

THE 2013 SUPPORTING STATEMENT FOR OMB 0596-0066
BID FOR ADVERTISED TIMBER

Terms of Clearance: There are no terms of clearance for the current approval.

A. Justification

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

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

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

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

- a. **The National Forest Management Act (16 U.S.C. §472a)** requires:
- 1) That all National Forest timber sales exceeding \$10,000 in appraised value be advertised unless extraordinary conditions exist, as defined by regulation;
 - 2) That bidding methods ensure open and fair competition, and that the Federal Government receives not less than the appraised value of the timber or forest product; and that
 - 3) The monitoring of bidding patterns for collusive bidding practices.
- b. **Section 323 of Public Law 108-7 (16 U.S.C. 2104 Note, as revised February 28, 2003 to reflect sec. 323 of J.J. Res. 2 as enrolled), the Consolidated Appropriations Resolution, 2003, amending Public Law 105-277, sec. 347.** Grants the Forest Service and the Bureau of Land Management authority until September 30, 2013, to enter into stewardship contracting projects for up to 10 years with private persons or public or private entities, by contract or by agreement, to perform services to achieve land management goals for the national forests or public lands that meet local and rural community needs. Section 323 supersedes the original authority granted to the Forest Service in section 347. Stewardship contracting projects approved as pilot projects now fall under section 323. Title 16, United States Code, section 2104 Note (c) (4) exempts stewardship contracts and agreements from sections 14(d) and (g) of the National Forest

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Management Act (16 U.S.C. 472a). These exemptions mean that products with an appraised value in excess of \$10,000 may be sold without advertisement and that persons other than those employed by the Secretary of Agriculture may mark or determine the trees to leave, or to be cut and removed, to meet restoration objectives.

- c. **16 U.S.C. §620a, et seq.**, requires purchasers of National Forest System timber to follow the restrictions on exports of unprocessed timber originating from Federal lands.
- d. **P.L. 108-7 (16 U.S.C. 2104 Note)** requires stewardship contracts to be procured on a best value basis.

REGULATIONS APPLICABLE TO THE NATIONAL FOREST TIMBER SALE BIDDING PROCESS:

- a. **Title 2 CFR Part 180** governs the government-wide non-procurement debarment or suspension of individuals, organizations, or other entities, including purchasers of timber sale contracts.
- b. **Title 2 CFR Part 417** governs the Department of Agriculture non-procurement debarment or suspension of individuals, organizations, or other entities, including purchasers of timber sale contracts.
- c. **Title 13 CFR Part 121** governs small business size regulations for sales or lease of government property, including The Timber Sales Program and The Special Salvage Timber Sales Program between the Small Business Administration and Forest Service.
- d. **Title 26 CFR Part 31 Subpart G** governs the Internal Revenue Service's rules concerning employer's identification numbers.
- e. **Title 31 CFR Part 285 Subpart A** governs debt collection and administrative offset.
- f. **Title 36 CFR:**
 - 1) **Part 223** governs the sale and disposal of National Forest System timber and forest products on National Forest System lands.
 - 2) **Part 223, Subpart C** governs the debarment of a timber purchaser for violations of the **Forest Resources Conservation and Shortage Relief Act of 1990** (16 U.S.C. §620, *et seq.*).
- b. **Title 41 CFR Part 60-1** governs the obligations of contractors and subcontractors that have public contracts.
- c. **Title 48 CFR:** Federal Acquisition Regulations governing Federal procurement.

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

Statutory Requirements:

- a. **The National Forest Management Act, 16 U.S.C. §472a** (see *Statutes Applicable to the National Forest Timber Sale and Stewardship Contract Bidding Process*)

