

Supporting Statement for OMB 0596-NEW
GOOD NEIGHBOR AGREEMENTS WITH STATE COOPERATORS
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GOOD NEIGHBOR AGREEMENT QUESTIONS AND COMMENTS

General Questions

Question: How does GNA relate to the Wyden Authority?

Answer: Good Neighbor Authority (GNA) is completely unrelated to the Wyden Authority. In a nutshell, Wyden Amendment allows the Forest Service to spend funding appropriated for management of National Forest System (NFS) lands off NFS lands if there is a benefit to the NFS lands within a watershed, in partnership with any entity type. GNA is a tool for the Forest Service to complete work on NFS lands (primarily) with a State agency.

Question: Does the requirement to be on state and/or private lands (adjacency) come from both the Farm Bill and the Appropriations Act?

Question: How important is adjacency in the agreements? (There is reference to this in the descriptions of the agreements on the Forest Service website)

Answer: Adjacency is required for activities performed under the Appropriations version of GNA. It is not a requirement of the Farm Bill version of GNA.

Question: Can GNA be used in designated Roadless Areas that are adjacent to private lands?

Answer: No, both authorities specifically exclude work in designated roadless areas.

Question: Would we need a different Master GNA Agreement with each state agency or could we have one with the State as a whole perhaps signed by the Governor?

Answer: Technically, there could be a single Master GNA signed by the Governor that would apply to all eligible State agencies. Functionally, it may be very difficult to manage communication and coordination. The recommendation is to have a Master GNA with each agency that the Forest Service chooses to partner with.

Question: Is work like culvert replacement considered road construction? If we are doing it to improve watershed and fish habitat does it fit under the Farm Bill?

Answer: Culvert replacement, when performed to repair existing roads, is not authorized under the Farm Bill because the authority excludes work on roads. It is an allowable activity that could be performed using the Appropriations Act version of GNA.

Question: Is there a separate financial plan being developed for GNA?

Answer: No, the FS-1500-17B: Agreements Financial Plan (Short) approved under OMB 0596-0217 may be used to outline the cost elements.

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Question: Is there a 5-year (or other time frame) duration limit on a master GNA or SPA?

Answer: The Forest Service is still assessing whether or not agreements should be allowed to be up to 10 years similar to stewardship agreements.

Question: Is this authority reciprocal? Can the state pay us to do work on State land?

Answer: No, this is not reciprocal. Depending on the situation, there are other authorities that do allow for the Forest Service to perform work on behalf of the State. These should be evaluated on a case by case basis in coordination with the local Forest Service Grants & Agreements (G&A) Specialist.

Question: Could this authority be used to allow State agencies the ability to complete emergency watershed stabilization work?

Answer: Emergency watershed stabilization work is a great example of work that may be performed under GNA.

Question: I believe I read somewhere that a Forest had lost a key member of their ID Team on a major project (this person being a wildlife biologist), and the Forest was able to enter into GNA with the state to pick up the services of one of their wildlife biologists for a time. Is this applicable to/possible under GNA?

Answer: This is a terrific example of work that may be performed under GNA.

Question: Does this cover burning on NFS?

Answer: It may, however there may be other instruments that better cover this activity.

Question: For colleagues who tell you that this is simply the federal government allowing the states to do our work, what is an appropriate response?

Answer: The Good Neighbor Authority (among other things):

- Provides the ability to work across jurisdictional boundaries and treat the landscape in a mixed ownership setting
- Fosters a collaborative approach to address land management challenges
- Provides the ability to leverage state resources to increase capacity to accomplish work on National Forest System lands
- Provides the opportunity to strengthen the Federal/State partnership

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Question: Has the appropriations committee funded this authority?

Question: Is there any thoughts on how this authority would be funded, particularly for projects that are not projected to generate excess receipts? Is there going to be a pool of money from the WO, or would the regions/forest have to fund projects from the Forest Service side?

Answer: Congress did not specifically target appropriations to implement GNA projects. Projects will be funded through appropriations made for the type of work performed.

Question: When can the authorities begin to be used?

Answer: Once the templates have been cleared by the Office of Management and Budget (OMB), agreements can be entered into under GNA. Once approved, the Forest Service can utilize the agreement templates to enter into Good Neighbor Agreements nationwide and Puerto Rico.

Question: When will the Forest Service handbook and Forest Service manual be available for GNA? Will it be similar to stewardship? What code will it be organized under?

