cooperator can have printed.
  4. If FS pays 50% or more of printing, it needs to be printed at GPO.

Under the Interior and Related Agencies Appropriations Act of 1992, Challenge Cost Share Agreements, the following criteria applies:

This authority does not preclude the applicability of GPO when federal dollars are used for printing, regardless of whether the printing is accomplished by the cooperator by contract or in-house.

**Note: Current regulations regarding the use of GPO are under revision. Check with your Acquisition and Printing Specialists for the latest rules regarding the use of GPO.**

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**What kind of internal approval is needed?**

## **What kind of internal approval is needed?**

### **Answer:**

If it is the cooperator's publication then no approvals are necessary. At a minimum you should always plan to accomplish an advance management review of the cooperator's publication, to assure that the contents of the publication do not conflict with Forest Service policy or contain statements that might embarrass the Agency.

If the product is going to be a Forest Service publication then standard reviews and approvals will have to be met. All national publications must have Departmental approval.

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**Can a cooperator sell the publication?**

## **Can a cooperator sell the publication?**

### **Answer:**

Yes. If the Forest Service contributes financing toward a cooperative publication, to be marketed by the cooperator, your agreement should address the cooperator's plan for marketing and sale price. Since taxpayer dollars are going into the publication to begin with, it is not reasonable to expect the public to pay twice for something, i.e. once with their tax dollars and a second time for the purchase of the publication. Therefore, the sales price should reflect the contribution made by the Federal Government.

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**Can a cooperator copyright the publication?**



## **Can a cooperator copyright the publication?**

### **Answer:**

Yes. Cooperative publication agreements may permit the cooperator to copyright items developed in the course of the work. In such cases the agreement should include a provision stating, “The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.”

A cooperator may not copyright an article, publication, photograph, artwork, etc., accomplished by a Federal employee on official time.

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**Can the Forest Service sell the publication?**

## **Can the Forest Service sell the publication?**

**Answer:**

No. Forest Service authority to sell publications is limited to certain kinds of maps.

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**Can we sell or donate publications to Interpretive Associations?**

# Can we sell or donate publications to Interpretive Associations?

Answer:

It's okay to:

- Sell recreation maps to an Interpretive Association.
- Donate publications for free distribution to the public.
- Cooperate with an Interpretive Association toward development and printing of a publication.

It's not okay to:

- Donate publications purchased by the Forest Service for the Interpretive Association to sell.
- Donate publications to the Interpretive Association that would not also be available for sale or donation to a regular walk-in office visitor.

# **PARTNERSHIP PUBLICATIONS**

**Frequently asked questions:**

**Can we contribute to a publication that has commercial advertising?**

# Can we contribute to a publication that has commercial advertising?

## Answer:

Regulations do not allow commercial ads in Government publications. However, it may be possible to contribute to a cooperator's publication which incidentally includes commercial advertising. We can never endorse a product or service. You may want to include a statement in the publication something to the effect of "The Forest Service does not endorse any product shown herein". The decision whether or not to cooperate in an activity that does have commercial advertising should be a management decision.

# WYDEN AMENDMENT (WY)

## Watershed Restoration and Enhancement Agreements





# **WYDEN AMENDMENT (WY)**

## **Watershed Restoration and Enhancement Agreements**

**FSM 1587.15**

**FSH 1509.11 Chapter 60**

**INTERIOR AND RELATED AGENCIES  
APPROPRIATIONS ACT OF 1999 (Pub Law  
105-277) Sec 101(e) as amended by Pub  
Law 107-63, Sec 330**

## **WYDEN AMENDMENT (WY)**

### **Watershed Restoration and Enhancement Agreements**

**Watershed restoration and enhancement agreements for:**

- 1. Protection, restoration and enhancement of fish and wildlife habitat and other resources on public and private land.**
- 2. Reduction of risk from natural disaster where public safety is threatened.**
- 3. Combination of both that benefit those resources within the watershed.**