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- 1) **Title 16 U.S.C. §620, et seq.** prohibits the export of unprocessed timber originating from Federal lands. Section 620b(a) of the Act prohibits the purchase of Federal timber if a person substitutes that timber for exported, unprocessed private timber, or if a person has exported unprocessed timber originating from private lands during the preceding 24-month period. Further, the Act provides for limited exceptions to the prohibitions against export and substitution.
- 2) **Title 36 CFR §223.87** (as support for the Act) requires each bidder to certify that said bidder is eligible to purchase timber from National Forest lands consistent with the Act and its implementing regulations.
- b. **P.L. 108-7 - Stewardship Contracting End Results Contracting Projects** (16 U.S.C. Note 2104) requires contracts to be awarded on a best value basis.
- c. **Title 15 U.S.C. § 631(a)**, making it “the declared policy of Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns...,” and “to insure that a fair portion of the total sales of Government property be made” to small business enterprises.
- d. **Title 15 U.S.C. § 644(a)(4)**, implementing this policy by “assuring that a fair proportion of the total sales of Government property be made to small business concerns.”

Regulatory Requirements:

a. **Title 2 CFR:**

- 1) **§180.125** states that in order to protect the public interest, the Federal Government ensures the integrity of Federal Programs by conducting business only with responsible persons.
- 2) **§180.335** requires each participant to notify the Federal agency office if the participant knows whether it or any of the principals for that covered transaction: (a) Are presently excluded or disqualified; (b) Have been convicted within the preceding three years of any of the offenses listed in § 180.800(a) or had a civil judgment rendered against the them for one of those offenses within that time period; (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in § 180.800(a); or (d) Have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.
- 3) **§417.332** requires each participant to include a term or condition in lower tier covered transactions requiring lower tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180.
- 4) **§180.630** allows the debarring and/or suspending official to extend a debarment or suspension to include any affiliate of the person if certain conditions are met.

Title 36 CFR:

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- 5) **§223.49** authorizes the Forest Service to collect an additional down payment deposit for future timber sale contracts if the purchaser or an affiliate has failed to perform in accordance with the terms of a timber sale contract resulting in termination of the contract for breach or the contract expiring uncompleted.
 - 6) **§223.86** requires that no bid be considered in the resale of timber remaining from any uncompleted timber sale contract from any person, or from an affiliate of such person, who failed to complete the original contract:
 - i. Because of termination for purchaser's breach; or
 - ii. Through failure to cut designated timber on portions of the sale area by the termination date, unless acceptance of such bid is determined to be in the public interest.
 - 7) **§223.101** requires Contracting Officers to make an affirmative determination of a purchaser's responsibility before awarding a timber sale contract. In addition, the Contracting Officer shall consider the past performance of a purchaser's affiliates when determining the purchaser's responsibility. The rule requires the purchaser to have a satisfactory record of integrity and business ethics.
 - 8) **§223.132** states that the Forest Service policy is to solicit and consider timber sale bids from and award contracts to responsible business concerns and individuals; and
 - 9) **§223.140 and 223.145** allow the debarment official to extend a debarment to include any affiliate of the purchaser if certain conditions are met.
- b. **Title 41 CFR §60-1.7** (codification of **Executive Order 11246, Part 1, Subpart B, §203(b), as amended** and dated September 24, 1965 (Non-discrimination in Employment), requires each agency to:
- 1) Ask in the bid form whether the bidder has participated in a previous contract that was subject to the provisions of section 202 of Executive Order 11246, as amended; and
 - 2) Ask whether the bidder has submitted required compliance reports under such previous contracts.
- c. **Title 48 CFR §3.404, the Federal Acquisition Rule**, requires that a "*Covenant against Contingent Fees*" provision be included in all solicitations and contracts. In addition 48 CFR §3.103-1 requires solicitations include a "*Certificate of Independent Price Determination*."
- d. **The Uniform Commercial Code** states that consideration is an essential element of a binding contract. To constitute consideration there must be a bargain for a performance or a return promise.
- In a timber sale contract, consideration is achieved by:
- 1) The Forest Service agreeing to sell and permit the purchaser to cut and remove timber or forest products designated in the timber sale contract; and

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- 2) The purchaser agreeing to purchase, cut and remove included timber or forest products designated in the timber sale contract.