Answer: The GNA policy and guidance in Grants & Agreements and Forest Management are being drafted and development now.

Question: Where can we easily find a copy of the GNA authorities?

Answer:

- 2014 Agricultural Act (Farm Bill) authority:
<https://www.govtrack.us/congress/bills/113/hr2642/text> (Good Neighbor Authority is found in Sec. 8206)
- Appropriations Act authority:
<https://www.govtrack.us/congress/bills/113/hr3547/text> (Good Neighbor Authority is found in Sec. 417)

Question: How are the rates for this work determined? For example, if the state agency performs timber marking for the national forest, is the state paid on a per acre basis or per unit or...?

Answer: During the collaboration process to develop project agreements, the state and Forest Service need to agree to reasonable costs for planned activities. It will be up to the parties of the agreement to determine what unit of measure is used for

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payment, including reimbursement of actual costs to the state.

Question: How does Rx fire play into the discussion of GNA?

Answer: While prescribed fire may be an approved activity under GNA, there may be better instruments in place to cover that activity.

Question: If state and private funds cannot be used on federal forest lands, doesn't that essentially mean that all the activities on Federal forest land must be funded with timber sale money?

Answer: No, activities on NFS lands should be funded with appropriated dollars for the specific type of work performed.

Question: The Forest Service invites comment on several questions, one being (1) Whether or not this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility. Can you tell me what "this collection of information" would include and is it only related to the annual reporting requirement by each state?

Answer: To negotiate, execute, and administer a Good Neighbor Agreement, the U.S. Forest Service must collect both financial and project specific information from willing State cooperators from the pre-agreement, administration, and closeout of the agreement. The proposed instruments collect information familiar to state grants and agreement staff such as statements of work, expected outcomes, financial plans (including contribution types, billing info, list of contractors), and other similar info. The Forest Service and each willing state will agree to suitable performance reporting depending on the needs and requirement of the agreed to project or activity. State cooperators may be required as mutually agreed to submit a project performance report on a quarterly, semiannual, or annual basis. A final project report is also required.

Question: The Forest Service also invites comment on (2) The accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used. Similar to my second question, is this question only related to the annual reporting requirement of states or does the estimate of burden include collection of information from the pre-agreement to the close-out stage?

Answer: The question is related to the collection of information from pre-agreement to the close-out stage. The proposed burden associated with the Good Neighbor Agreements were based on our experience working with partnership agreements. We estimate the average burden on states to be consistent with the burden estimate of partnership agreements which is currently 4 hours per

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instrument...some large projects will require more time to develop while smaller projects will require less. Because this is a new collection, we do not have data to support whether the authorities will be used for small projects or for much larger projects which is why it is using currently approved burden estimate for its partnership agreements. We look forward to receiving comments from states regarding the estimated burden.

Question: If you have a project which contains any road construction or reconstruction on specified roads, you would have to use an agreement under the Appropriations Bill version of GNA. So, in essence you could have two different agreements associated with one project, both a Farm Bill GNA agreement and an Appropriations Bill agreement.

Answer: Yes.

Question: Assuming the process would be to have a yearly master agreement with the state and then each activity has a supplemental agreement, can the master be a less detailed "blanket" agreement?

Answer: The Master Agreement should cover a span of 5 years to allow for multi-year projects through an SPA. The Forest Service is still assessing whether or not agreements should be allowed to be up to 10 years similar to stewardship agreements. The Master Agreement carries all of the provisions that are required for any agreement while the SPA has only the project specific information, along with contacts and payment information.

Question: Are the templates open to feedback based on comments received?

Question: Some of the templates talked about a proposal. Will there be a proposal process similar to stewardship?

Answer: The templates will be modified based on comments received and general editing. The Technical Proposal provision has been removed and replaced with a general Joint Scope of Work provision that is more fitting to activities under GNA.

Question: I have a request from a State to assume maintenance responsibility on a Forest Service Road. No funding has been addressed. Would a GNA agreement be appropriate in this case?

Answer: This work may be performed under the Appropriations version of GNA if similar work is being performed by the state forestry agency on lands adjacent to the NFS project area.

Question: Is there a mechanism for startup cost? Can the state receive funding from the Forest Service to set up an initial project?

Question: How does GNA address projects or activities (such as fuels reduction) where timber sale receipts will not likely cover the costs of the treatment? Does GNA provide for federal funds to cover the difference, and if so - what will be the likely types/sources of funds that would be used?

