

2011 SUPPORTING STATEMENT
Contract Operations and Administration
OMB # 0596 - NEW

Note: This request is for a new and combined collection that incorporates currently approved information collections OMB 0596-0017, 0596-0086, 0596-00167 and 0596-0212 pursuant to administering contracts for the sale and disposal of National Forest System timber and other forest products.

In the context of this supporting statement the terms Purchaser and Contractor may be used interchangeably to describe an individual, private sector business, or government entity that has been awarded and currently holds one or more contracts for the sale and disposal of National Forest System timber or other forest products.

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.

Laws, Statutes, and Regulations:

- The National Forest Management Act (16 U.S.C. §472a);
- Contract Disputes Act of 1978 (41 U.S.C. 601, *et seq.*);
- Executive Order 11246, as amended by EO 11375 and EO 12086;
- 36 CFR 223.30-223.60;
- 36 CFR 223.110-223.118;
- Food, Conservation, and Energy Act of 2008
- Forest Resources Conservation and Shortage Relief Act of 1990, section 620d Monitoring and Enforcement, as amended in 1997 by Public Law 105-83 and current through Public Law 110-450, approved December 12, 2008.
- 7 CFR 3017
- 40 CFR 112

The information collection in this request is necessary to implement the above statutes, regulations, and policies designed to administer contracts for the sale and disposal of National Forest System timber and other forest products. The collection request consolidates the following collection: 0596-0017: Timber Purchaser's Costs and Sales Data, 0596-0086: Operation Plans, 0596-0167: Urgent Removal of Timber and 0596-0212: Extension of Timber Sales.

Forest Service contracts for the sale and disposal of National Forest System timber and other forest products are bilateral contracts in which both contracting parties must fulfill obligations reciprocally. By their nature, bilateral contracts require both parties to routinely share information and enter into agreements pertaining to performance. Recognizing the importance of documented communication between both parties, the contracts include a clause titled "*Notices*" that states: "*Notices by either party as to action taken or to be taken*

by the other respecting this contract shall be made in writing to the other party's designated representative."

Information collected pursuant to contract administration is required by laws, regulations, and Forest Service timber sale policies. Each contract specifies the information the contractor will be required to provide, including the timing and frequency of the information collection. Additionally, these contracts are subject to the Contract Disputes Act of 1976. Written documentation of plans, inspections, requests for action by the other party, agreements, modifications, acceptances of work, and virtually everything else pertaining to performance is collected and is essential to resolving disputes. The inability to collect information required under the terms of a contract could result in delays, disputes, claims, defaults and litigation.

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.)

The Contracting Officer for a contract for the sale and disposal of National Forest System timber or other forest products is responsible for all information collected under the contract. Some of the information is collected by other members of the contract administration team including Forest Service Representatives, Engineering Representatives, and Sale Administrators who then forward the information to the Contracting Officer.

Without accurate information showing when and how a contractor intends to operate, the Forest Service would be hindered in fulfilling its contractual obligations to cooperate with and not hinder the performance of contractor's operations. The inability to obtain accurate and timely information from contractors could lead to serious problems including disputes, claims, litigation, and possible default. In some cases, the Forest Service may be unable to determine if a contractor is eligible for additional contract time or other relief measures authorized by regulations and the terms of the contract.

The terms of each contract and external factors such as market conditions, weather, and court orders dictate what information must be collected and when it will be collected. Refer to the separate spreadsheet in the supporting documents for a list and description of potential information collections. These are being referred to as potential information collections because the actual collection of information varies between contracts for reasons described in this supplemental statement. The list of potential information collections includes everything from simply obtaining a signature on a contract inspection form prepared by the Forest Service to a contractor providing a Spill Prevention Control and Countermeasures Plan certified by a registered professional engineer. Appendix B, found in supporting statements separate spreadsheet, contains a more detailed explanation of

the information collections.

Most collected information involves routine exchanges occurring in the normal course of business (e.g. agreeing to the location of a skid trail documented in an inspection report prepared by the Forest Service and signed by the contractor). The actual number of information collections and contracts is variable and constantly changing as new contracts are awarded and older contracts are closed. New court decisions, changes in market conditions, weather, and timber designated for removal can all affect information collections.

The contracts are designed to be flexible and accommodate a wide range of potentially changing conditions and circumstances through notices and mutual agreements. This flexibility relies on the exchange of information and written agreements between the contracting parties. Most of the information collected from the contractors has financial and/or contract performance implications. Consequently, the information must be collected in a manner that documents the source and date when the information was provided. The process of administratively resolving disputes arising under a contract is heavily dependent upon the written record. An incomplete written record can lead to costly litigation.