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

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

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

- e. **The Forest Service Small Business Timber Sale Set-aside Program**, developed in cooperation with the Small Business Administration, is designed to ensure that qualifying small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale. **Title 36 CFR §223.84** requires the bid form on sales with specified road construction to include provisions for a small business concern:
 - 1) To elect road construction by the Forest Service for each sale described in §223.82(b);
 - 2) To certify as to its small business status; and
 - 3) Be informed of other road construction requirements in the bid and/or contract.

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

Title 13 CFR §121.507(a)(4), requiring that any small business, including a non-manufacturer, that receives a Government timber sale contract must agree that if it intends at the time of offer to resell the timber, "it will not sell more than 30% of such timber (50% of such timber if the concern is an Alaskan business) to a business that does not meet the requirements" to be a small business, as provided in §121.507(a), paragraph (a)(1) and (a)(2).

- f. **Title 31, United States Code, section 7701 (31 U.S.C. 7701)**. This section codifies the Debt Collection Improvement Act of 1996 which requires Federal agencies to obtain taxpayer identification numbers from all parties doing business with the Federal government. The taxpayer identification numbers enables the U.S. Treasury to perform delinquent debt collection by administrative offset.

Policy Requirements:

- a. A bid guarantee of 10 percent of the advertised value of the timber is required for National Forest timber sale bids (59 FR 4901, February 2, 1994).
- b. The timber sale contract requires a purchaser to purchase, cut, and remove the included timber or forest product by the termination date.

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c. Best value, as described in the Federal Acquisition Regulations, shall be the basis for evaluating proposals for awarding stewardship contracts and agreements.

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

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

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

The three groups of forms are:

- (1) Bid For Advertised Timber: FS-2400-14TV (total value), FS-2400-14UR (unit rate), FS-2400-14WA (weighted average), and FS-2400-14sb¹
- (2) Solicitation and Offer for Integrated Resource Contract: FS-2400-14BV (best value, total value) and FS-2400-14BVU (best value, unit rate).
- (3) Advertisement and Short Form Bid: FS-2400-42a

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

| Information Collected | Rationale for Information Collection | Location of Requirement on Bid Form |
|--|---|--|
| Price Bid for the timber | 16 U.S.C. §472a | Block 14g |
| Name, Address, and Signature | Confirmation of Firm Offer: UCC §2-205; 31 CFR §285.2 | Address Block |
| Tax Identification Number, Mailing Address and Phone Number | 31 U.S.C. 7701 | Block 29 |
| Amount and type of bid guarantee (Not required on FS-2400-14BV or FS-2400-14BVU) | 59 FR 4901, February 2, 1994 | Block 15b |
| Certification that the bidder has not paid a contingent fee or retained any person or company to secure the contract | 48 CFR §3.404 | Block 16(a) & 16(b) |
| Certification that the bidder meets the responsibility requirements in 36 CFR §223.101 | 36 CFR §223.101 | Block 16(c) |
| Certification that the bidder will complete the consideration requirements of the contract | UCC §2-205; UCC §2-316 | Block 16(d) |

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

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| Information Collected | Rationale for Information Collection | Location of Requirement on Bid Form |
|---|--|--|
| Certification regarding debarment, suspension and other responsibility matters | 7 C.F.R §3017.335 | Block 16a(a) |
| Certification that the bidder is not indicted or has had a criminal or civil conviction within a 3-year period | 36 C.F.R §223.132; 7 C.F.R §3017.335 | Block 16a(a), 16a(b) & 16a(c) |
| Certification that the bidder has not defaulted on a public contract or agreement in the last 3 years | 36 C.F.R §223.132; 7 C.F.R §3017.335; 36 C.F.R §223.49 | Block 16a(d) |
| Information on whether the bidder has participated in a previous contract covered by section 202 of Executive Order 11246 | 41 CFR §60-1.7 | Block 16b(a) |
| Information concerning size requirements for qualifying for the Small Business set-aside program | 13 CFR §121.504 | Block 16b(b) |
| Disposition of volume for non-manufacturers | Requested by SBA | Block 16c |
| Certification of independent price determination | 48 CFR §3.103-1 | Block 17 |
| Selecting the road construction option | 36 CFR §223.84 | Block 18 |
| Agreement to submit down payment (Not required on FS-2400-14BV or FS-2400-14BVU); Agreement to furnish performance bond | 36 CFR 223.49 36 CFR 223.35 | Block 19 |
| Information concerning increased down payment amount (Not required on FS-2400-14BV or FS-2400-14BVU) | 36 CFR 223.49 | Block 20 |
| Certification of a firm offer | UCC §2-205 | Block 21 |
| Certification that the bidder expressly adopts the terms of the bid and sample contract. | UCC §2-316 | Block 22 |
| Warranty that the bidder: 1) Inspected the sale area, 2) Reviewed the requirements of the sample contract, 3) Took steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs of the offered timber or forest product and 4) Holds the Forest Service harmless for any implied warranty | UCC §2-316 | Block 23 |
| Certification the bidder will comply with the Forest Resources Conservation and Shortage Relief Act of 1990, as amended, as required by 36 CFR §223.87. | 36 CFR §223.87 | Block 24 |
| Certification of bidder size for Small Business Set-aside sales | 13 CFR §121.504 | Block 25 or Block 26 |
| Certification of non-affiliation for sales re-offered following termination for breach or failure to cut by the termination date. | 36 CFR §223.86 | Block 27 |

