



PARTNERSHIP GUIDE

May 2005

Produced by:

The National Forest Foundation

USDA Forest Service

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Partnership Guide
The Power of People Working Together
A Living Document

Produced in partnership by the
National Forest Foundation
and the
USDA Forest Service, National Partnership Office

May 2005

With Special Thanks to the many people who contributed their valued
time and energy by writing, reviewing, and telling their stories for this Guide.

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Introduction

Partnerships in land stewardship reflect a growing and important trend: the joining of passion and resources by committed citizens, organizations, and government agencies to achieve social, economic, and ecological goals. The Forest Service has worked with partners throughout its 100-year history. But the problems of land management have grown more complex, and the needs of the public more varied. The American people today are voicing their strong desire to volunteer and participate in the stewardship of natural resources and in the decisions that affect their communities.

The Forest Service is responding by empowering employees and partners to create and sustain successful partnerships. The National Forest Foundation (NFF), a key Forest Service partner, is assisting the agency in this arena by helping to build partnerships and partner networks. (Read more about the NFF in Chapter IV – Field Guide to Nonprofit Organizations.) Internally, the Forest Service is aligning its structure and policies to help partnerships run more smoothly. For example, the agency is clarifying conduct and ethics policies for partnerships and re-engineering its business processes. In 2004, the President's Administration sent a Forest Service partnership bill to Congress.

This Partnership Guide, produced by the Forest Service and the NFF, is a tool to help Forest Service employees, experienced partners, and first-time or potential partners work together more effectively and efficiently. The guide answers common questions about the agency's policies and procedures, helps partnerships anticipate potential hurdles, and provides contacts and other resources to help users find more specific guidance. Finally, the guide highlights creative approaches taking place across the country that promote sustainable and vibrant forests, grasslands, and communities. Through partnerships like these, the agency is learning how to more successfully sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations.

From the Desk of Dale Bosworth, Chief, Forest Service

As we enter the Forest Service's second century of caring for the land and serving people, a strong spirit of partnership and collaboration is more important than ever. This Partnership Guide provides the practical information that people need to partner with the Forest Service – to take a good idea and put it into practice as soon as possible. I hope you will turn to its pages whenever you need inspiration and guidance for cultivating your ideas. Together we can do great things.



Dale Bosworth, Chief

From the Desk of Bill Possiel, President, National Forest Foundation

The National Forest Foundation (NFF) is proud to work with the Forest Service to strengthen the role the public plays in caring for our nation's forests. Now more than ever, individuals and organizations are taking part in the day-to-day conservation, stewardship, restoration, and outreach work on our National Forests – with the support and guidance of the agency. Together, the Forest Service, the NFF, and hundreds of partners across the country are working to make sure our National Forests endure the test of time.



Bill Possiel, NFF
President

I. Working in Partnership with the Forest Service

At heart, partnerships are a straightforward concept: people working together to achieve goals that are meaningful to both of them. But the details can be trickier and the terminology confusing. This chapter explains:

- The meaning of partnership
- Documenting partnerships
- Collaboration
- The focus of this guide

Throughout the chapter, sidebars highlight vibrant examples of Forest Service partnerships with citizens, communities, and organizations. The goals of these efforts include restoring wildlife habitat, revitalizing communities, enhancing opportunities for recreation, engaging new citizen stewards, and resolving conflicts over watershed management.

The Meaning of Partnership

In this guide, the words “partnership” and “partners” are used in a broad way to describe relationships between the people, organizations, agencies, and communities that work together and share interests. The Forest Service regularly works in partnership with other entities, including tribes, states, federal agencies, nonprofits, businesses, and communities.

However, it is important to understand that the word “partnership” also has a more precise meaning according to federal policy. Federal policy defines partnerships as “arrangements that are voluntary, mutually beneficial, and entered into for the purpose of mutually agreed upon objectives.” In this definition, “mutual benefit” specifically means that each partner shares in the benefits the project provides.

The terminology can be confusing because the Forest Service commonly uses the word “partnership” more loosely to refer to work with others where the benefits are not shared. For example, when the Forest Service gives grants to communities for revitalizing urban forests, the primary benefit is to the community. The

Enhancing Recreation

Along a 120-mile stretch of Lake Superior’s shoreline through Michigan, the Hiawatha Water Trail Association works with the Forest Service, communities, and other partners to enhance recreation and tourism opportunities.

One of the partnership’s innovative accomplishments is a locker system that paddlers can use to secure their kayaks and gear while they shop, dine, and use other community facilities at towns along the trail. Forest Service partners include State and Private Forestry’s Economic Action Programs and the Hiawatha National Forest.

agency also uses contracts to purchase goods or services that directly benefit the Forest Service. These types of formal arrangements are partnerships in the sense that they help each party achieve their goals and build skills, knowledge, and relationships that provide the foundation for future work together.

The Forest Service also frequently works with partners through informal activities that may serve as springboards for formal arrangements later. For example, many agency employees participate in community networks to offer educational events and share skills and expertise with local landowners and citizens without a formal, documented arrangement. In practice, this broadens the meaning of partnership beyond the specific definition under federal policy and beyond formal arrangements.



A Note on Working with Governments

Whenever a Forest Service project, policy or decision has the potential to affect another government or its jurisdiction, the Forest Service is required to consult with that other government. This is a *separate consultative relationship*, and occurs with American Indian and Alaska Native tribes, states, local governments, and other federal agencies. For example, the Forest Service works with counties when county roads cross Forest Service jurisdictions, and with tribes on issues surrounding treaty rights and access to sacred sites. It is important to note that partnerships are not created in lieu of consultative relationships with other governments.

Transforming Urban Environments

Working closely with partners, the Forest Service's Urban and Community Forestry Program promotes the creation of healthier, more livable urban environments.

In Seattle, a grant from the Urban and Community Forestry Program helped volunteers revitalize a polluted brownfield into a passive park with trails and native forest habitat. The site had been overrun with invasive blackberry thickets, transient camps, and garbage and vehicle dumps. The partnership transformed the land, part of the Environmental Protection Agency's Brownfields Program, into a vibrant oasis for the local community.

In response to the events of 9-11, the Living Memorials project creates lasting, living memorials to the victims of terrorism for their families, their communities, and the nation. With funding, technical assistance, and new tools provided by Urban and Community Forestry, the project has engaged a network of 4,600 people who have planted thousands of trees and reclaimed vacant neighborhood lots as part of more than 150 projects in 28 states and four countries.

Documenting Partnerships

Documenting a partnership is an important step because it clarifies objectives, describes roles and responsibilities, and ensures accountability by all parties. There are many types of formal arrangements, or "instruments," that the Forest Service uses to document work with others. The correct instrument to use depends primarily on who the parties are, the type of project, who will benefit, and whether and how the parties exchange funds or other resources.

Instruments for documenting relationships fall into four basic categories: mutual benefit agreements, Federal Financial Assistance, contracts, and other agreements.

- **Mutual benefit agreements.** These instruments document partnerships that provide mutual benefit for each party and are therefore true partnership instruments according to federal law:
 - Challenge Cost Share Agreement
 - Participating Agreement
 - Joint Venture Agreement
 - Watershed Restoration and Enhancement Agreements (Wyden Amendment)
- **Federal Financial Assistance.** Instruments in this category are used to stimulate or support the activities of non-federal organizations for a public purpose. Instruments used under Federal Financial Assistance are:
 - Cooperative Agreement
 - Grant
- **Contracts.** The Forest Service uses contracts to acquire goods and services that benefit the Forest Service. Types of contracts include:
 - Micro-purchasing
 - Simplified Acquisition
 - Stewardship Contract

- **Other agreements.** The Forest Service uses a variety of other agreement instruments that do not fall into any of the above categories. These include:
 - Interagency Agreement
 - Memorandum of Understanding (MOU)
 - Cooperative Research and Development Agreement
 - Volunteer Agreement
 - Collection Agreement
 - Cost Reimbursable Agreement

Grants, agreements, and contracts are discussed in more detail in Chapter VI – Grants and Agreements – and Chapter VII – Contracting with Partners.

A Note on Collaboration

An integral part of many partnerships is a collaborative process. The term “collaboration,” though, often provokes confusion. In natural resource management, collaboration increasingly refers to a process where groups with different interests come together to address management issues across a large geographic region such as a forest, watershed, or landscape. Through collaboration, groups that may disagree explore their differences, identify common interests, and seek common-ground solutions. The goal of collaborative groups is to build and promote a collective vision for how to manage the land. Such relationships can lead to one or many partnership projects.

A collaborative relationship may be documented through a formal arrangement, but often it is not. This means that a collaborative process is a type of partnership in the broad, rather than the strict, sense.

Seeking Common Ground

In the scenic Henry’s Fork Watershed of eastern Idaho and western Wyoming, a diverse group of citizens, agencies, nonprofits, and scientists formed the Henry’s Fork Watershed Council to collaboratively address controversial resource management issues. By using a consensus-building process, this partnership has helped formerly adversarial groups work together to coordinate research, conduct restoration, and ensure sustainability of the watershed resource.

Improving Wildlife Management and Habitat

Across the nation, partners are working with the Forest Service to improve the ability of forests to support diverse and healthy wildlife communities.

On the Yakutat Ranger District in Alaska, the Forest Service is working with Alaska Department of Fish and Game, University of Alaska at Fairbanks, and the Bureau of Indian Affairs through a Participating Agreement to assess moose populations and habitats in an effort to improve moose management.

In the Scapegoat Wilderness of Montana’s Lewis and Clark National Forest, the Forest Service and the Rocky Mountain Elk Foundation worked together under a Challenge Cost Share Agreement to conduct prescribed burns for improving wildlife habitat. The prescribed fires cleared out excessive understory – built up from decades of fire suppression – to prevent large crown fires and rejuvenate the grasses and forage that support elk and other wildlife. The project has helped restore fire, a critical natural process, to the wilderness landscape.

The Focus of this Guide

Much of this guide focuses on guidance for documenting partnerships through formal arrangements and navigating the laws and policies that apply to partnerships. It will also help users learn to build and maintain strong relationships, understand the Forest Service and nonprofit organizations, initiate work with volunteers, understand conduct and ethics requirements for agency employees, and discover new ways to communicate about a partnership's successes.

The guide is an overview, so it is important for the user to consult the sources of in-depth information referenced throughout the guide and/or work with Forest Service staff assigned to oversee grants, agreements, and partnerships. (See Appendix C – Contacts and Partner Websites – for Forest Service and National Forest Foundation contact information and links to additional partner websites.)

Revitalizing Communities

Funding derived from the Forest Service's Economic Action Programs and other partners helped Colville Confederated Tribes located in Washington State purchase and improve a plywood mill and biomass power plant that had recently shut down in the community of Omak. Colville Confederated Tribes and its business arm developed the site into a viable low cost producer of plywood and biomass power using tribal resources and employed 71 people in family-wage jobs, helping the region to prosper.

Partners that supported the effort included several federal and state agencies, Washington State University, a U.S. Senator's Office, the county's economic development council, and a national bank.



II. Building Relationships

Good relationships build trust and goodwill and provide a solid foundation for partners to work together to achieve mutual goals. This chapter:

- Describes key elements for successful partnership relationships
- Provides resources for users seeking more information

Elements of Success

Experience shows that successful partnerships and collaborative efforts exhibit the following features:

- **Clear objectives** – The partnership lays out clear objectives that may include specific stewardship goals or building skills, relationships, and capacity.
- **Agreed-upon scope** – Agreement on the scope of a partnership, including its scale, extent, and intent, focuses the partnership effort.
- **Sufficient resources and information** – The partnership or collaboration has access to sufficient resources to ensure success. Resources include time, staff, information, data, skills, and money.
- **Mutual benefits and responsibility** – All parties share in the decision-making process, responsibility for outcomes, and benefits of the partnership.
- **Respect** – Partners not only respect each other but also understand and respect the missions, goals, and regulations of the organizations involved.
- **Good communication** – Continuous communication and frequent opportunities to check progress build relationships that provide mutual recognition, trust, and respect, and improve the capacity of participants to solve problems together.
- **Careful management** – Essential elements include: 1) clearly defined participant roles and responsibilities; 2) clear ground rules and protocols; and 3) informal and formal communication links with the public, the media, and other government agencies.

- **Compliance with legal requirements** – The government agency and outside partners all comply with legal guidelines and policies that govern their status and partnership involvement. The partners are knowledgeable about legal authorities and constraints that may impact their decisions.
- **Planning for implementation and evaluation** – Participants agree on the steps that each will take to implement their collective plan, and on measurable outcomes to gauge effectiveness.

These features help to build the effectiveness of any partnership. Since collaborative efforts commonly bring together stakeholders with a long history of conflict and mistrust, they face additional challenges in achieving a balanced group dynamic. Successful collaborative groups take care to provide the following elements:

- **Inclusion** – Collaborative planning for forest management includes all parties with a stake in the results. The process treats all participants fairly and consistently. It allows participants to consult with relevant constituencies and to feel vested in all decisions made.
- **Incentives to participate** – Stakeholders in a collaborative effort have sufficient and continuing incentives to participate.
- **Accountable representation** – The participants who represent groups or organizations effectively speak for the interests they represent and are accountable to their constituency.
- **Equal access** – The collaborative group ensures equal opportunities to participate, access to relevant scientific and technical information, and skill-building for participants.



Resources and Tools

Many resources are available to help partners build and nurture positive relationships. All of the resources below may be accessed through the Partnership Resource Center website, a joint website of the Forest Service and the National Forest Foundation. The online Center provides information and resources to help employees and partners work together in partnership and collaboration. (<http://www.partnershipresourcecenter.org>)

- The Community Tool Box, developed by the National Park Service's Rivers, Trails, and Conservation Assistance Program, offers practical guidance for facilitating positive group interactions through techniques such as consensus-building, goal- and vision-setting, active listening, and dialogue. (http://www.nps.gov/phso/rctatoolbox/index_comtoolbox.htm)
- Learning from Experience, developed by the University of Michigan's Ecosystem Management Initiative, offers informative case studies on natural resource collaboration and partnerships. The "Lessons Learned" section provides guidance on issues such as organizing the process, managing scientific complexity, accommodating diverse capabilities of participants, and evaluating progress. (<http://www.snre.umich.edu/ecomgt/cases/>)
- The Partnership Resource Center Forum provides an online discussion center to help people engaged in partnership work connect with others to ask questions, share information, and network. (<http://www.partnershipresourcecenter.org/forum/>)

- The U.S. Institute for Environmental Conflict Resolution assists parties in resolving environmental conflicts around the country that involve federal agencies or interests. (<http://ecr.gov/>)
- The Red Lodge Clearinghouse provides extensive information and guidance for collaborative groups seeking to resolve resource conflicts throughout the western United States. The website also tells the stories of many collaborative efforts. (<http://www.redlodgeclearinghouse.org/>)



III. Field Guide to the Forest Service

This chapter provides a brief overview of the Forest Service, its organizational structure, and the responsibilities of the different parts of the organization. Familiarity with this structure will help partners understand the role of key individuals within the Forest Service and those they may work with in a partnership. The chapter describes:

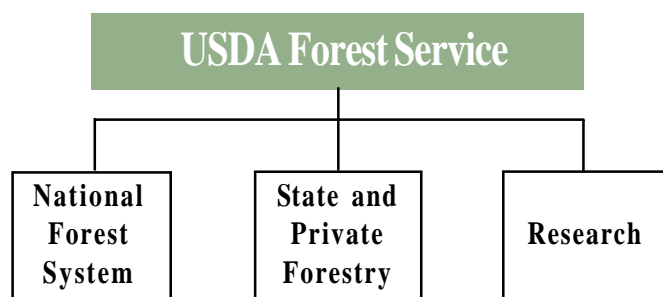
- The overall structure of the Forest Service
- The three branches of the Forest Service and how they work together
- Forest Service personnel that partners commonly work with

The Forest Service website provides additional information about the agency, its programs, and the public lands it manages. (<http://www.fs.fed.us/>)

Forest Service Structure

There is more to the Forest Service than the 192 million acres it manages in the National Forests and Grasslands. The Forest Service is made up of three branches. They are:

- National Forest System
- State and Private Forestry
- Research and Development



In addition, a staff group in Washington D.C. (International Programs) manages Forest Service involvement overseas and reports directly to the Chief of the Forest Service. International Programs provides forestry and natural resource technical assistance to developing countries around the world. It works in partnership with other U.S. government agencies, the United Nations, international non-governmental organizations, and host-country government counterparts.