The type and amount of information collected varies depending on the size, complexity, and length of each contract. Forest Service officers collect the information from contractors who may be individuals, private sector businesses, or other government entities. The information is submitted in a variety of formats including forms developed by individual contractors, charts, letters, standard forms, or in some cases optional forms created by the Forest Service to make it easier for contractors to provide required information. The physical and environmental conditions where individual contracts occur are infinitely variable making it virtually impossible when the contracts are awarded to have all potential situations fully described.

Consequently contracts include numerous references to things that must be agreed to after the contracts are awarded. Most agreements must be custom crafted to address a set of conditions that are often unique to a specific place and time. For example, agreeing on the location of a temporary crossing of a stream can be affected by the size of the stream; season of the year; whether the stream is habituated by fish and if so what species; how the crossing will be used; the equipment the contractor has to construct the crossing and rehabilitate it after it is no longer needed; etc. Another agreement might make a minor change to the boundary of an area designated for harvesting due to the discovery of a new nest tree for some sensitive species of wildlife. Simple agreements are generally documented on a sale inspection report filled out by the Forest Service and signed by the contractor. Complex agreements are generally handled as contract modifications documented on a FS-2400-9 or FS-2400-10 form.

Depending on the purpose of the specific information collection, the information may be submitted by electronic mail, facsimile, conventional mail, or hand delivery. The information collected or exchanged for many of

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the agreements addressing operations are in the form of verbal communications on the contract area documented by the Forest Service in an inspection report which is then reviewed and signed by the contractor. Common to virtually all of the information collections is that it can be verified as coming from an individual authorized to provide the information and is dated.

The information is needed by the Agency for a variety of uses associated with the administration contracts for the sale and disposal of National Forest System timber and other forest products including: (1) planning and scheduling contract administration workloads, (2) planning and scheduling the delivery of government furnished materials needed by contractors, (3) assuring safety of public in vicinity of contract work, (4) identifying contractor resources that may be used in emergency fire fighting situations, (5) determining contractor eligibility for additional contract time, (6) monitoring compliance with domestic processing requirements, (7) monitoring compliance with Small Business Administration requirements, (8) processing agreements and modifications, (9) inspecting and accepting work, and (10) determining fair market value of National Forest System timber.

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 is collected from individuals, private sector businesses, or other government entities holding open contracts. The number of open contracts and number of contractors is constantly changing as new contracts are awarded and old contracts are closed. The following table is a snapshot of open contracts and contractors by classification on November 30, 2009:

Table 1 - Number of Purchasers by Contract Type

Contract Type	# of Contract s	Individual s	Private Sector Businesse s	Government Entities	Total # of Contractor s	Average # of Contracts/ Contractors
FS-2400-2	79	13	31	1	45	1.8
FS-2400-3/3T	169	67	65	6	138	1.2
FS-2400-4	417	175	134	11	320	1.3
FS-2400-6/6T	2514	220	689	11	920	2.7
FS-2400-13/13T	215	10	99	7	116	1.9

Individual columns in this table should not be totaled. Many contractors hold multiple contracts which may have been sold on a variety of contract forms. For example, while there were 320 different contractors with 2400-4 contracts, some of those contractors also held contracts sold on one or more of the other contract forms and are included in the total number of

contractors for those other forms. Totaling the column would count those contractors more than once.

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

The information is needed by the Agency for a variety of uses associated with contracts for the sale and disposal of National Forest System timber and other forest products including: (1) planning and scheduling contract administration workloads, (2) planning and scheduling the delivery of government furnished materials needed by contractors, (3) assuring safety of public in vicinity of contract work, (4) identifying contractor resources that may be used in emergency fire fighting situations, (5) determining contractor eligibility for additional contract time, (6) monitoring compliance with domestic processing requirements, (7) monitoring compliance with Small Business Administration requirements, (8) processing agreements and modifications, (9) inspecting and accepting work, and (10) determining fair market value of National Forest System timber.

Each collection of information is unique to an individual contract and an individual requirement under that contract. (Please see separate spreadsheet in the supporting documents for a list of all the potential information collections and the contractual basis for them.)