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| Information Collected | Rationale for Information Collection | Location of Requirement on Bid Form |
|--|---|-------------------------------------|
| Certification of affiliation listing bidder's affiliates | 36 CFR §223.49; 36 CFR §223.101 36 CFR §223.140; 36 CFR §223.145 | Block 28 |
| Price Offer for service work (FS-2400-14BV and FS-2400-14BVU only) | Pub.L. 105-277 | Blocks 15(e), 15(f) |
| Submission of Technical Proposal (FS-2400-14BV and FS-2400-14BVU only) | Pub.L. 105-277 | Instruction 2 |

Table 2 - Form: FS-2400-42a

| Information Collected | Rationale for Information Collection | Location of Requirement on Bid Form |
|---|--|-------------------------------------|
| Price Bid for the timber | 16 U.S.C. §472a | Price Bid Column |
| Name, and signature | Confirmation of Firm Offer: UCC §2-205; 31 CFR §285.2 | Name, & Signature Block |
| Business Name, Address, Phone Number and Tax identification number | 31 U.S.C. 7701 | PII Block 29 |
| Certification regarding debarment, suspension and other responsibility matters | 7 C.F.R §3017.510 | Attached to Bid Form |
| Warranty that the bidder: 1) Inspected the sale area, 2) Reviewed the requirements of the sample contract, 3) Took steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs of the offered timber or forest product and 4) Holds the Forest Service harmless for any implied warranty | UCC §2-316 | Warranty Block |

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

The information will be collected from individuals and business entities including partnerships, limited liability companies, and corporations submitting bids for a National Forest System timber sale or offers for a stewardship contract.

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

Contracting officers will use the information from the forms to determine who to award a contract to and to complete the contract prior to award. The

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contracting officer enters the tax identification number of each bidder into a computerized bid monitoring system, which helps determine if speculative bidding or bid collusion is occurring.

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

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

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

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

- e. How frequently will the information be collected?**

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

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

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

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

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

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

Initially it was proposed to add block 16c to the forms (except 2400-42a) in response to a request from the Small Business Administration. Non-manufacturer bidders would have been requested to provide an estimate of the percentage of contract volume that will be delivered to small business manufacturers. Based on Public comment received in response to the 60 day Federal Register Notice referenced below, we have decided to not include this program change, and therefore there are no changes to the collection

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requirements.

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

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

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

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

The bid information collected is specific to each sale. Although some of the information collected from individual bidders may not change, the integrity of the bidding process mandates that the information be provided for each bid submitted. For example, each bidder is required to check a box indicating its' size classification. While this information could be stored by the Forest Service, bidders would still have to indicate whether their size classification changed since the previous bid. It's easier, more convenient and more accurate for bidders to simply check the correct box each time they submit a bid. The information is only available from the individual respondent.

