

The logo of the Bureau of Land Management (BLM) is centered in the background. It features a shield with a mountain, a river, and a tree. The text "BUREAU OF LAND MANAGEMENT" is written around the shield, and "U.S. DEPARTMENT OF AGRICULTURE" is written at the bottom. The logo is rendered in a light gray color.

203 Partnership Authorities and Instruments

YOUR NATIONAL FORESTS

Course Objectives

- To distinguish between procurement, grant, and agreement
- To identify what is an authority and what is an instrument
- To become familiar with the common authorities and instruments used in partnerships and when/how to use them

Procurement vs. Grant/Agreement

How Do You Know Which It Is?



Federal Grants and Cooperative Agreements Act of 1977 (FGCA)

A government-wide authority that:

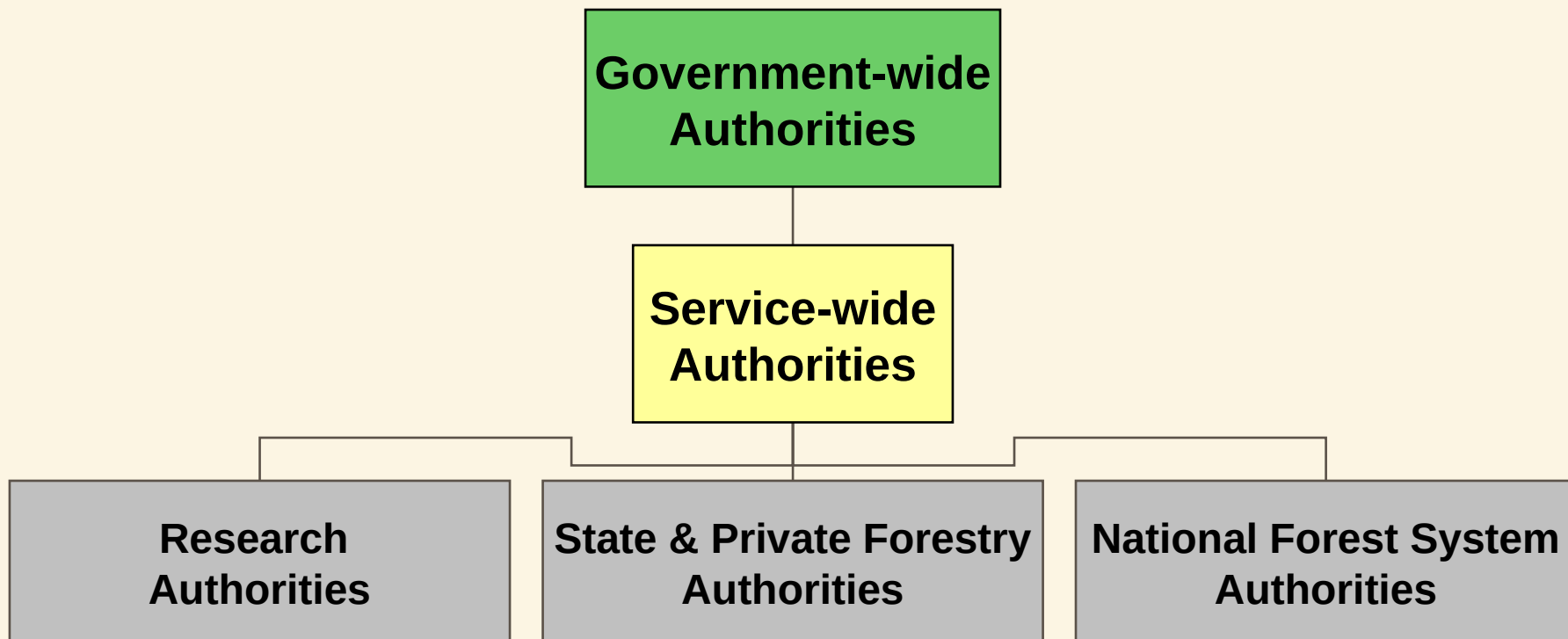
Clarifies three award instruments—
**procurements, grants, and
cooperative agreements.**