## **WYDEN AMENDMENT (WY)**

### **Watershed Restoration and Enhancement Agreements**

#### **General Requirements:**

- **Authority is available through Fiscal Year 2005.**
- **Agreement template can be either Federal Assistance or Other Agreement.**
- **There is no specific Wyden appropriation. Funds must be available within existing appropriation; e.g., wildlife funds for wildlife projects.**
- **There is no mandated match requirement.**
- **Ensure agreement terms protect public investment on nonfederal lands.**
- **Project(s) must comply with all Federal, state, and local laws and regulations.**
- **Liability and long term maintenance responsibilities need to be addressed.**

# JOINT VENTURE AGREEMENTS (JV)



# **JOINT VENTURE AGREEMENTS (JV)**

**FSM 1580.11**

**National Agricultural Research, Extension and Teaching Act of 1977 as amended by the Food Security Act of 1985 (7 USC 3152, 3318, and 3319, Pub Law 99-198)**

# **JOINT VENTURE AGREEMENTS (JV)**

**Authorizes the Forest Service to enter into joint venture agreements with any entity for agricultural, research, extension, and teaching activities.**

**NFS appropriated funding may be used to further teaching activities such as:**

- Formal classroom instruction - Natural Resources/Forestry**
- Laboratory instruction - Natural Resources/Forestry**
- Curriculum development - Natural Resources/Forestry**
- Innovative teaching methodologies**

# **JOINT VENTURE AGREEMENTS (JV)**

- **Mutual interests and benefits must be shared.**
- **Competition is discretionary.**
- **Can be initiated by either party.**
- **May be entire or open-ended.**
- **Executed agreement and financial plan in place before work begins.**
- **Costs shared commensurate with benefits received.**
- **20% minimum cooperator contribution.**
- **Do not circumvent procurement, printing, property or personnel procedures.**

# **JOINT VENTURE AGREEMENTS (JV)**

- **Cooperator match can be direct costs, indirect costs, in-kind contributions or other non-federal funds or services.**
- **Cooperator's match cannot be met with other Federal funds except by appropriation law.**
- **Can only be reimbursed for actual costs - not in-kind.**
- **State Cooperative Institutions cannot be reimbursed for indirect costs.**
- **Program income deducted from cost of project.**
- **Negotiate reimbursement instead of advance.**
- **No improvements on non-federal lands.**
- **No profit.**



# COST REIMBURSABLE AGREEMENTS (CR)



# **COST REIMBURSABLE AGREEMENTS (CR)**

**FSM 1580.11**

**National Agricultural Research, Extension and Teaching Act of 1977 as amended by the Food Security Act of 1985 (7 USC 3152, 3318, and 3319, Pub Law 99-198)**

# **COST REIMBURSABLE AGREEMENTS (CR)**

**Can be entered into with any State Cooperative Institutions for acquisition of goods or services, without competition, for agricultural research, extension, or teaching activities.**

**NFS appropriated funding may be used to further teaching activities such as:**

**Formal classroom instruction - Natural Resources/Forestry**

**Laboratory instruction - Natural Resources/Forestry**

**Curriculum development - Natural Resources/Forestry**

# **COST REIMBURSABLE AGREEMENTS (CR)**

- **Do not circumvent procurement, printing, property or personnel procedures.**
- **Mutual interests and benefits must be shared.**
- **Competition not required.**
- **Benefits do not have to be the same.**
- **Goods and services must be available in house.**
- **Personal services performed by employees, not trainees.**

# **COST REIMBURSABLE AGREEMENTS (CR)**

- **Agreement and financial plan in place prior to work.**
- **No advance payments.**
- **Indirect costs <10% of direct costs.**
- **No reimbursement of equipment purchases.**
- **FARs do not apply.**