Each of the three branches and International Programs operates under its own rules, regulations, and Congressional authority. Each branch receives budgets through the federal appropriations process, and money is not easily transferred between branches. It is important to recognize that different sets of laws, policies, and regulations affect how each of the three branches can enter into partnerships.

Broad policy for all three branches and International Programs is formulated at the national headquarters for the Forest Service. It is located in Washington, D.C., and is often referred to as the WO (Washington Office). The WO works with the President’s administration to develop budgets and interfaces with Congress on all agency issues. The Chief oversees all aspects of the Forest Service and reports to the Under Secretary for Natural Resources and Environment in the Department of Agriculture.

The Forest Service Manual (FSM) and the Forest Service Handbook (FSH) codify the agency’s policy, practice, and procedure. This Partnership Guide provides many references to sections of the FSM and FSH to help users locate more in-depth information related to Forest Service policies. The FSM and FSH are available on the Forest Service website (<http://www.fs.fed.us/im/directives/>).

National Forest System

The National Forest System (NFS) encompasses 192 million acres of public land managed by the Forest Service. A Deputy Chief is assigned to oversee the National Forest System. The Deputy Chief reports to the Chief. Including the WO, there are four levels of National Forest offices and each level provides a different aspect of leadership and a different level of authority.

Regions

The NFS has nine Regions, each with a headquarters often referred to as an RO (Regional Office). While there are only nine Regions, they are numbered 1 through 6 and 8 through 10. A number of years ago, Region 7 was eliminated and the Forests in Region 7 were consolidated into Regions 8 and 9. The highest authority in each Regional Office is the Regional Forester, who reports to the Chief. Among other duties, Regional Office staff coordinate activities within the Region and allocate budgets to the Forests. Guidance on contracting, grants, and agreements is often provided at this level. Many of the Regions have a partnership staff person who works with National Forest employees and partners. Their job is to provide assistance in overcoming partnership barriers and promoting partnership activities. See Appendix D – Forest Service Regions – for a map showing the nine Regions.

National Forests

Perhaps the most familiar unit in the National Forest System is the National Forest or Grassland. There are 155 National Forests and 20 Grasslands. Each National Forest or Grassland is often referred to internally as a unit. Each unit has an office referred to as the SO (Supervisors Office). The person in charge of a National Forest or Grassland is the Forest Supervisor who reports to the Regional Forester. The Supervisors Office coordinates activities and priorities between Districts, allocates the forest level budget, and provides technical assistance to each District. Most contracting officers are located in the Supervisors Office, unless the National Forests in the Region are organized into zones.

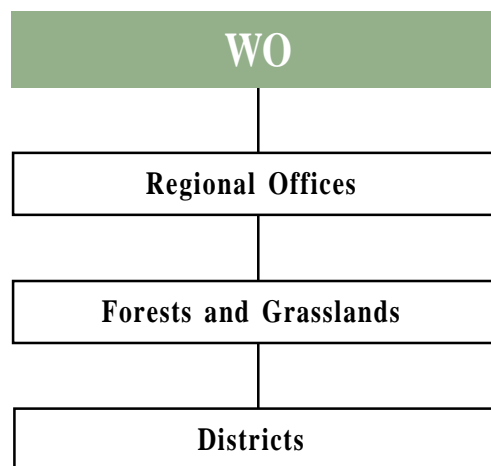
A zone is where two or more National Forests share personnel such as contracting officers, planning staff, and human resources staff. A contracting officer is a Forest Service employee who has the skills and authority to bind the Forest Service to legal contracts.

Districts

Each National Forest or Grassland is made up of Ranger Districts. A District Ranger is in charge of the activities at this level and reports to the Forest Supervisor. Many on-the-ground activities are directed from the Ranger Districts, including operation of campgrounds, watershed restoration activities, trail maintenance, and management of vegetation and wildlife habitat. Ranger Districts have the closest connection to local communities and on-the-ground activities.

National Forest or District Project Implementation

National Forest or Grassland project priorities are usually set by the forest leadership team. The forest leadership team is composed of the Forest Supervisor and staff officers from the Supervisors Office, along with the District Rangers from the local unit. The employees with the authority to make project decisions are often referred to as line officers. Forest Supervisors and District Rangers are line officers.



State and Private Forestry

The State and Private Forestry (S&PF) branch of the Forest Service is a federal leader in the stewardship of non-federal forestland. In this role, State and Private Forestry brings forest management assistance and expertise to a wide spectrum of partners – including state forestry agencies, local governments, nonprofit organizations, landowners, and tribes. Least known of the agency's three branches, State and Private Forestry is involved in many important partnership and capacity-building projects as a result of its unique mission. Its programs employ collaborative partnerships, expert advice, innovative technology, and financial assistance to help people across the country manage and protect their trees and forested landscapes. On average, every \$1 of federal investment in State and Private Forestry cooperative programs triggers \$10 from non-federal sources to provide environmental, economic and social returns.

The authorities for State and Private Forestry programs provide partners with many opportunities to obtain funds for partnership projects. Since state foresters are the legislated partner for most programs, funds for partnership projects are usually given to and managed by state forestry offices, with direct oversight from Forest Service Regional program coordinators.

State and Private Forestry programs fall under staff areas that include forest health protection, fire and aviation, cooperative forestry, conservation education, and urban and community forestry. These programs help achieve the stewardship and sustainability of the nation's rural and urban forestland resources by:

- Providing cutting-edge technical expertise
- Helping to build strong state and local forestry programs
- Strengthening the environmental, social, and economic health of communities
- Providing financial assistance through a competitive grants process
- Reducing federal expenditures through preventive measures

- Monitoring trends in sustainability on all forest lands
- Serving as an information clearinghouse
- Providing education about the complexities of ecological issues

Most State and Private Forestry staff are located either in the WO, or in Regional Offices. Occasionally, staff work alongside National Forest System staff in National Forest offices. Each Regional Office houses a State and Private Forestry staff with its own director, with the exception of the Northeastern Area. The Northeastern Area, an administrative unit of State and Private Forestry, is headquartered in Newtown Square, PA, and serves the same states as the Region 9 Office in Milwaukee, WI.

The table in Appendix E – State and Private Forestry Programs – provides an overview of many State and Private Forestry programs that work primarily or exclusively through partnerships.

Research and Development

The Research and Development branch of the Forest Service is the largest forestry research organization in the world. Research and Development scientists carry out basic and applied research to study biological, physical, and social sciences related to forests and rangelands. Through their work, they provide the scientific and technical knowledge necessary to protect and sustain the nation's natural resources. The Deputy Chief of Research and Development oversees this branch. In addition to Washington Office employees and federal scientists located at universities across the country, there are six research stations managed by Station Directors and the Forest Products Laboratory which is managed by a Director.

The Research and Development branch is also an expert partner. Forest Service scientists work closely with universities in the United States, the international research community, and other research institutions.

They partner with land managers and practitioners to provide scientific information that is relevant and accessible for on-the-ground action.

Coordination within the Forest Service

As partnerships become a more effective way to achieve conservation results, the need for the branches

to work together cooperatively is increasing. Each branch has unique skills, authorities, and information to provide to collaborative efforts. The National Fire Plan, an integrated strategy for wildland fire activities across public lands management agencies, offers numerous opportunities for integration. Applied research is needed to address on-the-ground issues and to transfer re-

Helping Communities Build Capacity – Bitterroot Community Fire Plan

With help from State and Private Forestry programs, residents throughout the Bitterroot Valley in western Montana are working together to reduce the risk from catastrophic wildfires. Memory of the 2000 firestorm that devastated the valley continues to drive the community's efforts.

A State and Private Forestry Economic Action Program grant issued to the Bitterroot Resource Conservation and Development (RC&D) Area, Inc., supported a community fire planning process that began in 2002. Participants in the process included private landowners, community leaders, volunteer fire departments, independent foresters, nonprofit organizations, elected officials, and local, state, and federal agencies. Forest Service employees partnered with RC&D staff to provide coordination.

Completed in the spring of 2003 and updated in 2004, the Community Fire Plan addresses four key community goals:

- Fire prevention and suppression, emphasizing expanded emergency response coordination and capacity-building for volunteer fire departments
- Hazardous fuels reduction in the wildland-urban interface, including treatments across jurisdictional boundaries and community engagement in a “defensible space” campaign
- Restoration of fire-adapted ecosystems
- Community assistance, with emphasis on expanding commercial markets for waste wood products generated in hazardous fuel treatments

The Community Fire Plan has generated notable achievements, including a map that identifies cross-boundary high-risk areas, fuels reduction on 800 acres of private lands, creation of an informational website (<http://www.bitterrootfireplan.org>), and creation of a successful homeowners awareness campaign adopted throughout the inland northwest. Through mentoring, the Bitterroot RC&D now helps other RC&D Areas in Montana develop similar fire plans.

For more information, contact Nan Christianson, Bitterroot National Forest, (406)363-7113, nchristianson@fs.fed.us, or Kit Sutherland, Bitterroot RC&D, (406)363-1444 ext. 5, kit.sutherland@mt.usda.gov. For information and resources on developing Community Wildfire Protection Plans, visit: <http://www.healthyforests.gov/community/cwpp.html>.]

search to real life problems for communities. For example, the Forest Products Laboratory is responding to the need to reduce hazardous fuels by developing technologies to utilize small diameter wood from thinning operations. These technologies offer economic

opportunities for communities while reducing the threat of wildland fire. The accompanying story is an example of how the branches are working cooperatively to implement partnership projects and assist rural communities.

Working Together for Economic Vitality in Rural, Forest-based Communities – SBS Wood Shavings

Wildland fire and arid conditions are facts of life in the Smokey Bear and Sacramento Ranger Districts on the Lincoln National Forest near Ruidoso, New Mexico. Thinning is necessary to restore forest and watershed health. A top priority for the Forest is to develop a commercial use for the trees removed during thinning operations.

Glen and Sherry Barrow wanted to do their part in the restoration of forest health. As members of the Ruidoso Wildland Urban Interface Group, they recognized the need to establish a successful wood waste utilization operation.

With grants from the Forest Service's State and Private Forestry-Economic Action Programs through the Four Corner's Sustainable Forest Partnership and through the Collaborative Forest Restoration Program, Sherry and Glen forged ahead. In December, 2001, they began construction on a facility to produce wood shavings for animal bedding, a product in demand locally. In less than a year SBS Wood Shavings turned out the first bags of their product. They currently have four employees but expect to expand as they develop regular customers and clients.

SBS Wood Shavings is a good example of how an integrated approach among the three branches of the Forest Service helps foster economic vitality in rural, forest-based communities while restoring degraded forest ecosystems. Below are some examples of the roles that each branch played:

National Forest System:

- Identify forest stands to be treated
- Prepare contract arrangements for material
- Provide interface between logging operators
- Award timber sales or stewardship contracts
- Network with state agencies

State and Private Forestry:

- Bring partners together to develop and implement a solution
- Identify potential funding sources
- Provide technical assistance on processing wood, such as using small diameter wood
- Offer *Firewise* program
- Interface with state foresters and economic development offices
- Provide small business assistance networks
- Provide marketing assistance
- Oversee community fire protection
- Offer Economic Recovery and Rural Development Grants

Research:

- Provide Information
- Construction of short log hauling cages
- Equipment for processing material into wood shavings
- Air emission regulations and quantities in wood dryers
- Assistance with technical troubleshooting

Forest Service Personnel

In general, there are four types of Forest Service employees that partners work with directly. They are:

- Program/Technical Specialists
- Partnership Coordinators
- Grants and Agreements Specialists
- Contracting Officers (when contracts are used)

Not all Ranger Districts or Supervisors Offices have individuals assigned to each of these positions. Occa-

sionally, employees possessing these skills may be shared across provinces or Forests. In any case, the local Forest Service office can direct partners to an employee with the required knowledge and skills to provide guidance and support when questions arise during the process of defining a partnership project or collaborative relationship. A list of contacts is provided in Appendix C – Contacts and Partner Websites.



IV. Field Guide to Nonprofit Organizations

Most Forest Service partnerships with non-federal entities are with nonprofit organizations, also called nonprofits. Familiarity with the mission, vision, and goals of nonprofit partners is essential for developing successful partnerships that address relevant objectives. This chapter:

- Explains what are nonprofits and how are they organized, funded, and managed
- Describes the National Forest Foundation, a key nonprofit partner of the Forest Service
- Describes the unique partnership between the Forest Service and interpretive associations

There are hundreds of different types of nonprofit organizations, and they exist for as many different reasons. Nonprofits can be local, regional, national, and/or international in focus. They can be organized around and accountable to members, volunteers, communities, or like-minded peers. Some are established to implement specific projects, while others focus on research, policy, education, or other goals.

Structure and Management of Nonprofit Organizations

Organization

All organizations that incorporate as nonprofit organizations exist for the public good rather than for the financial benefit of an individual or stockholders. Although it is legal for these organizations to make a profit, all profits must be channeled back into the management and implementation of the organization's mission. Profits cannot be used, in whole or in part, for the benefit of private shareholders or individuals.

For an organization to incorporate as a nonprofit, it must register with a state. Most organizations also apply to the Internal Revenue Service (IRS) to receive the proper federal tax-exempt designation, which allows contributors to enjoy tax deductions according to federal law. The most commonly known tax-exempt designation from the IRS is 501(c)(3), although other nonprofit designations exist.

Board of Directors

The vast majority of nonprofits are governed by a volunteer board of directors. Board members should have no conflict of interest with the organization, which

Qualities of Strong Nonprofit Partners

Nonprofit organizations with the following qualities often make successful partners:

- Vision, mission, and values are clearly articulated.
- Financial planning, practices, and policies are sound.
- Operating reserves are appropriate for the size of the organization.
- Internal and external communications are effective.
- Bylaws, operational policies, and procedures are developed, reviewed for adherence, and updated as necessary.
- The board of directors is well established. Its role is clearly defined and it is not overly involved in day-to-day operations. Its members have a passion for the organization's mission, represent members' interests, bring expertise and special skills needed by the organization, demonstrate credibility, and have links to others for funding and resource development.
- Term limits exist for board membership.
- Board member participation in board meetings is high.
- Decisions are made openly and are well documented.
- Staff are dedicated to the organization's mission and have the capabilities and skills appropriate for their positions. Their roles are clearly defined.
- Programs and activities are focused to carry out the organization's mission.
- Federal and state reporting requirements are followed and documented.

means that the board member should have no opportunity for personal financial gain through his or her affiliation with the organization. The number of board members for each nonprofit varies greatly with different types and sizes of organizations.