- **Procurement (contract):** Instrument used to procure a good or service for the direct benefit of the agency.
- **Grant:** Federal financial assistance instrument used to stimulate or support a recipient's activity for the public good. Government IS NOT *substantially* involved.
- **Cooperative Agreement:** Federal financial instrument used to stimulate or support a recipient's activity for the public good. Government IS *substantially* involved.
- **Other agreements:**

Authority and Instrument

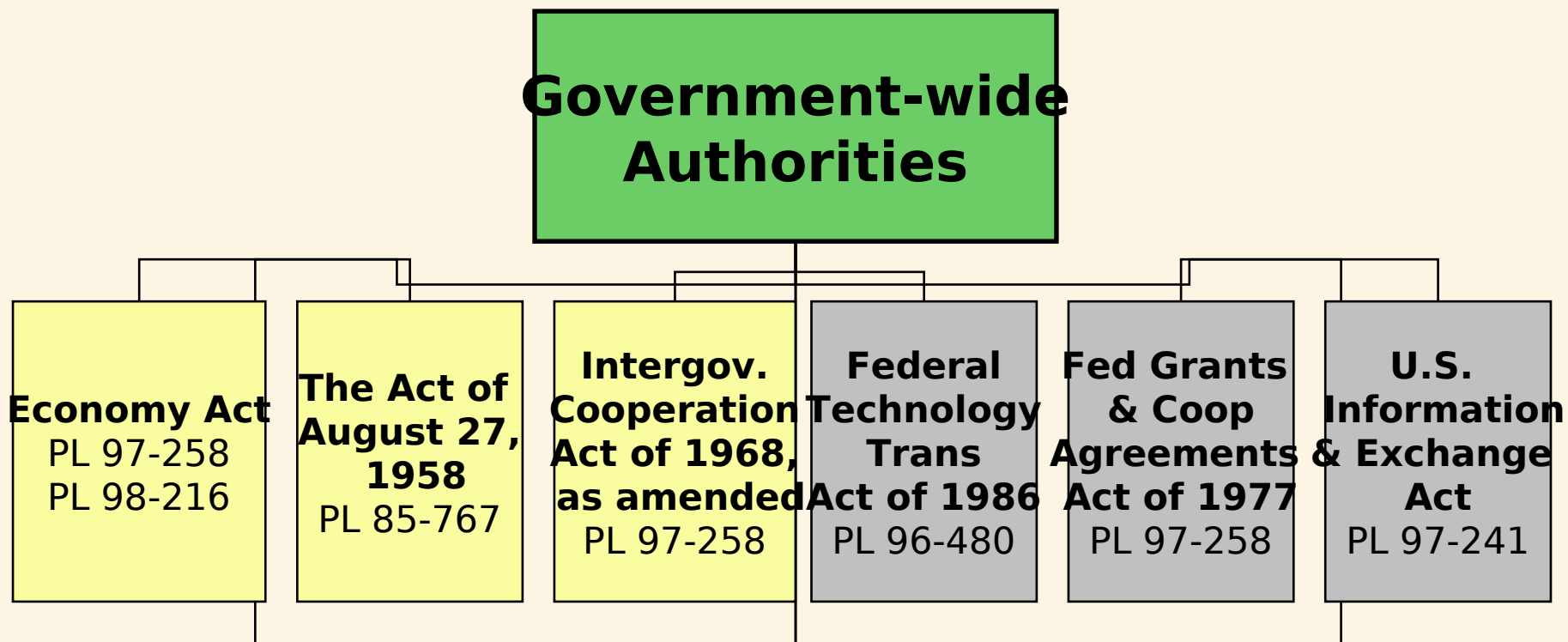
- An **Authority** is the legislation that allows the Forest Service to commit resources and funding to a project
- An **Instrument** is the formalized document or arrangement that defines rights, duties, entitlements and/or liabilities