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Answer: Work under a GNA agreement may be directly funded by the Forest Service using appropriated funds that are designated for the work to be performed. For example, wildlife surveys should be paid for with funding designated for wildlife management.

Question: Will this change the existing GNA authorities in Colorado and Utah?

Answer: The GNA authorities have both expired and are replaced by the permanent authority in the Farm Bill, and the shorter-term authority provided in the 2014 Appropriations Act.

Question: In master GNA agreement, under section IV, F. Program Income, what is the “additive approach” for applying program income generated as a result of the agreement vs. the deductive alternative?

Answer: Using the additive approach for Program Income allows the income to be used “in addition” to any other funding that is provided by the Forest Service to complete the work described in the agreement. If we do not identify an alternative for use of program income, the deductive alternative applies and program income must be used in place of any other Federal funding that is contributed to the project.

Question: What overhead policies will apply?

Answer: Overhead will be identified and addressed in the agreement following the regulations in 2 CFR part 200 as implemented by U.S. Department of Agriculture in 2 CFR part 400.

Question: Would you recommend that a State signs an agreement absent any pending activity in anticipation of being a participant in the future? Why would the state want to sign an agreement prior to having a project in the hopper?

Answer: If a Master Agreement is in place, even if there is no anticipated activity, both the state and the Forest Service are in a good position to easily take advantage of opportunities that may arise. Additionally, it may be valuable to identify potential projects that may be unfunded so that if funding becomes available, both parties are well positioned to take advantage of the opportunity.

Cooperator Related Questions

Question: Any other units of government that we can enter into GNA agreements with (tribal, county)?

Question: Can counties be considered agents of the state?

Question: Is there any ability to use these templates at the county level, say with supplemental agreements under statewide master agreement?

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Answer: No, the Forest Service can only partner with State agencies. The Farm Bill allows the Forest Service to work with the Governor of an affected state, meaning any appropriate state agency. The Appropriations version of GNA further limits the agreement to state forestry agencies. While the Forest Service is only authorized to enter into agreement with states, the states can establish a contractual relationship (e.g. subaward or subcontract) with a third-party.

Counties may not be considered agents of the state, as far as entering into GNA agreements. A State may have a county perform work through a subcontract or subaward arrangement.

Question: To confirm these mechanisms can be used by Department of Interior & Agriculture?

Question: DOI US Fish and Wildlife lands are excluded from GNA?

Answer: The Agricultural Act of 2014 (Farm Bill) authorizes the Secretary of Agriculture (with respect to National Forest System Land) and the Secretary of Interior (with respect to Bureau of Land Management land) to enter into agreements with states to carry out authorized restoration services. The authority does not extend to lands managed by the US Fish and Wildlife Service.

Question: Are agreements directly with individual or cohorts of National Forests?

Question: Please clarify at what agency level approval is needed for the supplemental agreement?

Question: Do we need a separate agreement between the RF and each state agency?

Question: Can a Forest Supervisor enter into a GNA agreement with the Governor of an adjoining State?

Answer: The Forest Service goal is to make entering into GNA agreements as flexible and seamless as possible. As Forest Service regions differ in the number of states that are contained in a region and the number of national forests and grasslands in a state, the guidance that is being developed needs to be flexibility to address situations where there is a single National Forest that sits entirely within the boundaries of a state, a National Forest which crosses state boundaries, and a state with multiple National Forests to sign agreements encompassing all the National Forests in the state.

Question: Which state agencies are eligible to use GNA with us?

Answer: Under the Farm Bill version of GNA, the Forest Service can enter into a GNA agreement with any state agency, including state forestry agencies, that has the authority to perform the type of work contemplated. For example, the State Bureau of Mines may be the cooperator for a project to clean up abandoned mine sites on NFS lands. The Appropriations version of GNA limits agreements to state

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forestry agencies.

Question: Can you clarify what role the state and a third party, such as a non-profit organization, would have under GNA? Or stated another way, how can non-state actors work with states to perform work under the GNA on state or private lands?

Answer: A non-state entity may participate in a GNA covered activity through a sub-contract or third party relationship with the state. The relationship of the third party is to the state, not the Forest Service.

The National Environmental Policy Act (NEPA) Related Questions

Question: Under GNA could the State do a project from NEPA thru implementation? Or does NEPA stay with FS?