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

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

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

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

Although small businesses purchase most Forest Service timber sales, the impacts of this information collection constitute just a small percentage of the costs of operating a timber sale. This information collection should not have a significant impact on a substantial number of small business entities. No information is collected beyond the minimum amount needed to establish whether a bid is responsive and to meet legal requirements for acceptance of bids and award of contracts. Small businesses and individuals can obtain assistance from the Forest Service office issuing the solicitation for completing virtually all portions of the bid forms except for the actual amounts the bidder intends to bid. Of the estimated 1,266 private sector respondents, 1,051 are estimated to be small entities.

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

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

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

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

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

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

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

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

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

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

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

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

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

This is a request for an extension with minor revisions of a previously approved

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information collection. The Notice/request for comments was published in the Federal Register on October 18, 2012, 77 FR 64096. Nine persons submitted comments in response to the Federal Register notice. None of the nine respondents commented on the burden hours or cost estimates associated with the information collection. Rather all nine respondents focused their comments on the proposed change to add block 16c to the bid forms. Block 16c would have non-manufacturers enter the estimated sawtimber volume from the sale they planned to sell and/or exchange to a small business manufacturer.

Four respondents supported the addition of block 16c but with changes. The Small Business Administration recommended making the entry mandatory and that in addition the Forest Service would require non-manufacturers to annually complete and submit a “new” SBA form on where the timber was being disposed. The Small Business Timber Council supported the SBA position. Rosoboro supported making block 16c mandatory with subsequent verification of where the timber was actually processed. The Public Timber Purchasers Group also supported making the entry in block 16c mandatory but if a purchaser’s plans subsequently changed, they would be required to provide the Contracting Officer with a final report of the actual amount of sawtimber volume sold and/or exchanged to a small business.

Five of the respondents were strongly opposed to adding block 16c. Those respondents expressed concerns that a nonbinding estimate would not be reliable and could be used by non-manufacturers as a way to skew the data used to compute small business shares. These respondents suggested that a better approach would be to use delivered log data obtained from Forest Service product removal permits (OMB 0596-0225) for the purpose of calculating small business shares.

In summary, those respondents supporting block 16c and those opposing it all appear to agree that there is a need to obtain data on where non-manufacturers are selling and/or exchanging sawtimber during the course of completing a sale. Each of the methods proposed would require collecting information not currently collected.

Using product removal permits to determine where sawlogs are delivered for manufacturing could work in the western regions (R1-6 and R10) where all sales require the use of removal permits while products are in transit. But product removal permits are only used in the eastern regions (R8-9) for certain salvage sales following large scale catastrophic events (e.g. hurricane Katrina) where the sale volume will be determined by scaling. Requiring all sales in the eastern regions to use product removal permits as a method of verifying where the timber is processed would place a substantial new burden on purchasers.

Requiring all purchasers to submit written verification of where sawtimber from all National Forest System timber sales was processed appears to be a better approach but would require obtaining approval from OMB for a new information collection and changes to the timber sale contract making the collection of that information a contractual requirement. If the information is to be collected post award, then there really isn’t a need for block 16c on the bid form. Considering the comments, proposed block 16c will be removed from the forms submitted to OMB for approval and the Forest Service will work with the SBA to develop and

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obtain OMB approval of a form for collecting the information needed by both agencies for administration of the Small Business Timber Sale Set-Aside Program.

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.

Seven individuals who routinely submit bids on forms FS-2400-14 and/or FS-2400-42a were contacted and asked to comment on the burden associated with this information collection. In an effort to broaden the sample of users, different bidders were contacted this time than were contacted for the prior submission in 2009. Six of the seven individuals contacted this year provided written comments. Specifically, they were asked about the amount of time they typically spend reviewing contract documents, conducting field reviews of contract area, and completing the information for the different classification of forms addressed in item 2. The general consensus is that it only takes about 30 minutes to fill out the bid form but the size, complexity and location of the contract can significantly affect the time burden as it relates to conducting field reviews of proposed timber sales prior to preparing a bid. The individuals contacted stated that it could take anywhere from a few hours to 60-80+ hours gathering the information needed to formulate their bid. Every sale has its own set of conditions that affect the amount of time needed to formulate a bid making it virtually impossible to come up with an average time burden. Some of the individuals questioned why we weren't showing separate time burdens for time spent formulating their bids and the time spent actually filling out a bid form. Based on the responses in 2009 and this current effort the only burden estimate that can be stated with any degree of confidence is the time (30 minutes) to fill out the bid form. The additional time burden to gather the information needed to formulate the bid amount entered on the bid form cannot be accurately determined short of requiring bidders to track their time and enter that on the bid form. It would be difficult to justify adding that additional burden on bidders. Considering the responses it received, there is no basis for changing the time burden estimates per response from the prior period as shown in table 3a.