The board of directors is legally and fiscally responsible for the organization. It plays a prominent role in strategic planning, establishing an organization's vision and priorities, approving annual budgets and major expenses, and fundraising. The board also hires and evaluates the executive director or president, who is responsible for the day-to-day management of the organization including hiring and managing the staff as needed to implement the organization's mission and strategic plan.

Involvement of Forest Service employees in nonprofits is guided by conduct and ethics rules. For guidelines on agency employee participation in non-federal organizations, see Chapter IX – Conduct and Ethics.

Fundraising

A nonprofit must raise money to carry out its work. This money can come from many different sources, including individuals, corporations, special events, government contracts and grants, income from sales, and private charitable foundations. Most small nonprofits have little operating reserve and often exist from project to project; many small, successful organizations effectively and efficiently operate this way.

National Forest Foundation

Established by Congress, the National Forest Foundation (NFF) is a nonprofit organization that engages Americans in community-based and national programs that promote the health and public enjoyment of the 192-million-acre National Forest System, and helps the Forest Service meet its mission. The NFF accepts and administers gifts of funds and lands for the benefit of the National Forests. The NFF provides funding and awards programs for community-based organizations and other nonprofits for partnership projects that work to meet Forest Service objectives. The NFF also assists the Forest Service with an array of other initiatives. The National Forest Foundation is available online (<http://www.natlforgest.org/>).

Why the National Forest Foundation is Different

The NFF is the only conservation organization solely focused on addressing the challenges that face the National Forest System. The NFF believes that communities play an important role in determining the future of America's forest resources. The NFF builds and fosters partnerships that catalyze forest stewardship and restoration and engage individuals as volunteers in conservation work, primarily on Forest Service land. Working primarily through its three grants programs, the NFF concentrates on on-the-ground projects and programs that address watershed health and restoration, community-based forest stewardship, wildlife habitat, and recreation.

Though focused on the challenges that face the National Forest System, the NFF believes that the care and management of forests and watersheds should span political and ownership boundaries. The organization and its more than 160 partners focus on ecosystem-wide results for conservation issues.

By offering matching grants to community-based groups that engage citizens, the NFF can leverage investments by a factor of four times and also leverage experience. Many partner projects combine field work with youth stewardship opportunities, engaging kids who don't otherwise have the chance to experience the great

outdoors. These programs help to build a future of knowledgeable, skilled, and committed conservation leaders.

The Forest Service is crucial to the NFF's conservation award programs. Every project obtains the support of the Forest Service before the NFF approves it. Representatives from the Forest Service participate in the review of all grant proposals. The common goal of all NFF grant programs is to benefit the National Forest System and to contribute to the mission of the Forest Service.

NFF Grant Programs

- **Matching Awards Program (MAP)** – Nonprofits dedicated to addressing the issues directly affecting natural resources on and around National Forests and Grasslands can apply for MAP awards. Matching funds assist these groups with specific on-the-ground conservation projects that address community-based forestry, watershed health, wildlife habitat, or recreational issues. The NFF MAP currently has a strong presence in five geographic areas (the Selway-Bitterroot of Montana and Idaho, the Southern Appalachians, the Sierra in California, the Oregon Coast and Cascade ranges, and the central Colorado Rockies) but supports community-based conservation groups working to support the National Forest System across the entire country. Visit the MAP website for more information. (http://www.natlforests.org/consp_04_map.html)
- **Community Assistance Program (CAP)** – Newly forming organizations can apply for grants to be used for a variety of basic start-up and operating costs. These costs include materials and equipment, technical assistance, training, community outreach, obtaining 501(c)(3) status, program development, nonprofit management skill-building, and communications. Organizations must be collaborative in nature and engage a diverse group of participants. The NFF also provides technical assistance to help these groups build credibility within their communities and develop the capacity to work with the Forest Service. Visit the CAP website for more information. (http://www.natlforests.org/consp_05_cap.html)
- **Wilderness Stewardship Challenge (WSC)** – To celebrate the 40th anniversary of The Wilderness Act, the Forest Service Chief issued a Wilderness Stewardship Challenge in 2004. It calls for all Wilderness Areas in the National Forest System to be managed to standard within the next decade. In support of this effort, the NFF will provide matching grants of up to \$50,000 to nonprofit partners to implement projects that directly benefit Wilderness Areas within our National Forests System. Visit the WSC website for more information. (http://www.natlforests.org/wilderness_stewardship_info.html)

The NFF's Other Programs

Friends of the Forest – The NFF's Friends of the Forest™ is a communications program to connect people who use and are interested in National Forests with more information about recreation, volunteering, and conservation via a monthly e-newsletter called *tree-mail*™. Friends of the Forest is the main tool that the NFF and the Forest Service use to build a constituency for the Forest Service and the lands it manages. The program informs people about the numerous resources within and issues affecting National Forests and the Forest Service, and empowers them to take action to help care for the lands. To sign up for free, visit <http://www.becomeafriend.org>.

Connecting Science to Practitioners – The NFF's projects rely on science that is both useful and sound. In 2002, the NFF formed a partnership with the National Commission on Science for Sustainable Forestry (NCSSF) to provide practical information and approaches that serve the needs of forest managers, practitioners, and policymakers. The partnership oversees a multi-year program of research, assessment, and tool development to implement and evaluate sustainable forestry practices in the U.S. In early 2005, the NCSSF released a findings report based on the first two years of its work. The 2005 report and other practical tools can be found at NCSSF's website. (<http://www.ncssf.org>)



Conservation Award Programs

The NFF's conservation award programs have grown into a network of more than 160 partners representing diverse cultures and communities across the country. Together those partners tackle on-the-ground conservation projects that benefit National Forests and surrounding lands. Examples of their successes include:

- Watershed restoration projects in the Northwest
- Recreation and trail enhancements in Colorado
- Development of sustainable forestry and forest products in the Southern Appalachians
- Wildlife improvements in Montana and Idaho

Contact information for the NFF is available on the organization's website.

(http://www.natlforests.org/contact_us.html)

Other Ways the NFF Helps the Forest Service

Because of its unique position as a nonprofit partner of the Forest Service, the NFF is able to provide the Forest Service with services essential to the agency's mission in a more efficient manner. These include accepting and managing funds for events (such as the 2005 Centennial events) and soliciting and accepting gifts of cash or funds for direct reinvestment in Forest Service work.

Interpretive Associations

Interpretive associations enhance the experiences of visitors to federal public lands and support the interpretive and educational efforts of federal agencies. They are private nonprofit organizations established under state law that also follow applicable laws governing federal tax-exempt 501(3)(c) organizations. Federal land management agencies such as the Forest Service, Bureau of Land Management (BLM) and National Park Service (NPS) have entered into agreements with nonprofit interpretive or cooperating associations for more than 40 years.

Interpretive associations engage in a wide variety of activities that include:

- Producing interpretive and educational materials such as natural history guidebooks, and selling interpretive, educational, and theme-related merchandise
- Collecting and allocating donations to agency projects
- Assisting with special events, volunteer programs, and interpretive and educational programming
- Donating materials for interpretive programs, products, and exhibits
- Strengthening the Forest Service's relationship with citizens and organizations in the local community

While the Forest Service has partnerships with a variety of organizations, businesses, and user groups, its relationship with interpretive associations is special. This unique relationship is recognized in agency policy that allows for such arrangements as having sales and office space within agency facilities, using agency employees

to conduct interpretive association business on an incidental basis, and providing associations with discount prices on the purchase of agency maps. The relationship is synergistic, providing mutual benefits and serving our National Forest System visitors. Interpretive associations support the agency's interpretive and educational programs and provide high quality service to its visitors.

Currently, the Forest Service has about 60 interpretive associations operating under Participating Agreements. Some of these associations are large organizations that operate in several Regions and also work with other federal or state agencies. Other associations are small organizations that operate locally within a single National Forest. Nationally, interpretive associations donate about five million dollars back to the Forest Service each year. Their in-kind contributions and ability to strengthen and support the agency's relationships with local communities are invaluable.

Authorities, Agreements, and Management

The Cooperative Funds and Deposit Act of 1975 (Public Law 94-148) provides the fundamental legal authority for the Forest Service to work with Interpretive Associations. It allows the Forest Service, on behalf of the Secretary of Agriculture, to enter into Cooperative Agreements with private organizations to develop and publish cooperative environmental education and forest history materials. These efforts must serve the public interest. A mutual interest other than monetary considerations must also exist.

The Forest Service uses a Participating Agreement template for interpretive associations to establish or

renew an agreement with an interpretive association. The template is available to agency employees on the Forest Service intranet (internal) Grants and Agreements website. The agreement outlines the mutual benefits of the partnership and what each party will contribute. It is signed by the Regional Forester and is valid for five years. Additional information on how the Forest Service manages interpretive associations can be found in the Forest Service Manual 2390.

(<http://www.fs.fed.us/im/directives/>)

Oversight and coordination of interpretive association operations takes place at all three organizational levels of the Forest Service. The Interpretive Services Program Manager, who works for Recreation and Heritage Resources in the WO, supports national activities and works with the Association of Partners for Public Lands (APPL). This association is the national membership organization for all interpretive or cooperating associations that work with public land management agencies. (<http://www.appl.org>)

Each Regional Office has an Interpretive Specialist who serves as the Regional liaison between the agency and interpretive associations operating in the Region. Regional Interpretive Specialists are the technical experts on matters pertaining to interpretive associations. They should be consulted when establishing new interpretive associations, renewing existing agreements, or resolving concerns about the operations or management of an existing interpretive association.

Forests with active interpretive associations usually designate a Forest Coordinator. At the agency's larger visitor centers, the Visitor Center Director may also work directly with the executive director of the interpretive association to coordinate and resolve day-to-day operations.

Contacts

Interpretive Services Program Manager
Recreation and Heritage Resources
USDA Forest Service Washington Office
1400 Independence Ave SW, Mailstop 1125
Washington, D.C. 20250
Phone: (202)205-1406
Fax: (202)205-1145

Forest Service Regional Interpretive Specialists:
Contact information is available on the Partnership Resource Center website. (<http://www.partnershipresourcecenter.org/contacts/interpretive-association-contacts.php>)

Association of Partners for Public Lands
2401 Blueridge Avenue, Suite 303
Wheaton, MD 20902
Phone: (301)946-9475
Fax: (301)946-9478
Email: appl@appl.org
Website: <http://www.appl.org>



V. Volunteers

The American people own over a third of the United States as public lands and are important partners in the stewardship of these lands. Caring for these special places – forests, grasslands, parks, wildlife refuges, recreation areas, and cultural and historic resources – requires the help of many dedicated citizen stewards. Annually, over 100,000 volunteers help the Forest Service deliver what Americans want from their public lands – opportunities for outdoor recreation, habitat for wildlife, and clean air and water. These partners are performing a vital and rewarding public service.

This chapter provides information on:

- The Forest Service Volunteers Program
- Volunteer Paperwork
- Safety Issues
- Resources and Contacts

Volunteers Program

The Forest Service Volunteers Program provides volunteers with experiences that are rewarding and challenging, while complementing the agency's staff in carrying out work and providing outstanding service to the public. There are myriad volunteer opportunities with the Forest Service in almost all programs.

The Volunteers Program advances affirmative action goals and increases public awareness of equal opportunity benefits and services. It includes special programs to encourage enrollment of under-represented populations.

The Volunteers Program operates across the Forest Service and is authorized under the Volunteers in the National Forests Act of 1972. Forest Service Manual 1830 describes agency policies for the Volunteers Program. (<http://www.fs.fed.us/im/directives/>)

Volunteer: This is a person who gives time and talent to advance the mission of the Forest Service. No salary or wage from the Forest Service is received for the voluntary service.

Sponsored volunteer: This participant in the Volunteers Program is supervised by another institution, organization, or unit of state or local government.

Volunteer Paperwork

Volunteer Agreements – The Forest Service completes a Volunteer Agreement with every volunteer to document the service he or she will perform. There are two types of Volunteer Agreements.

- Agreement for Individual Voluntary Services (Form FS-1800-7)
- Agreement for Sponsored Voluntary Services (Form FS-1800-8)

Both of these forms are available to Forest Service employees on the Forest Service intranet (internal) website.

Regional Foresters, Station Directors, and the Area Director are responsible for implementing the Volunteers Program. They can delegate the authority to negotiate and approve Volunteer Agreements to any line officer. A volunteer may not begin work or travel until both parties have signed the agreement.

Volunteers cannot receive stipends or other compensation but may receive allowances for incidental expenses such as meals, mileage, travel, and uniforms, depending on local needs and budgets. Volunteer Agreements are the authorizing instrument for reimbursements and

should include information on incidental expenses to be covered by the Forest Service. Agreements include a termination date and may be amended at any time by consent of both parties.

Challenge Cost Share Agreements – The Forest Service often enters into Challenge Cost Share Agreements with partner organizations that mobilize volunteers for the agency. These organizations play a crucial role in recruiting and training volunteers groups such as students and seniors. Challenge Cost Share Agreements allow the Forest Service to reimburse organizations for the cost of their materials and/or labor. If a project uses a Challenge Cost Share Agreement, each individual volunteer still must complete a Volunteer Agreement. Chapter VI – Grants and Agreements – provides more information about Challenge Cost Share Agreements.

Safety Issues

For safety purposes, a volunteer is treated like a federal employee. The standards that govern worker safety apply to all volunteer activities. If a volunteer is injured while performing work for the Forest Service, he or she may receive compensation for work injuries as entitled under the Tort Claims Act and Federal Employees Compensation Act.

Volunteering with the Forest Service often involves physically demanding work, and sometimes includes working with heavy equipment such as chain saws. Volunteers receive safety training, including specific instruction and testing on any tools and equipment they will use, before going to work. Anyone working with

heavy equipment should be in good physical condition, and volunteers may be required to obtain a medical examination at Forest Service expense.

Resources

The NFF’s Friends of the Forest™ is a communications program to connect people who use and are interested in National Forests with more information about recreation, volunteering, and conservation via a monthly e-newsletter called *tree-mail*™. Volunteer opportunities are posted in each issue and will eventually be posted on a permanent section of the Friends of the Forest website. To sign up for free, visit <http://www.becomeafriend.org>.

Interested individuals can also fill out a Volunteer Application for Natural Resource Agencies online (<https://www.volunteer.gov/gov/uiapply.cfm?ID=2997&agency=NPS>). This form assists agencies in recruiting, placing, and training volunteers.

Managing Volunteers: A Field Guide for USDA Forest Service Volunteer Coordinators is a comprehensive guidebook from the Pacific Northwest that provides “nuts and bolts” information for Forest Service staff who work with volunteers. The guidebook includes information on recruiting, training, supervising, and recognizing volunteers; requirements for record-keeping; and examples of forms and agreements. It is available under “Resources” at: <http://www.partnershipresourcecenter.org/resources/volunteers/index.php>.