Answer: The NEPA decision is the responsibility of the Forest Service, and both versions of the authority are very clear on that. A state may perform the NEPA work as long as the decision remains with the appropriate Forest Service official.

Question: Can we also use GNA to allow the State to pay for NEPA and restoration work on NFS lands?

Answer: Yes, the State may contribute work under a GNA agreement.

Question: To make best use of these authorities, it sounds like NEPA decisions for projects that will be worked on should already be completed prior to entering into an agreement. Correct?

Answer: Ideally, the NEPA work and decision should be complete prior to entering into an agreement; however, NEPA work may be completed in partnership with the State under a GNA agreement. The NEPA decision rests with the responsible Forest Service official. In the interest of timelines, accountability, and project success, NEPA and project implementation, including timber sales, should typically be implemented using separate project agreements.

Question: What is the state's liability in any potential lawsuits alleging a violation of the terms of an NEPA decision/litigation?

Answer: The Forest Service assumes liability for defending the NEPA decision.

Question: Can you discuss again how you see the NEPA process working with the GNA? What opportunities, if any, do you think GNA creates, as it relates to NEPA, to increase the pace and scale of restoration?

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Answer: GNA would allow a State or their subcontractors to provide NEPA planning services such as resource specialists and inventory services.

Forest Service State and Private Forestry (S&PF)/Cooperative Forestry Related Questions

Question: Do we need to worry about the S&PF grant money that States receive -- can it be combined with a GNA project?

Answer: The S&PF grant money should not be used to perform work on NFS lands, as it is appropriated for work on non-Federal lands. A State might use those funds to do work off NFS lands in coordination with work performed on (and funded by) NFS. One exception to this may be funds that are appropriated through S&PF for Forest Health work on NFS lands.

Question: Can S&PF and NFS fund codes be mixed in the GNA templates developed?

Answer: Only in limited circumstances, Forest Health for example.

Question: Can national forests use pest suppression funds on adjacent non-federal lands.

Answer: In this case, the Forest Service needs to go back to the funds that are being used and what is an appropriate use of those funds as described in the Appropriation Use Handbook, Forest Service handbook (FSH) 6509.11g, Chapter 20. Section 22.1 covers SPFH, and it's pretty clear that those funds are for use on NFS lands. We have other forest health funds, SPCH, for use off NFS lands.

We can use SPFH funds under the Good Neighbor Farm Bill authority as long as the use is for the benefit of NFS. Examples might include an agreement with the State to do aerial detection flights. The Forest Service could use SPFH to reimburse them for the NFS portions of the flights. It is the same thing for surveys on NFS lands, or any other activity that can be funded with SPFH. So while the authority may allow us to do some work off NFS lands, we always have to go back and make sure that the funds allow for that work as well.

Question: Can a state use staff whose positions are funded using federal grant funds to perform work on federal lands?

Answer: No. The grant funds are specifically appropriated and awarded for work on state and private lands.

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Timber Removal Related Questions

Question: Do we have a Fund established by Treasury for the receipts from product value that will pay for service work?

Answer: Timber receipts, up to appraised value, will be returned to the Forest Service to fund required distributions for NFF, KV, BD, and SSF trust funds.

Question: Will the commercial product, volume and value be reported through our NRM TIM and ATSA systems for PAS? Or solely handled by G&A?

Answer: Commercial product, volume and value will be reported through NRM TIM and ATSA systems for PAS.

Question: Can the Forest Service simply award some timber sales to a State agency and let them bid it out for award and do all the prep and administration work?

Answer: Yes, the Forest Service may use agreements or contracts with state forestry agencies to provide funding for their employees to complete authorized forest, rangeland, and watershed restoration services including timber sale preparation and administration activities. Under a GNA agreement, the state may act as an agent of the US government to sell timber on our behalf.

Question: Will the states define rules in the master agreement for timber sale prep and sale or will each project define work?

Answer: Master agreements will contain the general terms and framework that establish the relationship between the State and Forest Service. If the State and Forest Service feel it is advantageous to define certain rules as universal under the Master Agreement, they are not prohibited from doing so. Project-specific roles, responsibilities, and statement of work will be identified in Supplemental Project Agreements under the master agreement.

Question: Will there be a priority to use of receipts from sale of products? For example would the FS require receipts cover KV needs before it funded the State or service items?