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 various information collections are obtained in a variety of ways depending on the type of information that is being collected and how it will be used. One thing in common is that virtually all of the information collections must be verifiable as to the source and time due to the legally binding nature of the information under the terms of the contract. Examples include:

- (1) The Forest Service prepares an inspection report documenting the inspection each time a contract is inspected. The reports are typically hand written in the field on standardized forms each Forest Service Region has adopted. The reports may also document agreements pursuant to the contract. The forms include a blank for the contractor or contractor's representative to sign acknowledging receipt of the report and acceptance of any agreements contained within the report. The only information collected from the contractor is a signature and this is often done in the field at the time of the inspection. Alternatively, inspection reports may be mailed to the contractor who is asked to sign the report and then either mail or fax it back to the Forest Service. This process assures that the contractor has had an opportunity to review what the Forest Service is observing and take action to correct minor problems before they become large problems subject to breach of contract.
- (2) Tree measurement contracts require contractors to request release of a payment unit and for Forest Service to provide written

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authorization to the contractor to begin operations. The request to release a payment unit initiates a bill to the contractor. On many contracts the date the request is made can affect the price of the timber being released. Forest Service accounting and sale administration procedures mandate that before issuing this bill there is a written request from the contractor in a format that verifies the source and time of the request. This can be anything from a hand written note prepared in the field by an authorized representative of the contractor and handed to the Forest Service Representative to a FAX, email, or letter traceable to the contractor.

- (3) Contracts can be modified for a wide variety of reasons. Modifying the terms of a contract generally has financial implications to each party. Contract modifications are executed on hard copy standard forms (FS-2400-9 and FS-2400-10) that require original signatures of both parties. Depending on the reasons for and scope of a modification these forms have varying response times ranging from 6 minutes to 2 ½ hours. Refer to Supporting Statement Spreadsheet for details.
- (4) To guarantee payment for timber, contractors are required to pay cash in advance of cutting or may furnish a payment bond which assures payment will be made after the timber is cut. Contractors are required to complete form FS-6500-12 when a payment bond is used on a single contract and FS-6500-12a when the payment bond will cover two or more contracts. The estimated burden is 1 hour regardless of which form is used.
- (5) The timber sale contracts require contractors to provide plans addressing various aspects of their operations (OMB 0596-0086). The information required for individual plans varies depending on the size, length and complexity of each contract and how the contractors choose to submit the required information. Appendix B identifies all of the things that may have to be included in a plan. Contractors may submit separate plans addressing different contract requirements or include multiple requirements into a single plan. For example, a traffic control plan (B/BT6.33) may be submitted as separate plan or incorporated into an Operating Schedule (B/BT6.31). The burden estimate for a basic Operating Schedule is 1.6 hours. The burden estimates for additional items that may be incorporated into an Operating Schedule are listed separately in the Supporting Statement spreadsheet. To assist individuals and small business contractors many Regions and contracting officers have developed templates to help contractors in preparing their plans. These templates are optional and contractors are free to provide the information in a format of their choosing, e.g. letter or company form.
- (6) Form FS-2400-59 (0596-0114) was used to collect information required under the Forest Resources Conservation and Shortage Relief Act of 1990. The Act was amended in 1997 requiring new rule making which has not been completed but is not expected to affect

the type of information previously collected on the FS-2400-59 form. The form is referenced here even though it is not currently in use but with the intent that once a final rule is approved, the collection will be merged into this collection.

- (7) Timber sale contracts contain remedies including liquidated damages in event the contract has to be modified or cancelled as the result of environmental litigation. When environmental litigation is filed after a sale has been advertised but prior to award the Forest Service generally delays award until the litigation is resolved. For a variety of reasons some contractors request award prior to the litigation being resolved and in exchange agree to forgo liquidated damages. To document these quid pro quo agreements the Forest Service has developed form FS-2400-xx, Pre-Award Waiver, Release, and Limitation of Liability Agreement. The burden associated with this new form is estimated to be 30 minutes.

Appendix B within the spreadsheet document in the supporting documents contains a complete list of potential information collections covered under this request including a description of the general type of information collected under different contract clauses. Clarification of information provided may occasionally require answering questions face-to-face, over the phone, or by Internet. Information collected for agreements made in the field is generally by verbal communications documented by the Forest Service and then signed by the contractor.

e. How frequently will the information be collected?

Contractors voluntarily enter into these contracts. In most cases the contracts are awarded following a competitive process that includes submitting bids or offers on Forest Service forms approved by OMB (0596-0066). The forms require the bidder/offeror to certify that they have read and understand each and every provision of the sample contract. Either party may initiate conversations or agreements or provide notices in regard to performance at any time during the life of the contract.