Lists of volunteer candidates and positions, whether at a local, regional, or national level, are very helpful both for recruiting potential volunteers and for finding out about volunteer opportunities. Two national level databases that provide volunteer placement for public lands agencies, including the Forest Service, are:

- **Take Pride in America** (<http://www.takepride.gov/default.cfm>) – This program seeks, supports, and recognizes volunteers who work to improve the nation’s public lands. Take Pride involves federal, state, and local governments; conservation, youth, and recreation groups; and national corporations and organizations. The Take Pride website offers resources for volunteers and connects volunteers with service opportunities. Take Pride is the public lands branch of the USA Freedom Corps (<http://www.usafreedomcorps.gov/>).
- **Volunteer.gov/gov** (<http://www.volunteer.gov/Gov/>) – This easy-to-use portal provides information about public sector volunteer opportunities. Users can search for opportunities by keyword, state, activity, partner, and date. Volunteer.gov/gov, part of the USA Freedom Corps Network, is a partnership between the U.S. Department of Agriculture, other state and federal agencies, and the Corporation for National and Community Service (<http://www.nationalservice.org/>).

Other volunteer lists include:

- American Hiking Society’s “Get Outside” directory (<http://www.americanhiking.org/events/>)
- AARP’s Community Service Programs (<http://www.aarp.org/volunteer/>)
- “Volunteer Opportunities” website for the Forest Service’s Intermountain Region (<http://www.fs.fed.us/r4/volunteering/index.shtml>)

Other effective ways to recruit volunteers or find out about service positions include internet links to partnerships, interagency e-mails, volunteer displays at visitor centers, and adopt-a- programs.

The online Partnership Resource Center has additional resources for volunteers and Forest Service employees who work with volunteers (<http://www.partnershipresourcecenter.org/resources/volunteers/index.php>).

Contacts

There are Volunteer Coordinators in each Region, Research Station, and Forest Service office. For more information about volunteer programs, contact the Volunteer Coordinator in your Region or your nearest Forest Service office. A list of Volunteer Coordinators is available at (<http://www.partnershipresourcecenter.org/contacts/volunteer-contacts.php>).

VI. Grants and Agreements

The Forest Service uses many different types of grants, agreements, and contracts to document work with others. Each of these instruments is available to the Forest Service under a legal authority from Congress, and each comes with its own set of requirements. The appropriate instrument depends primarily on what the partnership will accomplish, who will benefit, and who is providing funding.

This chapter provides an introduction to commonly used grants and agreements. Contracts are discussed in Chapter VII – Contracting with Partners. Users who are ready to document their partnership should work with the appropriate Forest Service personnel and consult the sources of guidance listed at the end of this chapter as needed. This chapter:

- Provides overviews of the most common mutual benefit agreements
- Explains how the Forest Service uses Federal Financial Assistance, which includes grants and Cooperative Agreements
- Describes other types of agreements that do not fall under mutual benefit agreements or Federal Financial Assistance
- Provides a decision tree to guide users to the right instrument and provides references to more detailed resources, including many instrument templates

This chapter frequently references relevant sections of the Forest Service Handbook (FSH) and Forest Service Manual (FSM). These documents are available on the Forest Service website (<http://www.fs.fed.us/im/directives/>).

Cooperative agreement: This term is often used in a general sense to refer to all agreements with partners. This use of the term can generate confusion since there is a specific type of agreement called a Cooperative Agreement. The “Federal Financial Assistance and Contracts” section in this chapter describes this specific agreement.

Authorities for Agreements

The federal government, including the Forest Service, is authorized under several laws to work with partners to carry out projects. In addition, there are laws unique to the Forest Service – and even to certain branches of the Forest Service – that provide additional authorities and instruments for working in partnership and collaboration with communities, individuals, and organizations.

Mutual Benefit Agreements

Agreements developed and awarded for mutual benefit are considered formal partnership agreements. Inherent in the requirement of mutual benefit is that both the Forest Service and the partner will contribute toward the shared goals, and both will benefit. Contributions may include cash and/or in-kind services. Some of the most commonly used mutual benefit agreements include:

- Challenge Cost Share Agreement
- Participating Agreement
- Watershed Restoration and Enhancement Agreement (Wyden Amendment)

Challenge Cost Share Agreements

The Interior and Related Agencies Appropriations Act of 1992 (Public Law 102-154) authorizes the Forest Service to cooperate with other parties to develop, plan, and implement projects that are mutually beneficial to all parties and enhance Forest Service activities. This includes financing projects with matching funds from partners including public and private agencies, organizations, institutions, and/or individuals.

Agency policy for using this authority is described in FSM 1587.12 and FSH 1509.11 (Chapter 60).

Requirements in Challenge Cost Share Agreements include:

- Forest Service expenditures are commensurate with the value received.
- The Forest Service may reimburse a partner for part of the actual costs of materials and/or labor. Reimbursement *cannot* be based on value, but must be the actual costs incurred in support of the project.
- No advance payments are allowed.
- Forest Service funds appropriated from Congress cannot be used for improvements on non-federal lands.
- The match can be cash, real or personal property, services, and/or in-kind contributions.
- Financial plans are required prior to start of work.
- Income resulting from the project must be shown on a financial plan.
- Modifications do not need to retain the cost share ratio, but do need to be commensurate with the level of effort or funding provided.
- Federal Acquisition Regulations might apply.

Participating Agreements

The Cooperative Funds and Deposits Act of 1975 (16 United States Code (USC) 565a1-a3, Public Law 94-148) authorizes the Forest Service to enter into cooperatively-performed, mutually beneficial projects with public and private agencies, organizations, institutions, or persons in four specific areas:

- **Cooperative Pollution Abatement** – Authorizes cooperative construction, operation, and maintenance of facilities related to pollution abatement such as sanitary landfills, garbage burn plants, recycling facilities, and water and sewer systems. A partner's facilities may be constructed on Forest Service land with a special use permit or easements, or on the partner's land. The partner holds title to the facility and the Forest Service has the right to use the facility.

- **Cooperative Manpower, Job Training, and Development Programs** – Authorizes the Forest Service to cooperate with other parties to do projects benefiting Forest Service programs where the primary purpose is to provide a work environment, host trainees in order to accomplish the goals of others, and offer job training programs. The use of this instrument is only appropriate when partners have specific job training programs currently in place and all parties agree to share in the costs.
- **Cooperative Environmental Education and Forest History Materials** – Authorizes the Forest Service to cooperate with others in the development and publication of environmental education and forest history materials. These can include books, pamphlets, brochures, and audiovisual productions. The Act prohibits cooperative publication of maps.
- **Forestry Protection** – Work can include fire prevention, fuels management, insect and disease control, noxious weed control, tree planting and seeding, erosion control, abandoned mine reclamation, land restoration, hazardous material identification, water testing and protection, and air pollution abatement. Prohibited activities include all protection and maintenance work such as for roads and trails, recreation sites and facilities, fish and wildlife, rangelands, and work in a non-forest environment (warehouses, shops, and offices).



Agency policy for using this authority is described in FSM 1587.11 and FSH 1509.11 (Chapter 60).

Participating Agreement requirements include:

- The Forest Service may provide reimbursable or advance payments.
- Modifications do not need to retain the cost share ratio, but do need to be commensurate with the level of effort or funding provided.
- Federal Acquisition Regulations might apply.
- Tort liability may be conveyed to partners.
- The match can be cash, real or personal property, services, and/or in-kind contributions.
- The Forest Service may reimburse partners for part of the actual costs of materials and/or labor. Reimbursement *cannot* be based on value, but must be the actual costs incurred in support of the project.
- A dollar-for-dollar match is not required.
- Financial plans are required prior to starting work.
- Funds may be used for printing under certain conditions. The Agreements Desk Guide, available on the Forest Service's Acquisition Management website, provides more detail on partnership publications (<http://www.fs.fed.us/business/>).

Watershed Restoration and Enhancement Agreements (Wyden Amendment)

In 1998, U.S. Senator Ron Wyden added an amendment to a Senate appropriations bill allowing Forest Service money to be spent on non-federal lands as long as the projects benefit the fish, wildlife, and other resources on National Forest lands within an affected watershed (Public Law 105-277, Section 323). This law allows the Forest Service to partner with other entities for projects that benefit resources on both public and private lands. The project's goals must be to restore and enhance watersheds. Benefits can include:

- Improving, maintaining, or protecting ecosystem conditions through collaborative administration and/or implementation of projects
- Improving collaborative efforts across all ownerships, including efforts on lands that are not adjacent to Forest Service lands

Increasing operational effectiveness and efficiency through the coordination of efforts, services, and products.



Using the Wyden Amendment to Work on Non-Federal Lands

Shortly after passage of the Wyden Amendment, the Rogue River National Forest entered into a Cooperative Agreement with the City of Ashland in Oregon to restore two sections of the Ashland Municipal Watershed damaged by landslides during the 1997 New Year's flood. Using this federal authority, the Rogue River National Forest was the first Pacific Northwest National Forest to step off its own property to help restore a watershed.

The National Forest contributed \$5,000 to repair the landslide. The partnership was formalized using a cooperative Watershed Restoration and Enhancement Agreement between the City of Ashland and the Forest Service. Paula Brown, Ashland's Public Works Director, noted in their local newspaper, "Although the Forest Service is taking the lead in the restoration project, the city will benefit from it. It's really a partnership, and we're greatly appreciative." The Rogue River National Forest's restoration coordinator added that the ability to work on non-federal lands benefited both the Forest Service by helping to meet their forest restoration goals, and the watershed as a whole. In essence, this was the goal behind the Wyden Amendment.

Other types of projects on non-Forest Service land that would qualify for federal money under the Wyden Amendment include in-stream restoration work and the clearing of fire-prone brush adjacent to National Forest lands.

Specific agreement requirements include:

- Authority is available through Fiscal Year 2005.
- The Forest Service can use Federal Financial Assistance, mutual benefit, or other agreement instruments.
- There is no specific Wyden appropriation. Funds must be available within existing appropriations such as wildlife funds for wildlife projects.
- There is no requirement for partners to provide matching funds or in-kind contributions.
- Agreement terms must protect public investment on non-federal lands.
- All federal, state, and local laws and regulations must be followed.
- Liability and long-term maintenance responsibilities need to be addressed.

Forest Service Short Form 1580-1 Reduces Paperwork for Some Agreements

This optional form may be used in lieu of a narrative format for Challenge Cost Share, Participating, and Watershed Restoration and Enhancement (Wyden) Agreements. Mandatory provisions are incorporated by reference on the form. Attachments should include the responsibilities of each partner, a detailed financial plan, and any other information relevant to the agreement. A template for this form, along with templates for other common instruments, is available through the online Partnership Resource Center (<http://www.partnershipresourcecenter.org/resources/tools/templates/index.php>).

Federal Financial Assistance and Contracts

The Federal Grant and Cooperative Agreement Act of 1977 (31 USC 6301-6309) requires that federal agencies characterize the relationship between a federal and a non-federal party as one of either a *procurement* or of *Federal Financial Assistance*. Certain transactions, such as those discussed in the previous section on mutual benefit agreements, are exempt from or not covered by this Act.

For all other transactions, the Act provides guidance for determining which contract, grant, or cooperative agreement is appropriate.

- **Procurement Contract** – A contract is appropriate when the intention is to *acquire goods or services for the direct benefit* of the Forest Service. These transactions are governed by the Federal Acquisition Regulations that require competitive procedures. There are many situations where a simple purchase without a contract may be less complicated and more appropriate. Contracts are discussed in Chapter VII – Contracting with Partners.
- **Federal Financial Assistance** – Grants and Cooperative Agreements are available to stimulate or support the activities of non-federal organizations for a public purpose. They are not intended to provide a deliverable for direct Forest Service benefit.
 - Grant – Appropriate when *no substantial involvement* is expected between the Forest Service and the recipient.
 - Cooperative Agreement – Appropriate when *substantial involvement* is expected between the Forest Service and the recipient.

What is “Substantial Involvement”?

A Cooperative Agreement is the correct Federal Financial Assistance instrument for documenting a project if Forest Service personnel are substantially involved. The Forest Service is substantially involved when it:

- Reviews and approves one stage of work before the next stage can begin
- Reviews and approves proposed subgrants and contracts, in excess of those authorized by Title 7, Code of Federal Regulations, Sections 3016 and 3019, prior to the award
- Helps select key recipient personnel
- Participates and collaborates jointly in the project with the recipient
- Directs or redirects the work because of interrelationships with other projects

A statement outlining the specific activities that comprise substantial involvement should be developed as part of the Cooperative Agreement. Normal oversight and review processes (including intervention to correct deficiencies in performance) are not considered to be substantial involvement.

Other Types of Agreements

The Forest Service uses a variety of other agreement instruments that do not fall under mutual benefit agreements, contracts, or Federal Financial Assistance.

Memorandum of Understanding (MOU)

A Memorandum of Understanding is a written plan between the Forest Service and other parties for carrying out separate activities in a coordinated and mutually beneficial manner. It also documents the

framework for cooperation. An MOU is used in situations where nothing of value will be exchanged between the Forest Service and partners but there is a need to formally document the relationship.

An MOU is a nonbonding document, so any party can choose to not participate at any time. This type of agreement is particularly useful for interagency and government-to-government relationships. Under an

Choosing the Appropriate Instrument – The National Wildland/Urban Interface Fire Program

In 1986, the National Fire Protection Association (NFPA) (<http://www.nfpa.org>) and the Forest Service entered into a Cooperative Agreement to reduce the nation's wildfire losses by developing and implementing fire protection and prevention programs. The agreement established the National Wildland/Urban Interface Fire Program (WUI Fire Program), sponsored by the Forest Service, U.S. Department of the Interior, the National Association of State Foresters, the Department of Homeland Security/U.S. Fire Administration, and NFPA. This Cooperative Agreement was recently renewed.

The Forest Service and other federal partners provide financial and technical assistance to NFPA to carry out the work of the WUI Fire Program. This work includes cooperative development of fire analysis, protection, and prevention programs; publication of research findings; and dissemination of information. An interagency team of representatives from the partner agencies and other organizations provide direction and oversight for program activities.

This partnership is formalized through a Cooperative Agreement. In choosing this instrument, Forest Service Grants and Agreements Specialists went through the following steps to answer two main questions: who receives the benefit of the project, and is the Forest Service substantially involved?

First, they determined that the primary benefit of the work project is to the recipient – in this case, NFPA. NFPA created and manages the Firewise program that helps private landowners achieve a high level of protection against wildland/urban interface fire as well as a sustainable ecosystem balance. Secondly, the agreement helps spread the Forest Service fire prevention message. Because the primary benefit is to NFPA, the appropriate instrument is Federal Financial Assistance, either in the form of a grant or a Cooperative Agreement.

Second, to determine whether to use a grant or a Cooperative Agreement, Grants and Agreements Specialists assessed the level of Forest Service involvement in the project. In this case the Forest Service is substantially involved by providing direction and oversight as part of the interagency team, so the appropriate instrument is a Cooperative Agreement.

MOU, each party directs its own activities and uses its own resources. There are no specific legislative authorities for MOUs.

MOUs can:

- Document relationships and/or coordinated efforts
- Involve partners such as federal, state, and local governments; educational institutions; private, for-profit, and nonprofit organizations; individuals; and foreign agencies and organizations.