Answer: Timber receipts up to appraised value will first go to meet the required minimum distribution to the National Forest Fund (NFF), followed by any deposits to the Brush Disposal Fund (BD), Salvage Sale Fund (SSF) or Knutson-Vandenberg (KV) Fund identified on approved collection plans, and lastly to Treasury. If the State sells the timber at rates higher than the appraised value, the difference will be held and managed by the state as program income used to complete work under the terms of the GNA agreement.

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Question: If the state administers the timber sale are they required to administer the timber sale under the same provisions in the NF timber sale contract? Also is the state responsible for damage caused by the logger?

Answer: The state contract is not required to include the same provisions as a National Forest timber sale contract. However, the state contract, once approved by the Forest Service, must provide a level of protection for resources, permitted uses, timber accountability, and payment responsibility to satisfy requirements of NEPA and other regulations according to information provided by the Forest Service for a project. Appendix of the Supplemental Project Agreement includes a checklist of potential contract clauses that will limit risk to both the State and the Forest Service from the actions of the logger.

Question: Are we going to use Fire Liability lesson learned from our Stewardship Agreements and get that into these agreements so the State is not liable for a fire starting on their timber sale area.

Answer: Fire precautions and control will meet requirements of the state offering the timber sale contract, but may not release the purchaser from liability due to negligence. Depending on the state's contract, both the state and Federal government may share some risk due to purchaser's operations.

Question: Are States required to comply with the Code of Federal Regulations associated with timber disposal on NFS?

Answer: State timber sale contracts will have to comply with federal regulations for disposal of timber. The Farm Bill version of GNA specifically exempted only subparts (d) and (g) of section 14 of NFMA for timber sales. All other Federal regulations still apply.

Question: What is the process of accomplishing reforestation work (KV)? Would we just draft a normal plan and include that in the agreement? Or is there a way to capture those funds to do that work with a different contract?

Answer: Reforestation work could be completed as part of the GNA agreement or it could be captured in a 2400-50 K-V plan. K-V funding could also be used to fund the state's work (using the state's labor or a subcontract).

Question: Would tree planting be an example of project work after a timber sale?

Answer: Tree planting is one example of project work that may be completed after a timber sale. Tree planting may also be a funded restoration activity under a GNA agreement that is not associated with a timber sale, such as that following a wildfire.

Question: Is there anything allowable in a KV Sale Area Improvement Plan that

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would not be allowed under this authority? Also are there activities that are not allowable in a SAI that cannot be done under these authorities? Anything this is allowable under a SAI Plan that is not allowable under these authorities.

Answer: Timber receipts may be collected for any allowable K-V activities as described in FSH 2409.19 chapter 10. Any K-V activities that are authorized forest, rangeland, and watershed restoration services as described in the legislation are allowable. If road maintenance is performed under GNA using K-V funds, it would require an agreement using the Appropriations Act version of GNA.

Question: What is the difference between sale area and analysis area boundaries - or the contract area boundary?

Answer: Analysis area boundary is the area analyzed under NEPA for project implementation. It may include multiple project areas. Sale area boundary is the boundary which contains all harvest units of a timber sale. This boundary typically extends no more than ¼ mile from harvest unit boundaries. Contract area boundary, also called a project area boundary, includes all project work, including timber sales, to be completed by the State or its contractors. A Good Neighbor project area could be equivalent to any of those, depending on the work to be completed in the GNA agreement.

Question: Can the timber receipts be used for restoration on non U.S. Forest Service lands?

Answer: Timber receipts must be spent on restoration activities on National Forest System lands only. Program income may be spent on any activities on or off National Forest System lands that are included in the scope of work for the agreement.

Question: Does the State Silviculturist have to be FS certified?

Answer: No, but all silviculture prescriptions and marking guides must be approved by the Forest Service if not provided by the Forest Service.

Question: Do the silviculture methods have to be the same or do they simply need to accomplish the same outcomes?

Answer: Silvicultural methods selected must achieve the objectives as analyzed in the project NEPA decision as well as the Forest's Land and Resource Management Plan and be approved by the Forest Service.

Question: Can we use our existing timber cruising and appraisal processes when preparing a timber sale?

Answer: States may be able to use their existing timber cruising and appraisal processes to prepare timber sales. This will need to be evaluated and agreed on at

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the project level. However, the procedures must ensure the timber sale meets federal regulations for determining fair market value, minimum rates, and accountability.

Question: Are costs "repaid" before the 25% funds are pulled off, or are these from "net receipts"?