Contracts may also be modified by mutual agreement for a wide range of reasons specified in the contract. The process of entering into agreements or modifying the terms of a contract requires an exchange of information. The performance period for these contracts can range from a few days to five or more years. Once a contract is established, the frequency and basis for information collections will depend on the size and complexity of the contract, how the contractor chooses to operate, and external factors such as weather and market conditions. Some examples are as follows:

- (1) For contracts over 2 years in length the National Forest Management Act of 1976 requires the contractor to submit a general plan of operation within 60 days of award of the contract. If the contractor reasonably follows the plan, the plan does not need to be revised. But, changing market and/or weather conditions may require annual revisions until the contract is completed.

- (2) Contractors may request Market-Related Contract Term Additions (MRCTA) pursuant to 36 CFR 223.52 when forest products markets drastically decline. The Forest Service monitors market conditions and notifies contractors quarterly when their contracts are eligible to receive a MRCTA. Since authorizing a MRCTA affects some of the financial requirements under a contract, contractors desiring a MRCTA must request it in writing. During a prolonged market decline, a contractor may submit up to four requests per year for each contract. But, when forest products markets are not triggering MRCTA conditions, contractors will not be eligible for MRCTA and will not be required to submit any requests.
- (3) The Forest Service prepares inspection reports each time it inspects a contract, and contractors are asked to acknowledge receipt of the report by signing it. The frequency of inspections is mostly a function of the level of operations on each contract. Some large contracts may have two or more logging sites operating simultaneously in different parts of the contract area. The Forest Service may prepare separate reports for each logging site and may visit each logging site two or more times per week. Some contracts could have four or more inspections reports per week when operations are active and then have no reports generated for several months when no operations are occurring. Some small contracts may be operated by only one or two individuals, and the Forest Service inspection schedule may generate only one report every 2-3 weeks.

Supplemental Spreadsheet contains a complete list of the potential information collections covered under this request including an estimate of the estimated annual responses per respondent.

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

The information is generally not shared with any other organizations inside or outside the USDA or government except pursuant to a request under the Freedom of Information Act. Some of the information collected is used to monitor compliance with programs and regulations established by the Small Business Administration and Department of Labor and may be shared with those organizations if requested.

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

This request is for a new collection that also incorporates currently approved information collections OMB 0596-0017, 0596-0086, 0596-00167 and 0596-0212. Portions of the currently approved information collection have been modified as follows:

0596-0086 - Operation Plans: Contract clauses developed in the 1970s are the basis for most of the information collected as follows: (1) general plan of operations, (2) annual schedule of operations, (3) schedule for specified road construction, (4) annual plan of operation for road construction, (5) traffic control plan, and (6) fire prevention and control plan. In 2002, the EPA added

a requirement for a spill prevention control and countermeasures plan. The requirements for a technical proposal apply only to the integrated resource contracts implemented in 2004, although much of the information collection in a technical proposal mirrors that of a general plan of operation, which has been a part of timber sale contracts since the 1970s.

0596-0017 - Timber Purchaser's Costs and Sales Data: Greater reliance on transaction evidence appraisal procedures has reduced the need to collect detailed operating costs and selling price data from timber sale purchasers. The records purchasers are required to provide are only those that would be maintained during the normal course of business. Purchasers are not required to establish or maintain any additional records to meet the requirements for this collection.

0596-0167 Urgent Removal of Timber: The collection requirements have not changed; they are specified in the rules at 36 CFR 223.53.

0596-0212 Extension of Timber Sales: Forest Service forms FS-2400-70, FS-2400-71, FS-2400-72 and FS-2400-73 were developed to implement section 8401 of the 2008 Farm Bill authorizing the extension of certain timber sales. These forms will become obsolete with this collection. They are being combined into a new form titled "Pre-Award Waiver, Release, and Limitation of Liability Agreement" FS-2400-New.

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.

Information will be collected using a variety of methods including hard copies hand delivered, hard copies sent via USPS, or commercial delivery service (UPS, Fed-Ex, etc.), facsimile, email, and in some cases verbal communication. The method of collection depends on the type of information that is being collected and how it will be used. For example, a formal modification of a contract requires original signatures on hard copies while a contractor has the discretion to submit a request for the release of a payment unit using any written method including email. Supplemental spreadsheet lists all of the potential information collections and Appendix B in supporting documents indicates if electronic submission is acceptable. Most permissions and agreements are initiated by a request from the contractor which may be sent electronically. Final agreements require an original signature. Permissions that do not require an agreement may be approved by the Forest Service in a letter or other format not requiring the contractor's signature.