Authorities



<http://fsweb.wo.fs.fed.us/directives/fsm/1500/>

Government-wide Authorities



<http://fsweb.wo.fs.fed.us/directives/fsm/1500/>

Forest Service-wide Authorities

Government-wide Authorities

Coop Funds Act
 June 30, 1914,
 PL 104-127

Granger-Thye Act
 April 24, 1950,
 16 USC 572

Acceptance of Gifts Act
 October 10, 1978
 PL 95-442

Coop Funds & Deposits Act
 December 12, 1975
 PL 94-148

Interior and Related Agencies Appropriation Act
 PL 102-154

Title 7 USC Section 2204a

<http://fsweb.wo.fs.fed.us/directives/fsm/1500/>

Forest Service-wide Authorities (cont.)



**Government-wide
Authorities**

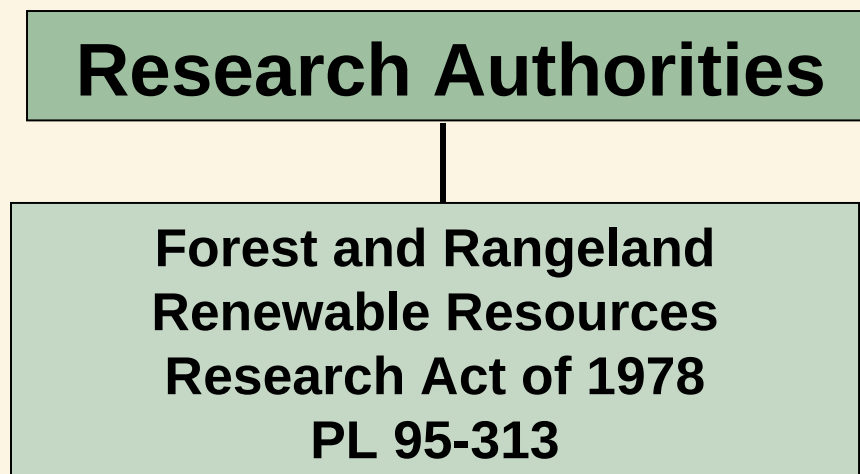
**Service-wide
Authorities**

**Federal Employees
International
Organization Service Act**

**National Agriculture Research
Extension and Teaching
Policy Act PL 95-113**

**Youth Conservation Corps
Act of 1970
PL 91-378**

Research Authorities



<http://fsweb.wo.fs.fed.us/directives/fsm/1500/>

State & Private Authorities

- **Cooperative Forestry Assistance Act of 1978**
PL95-313
- **National Forest Dependent Rural Communities Economic Diversification Act of 1990**
PL 101-624
- **America the Beautiful**
PL 101-624

<http://fsweb.wo.fs.fed.us/directives/fsm/1500/>

National Forest System Authorities

- **National Trails System Act**
PL 90-543
- **Cooperative Law Enforcement Act**
August 10, 1971
PL 92-82
- **Wild & Scenic Rivers Act**
PL 90-542
- **Sikes Act**
of Sept 1, 1960
PL 86-797
- **National Forest Roads & Trails Act**
PL 88-657

<http://fsweb.wo.fs.fed.us/directives/fsm/1500/>

National Forest System Authorities (cont)