Answer: Project costs may be paid using funds from appropriated, trust fund, or permanent funds or using program income from the sale of timber. In either case, timber receipts up to appraised value must go to pay required deposits to NFF, KV, BD, and SSF.

Question: Can the Supplemental Agreement and Appendix E be written to address multiple forest treatments (timber sales) on multiple sites (say over the geography of the entire Huron-Manistee NF) over a defined period of time?

Answer: A Supplemental Project Agreement (SPA) may be as simple or as complex as necessary to meet the project objectives. While it may be possible to include multiple timber sales in a single SPA, we recommend keeping them as simple as practicable to ensure success of project administration, implementation, and accountability.

Question: Can the Supplemental Agreement (Timber) and Appendix E be written to address multiple National Forests in one agreement, or would a separate supplemental agreement be required for each NF?

Answer: While it is possible, any benefits of doing so should be weighed against potential drawbacks resulting from project design, timing, funding, reporting or other factors that may favor creating separate projects.

Question: Finally, I presume that under the auspices of the Master Agreement, the Supplemental Agreement (Timber) and Appendix E would periodically (every one-two years) be revised to address additional/new forest treatments – correct?

Answer: Supplemental Project Agreements (SPA) will require periodic review. Project implementation will be monitored and evaluated against milestones in the Statement of Work from the SPA at least annually to ensure performance goals are being met. Modifications to the SPA and appendices can be performed with agreement from both parties. New or additional forest treatments outside the scope of the original statement of work will require a separate SPA, including associated appendices.

Question: In Section II of the GNA SPA (Timber), the template includes language

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regarding state payment (to the Forest Service) in advance of cutting for all timber that is to be cut. In Section B4.212 of Appendix E, Timber Removal Requirements, it reads that the purchaser agrees to make cash deposits in advance of cutting of timber. My first question is to confirm the Timber SPA requires the state to provide the funds for the estimated volume/value of the timber to be cut in advance of the project. Is that correct?

Answer: As it applies to payments for timber, “State” refers to either the state or its purchaser of the timber. How payment is handled may vary across states and/or projects, but the key requirement is the Forest Service must either be paid in advance of cutting or have some type of payment guarantee. Payments or payment guarantees may pass through the State from the purchaser or pass directly to the Forest Service from the purchaser. It is not our expectation that the State make direct payments for timber sold to a third party.

Question: Can you clarify whether the advance of funds equal to the applicable charges for estimated timber to cut is a payment or a deposit? The template references a payment when Appendix E references cash deposits in such amounts that the Timber Sale Account will maintain an unobligated balance. Further, at what time does the balance become obligated and what if the amount realized for the timber cut differs from the previous unobligated balance?

Answer: The Forest Service bills for deposits in advance of cutting. The amount of deposit depends on sale type and operating plans. Timber is reported cut and removed (or scaled) on a monthly basis. If advance deposits are made in cash, the cash value of that reported timber is obligated from those deposits each month and new bills are generated as necessary. If a payment bond is used, that bond would cover the value of advance deposits. Then, instead of obligating funds from the deposits on a monthly basis, the Forest Service would bill for payment on a monthly basis for the value of timber after it is reported cut and removed (or scaled).

Question: Can you clarify the use of a security bond in place of the advance payment/deposit and what would be required from the state financially in advance of harvesting timber? Further, would the use of a security bond be unique to Good Neighbor Agreements or is this required for all Forest Service Timber Sale Contracts (performance bond)?

Answer: A security bond may be used instead of cash to ensure timber will be paid for in advance of cutting. The bond may be provided by the third party purchaser or the state. The payment guarantee is not drawn upon unless the purchaser fails to pay for timber after being billed. A performance bond is separate from a payment bond and may be required to protect the Forest Service (and/or the State) in the event other contract requirements are not met and the Forest Service or State has to complete work the purchaser was obligated to do.

Question: Subsections (d) and (g) of NFMA do not apply to GNA. Are we providing tracer paint to these State agencies?

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Answer: Yes, Forest Service tracer paint is required on GNA timber sales.

Question: State agencies can prepare Silviculture prescriptions and marking guides, but an FS certified Silviculturist will have to approve?

Answer: Yes. The GNA authorization does not restrict who may prepare silviculture prescriptions and marking guides for timber sales, but does require approval by the Forest Service. In addition, current policy in FSM 2478.03 still requires prescriptions for all silvicultural activities to be approved by a certified silviculturist.