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.

Each item of data collected is unique with two exceptions. Contractors holding multiple contracts can prepare a single Spill Prevention Control and Counter

Measures Plan for all of its contracts and prior to initiating operations during the fire precautionary period prepare and submit a single Fire Prevention and Control Plan for more than one contract.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Contracting Officers and other members of the Forest Service sale administration team routinely help small contractors to understand the terms of their contract and assist them in providing information required by the contract. For example, prior to initiating operations contractors must complete an annual Operating Schedule. Depending on the size and complexity of the contract this could include a Traffic Control Plan, a Fire Prevention and Control Plan, a Route of Haul Map, a material delivery schedule, and a plan of operation for road construction. Forest Service personnel will often meet with small contractors to review these requirements and help them compile and submit the necessary information. Forest Service personnel may provide locally developed templates as an optional method for contractors to submit the necessary information.

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.

Forest Service contracts for the sale and disposal of National Forest System timber and other forest products are bilateral contracts in which both contracting parties are bound to fulfill obligations reciprocally towards each other. By their nature bilateral contracts require both parties to routinely share information and enter into agreements pertaining to performance. Each contract specifies the information the contractor will be required to provide, including the timing and frequency of the information collection. Agreements are typically custom crafted to address a unique set of conditions and variables which does not permit standardizing a form for agreements.

Additionally, these contracts are subject to the Contract Disputes Act of 1976 which requires contractors to submit claims in writing to the contracting officer. Written documentation of plans, inspections, requests for actions, agreements, modifications, acceptances of work, and virtually anything else pertaining to performance is essential to administratively resolving disputes. The inability to collect information required under the terms of a contract could result in delays, disputes, claims, litigation and/or defaults.

To lessen the burden and decrease contractor confusion, the Forest Service requests to combine all potential information collections associated with contracts for the sale and disposal of National Forest System timber and other forest products into one OMB approval. The information collected pursuant to contracts for the sale and disposal of National Forest System timber and other forest products is necessary to implement the various statutes, regulations, and policies designed to ensure that National Forest System timber is sold in accordance with the law.

The collection of information, and the ability to enter into, modify or cancel agreements, are essential to business transactions related to these contracts. The inability to collect this information would be disadvantages to both the

Forest Service and contractors leaving both vulnerable to disputes, claims and lawsuits.

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;**

Most of the information collections do not occur more often than quarterly, but, when operations are in progress on a contract, there is a need for a steady exchange of information between the contractor and the Forest Service. For example, the contract requires the contractor to locate landings, skid trails, and temporary roads for approval by the Forest Service. On most contracts it is not feasible or desirable for the contractor to locate these items for the entire contract area before requesting Forest Service approval. The standard practice is to locate and request approval of landings, skid trails, and temporary roads on a harvest unit by harvest unit basis as operations progress. Depending on the size of the contract, size of individual harvest units, and the contractor's rate of progress this could occur on a monthly, weekly, or even a daily basis. The frequency of the agreements is essentially controlled by the contractor who requests approvals on an as needed basis. This is also the case for most of the situations where the contract requires the contractor to request certain actions by the Forest Service or for both parties to reach agreement on certain actions. The frequency of the requests and agreements is dictated by the contractor's needs.

There are two information collections associated with operations and administration of contracts where the information may be collected on a relatively high frequency. These are inspection reports and load receipts. Each time the Forest Service inspects a contract an inspection report is prepared by the Forest Service. Individual Forest Service Regions have developed inspection report forms for use in their Regions. The frequencies of inspections are generally at least weekly but may be as often as daily depending on factors including operating conditions and the contractor's rate of progress. The Forest Service documents each inspection in a report typically prepared during the inspection. These reports often document agreements and acceptance of work and are signed by both parties as a way of executing the agreements and/or the contractor acknowledging receipt of the report. The Forest Service estimates that over 67,000 inspection reports are prepared annually.