MOUs cannot:

- Obligate or fund projects
- Exchange funds, property, services, or anything of value
- Involve work that is not authorized by legislation



MOU in Action: Poarch Creek Indian Plant Production Center

Restoration of the long-leaf pine ecosystem is an important goal for the Poarch Band Creek Indians (PBCI) in southern Alabama. The long-leaf pine (which currently occupies just 5% of its original range) provides high quality wood products as well as materials for traditional uses. It is also resistant to fire, insects, and disease. Although regeneration has proved difficult in the past, growing seedlings in containers has become a viable restoration technique within the last decade.

The PBCI had the resources to build a small production and training facility, but needed technical support for growing seedlings. The PBCI and the Forest Service agreed to a Memorandum of Understanding that provided for a joint commitment to the project. The Forest Service would provide the expertise needed to develop a container plant production center and teach tribal members about growing long-leaf pine seedlings and other native plants with commercial and cultural interest. All Forest Service contributions were in-kind technical services, rather than cash outlays. The Tribe provided the financial resources for facility development and management.

This MOU allowed the Forest Service to achieve several objectives: build capacity of landowners to restore cutover lands to a more productive condition, transfer research findings to others, and assist American Indian tribes to develop the means to improve land stewardship. The PBCI was able to advance restoration efforts on their lands, develop in-house capabilities of seedling and native plant product, and assure the success of investing in a plant production facility.

Collection Agreements

The Forest Service uses a Collection Agreement to accept money, equipment, property, or products from a non-federal entity to carry out a purpose authorized by law. Collection Agreements may involve either advances or reimbursements.

As a federal agency, the Forest Service must have legislative authority to accept funding from non-Forest Service entities. Two commonly used authorities for Collection Agreements are:

- Cooperative Funds Act of June 30, 1914
- Granger-Thye Act of April 24, 1950

Cooperative Funds Act of June 30, 1914 (16 USC 498) – This law authorizes the Forest Service to collect funds from partners to perform work that is the responsibility of the Forest Service. Agency policy for using this authority is described in FSM 1584.11. Principle aspects of the Act include:

- The Forest Service can accept cash, checks, or money orders only.
- Funds can be cash advances or reimbursements.
- The work to be done is the responsibility of the Forest Service, and must be on Forest Service land.
- Contributions must be voluntary.
- The Forest Service collects costs unless they are waived. (For more information on indirect cost assessments, see Chapter VIII – Common Challenges for Partnerships.)
- There must be no conflict of interest, or appearance of conflict of interest.
- The Forest Service cannot accept funds that are dependent upon an endorsement of firms or products.

The following types of projects, when the responsibility of the Forest Service, are examples of work that can be conducted through a Collection Agreement under the Cooperative Funds Act:

- Construction and maintenance of National Forest improvements such as trails and signs
- Protection of National Forests from fire, insects, disease, etc.
- Management activities such as planning, analysis, and studies related to resource activities

Granger-Thye Act of April 24, 1950 (16 USC 572)– This law authorizes the Forest Service to collect funds from partners to perform work that is the responsibility of the partner. Agency policy for using this authority is described in FSM 1584.12. Principle aspects of the Act include:

- Full costs, including indirect costs, must be collected in advance for work to be performed.
- Work is the responsibility of the partner, and it may be on or off Forest Service lands.
- Work must result in public benefit.
- Contributed funds must be voluntary.
- The Forest Service cannot accept funds that are dependent upon an endorsement of firms or products.
- Indirect costs cannot be waived.
- The Forest Service holds no liability for damage.
- The authority does not allow for the Forest Service to accept services.

The following types of projects, when the responsibility of the partner, are examples of work that can be conducted through a Collection Agreement under the Granger-Thye Act:

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

Interagency Agreement

This instrument should be used when one federal agency is in a position to provide materials, supplies, equipment, work, or services of any kind that another agency needs to accomplish its mission. The Economy Act of 1932 (31 USC 1535, Public Law 97-258 and 98-216) is the most commonly used authority for Interagency Agreements.

Agency policy for Interagency Agreements is described in FSM 1585.12. The general requirements for these agreements include:

- The performing agency recovers full direct and indirect costs of the work.
- A written justification must be submitted to an authorized contracting officer to document that the procurement is more economical than buying from a commercial source. Based on the justification, the contracting officer completes a written determination, called an Economy Act Justification and Determination, to approve the procurement. An authorized person must also certify that funds are available.
- Payment can be either reimbursement or cash advance.
- Allowable formats include: standard narrative template, Forest Service Form AD-672 (for straightforward projects), or other agency's formats.
- The Forest Service cannot provide funding to another federal agency to accomplish the function of that federal agency, as that would constitute an augmentation of their appropriations.
- When doing an Interagency Agreement with another federal agency, the performing federal agency must request reimbursable authority from the Office of Management and Budget (OMB) on an annual basis.

This authority *cannot* be used with tribal governments because they are sovereign nations, not federal agencies. It is possible to enter into an Economy Act agreement with the Bureau of Indian Affairs who in turn can subcontract the work to a tribal government.

Less Common Agreements

The Office of Management and Budget (OMB) has authorized certain exemptions to the Federal Grants and Cooperative Agreements Act of 1977. Examples of these exempted agreements are:

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

Guidance and Resources

The following three questions, along with the flowchart at the end of this section, can serve as general guides for identifying the right instrument:

- Is there a product or service to be delivered?
- Who is providing the funding?
- Who directly benefits from the work and needs the work done?

However, it is important to keep in mind that the requirements for different instruments are very specific, and the information in this chapter is only an overview. For more comprehensive guidance, users should consult the following resources:

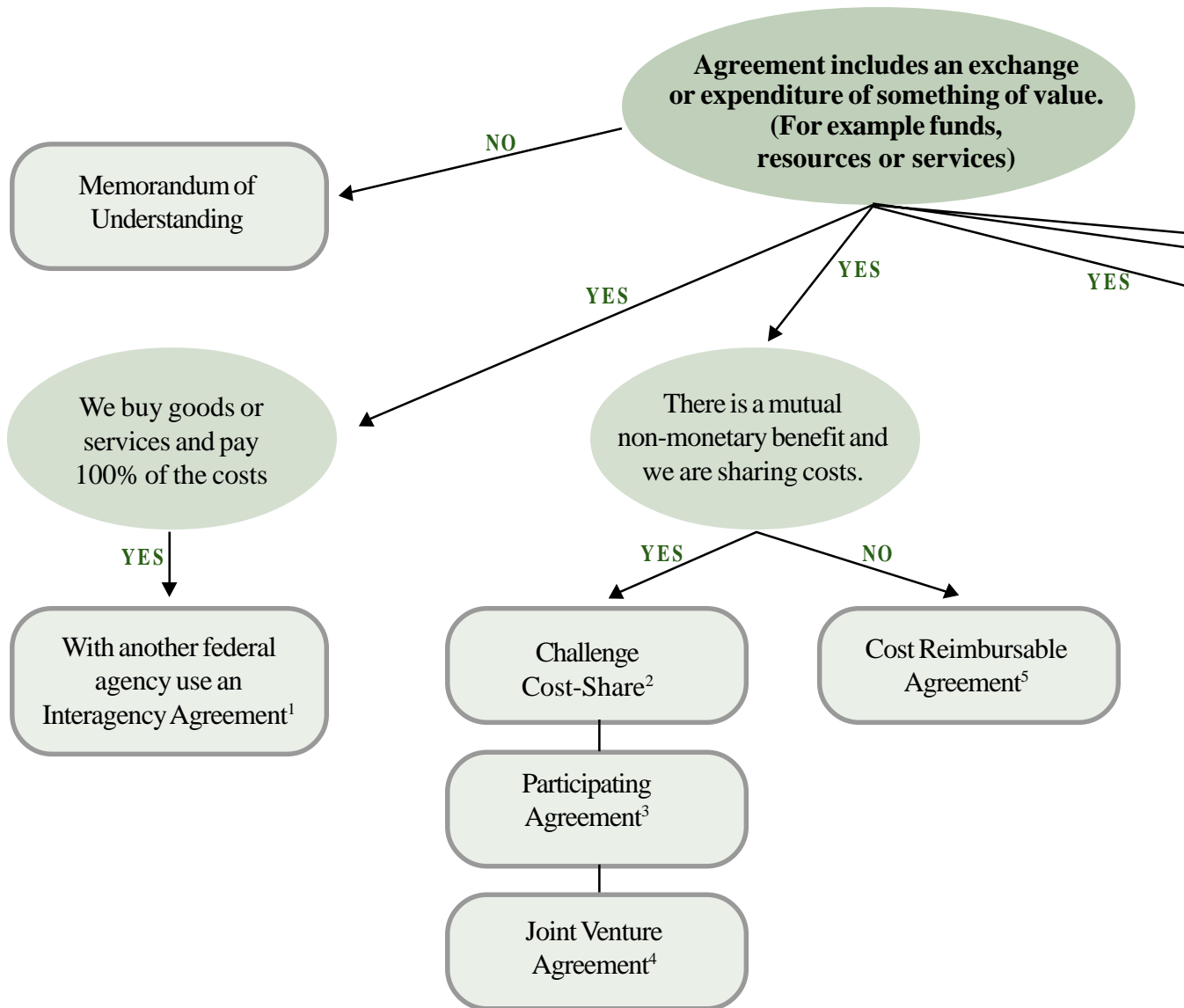
- **Forest Service Grants and Agreements Specialists** – Involving these personnel early in the process of developing a formalized partnership agreement will assure that partnerships get started on the right track. Contact information for Grants and Agreements Specialists is available online at the Forest Service's website for Acquisition Management (<http://www.fs.fed.us/business/>).

- **Templates** – Templates for common Forest Service agreement instruments are available through the online Partnership Resource Center (<http://www.partnershipresourcecenter.org/resources/tools/templates/index.php>).
 - **Forest Service Manual 1580** – FSM 1580 establishes Forest Service direction on the use of Federal Financial Assistance (grants and cooperative agreements) and other agreements. It includes a detailed discussion of partnerships and agreements. It is available online (<http://www.fs.fed.us/im/directives/>).
 - **Forest Service Agreements Desk Guide** – The Desk Guide is a reference tool to help Forest Service employees who engage in partnerships understand what is possible within the available authorities. The Desk Guide is available online (<http://www.fs.fed.us/business/>).
- Authorities** – A summary of legislative authorities for the Forest Service is available in Appendix F – Statutory Authorities.



Decision Tree to Determine the Appropriate Instrument for a Partnership

The decision tree below provides basic guidance for choosing partnership instruments. Appendix B – Glossary of Terms – defines terms used in this chart.

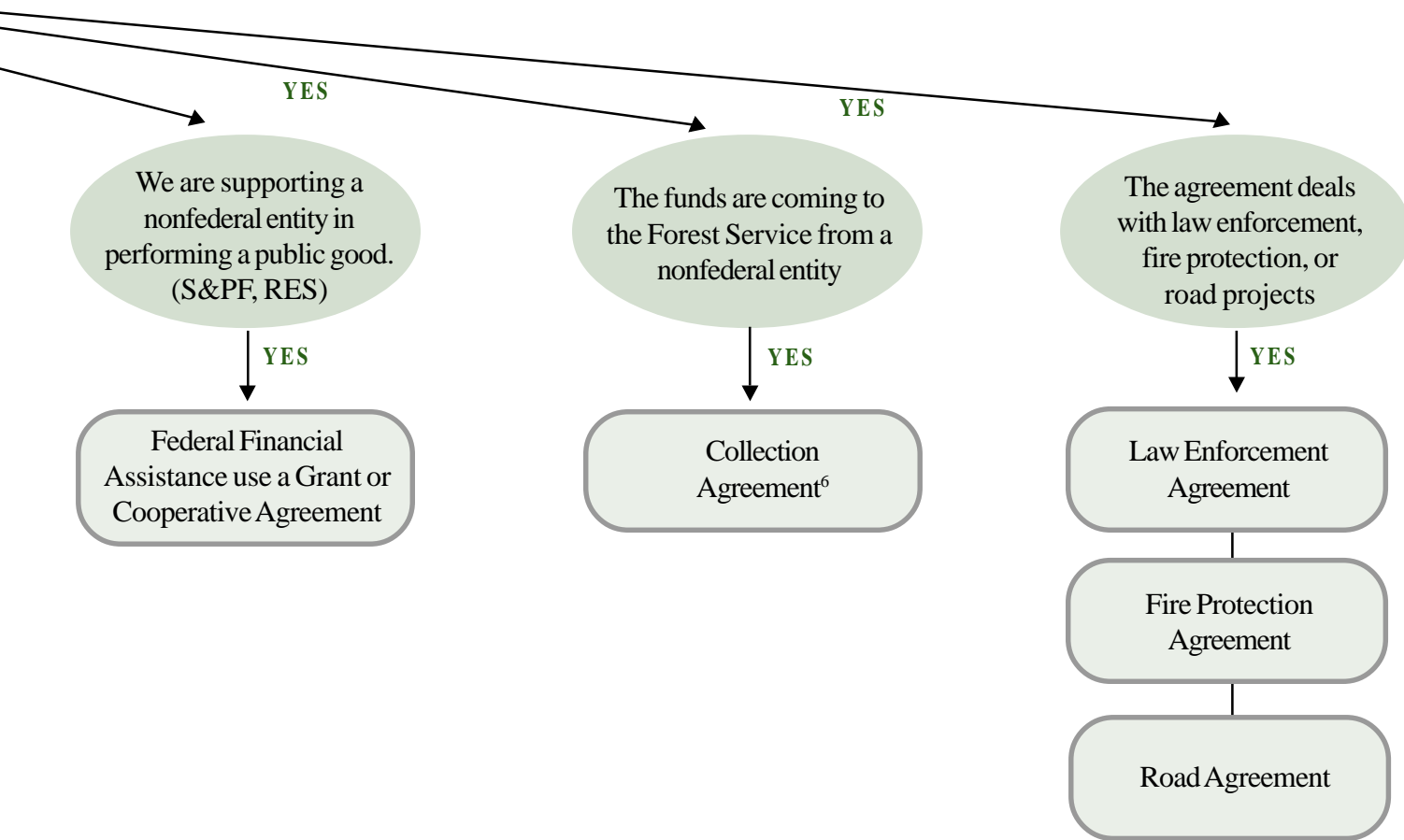


Notes

1: Agreement can include funds to another agency or another agency providing funds to the Forest Service. Use procurement with any other entity besides federal agency.

2: No set percentage of cost-share; activity must be part of Forest Service mission.

3: Specifically for pollution abatement, manpower/ job training, publication of forest history materials, or forest protection. No specified cost-share.



Notes

4: Cooperator must contribute at least 20% of total cost, activities must include agriculture teaching activities at institution of higher education.

5: Forest Service buying goods/services from a State Cooperative Institution of higher education. Services or goods available in-house for agriculture teaching activities.

6: There must be no conflict of interest; a signed agreement and apportionment authority is needed prior to starting work.

VII. Contracting with Partners

Contracts can offer unique opportunities to build the skills and capacity of local organizations and tribes while accomplishing important conservation work on the ground. They also help improve the Forest Service's involvement in local economies and communities. Contracts are used to procure goods and services and are not legally defined as partnerships.

In many cases, though, contracts are appropriate for working with nonprofits, community-based organizations, and tribal entities. In other cases, agreements or grants should be used. More information on these instruments is provided in Chapter VI – Grants and Agreements. Whether a partnership will include contracts, grants, or agreements, local Forest Service acquisition management personnel should be involved prior to making commitments with potential partners.