Question: State agencies will have to follow Forest Service regulations concerning financial and log accountability regulations.

Answer: The State and Forest Service shall agree on the exact procedures used for each project, but must ensure the agreed-to practices enable the Forest Service to meet financial and log accountability regulations. The checklist in Appendix E is designed to ensure state contracts take into consideration requirements such as billing, payments, log load tracking and export restrictions.

Question: A Forest Service Timber Contracting Officer will not be signing this agreement?

Answer: Correct, though Forest Service will provide review of State's timber sale contract prior to advertisement and award to ensure it complies with appropriate federal law, regulation, and policy.

Question: Is there a difference between paved versus forest roads for timber sales? Or does the definition cover all types of roads?

Answer: The Farm Bill authority specifically excludes all paved or permanent roads. The Forest Service interprets the exclusion to apply to any maintenance, reconstruction, or construction on permanent roads. However, temporary roads may be constructed and decommissioned using the Farm Bill authority.

Question: How will we handle road maintenance? Nearly all timber sales that we administer involve pre and/or post haul road maintenance activities to facilitate timber haul, etc. All commercial hauling activities require maintenance commensurate with use. Many sales also require re construction of specified roads prior to timber haul. Without reconstruction or maintenance we cannot meet Best Management Practices for water quality. Further, our State requires these actions in their Timber Contracts.

Answer: Currently there is no single best answer. Options include issuing road use permits to the state or purchaser or using a GNA Appropriations agreement to allow

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road repair and maintenance. New road construction is not allowed under either version of GNA.

Question: Timber program income – Assumption that the National Forest would sell the timber sale to the state, the state would pay for required items (like essential KV), state would sell the project, and then state would keep the income from the project, spending the dollars in areas where they had agreed. The question was “It’s my assumption that the project would move through the forest’s system like a normal sale. Is this correct?”

Answer: Considering the potential range of projects across the country and the roles each partner may wish to have, a timber sale project may move through the Forest’s system in different ways. Like all sales, we must have appropriate line officer approval at each gate. If the partnering state sells the timber using a state contract, the Forest Service, State, and potentially the third party purchaser will need to establish a procedure for billing and payment. The state will be responsible for returning timber receipts to the Forest Service up to appraised value and may do so directly or with the purchaser’s funds. The state will hold and manage any revenue in excess of appraised value as program income.

Question: If the state comes to us with a timber project, we approve the prescriptions, and they mark it by their standards, do they have to use tracer paint? If so, can they purchase it with receipts?

Answer: Federal timber marked for sale will require the use of Forest Service tracer paint.

Question: In the GNA timber agreement, draft template section 3, 3rd paragraph – “FS will provide prescriptions and marking guide” – Does this mean that pre-timber sale activities will be part of the timber agreement?

Answer: The agreement can include a wide range of activities, including pre-sale and post-sale activities, as agreed to between the Forest Service and state.

Question: How do you determine the perimeters for project area boundaries?

Answer: All project area boundaries must lie within an approved NEPA project area. Actual determination on the ground depends on many factors and, depending on the agreement, may be completed by the state or by the Forest Service.

Question: Since no program income will be earned, how will the state be

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compensated for the work?

Answer: Program income may be earned, but still may not be sufficient to pay costs to the state. The state may be compensated using appropriate sources of Forest Service funds or in some cases the state may contribute to the project.

Question: The Forest Service has specific requirements concerning certifications for the Sale Administration team. I believe you said that States can administer Forest Service timber sale contracts. Can you expand on where the contract authority lies? As well expand on the sale of NF timber. Will the sales have a FS Contracting Officer?

Answer: Good Neighbor Authority allows the Forest Service to enter into a sole-source contract or a Good Neighbor Agreement with states, including timber sales with the exemption of subsection (d) of section 14 of NFMA. Good Neighbor Agreements incorporate Federal Financial Assistance regulations found in 2 CFR part 200 as implemented by U.S. Department of Agriculture in 2 CFR part 400. Specifically, section 200.317 states that, “a state must follow the same policies and procedures it uses for procurements from its non- Federal funds.” Though the Forest Service may have no delegated authority on a contract between a state and a third party, a Forest Service contract administration team, including a contracting officer, may participate, with individual roles as agreed to with the state. A Forest Service timber contracting officer should also be involved in timber sale reporting and payment on the Forest Service side of the project.