All contracts where the volume for payment purposes is determined after felling (scaled) and all contracts in the contiguous US west of the 100th meridian including those where the volume is determined prior to felling (tree measurement) require the contractor to attach a Forest Service load receipt to each load of logs before it leaves the contract area. Individual Forest Service Regions have developed load receipts for use in their Region. Load receipts must be completed by the contractor prior to affixing them to a load. This includes adding the date and time the truck was loaded, the destination where the truck will unload, the name of the truck driver and may include

other accountability information required on the Regional load receipt. The receipt is then folded in half and attached to the load in a manner where the information entered on the receipt is not readily visible. After the load reaches its final destination the receipt is removed and returned to the Forest Service. The information entered on load receipts by contractors is used exclusively by the Forest Service. The use of load receipts is an essential component in FS timber theft prevention efforts and in the Western United States helps monitor compliance with domestic processing requirements pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990 as amended. Some small contractors may generate one load of logs every 1-2 weeks while some large contractors are capable of generating 25+ loads of logs per week. Load receipts are accountable property. Used load receipts are deposited in Forest Service collection boxes or sent back to the Forest Service by the contractor. Unused load receipts are returned to the Forest Service at the end of seasonal operations and at the end of the contract. The Forest Service estimates that approximately 170,000 load receipts are used annually.

The estimated annual responses per respondent found in Supplemental Spreadsheet identifies the collections that may occur more often than quarterly.

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **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;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **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**
- **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.

A Federal Register Notice requesting comments was published on Friday, June 4, 2010, on page 31744 in Volume 75, Number 107. The Agency received 7 responses during the comment period of which 3 were advertisements for different products or services; 3 were filtered by Agency antivirus software because of potentially harmful attachments; and 1 was a diatribes against the Agency and the previous administration but did not address the merits of the proposal. None of the responses specifically addressed cost or hour burden. No changes were made to the proposed information collection based on the comments received.

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.

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.

The Forest Service contacted four persons outside the Forest Service to obtain their views on the new information collection. Each person was contacted by phone and provided an overview of the potential information collections. Following that each person was sent a copy of the supporting spreadsheet found in the supporting documents detailing each of the information collections and estimated burden. Each person was given a few days to review the burden estimates and was then contacted by phone again to obtain their views as follows:

Headstrom Lumber Company, Inc.

Howard Headstrom
Grand Marais, MN 55604
Phone: 218-387-2995

Mr. Headstrom noted that a lot of the specific items did not apply to his contracts, e.g. product identification. It was discussed that the list of information collections was intended to be all inclusive and that many of the items may not apply to any given contract. Mr. Headstrom then noted two items that he thought were unnecessary as follows:

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- Signing and returning all inspection reports: It was discussed that many of the inspection reports include agreements and to be binding both parties needed to sign the agreement. Mr. Headstrom agreed with that and then suggested that maybe only those reports needed to be signed.

Forest Service Reply: A new system would need to be established to identify and track reports that contained agreements to assure that they were signed. Furthermore, in addition to documenting agreements, inspection reports provide a summary of ongoing operations. Without that information a purchaser could be surprised by a breach notice or other adverse action that could have been averted with prior knowledge of a developing problem. Most of the time burden associated with inspection reports is the time to read the reports. After the reports are read, the time to sign and in some cases return the signed reports to the Forest Service is minor. Inspection reports protect the interests of the purchasers by keeping them informed of progress and performance.

- Submitting annual Operating Schedules even when no operations are planned: The contracts require a purchaser to provide a general Plan of Operations for sales over two years in length and an annual Operating Schedule before commencing operations. Mr. Headstrom noted the difficulty in providing accurate plans when so many factors can cause contractors to have to change their plans. He also felt it was unnecessary to submit an annual Operating Schedule if they did not plan to operate.

Forest Service response: The Section 14c of the National Forest Management Act of 1976 (NFMA) requires purchasers to submit a general Plan of Operations for contracts over 2 years in length. NFMA also states that a contract cannot be extended unless the purchaser has diligently performed in accordance with an approved plan of operation. The Forest Service uses information from the Plan of Operations to (a) plan and schedule contract administration workloads, (b) plan and schedule delivery of government furnished materials, (c) plan for public's safety near contract work, (d) identify contractor resources available in emergency firefighting situations, and (e) determine a contractor's eligibility for additional contract time.

It's also noted that contractors may revise their Plan of Operations when necessitated by weather, markets, or other unpredictable circumstances. For these reasons the Forest Service does not propose to make any changes to the requirement for a Plan of Operation. The contracts do not require contractors to submit an annual Operating Schedule in years they do not plan to operate. But, if the general Plan of Operations showed operations in a year the contractor subsequently decides to not operate, in lieu of submitting an annual Operating Schedule, the contractor should be revising the Plan of Operations. Both plans provided for structured communication between the contractor and the Forest Service and form the basis for certain actions under the contract. Mr. Headstrom's comment appears to address a local or Regional problem or misunderstanding of the process.