This chapter provides information to help users understand:

- Contracting with nonprofits and community-based organizations
- Contracting with tribal entities, and specifically tribal governments and Native American for-profit companies and contractors
- The Tribal Forest Protection Act of 2004

Building capacity: Increasing the knowledge, skills, or ability to accomplish work. This can happen by acquiring or sharing:

- Resources, such as equipment or materials
- Funding
- People through their knowledge, skills, and expertise

Contracting with Nonprofits and Community-Based Organizations

The classification of the partner organization is an important factor for contracts. The federal government cannot enter into contracts with organizations that are loosely formed and have no official structure or legal status. Nonprofits and community-based organizations must have an official sanction, usually 501(c)(3) status, to be eligible for contracts.

Certified small businesses receive the majority of the Forest Service's contracts (solicitations) for goods and services. By definition, nonprofits and community-based organizations are not small businesses. Regardless of size, they are legally considered to be the same as large businesses and are treated like universities and large corporations for contracting purposes. For the Forest Service to solicit goods or services from a nonprofit or community-based organization, it must first determine that the goods or services cannot be supplied by any small business.

For organizations and projects that meet the qualifications described above, the following contracting opportunities are available:

- **Micro-purchasing** – Any procurement less than \$2,500 is not subject to the small business set-aside. These awards can be given directly to nonprofit or community-based organizations. No competitive bidding is required. A project, however, cannot be split into a series of small tasks for the sole purpose of staying below the \$2,500 threshold.
- **Simplified Acquisition Less Than \$25,000** – If a contracting officer can make a case that there are no small businesses that offer the particular good or service needed, then quotes can be taken from nonprofits and/or community-based organizations. Competitive bidding can be limited to three offers and can be kept local.

- **Simplified Acquisition Over \$25,000 but Under \$100,000** – Again, if a determination is made that no small businesses can offer the particular good or service needed, then competitive bidding is open to everyone. An announcement has to be made in Federal Business Opportunities, also known as FedBizOps (<http://www.fedbizopps.gov/>).
- **Sole Source Determinations** – A sole source determination means that there is no business or organization that has the capacity and qualifications to provide the good or service in question except for the specific organization identified. If a sole source determination is made, the Forest Service can contract directly with the identified nonprofit or community-based organization. This determination is made by the contracting officer and is based on unique characteristics that an entity brings to a project that no other organization possesses.
- **General Services Administration (GSA) Schedule** – There are several GSA schedules for consulting services for which nonprofits or community-based organizations might qualify. A specific GSA schedule that may lend itself to these types of organizations is Federal Supply Schedule 874, Management, Organizational, and Business Improvement Services. More information is available at the GSA website (<http://www.gsa.gov/>).
- **National Fire Plan** – Within the National Fire Plan legislation, there is an exemption to the Small Business Act and Federal Acquisition Streamlining Act which makes it easier to contract with local nonprofit entities as well as other organizations. The Forest Service cannot “sole source” contract with nonprofits, but some contracting opportunities are allowed which were not previously available for projects funded under Title II of the National Fire Plan.
- **Stewardship Contracting** – These contracts are for projects that meet community needs and have Forest Service land management objectives. Stewardship contracting is a tool that provides the Forest Service and the Bureau of Land Management (BLM) with increased flexibility to contract for treatments that improve forest or rangeland health, restore water quality, improve fish and wildlife habitat, or reduce hazardous fuels. Successful stewardship contracting is built on good collaboration involving a diverse group of community members and individuals representing community-based groups, interest groups, and public agencies.
 - The Forest Service Stewardship Contracting website (<http://www.fs.fed.us/forestmanagement/projects/stewardship/index.shtml>) provides detailed information on the authorizing legislation, specific types of stewardship contracts, who to contact for more information, reports and reviews of the program’s progress, lessons learned about collaboration, and success stories. In addition, the website provides guidance to field-level employees on how to effectively use stewardship contracts.
 - Additional information is available through the Red Lodge Clearinghouse (<http://www.redlodgclearinghouse.org/legislation/stewardship.html>) and the Pinchot Institute (http://www.pinchot.org/community/stewardship_contracting.htm).

Contracting with Tribal Entities

The Forest Service is committed to strengthening its working relationships with American Indian and Alaska Native tribes. Many options are available for partnerships between the Forest Service and tribal entities such as tribal governments, Native American-owned businesses, and Native American contractors. Coordination with local Forest Service acquisitions management personnel is essential for understanding the opportunities and the limitations involved.

Unique Relationship with Tribes

The Forest Service and other federal agencies maintain a government-to-government relationship with American Indian and Alaska Native tribes. The federal government has a trust responsibility which relies on direct consultation between agencies and tribes on policies and actions that may affect treaty or other rights and interests or traditional tribal cultural values and practices.

The Forest Service may enter into agreements, grants, or contracts with tribes, just as it can with other organizations or agencies. However, it is important to remember that any partnerships or collaborative processes that engage tribes are always conducted *in addition* to the separate process of consultation between the agency and the tribe. When a tribe joins a partnership or collaborative process with other partners, it still maintains a separate governmental relationship with the Forest Service. If a project or proposal may affect one or more tribes, the federal agency should initiate consultation with each tribe early in the process. It is important for members participating in a collaborative process or partnership to understand and respect this unique relationship that all federal agencies have with tribes.

The following discussion is limited to contracting (solicitation) possibilities with tribal entities. As with

nonprofit partners, the Forest Service has access to other approaches in working with tribal entities on projects that assist in building capacity. Other options, depending on the type of project and resources available, include Memoranda of Understanding, Cost Share Agreements, or other types of formalized agreements (see Chapter VI – Grants and Agreements). In addition, various State and Private Forestry programs (for example, Economic Action Programs) target tribal entities eligible for Federal Assistance grants. Aggressively pursuing contracting opportunities with tribal entities is one way to foster professional relationships, while at the same time developing contracting capacity in rural areas.

Options for Contracting with Tribal Governments

Tribal governments are considered the same as state governments or sovereign nations for the purposes of contracting with the federal government under the Federal Acquisition Regulations (FAR). Options now available to the Forest Service are:

- **Micro-purchasing** – Purchases under \$2,500 can be awarded to any entity, including for-profit, nonprofit, large business, small business, or tribal governments. No competitive bidding is required. However, a project cannot be split up into a series of small tasks for the sole purpose of staying below the \$2,500 threshold.
- **Sole Source Determination** – If a Contracting Officer determines that a tribal government is uniquely qualified and the only source for the goods or services, then a sole source contract may be negotiated. An example of this might be a cultural heritage project.

- **FAR 17.504, Economy Act** – This Act allows federal agencies to contract with other federal agencies for goods and services. This would allow the Forest Service to enter into an Economy Act contract (agreement) with the Bureau of Indian Affairs (BIA) who, in turn, can subcontract work directly with a tribal entity. The disadvantages are that the Forest Service will:
 - Be assessed a cost by BIA for its intermediary role.
 - Not have a signed agreement with the actual party doing the work – the tribe itself.

Wyden Amendment – This authority allows for single source contracts on a case-by-case basis for projects that enhance, protect, and/or restore resources within watersheds that include or impact Forest Service land. Although not a specific contracting mechanism, this amendment provides flexibility and the authority for the Forest Service to work with partners on specific watershed projects. For more discussion on the Wyden Amendment, see Chapter VI – Grants and Agreements.



Contracting with Native American For-profit Companies and Contractors

Native American for-profit organizations have the same access to federal contracts as any other entity. The following are some areas where there may be some flexibility in setting aside projects for tribal for-profit companies.

- **Micro-purchasing** – Same as above.
- **Simplified Acquisitions Under \$25,000** – These acquisitions generally need three quotes. It is permissible to request that Native American firm(s) certified as small businesses be solicited for at least one of these quotes. Additionally, awards can be made based on oral quotes if the project is well defined.
- **Small Business Set-Asides** – The Forest Service sets aside most of its contracts for small businesses certified by the Small Business Administration (SBA). In addition, if an entity is certified and listed on the Central Contractor Registration (CCR) website, there are ways to further target the competition to specific areas. CCR is the government source for vendors that are certified in the SBA 8(a) Business Development Program, HUBZone Empowerment Contracting Program, and Small Disadvantaged Business Program. For more information, go to: <http://www.ccr.gov> and click the “Dynamic Small Business Search” button.
- **SBA HUBZone Set-Asides** – If a contractor is SBA-certified in a Historically Underutilized Business Zone (HUB Zone) program, there are opportunities for limiting the competition to smaller geographic areas. Federally recognized Indian reservations are considered HUB Zones. More information is available by calling the SBA Answer Desk at (800)U-ASK-SBA or online. (<https://eweb1.sba.gov/hubzone/internet/>)

- **SBA 8(a)** – If a tribally-owned business or contractor is certified as SBA 8(a), then any federal agency can contract non-competitively with them. Sole source contracts can be awarded up to the \$3,000,000 threshold. Additional information can be found by calling SBA at (800)U-ASK-SBA or online. (<http://www.sba.gov/8abd/>)
- **USDA “Bringing Rural America Venture Opportunities” Program** – This USDA program is designed to advance the economic prosperity of entire rural communities by helping tribal and other rural small businesses build competitive enterprises. To qualify for the program, the contractor has to be SBA 8(a)-certified. Additional information is available online. (<http://www.usda.gov/da/smallbus/bravofact.htm>)
- **General Services Administration (GSA) Federal Supply Schedules** – Once awarded a GSA contract, competition can be limited to only those companies having specific qualifications that match a federal agency’s needs. Because most of the schedules are open, tribal entities can apply at any time. One specific schedule that the Forest Service may use more frequently than others is Schedule 899, Environmental Services. For additional information, visit: <http://www.gsa.gov> and click on the “Services” link.
- **Indian Incentive Program** – This program provides an incentive to contractors who use Native American organizations and Indian Owned Economic Enterprises as subcontractors. This clause can be made part of any contract if the Contracting Officer determines that there are subcontracting opportunities for Native American-owned companies.

(<http://www.acq.osd.mil/sadbu/programs/iip/index.htm>)

- **Sole Source Determination** – Same as above regarding contracts with tribal governments. Any sole source project that may exceed \$25,000 must be announced in Federal Business Opportunities. (FedBizOpps, <http://www.fedbizopps.gov/>)

Tribal Forest Protection Act

This legislation authorizes the Secretaries of Agriculture and Interior to partner with tribes for work with the Forest Service and the Bureau of Land Management through stewardship contracts. These contracts are for projects that reduce hazardous fuels and improve forest health on federal lands adjacent to tribal lands. The Act was signed into law on July 20, 2004, and the Forest Service and Bureau of Land Management are currently working together to draft policy for implementing it. The proposed policy is expected to be in place by June, 2005.

Contacts

The Partnership Resource Center provides a list of Forest Service Regional Tribal Relations Coordinators

<http://www.partnershipresourcecenter.org/contacts/national-tribal-coordinators-contacts.php>

VIII. Common Challenges for Partnerships

This chapter explains some federal and agency guidelines that Forest Service partnerships should understand to avoid unexpected hurdles. Familiarity with these laws and policies will help partners address concerns proactively and develop partnerships that run smoothly. The chapter explains:

- National Environmental Policy Act
- Federal Advisory Committee Act
- Obligating Money for Multiple-Year Partnerships
- Shared Facilities (Co-Location)
- Indirect Costs Assessments
- Reimbursement of Travel Expenses
- Use of Government-Owned Vehicles by Non-Federal Partners

This chapter frequently references relevant sections of the Forest Service Handbook (FSH) and Forest Service Manual (FSM). These documents are available online at the Forest Service website (<http://www.fs.fed.us/im/directives/>).

National Environmental Policy Act

If a partnership project uses federal funds or is on public lands, an analysis process under the National Environmental Policy Act (NEPA) may be required. The purpose of a NEPA process is to help public officials make decisions based on an understanding of environmental effects and to inform the public how environmental concerns have been considered.

Because the NEPA process can be lengthy, partnerships should find out early whether NEPA applies to any aspect of the project. If NEPA does apply, there are ample ways for the public and partnerships to be involved, particularly early on. Although federal agencies make the final decision in a NEPA process, concerned citizens and organizations can influence this decision by being involved in the process.

Partnership Projects and NEPA

There are two levels at which the Forest Service implements NEPA in its decision-making, and partnerships can be involved in both types of decisions:

- **Programmatic decisions** – Forest Plans are good examples of programmatic decisions. These plans are developed for each National Forest and describe in general terms, the locations and guidelines for certain types of uses and projects.
- **Site specific decisions** – These are specific proposals for certain types of activities on National Forest land or involving federal funds. Examples include habitat restoration, fuels reduction, pest control, trail construction, or authorizing a special use permit to an outfitter, guide, or other third party.

On public lands, NEPA normally applies to any project that commits the public's resources or proposes ground disturbance. NEPA may also apply to projects where federal funding is being used, even if the project is not on federal land.

The size, scale, and complexity of the NEPA process differs with each type of project. The amount of time needed to complete the process also varies. There are generally three broad categories of NEPA analysis:

- Categorical Exclusions assess simple projects where the scope and scale of effects to the land and resources is limited. These types of NEPA analyses and decisions may take only a few weeks or months to prepare.
- Environmental Assessments are used where the scope and scale of a proposal means that effects are more uncertain and need further study, which can take up to a year or more.
- Environmental Impact Statements are prepared for major projects where significant environmental effects are anticipated. These projects usually require a year or more.

Since the process can be lengthy, is important to find out early whether a NEPA process will be required for any aspect of a partnership project. If so, participants should begin to discuss the process early so that everyone has similar expectations. Good questions to discuss include:

- What will be the scope and scale of the NEPA process?
- What are the likely timelines and costs?
- Who will be involved or affected? What role will they play? How will other agencies, governments, tribes, or partners be involved?

Steps in the NEPA Process

If federal lands are involved in the project, a federal agency official retains authority to make the final decision regarding NEPA. The federal agency also normally pays for the NEPA process, but there are ways that costs can be shared. There are many opportunities for partners and the public to be involved in each step of the NEPA process, and ultimately to contribute to the final decision. The basic steps in any NEPA process are:

- **Pre-proposal period** – This phase is one of the richest opportunities for the involvement of partners, other agencies, other governments, tribes, and the public. This is when collaborative processes are important and valuable. During this period, these entities can influence the nature of the project *before* the agency makes a formal NEPA proposal. Many partners get involved in this stage by convening interested groups to work together in an open, democratic, and transparent way. These groups can solve problems, refine proposals, and resolve possible controversies in the design of the proposal prior to formal public comment.

- **“Scoping” the proposed action** – The NEPA process begins when a federal agency announces a proposal and seeks formal public input. This step helps the agency develop an understanding of the “scope” of any significant issues involved. Citizens can get involved by helping the agency identify issues, identifying persons who need to be contacted, and even helping collect public input.
- **Documentation** – In this phase, an environmental analysis is completed and potential environmental effects are documented. Alternatives to the proposed action are often considered and the document is made public. Although content of the document is the responsibility of the federal agency, under its guidance partners can help collect field information, provide alternatives to the proposal, or help analyze effects within their area of expertise. There is often another opportunity for public comment during this phase.
- **Decision** – Once the environmental analysis and public comment periods are complete, a final decision is made by the federal agency. This decision is documented and the deciding official explains the rationale for the decision to the public.