Some of the individuals contacted suggested putting all of the "fill in" blocks on one page of the bid form. This suggestion has merit but would require substantial re-engineering of the bid form and the electronic Timber Information Manager (TIM) program that generates the form. A re-engineered bid form would need to go through a public notice and comment period which could not be completed before the expiration date of the current bid forms. The Forest Service will look into the feasibility of re-engineering the bid forms prior to the next approval in 2016.

Some of the individuals contacted expressed objections to the proposed addition of block 16c Timber Sale Contract Volume Disposition - Non-manufacturers.

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Their principal concern was that bidders could use this nonbinding estimate to skew or manipulate the data used to calculate market shares for small businesses. None of the individuals contacted indicated that the additional information collection associated with block 16c would have an effect on the burden. The Forest Service agrees that the concerns raised about proposed block 16c have merit and procedures for gathering this information need more analysis. The bid forms will not be revised at this time to include block 16c.

Following are the names and phone numbers of the six individuals contacted who provided written responses:

- Dan Buhler, Neiman Timber Company L.C., 307-467-5252
- Howard Hedstrom, Hedstrom Lumber Company, Inc., 218-387-2995
- Josh Anderson, Vaagen Bros. Lumber, Inc., 509-684-5071
- John Gephart, North Shore Forest Products, Inc., 218-349-1212
- Bill Mulligan, Blue North Forest Products, LLC, 208-935-2547
- Bruce Olsen, Franklin Logging, Inc., 530-549-4924

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

No payment or gifts are provided to the respondents.

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

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

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

The bidders address, phone number and tax identification number has been moved to a separate page to be shredded after the entering the bidder's information into the appropriate, secure data base. Other than this and the aforementioned, there is no assurance that the information submitted by a company/corporation shall be confidential.

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.

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There are no sensitive questions associated with this information collection.

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

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

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

Table 3: Total Number of Bid Forms Issued, by Type, During Fiscal Years 2009-2011.

| (a) Description of the Collection Activity | (b) Form Number | (c) Number of Respondents | | |
|---|--|------------------------------|-------------|-------------|
| | | FY2009 | FY2010 | FY2011 |
| National Forest Products for Sale (Advertisement and Short Form Bid) | FS-2400-42a | 393 | 422 | 345 |
| Bid for Advertised Timber (3 form versions) | FS-2400-14UR FS-2400-14WA FS-2400-14TV | 1002 | 948 | 954 |
| Solicitation and Offer For Integrated Resource Contract (2 form versions) | FS-2400-14BV FS-2400-14BVU | 84 | 115 | 100 |
| Total | --- | 1479 | 1485 | 1399 |

The Forest Service Timber Information Manager (TIM) program was queried to obtain the total annual respondents for fiscal years 2009-2011. There are 3 versions of Bid for Advertised Timber form (FS-2400-14UR, FS-2400-14WA and FS-2400-14TV) and two versions of the Solicitation and Offer for Integrated Resource Contract form (FS-2400-14BV and FS-2400-14BVU). The only difference between the forms within those categories is how the amount bid/offered is displayed. How the amount bid/offered is displayed has no effect on the burden. The Forest Service can identify which category of form is used based on the type of sale being offered but does not track the version of the form used with those categories.