# EXEMPTED AGREEMENTS (LE, RO, FI)



# **EXEMPTED AGREEMENTS (LE, RO, FI)**

**FSH 1509.11 CHAPTER 20**

## **EXEMPTED AGREEMENTS (LE, RO, FI)**

**Exceptions from the Federal Grants and Cooperative Agreements Act of 1977 were granted by OMB for:**



## **EXEMPTED AGREEMENTS (LE, RO, FI)**

**Exceptions from the Federal Grants and Cooperative Agreements Act of 1977 were granted by OMB for:**

- ❖ Cooperative Law Enforcement Agreements**

## **EXEMPTED AGREEMENTS (LE, RO, FI)**

**Exceptions from the Federal Grants and Cooperative Agreements Act of 1977 were granted by OMB for:**

- ❖ Cooperative Law Enforcement Agreements**
- ❖ Cooperative Forest Road Agreements**

## **EXEMPTED AGREEMENTS (LE, RO, FI)**

**Exceptions from the Federal Grants and Cooperative Agreements Act of 1977 were granted by OMB for:**

- ❖ Cooperative Law Enforcement Agreements**
- ❖ Cooperative Forest Road Agreements**
- ❖ Cooperative Fire Protection Agreements**

# **FINANCIAL PLANS**

# **FINANCIAL PLANS**

## **Cost Elements**

# **FINANCIAL PLANS**

## **Cost Elements**

**Direct**

**Indirect**

**Non-cash**

**In-Kind**

**Reimbursable expenses**

**Cash**

**Program income**

# **FINANCIAL PLANS**

## **Cost Elements**

**Direct**

**Indirect**

**Non-cash**

**In-Kind**

**Reimbursable expenses**

**Cash**

**Program income**

**Matching**

# **FINANCIAL PLANS**

## **Cost Elements**

**Direct**

**Indirect**

**Non-cash**

**In-Kind**

**Reimbursable expenses**

**Cash**

**Program Income**

**Matching**

**Reimbursement**



# **MODIFICATIONS**

**FSM 1587.11A**

**FSH 1509.11 CHAPTER 60**

# **MODIFICATIONS**

**Documents changes in an agreement.**

**Must be executed prior to expiration of agreement.**

# **MODIFICATIONS**

**Use for changes in:**

- 1. Work**
- 2. Location of Work**
- 3. Terms and Conditions**
- 4. Add Annual Operating Plan/Financial Plan**
- 5. Funding**

# **MODIFICATIONS**

## **Requirements:**

- 1. Mutual consent**
- 2. Executed before agreement expires**
- 3. Executed before work begins**

# **ROLES AND RESPONSIBILITIES**

# **ROLES AND RESPONSIBILITIES**

➤ **Regional Forester**

# **ROLES AND RESPONSIBILITIES**

- **Regional Forester**
- **Forest Supervisor**

# **ROLES AND RESPONSIBILITIES**

- **Regional Forester**
- **Forest Supervisor**
- **Grants & Agreements Specialist**



# **ROLES AND RESPONSIBILITIES**

- **Regional Forester**
- **Forest Supervisor**
- **Grants & Agreements Specialist**
- **Grants & Agreements Project Manager**

# **ADMINISTRATION TOOLS**

- **Agreement Process**
- **Agreement Flowchart**
- **Agreement Administration**
  - **Purpose of Administration**
  - **Resolving Problems**
  - **Financial Issues**
- **Common Problems**

## **MISCELLANEOUS WHITE PAPERS**

- **National Burden Rate**
- **Cooperator's Use of Government Owned Vehicles**
- **Reimbursement of Cooperator's Travel Expenses**
- **Open-Ended (Multi-Year) Agreements**
- **Contracting With Non Profits and Community Based Organizations**
- **Contracting With Tribal Entities**

Reference information is available at the  
Washington Office

Grants & Agreements Information Center

<http://fsweb.wo.fs.fed.us/aqm/ganda>

Partnership Resource Center Website –  
<http://www.partnershipresourcecenter.org>

Worldwide Web Access to Provisions –  
<http://www.fs.fed.us/business/>