It is important to remember that federal agencies maintain a unique government-to-government relationship with other federal agencies, tribes, and state and local governments. This relationship requires consultation between governments before final decisions are made under the NEPA process.



Federal Advisory Committee Act

Often groups work together collaboratively to resolve land management conflicts and want to provide their input to the federal agencies that manage the involved lands. Under the Federal Advisory Committee Act of 1972 (FACA), federal agencies must follow certain guidelines for working with these groups and integrating their ideas into agency decisions.

What is “Public Input”?

Agencies like the Forest Service seek “public input” on management or proposals. There are a myriad of creative ways that verbal or written public input can be gathered, and often partners can help agencies gather input. The most useful input comes from people who may be concerned about or have solutions to offer about how to resolve problems or issues with planned projects. Public input can also include opinions about what on-going management or services are working well or need to be improved. The more specific a person can be about the location or nature of a concern or idea, the better. Agencies can then respond more effectively or incorporate ideas that are specific. Often, citizens think that public input is a “vote” that is won by getting lots of people to send in the same written comment. Although their general satisfaction or dissatisfaction with a project will be noted, content matters.

Collaboration is a new emphasis in the Forest Service that focuses on working with the public early on in decision-making processes for project development efforts. Collaborative processes and dialogues bring people together to try and address issues and reach an agreed-upon proposal that may undergo further analysis through the NEPA process. If a NEPA process is initiated, the process is often more streamlined and successful if collaboration has occurred.

In enacting FACA, Congress formally recognized the merits of seeking advice and assistance from the nation’s citizens. They also wanted to ensure access for all citizens in agency policy decisions. Although the basic purpose of FACA is to support the kind of open discussion and decision-making processes that occur in a collaborative environment, FACA has sometimes been seen as a barrier to collaboration. This is because many people feel that no groups or discussions can be convened to discuss land management issues unless a formal federal advisory committee is established. This does not have to be the case if the members of the group have a basic understanding of the law and agency guidelines.

Partnerships and FACA

The intent of FACA is to provide accountability and public access to policy decisions. If an agency like the Forest Service wants to form a committee to get advice, it must seek approval under FACA. For example, Resource Advisory Committees (RAC), serve as a way to improve collaborative relationships between various interest groups and the agency working on projects that benefit resources on or adjacent to National Forests. RACs are subject to FACA regulations because these committees are established by Congress to provide advice and recommendations to the Forest Supervisor for the approval of projects. Other groups that are established by the agency without direct congressional authorization, like the National Environmental Justice Advisory Council, would also be subject to FACA.

There are many situations when FACA does not apply to a group. For example, local watershed groups and National Forest friends’ associations are not subject to FACA if the agency does not manage or control the group, even if Forest Service personnel participate. The table at the end of this section will help clarify these issues.

Revised Regulations Ease Implementation

In 2000, the General Service Administration (GSA), the federal agency responsible for implementing FACA, released revised regulations for putting FACA into practice. These regulations are based on case law that had developed in the 20-plus years since FACA was passed. The revised regulations do not change FACA, but they do clarify some of the provisions that have created problems in the past.

Three Key Tests

There are three questions to ask to determine if FACA applies to a group in any given situation. The answer to each of the following questions must be “yes” for FACA to apply:

- **Is the group a committee?** If the group is a committee that has some formal structure, fixed membership, and specific purpose, and seeks to reach a position as a group, FACA regulations may apply. Advice from individuals, taken either singly or in a meeting, is not regulated by FACA.
- **Is the committee “established” or “utilized” by an agency?** If an agency establishes the group or has a large share in controlling the group, such as setting the agenda or determining the membership, FACA regulations may apply. If the committee is established and run by a non-federal individual or group it may not violate FACA, even if federal employees are invited to participate.
- **Is the purpose of the committee to give advice to the agency?** If the purpose of the committee is to directly advise the agency, FACA regulations may apply. A committee formed for other purposes, such as monitoring, conducting investigations, and carrying out other specific activities, does not fall under the purview of FACA if it incidentally advises the agency. A group formed for some other purpose or to give advice to another entity that ends up giving advice to the agency also does not fall under FACA regulations.

The flow chart at the end of this section can also help users determine if FACA applies to their group.

Where to Find More Information

General Services Administration website – A wealth of information is available at <http://www.gsa.gov>. Click on “Policy” and select “Management of Federal Advisory Committees” to find GSA information on FACA and its implementation.

Laws and regulations – The revised regulations include an appendix that has several helpful, clearly written examples. These can be found in Part 102-3, Subpart A, Appendix A. The implementing regulations and the text of the original law can be found at the GSA website (<http://www.gsa.gov>).

Forest Service FACA coordinators – Each Forest Service Region has a FACA coordinator. There is also a national coordinator. These individuals are the primary resource for field employees who need advice on FACA. Each local Forest Service office has more information.

Office of General Counsel – Each Forest Service Region has access to legal opinion through the U.S. Department of Agriculture’s Office of General Counsel (http://www.usda.gov/wps/portal/!ut/p/s.7_0_A/7_0_IOB?contentidonly=true&contentid=OGC_Index.xml). Requests for Office of General Counsel opinions are usually controlled by the Department’s Regional offices. The Office of General Counsel in Portland, OR, has summarized some important FACA information that is available at <http://www.fs.fed.us/r6/willamette/manage/opalcreek/reference/faca.pdf>.

Other attorneys – Some organizations that work with the Forest Service have access to legal services. For those groups, their own attorneys may provide a source of legal information about the situations in which FACA applies.

Alternatives to FACA – Northwest Colorado Stewardship

The Northwest Colorado Stewardship group (NWCOS) works to get diverse local interests to work together to find solutions to previously intractable natural resource management issues. The group is located in Moffat County where the Yampa, Green, and Little Snake rivers drain the high steppes of Colorado's northwest corner. Most of the land in Moffat County is managed by the federal government, making public land management a critical concern for its more than 13,000 county residents.

After successfully developing an integrated fire management plan for the Seven Mile/Bald Mountain area, the group is now working to assist with the development of an updated Resource Management Plan (RMP) for the Bureau of Land Management (BLM) Little Snake District. NWCOS is tackling the very contentious issues of oil and gas development, official wilderness study areas, and citizen-proposed wilderness areas.

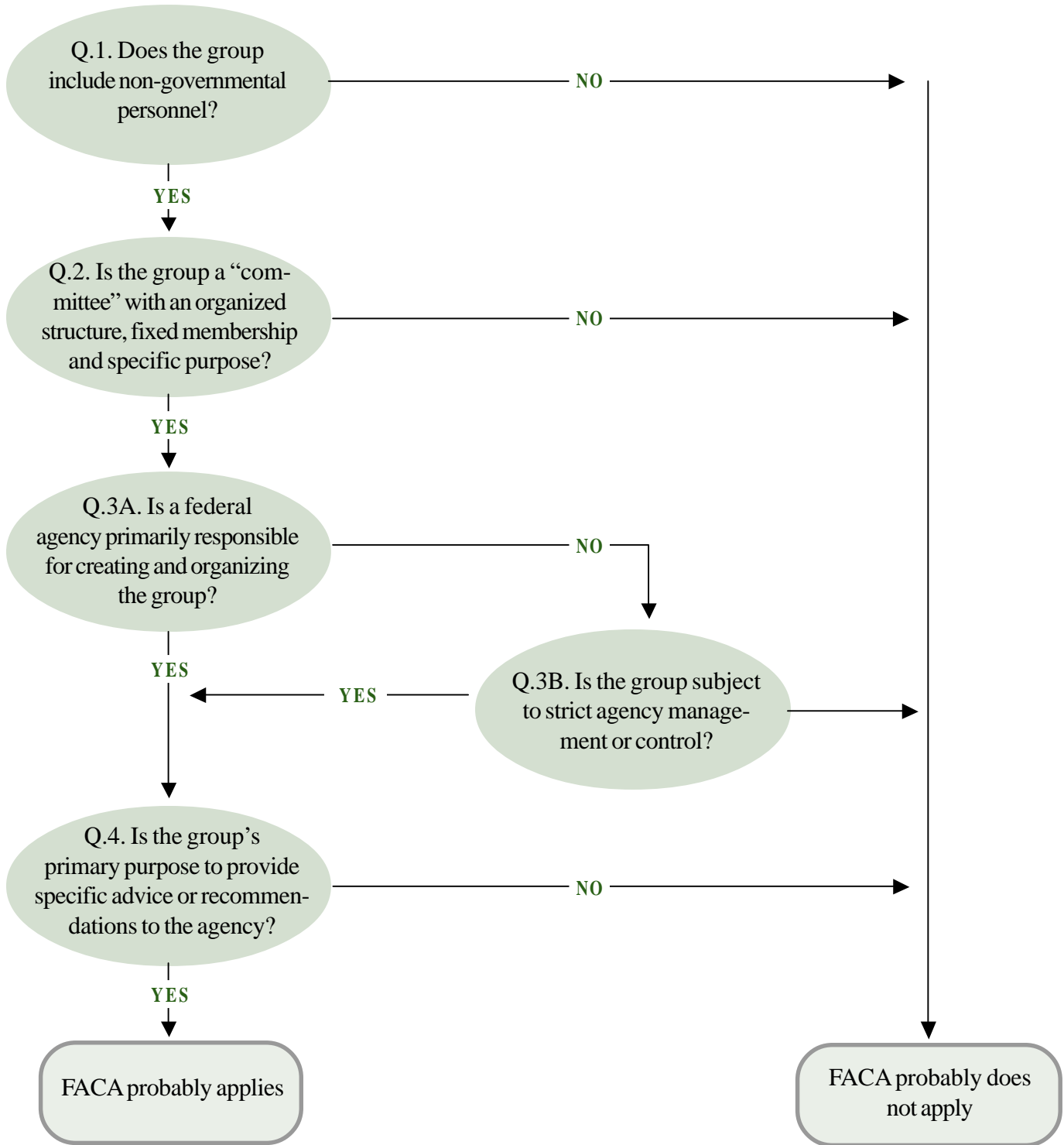
NWCOS studied how to comply with FACA requirements for its participation in preparation of the RMP project and the accompanying Environmental Impact Statement (EIS). The group created a subcommittee to discuss the FACA issue and make recommendations. The subcommittee considered the following options:

- Becoming formally FACA chartered.
- Adjusting NWCOS so that it would provide the individual advice of members to the agency, rather than a consensus recommendation.
- Working as a subgroup of the FACA chartered Northwest Resource Advisory Council.
- Working under an existing contractor for the agency who was setting up a public involvement strategy for the RMP.

NWCOS and the BLM decided to work through a contractor, the Keystone Center, which was already on board developing protocols and setting collaborative strategy for NWCOS. In FY 05, Keystone will manage the group and guide it through a community visioning and alternative development process for the RMP and its EIS. NWCOS will also provide baseline data to the BLM and help with the NEPA scoping process along with the general public, encouraging non-NWCOS member community participation.

This story was adapted from the Red Lodge Clearinghouse website, with permission from NWCOS and Red Lodge Clearinghouse. For more information, visit <http://www.NWCOS.org> or <http://www.redlodgeclearinghouse.org/legislation/faca4.html>

How to Decide if FACA Might Apply to Your Situation



Obligating Money for Multiple-Year Partnerships

Many effective partnership projects operate for more than one year. Partners can agree to work together for a long period of time in many ways, but multiple-year funding commitments must follow specific procedures.

Multiple-Year Grants and Agreements

The Forest Service can enter into any agreement or grant for up to five years, according to agency policy. At the end of five years, options exist to extend for an additional five years. Open-ended grants and agreements, described below, are also subject to the five-year limit. These agreements and grants are typically used for projects where the work is ongoing but funding is only authorized one year at a time.

For multiple-year partnership projects where the Forest Service receives funds from another federal agency, there are annual requirements from the Office of Management and Budget regarding the apportionment of reimbursable authority. Check with the Forest

+Service unit's Grants and Agreements Specialist for more information.

Open-ended Agreements

The Forest Service typically uses open-ended agreements in situations where it needs to authorize funding for a project one year at a time as it becomes available. Work must start within the fiscal year that the funds are obligated, but the work does not have to be completed in that year. The funding can carry over into subsequent years and be available for the life of the agreement or grant. An exception is when Congress appropriates funds only for a specific time period.

An open-ended agreement or grant spells out a general understanding between the parties and requires an annual operating plan for each of the years that funding is available. This plan is incorporated as a modification to the grant or agreement each year. It obligates the funds, details responsibilities specific to the project, and includes a financial plan.



Shared Facilities (Co-Location)

Co-location is a Forest Service term that refers to the sharing of buildings and facilities with other federal agencies and non-federal partners. It can be a useful tool for reducing overhead costs and increasing efficiencies. The Service First initiative allows the Forest Service and Bureau of Land Management to share facilities. Other shared facilities such as the Interagency Fire Dispatch Centers and Multi-agency Visitor Centers are authorized by law under Title 7, USC, Section 2204a (refer to FSM 1585.11). Co-location arrange-

ments are also made with entities such as universities, interpretive associations, and other nonprofit organizations.

As partners explore opportunities to cut costs by sharing services and facilities, it is important to consider the need for all parties to benefit. While there are many opportunities for Forest Service facilities to provide mutual benefit, current policies and regulations must be followed.

Co-location Benefits the Chesapeake Bay

The Chesapeake Bay is the nation's largest estuary and one of the most productive ecosystems in the world. The Bay's watershed covers 41-million acres and spans portions of five states and the District of Columbia.

Several agencies share a mutual interest in encouraging responsible and efficient management and protection of aquatic resources in Chesapeake Bay. The Environmental Protection Agency's (EPA) interest is reflected in an aggressive initiative to reduce non-point source pollution degrading the Bay's water quality. Its Chesapeake Bay office is located at the city marina in Annapolis, Maryland. The State and Private Forestry branch of the Forest Service is responsible for providing technical and financial assistance to the partnering governments, landowners, and nonprofit organizations in and around the Chesapeake Bay.

An Interagency Agreement was signed between the Forest Service and the EPA in 1988. It provides Forest Service liaison work to the EPA and offers technical assistance in areas related to forestry, best

management practices, soil erosion, and timber harvesting. Liaison efforts promote sound forest policy regarding riparian forest buffers, land use, training, education, and facilitation.

In return, the EPA provides office space for Forest Service liaisons free of charge (three employees at this time). The EPA also encourages its employees to coordinate and collaborate with the Forest Service on work that restores the Bay's ecosystem and improves its water quality.

Several other agencies are also located in the Annapolis facility. These include the National Park Service, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Agency, Natural Resources Conservation Service, and the U.S. Geological Survey. This co-location arrangement allows all agencies to work for the benefit of the Bay. The agencies serve on the Federal Agencies Committee, Nutrient Subcommittee, Living Resources Subcommittee, and the Chesapeake Bay Forestry Workgroup.