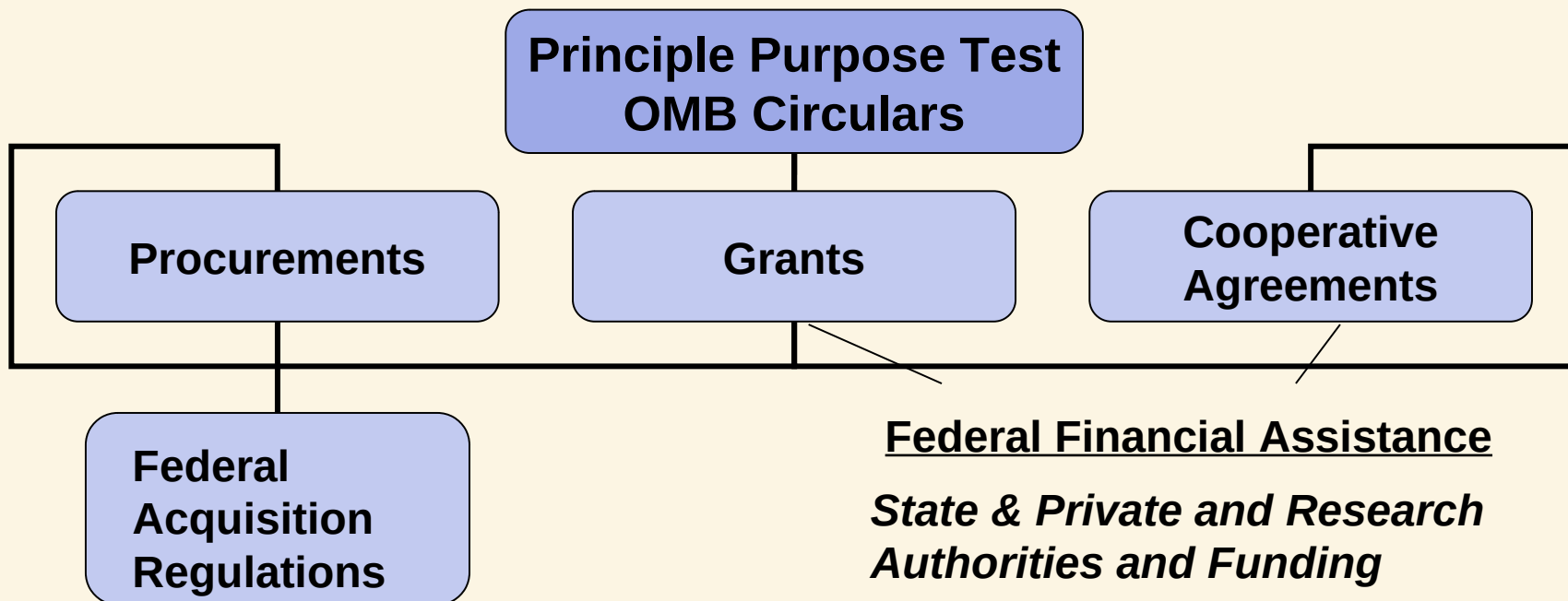
- **Reciprocal Fire Act**
May 27, 1955
PL 84-46
- **National & Community Service Act of 1990**
PL 101-610
- **Healthy Forests Restoration Act**
- **Federal Noxious Weed Act of 1974**
PL 101-624



Additional National Forest System Authorities

- **Service First**
PL 109-54
- **Stewardship Contracting**
PL 108-7
- **Wyden Authority**

Government Wide – Federal Grants and Cooperative Agreements Act of 1977



Federal Financial Assistance

State & Private and Research Authorities and Funding

For NFS Funding we have Title II, Wyden and the National Fire Plan

Instruments = Agreements



Common Forest Service Agreements

- **Cooperative Fire Protection, Law Enforcement, and Forest Roads Agreements**
- **Interagency Agreements**
- **Collection Agreements**
- **Volunteer Agreements**
- **Memoranda of Understanding**

Common Forest Service Agreements

Other Mutual Interest and/or Mutual Benefit Agreements

- **Participating**
- **Challenge Cost Share**
- **Joint Venture**
- **Cost Reimbursable**



OMB Exempted Cooperative Agreements

Cooperative Law Enforcement

Authority:

Cooperative Law Enforcement Act of August 10, 1971

(16 U.S.C. 551a, Pub. L. 92-82)

Cooperative Forest Road

Authority:

National Forest Roads and Trails Act of October 13, 1964 (16 U.S.C. 532-538, Pub. L. 88-657)

OMB Exempted Cooperative Agreements

Cooperative Fire Protection

Authorities:

- Granger-Thye Act of April 24, 1950
- Cooperative Funds Act of June 30, 1914
- Cooperative Funds & Deposits Act of December 12, 1975
- Reciprocal Fire Protection Act of May 27, 1955

Memorandum of Understanding

- To document a framework for cooperation between the FS and other parties for carrying out their separate activities in a coordinated and mutually beneficial manner.
- Only used when nothing of value is to be transferred/exchanged.
- There are no specific authorities for an MOU.

Reference: FSM 1586 and FSH 1509.11 Chapter 50

Collection Agreements

References:

**FSM 1584 Grants and
Agreements**

Collection Agreements

FSM 1509.11 Chapter 30



Collection Agreement

An **instrument** used for the acceptance of money, equipment, property, or products by the Forest Service from a non-federal party to carry out a purpose authorized by law.

Collection Agreement

Authority: Cooperative Funds Act of June 30, 1914

- Contributions must be cash, check, or money order
- Cannot accept services, equipment, materials or supplies under this authority
- Funds may be advance or reimbursement
- Overhead may be waived (FSH 1909.13, Chapter 40)

Collection Agreement

Authority: Cooperative Funds Act of June 30, 1914

- Work must benefit a FS program; FS must accomplish the work via force account, contract, or other appropriate method
- Funds must be accounted for separately (CWFS/NFEX)
- No conflict of interest or appearance of
- No endorsement

Collection Agreement

Authority: Granger-Thye Act (Section 5)

- Work to be performed is responsibility of the contributor but has a public benefit.
- Work must be on land in State, county, municipal or private ownership situated within or near a National Forest.
- FS must collect full costs (including overhead) in advance of work performed.

Collection Agreement

Authority: Granger-Thye Act (Section 5)

- Reimbursement may be allowed with State and local governments.
- Contribution is voluntary
- Acceptance of services is not authorized
- No endorsement
- Forest Service is not liable to the depositor for damage performed under the agreement

Collection Agreement

Authority: Acceptance of Gifts Act of October 10, 1978

- Gifts may include:
 - Cash
 - Real or personal property
 - Net proceeds from liquidation of any real or personal property
 - Proceeds from any insurance on any gift property
- Donated funds are a voluntary, gratuitous transfer of cash to the Forest Service – with “no strings” attached

Collection Agreement

Authority: Acceptance of Gifts Act of October 10, 1978

- Acceptance of services is not authorized under this Act (see Volunteer Act)
- Acceptance of gifts cannot be contingent on endorsement of firms or products
- Gifts cannot be accepted from interested parties (7 CFR 0.735-12(a))
- A memo to the donor should cite the authority that this gift is being accepted under, and if known, what the gift will be used for.

Collection Agreement

Authority: Intergovernmental Cooperation Act of 1968

- To provide specialized or technical services to State and local governments upon written request.
- Tribal governments are not covered by this Act.
- Cooperator pays for all costs, including indirect costs.
- Has very specific guidelines regarding its use.

Interagency Agreements

References:

**FSM 1585 Grants and Agreements
Interagency Agreements
FSM 1509.11 Chapter 40**



Interagency Agreement

An **instrument** used when one Federal agency/department is in a position to provide materials, supplies, equipment, work, or services of any kind that another agency or department needs procured or performed to accomplish its mission.

Interagency Agreement

Authority: Economy Act of June 30, 1932

- Ensure work is authorized by FS statutes and appropriations. “Both agencies shall possess the statutory authority to do the work”.
- Requires Economy Act determination.
- Generally reimbursement, but can be advance

Interagency Agreement

Authority: Economy Act of June 30, 1932

- Recover full direct and indirect (overhead) costs
- Agreement may be documented on Form AD-672, in a narrative format, or via another agency's format (any method must include FS agreement # and mandatory FS clauses).