Delta Timber Company

Mr. Eric Sorenson
Delta, CO
Phone: 970-874-0849

Mr. Sorenson expressed surprise over the list of potential information collections but then went on to state that over the years he had probably responded to virtually all of the items and viewed them as a routine part of doing business. He didn't see anything on the list that was really unnecessary, and the estimates of burden appeared reasonable. Mr. Sorenson did not have any recommendations for ways to minimize the burden.

Neiman Enterprises, Inc.

Mr. Dan Buehler
Phone: 605-545-4444 (cell)

Neiman Enterprises, Inc. operates sawmills in Western South Dakota and Northeastern Wyoming. Mr. Buehler felt there should be a onetime approval for individual contract provisions (e.g. eliminate the three year renewals). We discussed that this would probably require a change in the law. In discussing, we discussed ways to reduce the PRA process. We talked about the OMB approval of the bid forms (0596-0066) as possibly being sufficient to cover the information requirements associated with a contract as addressed in section 17 below. OMB would have to determine if that is adequate or not.

Mr. Buehler asked how the Forest Service used the information it collected. It was explained that most of this was simply the routine exchange of information (notices, requests, agreements, etc.) necessary for the orderly progression of operations. For example, a purchaser requests the release of a payment unit and Forest Service responds by releasing the unit. We went on to discuss the various plans required under the contracts and how the Forest Service uses that information covering essentially the same points addressed in the interview with Mr. Headstrom above.

Mr. Buehler did state that he felt the annual fire plans were unnecessary. His company prepares one annual plan covering all of their sales but those are rarely updated to reflect changes in operations that may occur over the course of the season and that in his memory his company has never been asked to provide equipment for fire fighting. The Forest Service response is that while the contracts are national templates there are regional differences in the use of purchasers' equipment for firefighting emergencies. Having a list of potential equipment to draw on in a fire emergency is important even if the need rarely occurs. Mr. Buehler also felt that the schedule for specified road construction required under B/BT5.21 was unnecessary. It was discussed that while this appears to be a separate plan, virtually all purchasers, including his company, simply incorporate the required information in their annual operating schedules.

Mr. Buehler asked why B/BT9.3 Breach and B/BT8.12 Liability for Loss were not

included in the list of potential information collections. The Forest Service response is that while purchasers may submit information if these situations arise, unlike provisions requiring the collection of information identified in the separate spreadsheet, B/BT9.3 and B/BT8.12 don't specifically address the collection of information such as a notice, agreement or plan.

In response to the estimates of burden associated with the various provisions, Mr. Buehler stated that in general the estimates seemed reasonable recognizing the wide range of variability in so many of them.

Intermountain Forest Association

Mr. Tom Troxel
Rapid City, SD 57702
Phone: 605-341-0875

The Intermountain Forest Association represents timber sale purchasers in portions of the Central and Northern Rocky Mountains. Although the association does not buy timber sales and consequently does not submit information covered by this request, it has direct knowledge of timber sale contracting procedures and requirements gained by representing its members. Mr. Troxel expressed general dismay over the PRA process as it related to information collected under timber sale contracts. He noted that the timber sale contracts can be extremely complex and require a lot of information, but the information collected was necessary and good business practices dictated good documentation. Purchasers understand the information requirements before entering into a Forest Service timber sale contract.

He went on to state that there were better more effective methods for changing contractual requirements than through the PRA if industry felt something was overly burdensome. With regard to the Forest Service estimates of burden, Mr. Troxel thought on the average they were reasonable recognizing how variable some of the items can be. Mr. Troxel did not have any specific recommendations on how to enhance the quality, utility, or clarity of the information collected or ways to minimize the burden. He went on to note that purchasers have lots of opportunity to discuss their contracts with the Forest Service and address any problems or recommendations they have.

The Forest Service does not propose any changes to information collection requirements or burden estimates in response to these interviews.

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.

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

There are no assurances of confidentiality for the information collected except for business records obtained pursuant to contract provision B/BT6.9. Requests for the information collection will be processed under the Freedom of Information Act and associated exemptions. When not in use, the information collected

under B/BT6.9 is stored in a locked filing cabinet, with access limited to Federal employees that need access to the information. Official copies of all other information collected are stored in project files for each contract maintained in the open file system. Duplicate copies of some information are maintained in field files used by sale administrators in performance of their official responsibilities.