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Table 3a

| (a) Description of the Collection Activity | (b) Form Number | (c) Number of Respondent s* | (d) Number of responses annually per Respondent (e ÷ c) | (e) Total annual respons es | (f) Estimat e of Burden Hours per respons e | (g) Total Annual Burden Hours (e x f) |
|--|--|--------------------------------------|---|---|--|--|
| Prepare bid | FS-2400-42a | 387 | 1.4 | 532 | 9 | 4788 |
| Prepare bid | FS-2400-14TV FS-2400-14UR FS-2400-14WA | 968 | 2.2 | 2145 | 34 | 72,930 |
| Prepare offer | FS-2400-14BV FS-2400-14BVU | 100 | 1.7 | 174 | 53 | 9222 |
| Totals | --- | 1455 | --- | 2851 | --- | 86,940 |

*Approximately 87%, or 1,266 respondents are from the private sector, 13% or 189 respondents are individuals.

Information on burden calculations:

The Forest Service Timber Information Manager (TIM) program was queried to obtain the total annual responses (column e) and number of respondents (column c) for fiscal years 2009-2011. The annual differences shown in Table 3 do not appear significant or to indicate a trend; consequently the values in columns c and e represent the averages for those three years. This is a refinement in the procedure previously used where total annual responses and number of respondents were estimated based on the number of sales sold. The values in column d were derived by dividing column e values by column c values and rounding to one decimal place. Minor changes that will not affect the burden are being made to the bid forms. The burden cannot be precisely determined because of the high variability in the amount of time bidders spend conducting field reviews prior to preparing their bid or offer. The information required on the bid forms has not changed significantly since 2010. All estimates of burden were rounded up to the next whole hour to eliminate the erroneous implication of precision associate with tenths of an hour.

For formally advertised sales using forms FS-2400-14TV, FS-2400-14UR, and FS-2400-14WA, it is estimated that approximately 20 percent of the bidders will spend 50 hours inspecting the sale area; reviewing the requirements of the sample contract; taking other steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs; and completing the bid form. Approximately 40 percent of the bidders will spend about 36 hours completing these tasks and approximately 40 percent of the bidders will spend

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an estimated 20 completing these tasks. The average for all respondents is 33.4 hours, rounded up to 34.

For informally advertised sales using form FS-2400-42a, it is estimated that bidders will spend about 25 percent of the time required to prepare a bid for the larger more complex sales offered on the standard FS-2400-14 bid forms. (25% of 33.4 hours = 8.4 hours rounded up to 9.0).

For contracts formally advertised on forms FS-2400-14BV and FS-2400-14BVU it is estimated that 80 percent of the respondents will spend approximately 60 hours inspecting the contract area, reviewing the requirements of the sample contract, and taking other steps as may be reasonably necessary to ascertain the location, estimated volumes, and operating costs, and completing the form including the technical proposal. It is estimated that the remaining 20 percent of the responders will spend approximately 24 hours on these same tasks. The average for all respondents is estimated to be 52.8 hours rounded up to 53.

The Forest Service estimates respondents spend an average of approximately 30 minutes or 0.5 hours to enter the required information on the individual forms prior to submitting them to the Forest Service. That time is reflected in the totals above.

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

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

There are no record keeping requirements for respondents

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

Table 4

| (a) Description of the Collection Activity | (b) Estimated Total Annual Burden on Respondents (Hours) | (c) Estimated Average Income per Hour | (d) Estimated Cost to Respondents |
|--|---|--|--|
| Gather info., complete FS-2400-42a | 4788 | \$21.97 | \$105,192 |
| Gather info, complete FS-2400-14TV Gather info, complete FS-2400-14UR Gather info, complete FS-2400-14WA Gather info, complete FS-2400-14sb | 79,930 | \$26.46 | \$2,114,948 |
| Gather info, complete FS-2400-14BV | 9222 | \$26.46 | \$244,014 |

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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 |
|---|---|--|--------------------------------------|
| Gather info, complete FS-2400-14BVU | | | |
| Totals | 86,940 | --- | \$2,464,154 |

http://www.bls.gov/oes/current/oes_nat.htm#45-0000 The Bureau of Labor statistics for May 2009 indicates that the mean hourly wage for first line supervisors of forestry workers (45-1011) is \$21.97 per hour. This figure was used for respondents submitting information on form FS-2400-42a, as they are predominately individuals or very small businesses.