Intra-agency Agreements

Intra-agency: Instruments used when one FS unit is in the position to provide materials, supplies, equipment, work or services of any kind that another FS unit needs procured or performed to accomplish its mission.

Mutual Interest and/or Mutual Benefit Agreements

FSM 1587

- Participating
- Challenge Cost Share
- Joint Venture
- Cost Reimbursable

Participating Agreement (PA)

FSM 1587.11

FSH 1509.11 Chapter 60

Public Law 94-148

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



Participating Agreement

**Authority: Cooperative Funds & Deposits Act of
December 12, 1975
P.L. 94-148**

Authorizes the Forest Service to enter into cooperatively performed, mutually beneficial projects with public and private agencies, organizations, institutions, or persons.

Participating Agreement

Authority: Cooperative Funds & Deposits Act of
December 12, 1975
P.L. 94-148

Four Specific Areas:

1. Pollution abatement
2. Cooperative manpower, job training, and development programs
3. Development of publication of cooperative environmental education and forest history materials
4. Forestry Protection

Participating Agreement

Authority: Cooperative Funds & Deposits Act of
December 12, 1975
P.L. 94-148

General Requirements:

- Forest Service may provide reimbursable or advance payments
- Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can **NOT** be based on value, but must be actual costs incurred in support of the project
- Match can be cash, real or personal property, services, and/or in-kind contribution

Participating Agreement

**Authority: Cooperative Funds & Deposits Act of
December 12, 1975
P.L. 94-148**

General Requirements

- Financial plans required prior to start of work
- Funds may be used for printing under certain conditions
- Do not circumvent procurement, printing, property or personnel procedures.

Participating Agreement

Authority: Wyden Amendment, Section 323(A) of the Department of Interior and Related Agencies Appropriations Act, 1999 as included in P.L. 105-277, Div. A, Section 101 (e) as amended by P.L. 107 63, Sec. 330

Authorizes the Forest Service to enter into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities, and landowners for the protection, restoration, and enhancement of fish and wildlife habitat, and other resources on public or private land that benefit those resources within the watershed.

Participating Agreement

Authority: Wyden Amendment, Section 323(A) of the Department of Interior and Related Agencies Appropriations Act, 1999 as included in P.L. 105-277, Div. A, Section 101 (e) as amended by P.L. 107 63, Sec. 330

- Agreement template can be either Federal Assistance or Other Agreement.
- There is no specific Wyden appropriation. Funds must be available within existing appropriation; e.g., wildlife funds for wildlife projects.
- There is no mandated match requirement.

Participating Agreement

Authority: Wyden Amendment, Section 323(A) of the Department of Interior and Related Agencies Appropriations Act, 1999 as included in P.L. 105-277, Div. A, Section 101 (e) as amended by P.L. 107 63, Sec. 330

- Ensure agreement terms protect public investment on nonfederal lands.
- Project(s) must comply with all Federal, state, and local laws and regulations.
- Liability and long term maintenance responsibilities need to be addressed.

Challenge Cost Share Agreements (CS)

FSM 1587.12

FSH 1509.11 Chapter 60

**Interior and Related
Agencies Appropriations Act of 1992
(Pub L 102-154)**



Challenge Cost-Share Agreement

**Authority: Interior and Related Appropriations
Act of 1992**

Authorizes the Forest Service to cooperate with other parties to develop, plan and implement projects that are mutually beneficial to the parties that enhance Forest Service activities. This includes financing projects with matching funds from cooperators. Cooperators may be public and private agencies, organizations, institutions and/or individuals.

Challenge Cost-Share Agreement

Authority: Interior and Related Appropriations Act of 1992

- Contributions shall be commensurate with the benefit received. If we're receiving 75% of the benefit, then we can contribute up to 75% of the funds on the project.
- Forest Service may reimburse cooperator for part of actual costs of materials and/or labor. Reimbursement can **NOT** be based on value, but must be actual costs incurred in support of the project.
- No advance payments allowed.