- 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.**

No questions of a sensitive nature are part of 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.**
 - 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)**

Please see separate spreadsheet under supporting documents – Burden Hours to see complete break out of burden estimates and Appendix B for description of each contract provision.

- **Record keeping burden should be addressed separately and should include columns for:**
 - a) **Description of record keeping activity: None**
 - b) **Number of record keepers: None**
 - c) **Annual hours per record keeper: None**
 - d) **Total annual record keeping hours (columns b x c): Zero**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Table 2 – Estimate of aggregate annualized cost to respondents for burden hours*

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(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
Contract Operations and Administration	94,297	31.55/Hr	\$2,975,070

* Wage of 31.55 per hour is based on information from *Department of Labor, Bureau of Labor Statistics Economic News Release, September 2009, Table 9. Private industry, goods-producing and service-providing industries, by occupational group.* (copy attached).

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 start-up/capital or operation/maintenance costs associated with this collection.

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 as a result 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 estimated cost to the Federal government is \$1,078,540. For the complete break out of the cost estimate please view separate spreadsheet in the supporting documents under Gov Cost.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB form 83-I.

This is a new collection combining 0596-0017: Timber Purchaser's Costs and

Sales Data, 0596-0086: Operation Plans, 0596-0016: Urgent Removal of Timber and 0596-0212: Extension of Timber Sales. Differences from the previously approved collections are attributed to changes in the data set for numbers of sales by contract types and a change in the procedures used for estimating burden in this comprehensive request.

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 for statistical use.

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 expiration date of the OMB approval of this information collection will be displayed on forms associated with this collection with one potential exception. The Forest Service requests permission to exclude the OMB approval on Load receipts. Load receipts are printed on special waterproof card stock paper, are bound in books of 25 or 50 receipts and cost several dollars per book. Each page of the book is actually a multi-part receipt for an individual load of logs with each part separated along perforations. An example of a load receipt and book cover is included with this package. Dashed lines indicate the location of perforations between the different parts of the receipt. Each book has a cover with instructions for completing the individual receipts.

There is no room on the individual load receipts to include the OMB control number and expiration date. Increasing the size of the load receipts would make them unsuitable for their intended use. Load receipts are attached to a load of logs by stapling them to the end of a log in a location where they can be viewed by a passing vehicle. Increasing the size of the load receipts would make them more difficult to securely attach to small diameter logs and increase the potential for them to be blown off while the truck is in transit. An alternative to printing the OMB information on the actual load receipts would be to include the control number and expiration date on the cover. Most units maintain a 2-3+ year supply of load receipts so adding the OMB control number and expiration date would take 2 or more years to fully implement. Destroying existing stocks would be prohibitively expensive.

In supporting documents separate spreadsheet under Burden Estimate, the spreadsheet identifies the information that will be collected on forms. But, there are no forms for most of the information collections associated with operations and administration of contracts for the sale of timber and other forest products. Most information is collected via letters, agreements, and emails that are custom drafted to address specific circumstances at a specific point in time. The Forest Service request permission to omit the OMB approval number and expiration date on the correspondence listed above.

Also, most contracts are entered into following a competitive bidding process which requires submitting a standard bid form approved by OMB 0596-0066. Except for the FS-2400-42a Short-Form Bid used for simple small sales, the bid forms include the following statement:

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TERMS OF BIDDER'S OFFER: Bidder certifies and represents that the Bidder has read and understands each and every provision of this bid form (together with any attachments thereto) and the sample contract. The Bidder agrees that it assumes the responsibility to clarify any questions before signing this form. The Bidder agrees that the written provisions of this bid form (together with any attachments) and the sample contract constitute the entire agreement of the parties until a written contract is executed and neither the bid form (and any attachments) nor the sample contract can be orally modified. The Bidder expressly adopts the terms of this bid form and the sample contract as material parts of the Bidder's offer for the advertised timber or forest product.

Contractors submitting bids enter into contracts with the knowledge of the potential information collections associated with fulfilling the terms of those contracts. Displaying the OMB approval on each and every one those information collections is unnecessary and would be excessively redundant.

The Forest Service considered an option of displaying the OMB burden information on various contract forms (FS-2400-3, FS-2400-6, etc.) rather than on the individual forms associated with the contracts. But, displaying an average burden on the contract form would be meaningless because each contract has variable levels of complexity and the time necessary to complete it. For this reason the Forest Service recommends not displaying the OMB burden time information on the contract forms.

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

The Agency is able to certify compliance with all provisions in item 19.