Employees of larger businesses or corporations who earn more than the occupational average more commonly prepare the other forms. For this analysis, the mean hourly wage of \$26.46 for the logging industry was used.

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

There are no capital operation and maintenance costs.

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

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

- **Employee labor and materials for developing, printing, storing forms**
- **Employee labor and materials for developing computer systems, screens, or reports to support the collection**
- **Employee travel costs**
- **Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information**
- **Employee labor and materials for collecting the information**
- **Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information**

The Forest Service maintains forms FS-2400-42a, FS-2400-14TV, FS-2400-14UR, FS-2400-14WA, FS-2400-14sb, FS-2400-14BV and FS-2400-14BVU electronically

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for internal processing. Respondents cannot obtain or submit these forms electronically. Forms for each contract are printed in local Forest Service offices in quantities to meet the needs of the estimated number of respondents for each contract. The number of forms printed for potential respondents for each contract offer varies by interest but averages approximately 20.

Table 5 - Material costs

| | FS-2400-42a | FS-2400-14TV; FS-2400-14UR; FS-2400-14WA; FS-2400-14sb | FS-2400-14BV FS-2400-14BVU |
|---------------------------------|--------------------|---|---------------------------------------|
| # forms used (20/solicitation) | 8000 | 15,000 | 2000 |
| # pages/form | 3 | 10 | 8 |
| Cost/page | \$0.10 | \$0.10 | \$0.10 |
| Total cost to print/copy forms | \$2400 | \$15,000 | \$1600 |
| Cost of envelopes @ \$0.15 each | \$1200 | \$2,250 | \$300 |
| Cost of postage @ \$0.65/form | \$5200 | \$9,750 | \$1300 |
| Total material costs | \$8800 | \$27,000 | \$3,200 |

Labor costs include clerical time for printing, mailing, and collecting forms; and professional time spent analyzing, evaluating, summarizing, and/or reporting on the collected information. Clerical costs are estimated to be \$14.90/hour (GS-5/5) and professional costs are estimated to be \$27.31/hour (GS-11/5). Professional time to open, review and evaluate bids and proposals averages 2 hours/solicitation except for those using the FS-2400-14BV forms which average 6 hours per solicitation.

Table 6 - Labor Costs

| Form # | # of Solicitations | Clerical Hours/ Solicitation | Professional Hrs/ Solicitation | Total Labor Costs |
|----------------|---------------------------|-------------------------------------|---------------------------------------|--------------------------|
| FS-2400-42a | 400 | 4 @ \$14.90/Hr | 2 @ \$27.31 | \$45,688 |
| FS-2400-14's | 750 | 4 @ \$14.90/Hr | 2 @ \$27.31 | \$85,665 |
| FS-2400-14BV's | 100 | 4 @ \$14.90/Hr | 6 @ \$27.31 | \$22,346 |
| | | | | \$153,699 |

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

Table 7 - Materials and Labor

| Form | Materials Costs | Labor Costs | Total Costs |
|----------------|------------------------|--------------------|--------------------|
| FS-2400-42a | \$8,800 | \$45,688 | \$54,488 |
| FS-2400-14's | \$27,000 | \$85,665 | \$112,665 |
| FS-2400-14BV's | \$3,200 | \$22,346 | \$25,546 |
| Totals | \$39,000 | \$153,699 | \$192,699 |

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

Burden estimates were revised to reflect better data on number of respondents and number of responses, and costs were updated to reflect current values. Based on the better use data, the number of responses decreased from 4632 to 2851 and the burden hours decreased from 135,246 to 86,940 from those previously approved. These changes resulting in total annual costs to respondents decreasing from \$3,292,032 to \$2,464,154.

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

There are no plans to publish the information collected.

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

The OMB expiration date will be displayed on all Information Collection Instruments.

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

There are no exceptions to the certification statement. The agency is able to certify compliance with all provisions under Item 19 of OMB form 83-1, *Certification Requirements for Paperwork Reduction Act*.