Challenge Cost-Share Agreement

Authority: Interior and Related Appropriations Act of 1992

- Appropriated funds cannot be used for improvements on non-federal lands.
- Match can be cash, real or personal property, services, and/or in-kind contributions
- Financial plans required prior to start of work
- Program income resulting from project must be shown on financial plan.
- Do not circumvent procurement, printing, property or personnel procedures.

Joint Venture Agreements

FSM 1580.11

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



Joint Venture Agreements

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

Joint Venture Agreements

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

Joint Venture Agreements

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

Cost Reimbursable Agreements

FSM 1580.11

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



Cost Reimbursable Agreements

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

Cost Reimbursable Agreements

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

Cost Reimbursable Agreements

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

Special Authorities:

Stewardship Authority

P.L. 108-7 Sec. 323 (2003)

Wyden Amendment

P.L. 109-54, Sec. 434

Service First

P.L. 109-54, Title IV, Sec 428

Stewardship Authority

- Grants authority until 2013
- Stewardship contracting projects with private or public entities by contract or agreement
- Perform services to achieve land management goals for the NF's or public lands that meet local and rural community needs.

Stewardship Agreement - Primary Test

- Is the project for the mutual interest and benefit of the parties?
- Does it advance the mission of the proposed partner, other than for monetary gain, and achieve the FS management goals for the national forests that meet local & rural community needs?

Instruments which may be allowed under stewardship...

- Challenge Cost Share
- Participatory
- Cooperative Agreements under Wyden authority.
- **SEEK ASSISTANCE** from your Grants and Agreement Specialist.

Stewardship Contracting References

Website:

<http://www.fs.fed.us/forestmanagement/projects/stewardship/direction/index.shtml>

- FSH 2409.19 Renewable Resources Handbook, Ch. 60 Stewardship Contracting
- Stewardship Contracting Fact Sheet
- Stewardship Q & As

WO - Tim Dabney – tdabney@fs.fed.us

Other Resources

- **Wyden Amendment:**
 - FSM 1587.15
 - FSH 1509.11 Chapter 60
- **Service First:**
 - Support Guide: <http://www.fs.fed.us/servicefirst/>

In Summary....

- Many different authorities exist for partnership work
- Each authority has a corresponding instrument
- Each instrument has guidelines for terms/conditions.
- Consult with your grants & agreements staff **upfront** to ensure the correct authority and instrument

References

- Forest Service Manual direction:
<http://fsweb.wo.fs.fed.us/directives/>
- Forest Service Grants and Agreements website:
<http://www.fs.fed.us/business/>
- Forest Service G& A Specialists:
<http://www.fs.fed.us/business/>
- Forest Service Agreements Desk guide:
<http://www.fs.fed.us/business/>

References

- National Grants and Agreements Templates:
<http://fsweb.wo.fs.fed.us/aqm/grants/Templates>
- The Partnership Guide:
<http://www.partnershipresourcecenter.org/>

Acknowledgements

- Pinchot Institute for Conservation
- National Forest Foundation
- National Park Service
- Bureau of Land Management
- USDA Office of General Counsel
- FS Grant Strategists Enterprise Team
- US Forest Service, including:
 - **National Partnership Network, National Partnership Office, National Forest System, NFS – Business Operations, Research and Development, State and Private Forestry**

Looking for More Training?

Here's a complete list of modules.

- Partnerships and Collaboration 101
- Collaboration 200
- Meeting Objectives Through Partnerships 201
- Developing a Partnership 202
- Partnership Authorities and Instruments 203
- Partnership Conduct and Ethics 204
- Understanding Nonprofits and National Forest Foundation 205
- Partnership Administration 301
- Step by Step Partnership Administration 302
- Partnership and Collaboration Tools 303