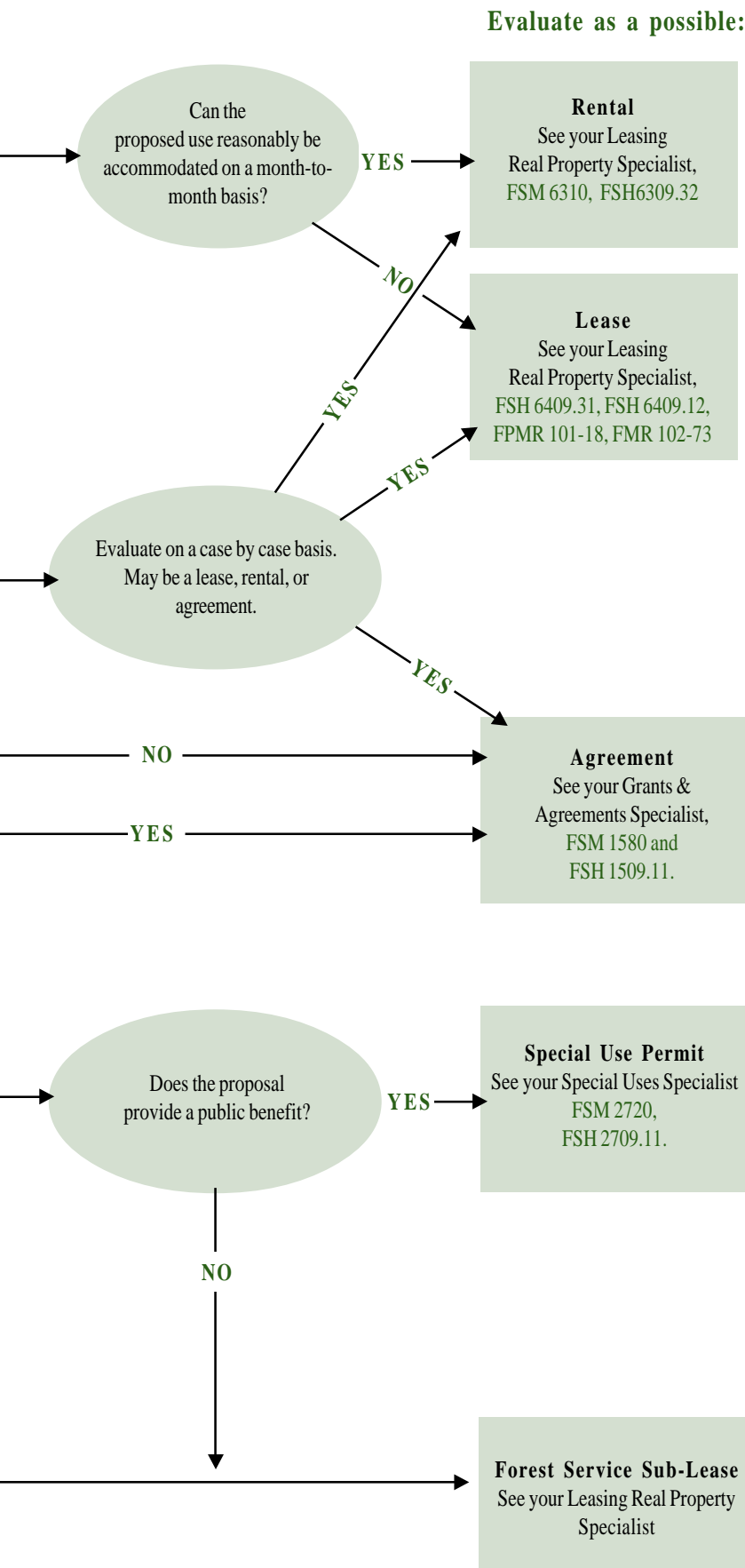
The accompanying flowchart was developed as a guide to assist the Forest Service and its partners in the evaluation of potential co-location arrangements. It includes definitions and references to the Forest Service Handbook (FSH) and Forest Service Manual (FSM), both available at <http://www.fs.fed.us/im/directives/>. The goal of the flowchart is to direct the user to a Forest Service specialist in one of three areas:

- Special Uses
- Leasing Real Property
- Grants and Agreements

These specialists can assist in determining:

- Whether the proposal falls under authorized co-location arrangements. Exceptions are outlined in the footnotes.
- Whether the proposal is appropriate.
- The proper authority and the development of the appropriate instrument to authorize the proposal.





Definitions:

Agreement:

A voluntary arrangement whereby mutual benefits and mutual interests are documented for the purposes of accomplishing mutually agreed upon objectives.

Forest Service Administrative Control:

Owned - A facility for which the United States holds clear and unencumbered title, and for which the Forest Service has been delegated administrative authority to manage and operate.

Leased - A contract which conveys privileges to the Forest Service to exclusive occupancy and use of the land or interior building space for a determinate period of time.

Forest Service Sub-Lease:

A conveyance of the right to another party occupancy Forest Service administratively controlled space.

Mutual Benefit:

Exists when all involved parties benefit in the same qualitative way from the objectives of the proposal.

Mutual Interest:

Interests, other than monetary, common to all involved parties, which relate to the accomplishment of their respective missions.

Private Interest and/or Benefit:

Proposals, applications or uses which primarily afford the proponent, applicant or holder with a lower cost or less restrictive alternative or location, or which merely accommodate a proponent's wishes.

Public Benefit:

A potentially beneficial qualitative or quantitative outcome, resulting from a proposal or use which primarily benefits a broad segment of the general public, either directly, or through the programs of the Forest Service or the Secretary.

Rental:

An "as is where is" occupancy on a month-to-month basis with no leasehold interest. An example would be a storage shed.

Special Use Permit:

A revocable, terminable and noncompensable authorization which conveys no interest in but provides permission to occupy and use Forest Service administratively controlled space for a specified purpose.

Footnotes:

(1) Does not address:

- Emergency situations such as fire or flood. See FSH 5109.34, Chapter 20.
- The cabin rental program which is properly authorized using form FS-2700-3e.
- Provision for quarters (See section 8 of Granger-Thye, P.L. 81-478, Recreation Fee Demonstration Program, P.L. 104-134, FSH 6409.11).

(2) In accordance with Forest Service and facility planning. See FSM 1920 and 7312; FSH 1909.12 and 7309.11, chapter 20.

(3) Federal Property Management Regulations (FPMR) 101.47

(4) This action can only be taken after the space has been reported to GSA as excess to Forest Service needs and GSA further declares the space surplus to Government needs.

Potential Arrangements

| Requesting Entity | Instrument Types | | | |
|----------------------------|------------------|--------------------|-------------------------|---------------|
| | Agmt | Special Use Permit | FS Out-Lease/ Sub-Lease | Lease/ Rental |
| BLM (Service First) | • | | | |
| Other USDA Agencies | • | | | |
| Other Federal Agencies* | • | • | | |
| State, County, Local Gov't | • | • | • | |
| Private Entities | • | • | • | |
| Forest Service | • | | | • |

Indirect Costs Assessments

When Forest Service personnel do work for partners, the agency incurs indirect costs associated with general management and administration. Unless a waiver is appropriate under the federal law or authority cited in the agreement, the Forest Service recovers the indirect costs from the partner. It is best to work with local experts early on to calculate the indirect costs associated with a partnership and incorporate this information into the planning stages.

The amount the agency recovers is based on the national average of indirect costs compared to total agency expenses. Currently, the average indirect cost across the agency is approximately 17 percent. This percentage, which the agency terms “burden rate” is applied to the total value of the partnership agreement unless parts of the agreement qualify for a waiver.

Interim Directive FSH – ID 1909.13-2004-1, issued in 2004, provides the current direction for indirect cost assessments. However, the agency is still clarifying certain aspects of the interim directive. For more information on current policies, refer to:

- The 2005 Program Direction. This is an annually-issued Forest Service document that clarifies current practices for administering Forest Service programs. It is available to Forest Service employees on the agency’s intranet (internal) website.
- Interim Directive FSH – ID 1909.13-2004-1 (id_1909.13-2004-1.doc at http://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsh?1909.13!..).

When the Forest Service Recovers Indirect Costs

As illustrated in the table at the end of this section, some statutes require payment by the partner for all costs associated with a project and others allow the costs to be waived. Even if the authority allows for waiving indirect costs or some portion of them, Forest Service personnel still must go through the appropriate steps to document the rationale, as illustrated in the flow chart at the end of this section.

Whenever the Forest Service provides a service to another party without mutual benefit, full costs must be recovered. The need for full cost recovery was set forth in the Economy Act of 1932, the Granger-Thye Act, and the resulting Granger-Thye Collection Authority.

When mutual benefit exists for both parties involved, the Cooperative Funds Act of June 30, 1914, says that there is no mandate for total cost recovery. For a partnership documented under this authority, the Forest Service is *not* required to collect indirect costs from the partner.

In the past, the agency recovered indirect costs on cost share agreements with mutual interest and benefit between the parties. The two authorities commonly cited for these arrangements were Public Law 102-154 (Challenge Cost Share), and Public Law 94-148 (Participating Agreements). Under Interim Directive FSH – ID 1909.13-2004-1, these assessments are no longer required.

Calculating Indirect Costs

Depending on the situation, the Forest Service currently uses either the *national burden rate* or the *marginal burden rate* to calculate and recover indirect costs from partners. The national burden rate applies to Forest Service work that is normal, recurring, and outlined in an existing long-term agreement. The mar-



ginal burden rate applies to projects in which the work is not considered normal and recurring and is not part of a unit's typical annual program of work. For 2005, the national burden rate is 17.8 percent, and the marginal burden rate is 3.3 percent.

The burden rate is assessed against the total value of services being provided. The base costs that the burden rate is applied against may be reduced if:

- Agreements include contracts or procurements.
- A previous national agreement specifies a reduced burden rate, such as interagency fire agreements.
- The national burden rate does not accurately reflect the true indirect costs of operations, such as a research station.
- The agreement represents a pass-through of funds directly to another organization.
- FSM 1580 or the Program Direction for the current Fiscal Year identifies a specific situation, other than those above, where a reduction of the burden rate may be considered.

Forest Supervisors and Research Station Directors now have the authority to waive the agency's indirect costs under the following circumstances:

- For work performed on behalf of or in cooperation with other federal agencies, provided the waiver is applied mutually between the respective agencies and the work is in the interest of the cooperating agencies.
- For work performed in cooperation with state or local agencies, if funds for the performance of this work are provided by other federal agencies to the state and local agencies.
- If the indirect burden is less than \$1,000.

If a waiver is granted, it must be clearly documented and stated in the agreement. Forest Service personnel are required to make every attempt to negotiate and recover indirect costs, and exemptions should be the exception rather than the rule.

The agency's indirect costs cannot be waived under the following circumstances:

- For work performed for a third party as required by contract or permit.
- For work performed to restore or rehabilitate lands affected by the partner's activities.
- When the financial burden on the Forest Service is more than the benefits received by the agency.

Examples

The following examples describe how the agency would calculate indirect costs for typical situations involving grants.

- A wildlife biologist applies for a \$100,000 grant for wildlife surveys. The grant does not restrict funds and therefore can be applied to indirect costs. The wildlife biologist includes the indirect rate in the project budget submitted. The grant is awarded. This is the optimal situation as total cost recovery is achieved.
- A wildlife biologist applies for a \$100,000 grant for wildlife surveys. The grant criteria state that grant funds cannot be used for indirect costs. The grant is awarded and the funds are used to hire seasonal employees through the Forest Service. The national burden rate is assessed at 17.8 percent. Because the burden rate cannot be waived, the program benefiting from the work is required to recover \$17,800 from the program account.
- A wildlife biologist applies for a \$100,000 grant for wildlife surveys. The proposal states, "\$80,000 of the grant will fund a third party contractor and \$20,000 will fund Forest Service labor activities." The grant is awarded. In this case, only the grant funds assigned to the Forest Service workforce (\$20,000) would be assessed the 17.8 percent rate, or \$3,560.

Direct cost: These are expenses that can be specifically attributed to the delivery of a Forest Service program or its output and accomplishments. Because program management is an integral part of the production of an output, it is considered a direct cost. Direct costs are charged directly to a program. Direct costs include, but are not limited to:

- Personnel costs including salary and benefits, training, travel, Office of Workers' Compensation Program, and Unemployment Compensation Insurance for employees involved in the production of outputs.
- Material, supplies, and equipment costs incurred in the production of outputs.
- Other costs associated with these employees such as office space, computer equipment, and utilities.

Indirect cost: These are joint or common expenses that are necessary for the operation of the Forest Service, but not specifically identifiable with or traceable to a specific output. Indirect costs may include the following:

- Personnel costs including salary and benefits, training, travel, Office of Workers' Compensation Program, and Unemployment Compensation Insurance for certain employees involved in general management, business management, budget, and finance.
- Material, supplies, and equipment costs incurred by more than one program area for the employees described above.
- Other costs associated with these employees such as office space, computer equipment, and utilities.

Reimbursable agreement: This is an agreement between parties where the performing entity agrees to provide the resources and perform services on behalf of the paying entity. The paying entity pays for the resources and services provided on its behalf by the performing entity. Costs are borne initially by the performing entity. They are forwarded to the paying entity for reimbursement, in accordance with the terms of the agreement (see also FSM 1580).

Authorities For Indirect Cost Waivers Based on Authorities Described in FSM 1580

| Type of Agreement | Statutory Authority | Indirect Cost Collection Mandatory? |
|---|--|--|
| No agreement needed-document with memo | Acceptance of Gifts Act of October 10, 1978 (P.L. ¹ 95-442) | No |
| Collection Agreement: | Granger-Thye Act of April 24, 1950 (P.L. 81-478) | Yes |
| | Cooperative Funds Act of June 30, 1914 (P.L. 104-127) | No |
| | Forest and Rangeland Renewable Resources Research Act of 1978 (P.L. 95-307.) | No |
| | Intergovernmental Cooperation Act of 1968 (P.L. 90-577) | Yes |
| | Cooperative Agreement | Wyden Amendment, Section 323(A) of the Department of Interior and Related Agencies Appropriations Act, 1999 as included in P.L. 105-277 as amended by P.L. 107-63. |
| Challenge Cost Share Agreement or FS-1580-1 | Interior and Related Agencies Appropriations Act of 1992 (P.L. 102-145). | No |
| Cost Reimbursable Agreement Or FS -1580-1 | National Agricultural Research, Extension and Teaching Act of 1977 (P.L. 95-113), as amended by Public Law 105-198. | No - Where there is mutual interest and all parties contribute |
| Cost Share Agreement | Cooperative Funds and Deposits Act of December 12, 1975, (P.L. 94-148). | No |
| Interagency Agreement Or form AD-672 | The Economy Act of June 30, 1932, Section 601 (P.L. 97-258 and 98-216) | Yes |
| | Reciprocal Fire Protection Act of May 27, 1955 (P.L. 84-46) | No |
| Intra-agency Agreement Or FS-1580-1 | No statutory authority required. Intra-agency agreements are authorized by the programs and policies of the Forest Service. Cooperating units funded by the same appropriation | No |
| | Funded by different appropriations – i.e. NFS and Research | Yes |
| Joint Venture Agreement | National Agricultural Research, Extension and Teaching Act of 1977 (P.L. 95-113), as amended by Public Law 105-198 | No - When there is mutual interest and all parties contribute |
| Participating Agreement Or FS-1580-1 | Cooperative Funds & Deposits Act of December 12, 1975 (P.L. 94-148) | No |
| | Wyden Amendment, Section 323(A) of the Department of Interior and Related Agencies Appropriations Act, 1999 as included in P.L. 105-277 as amended by P.L. 107-63). | No |

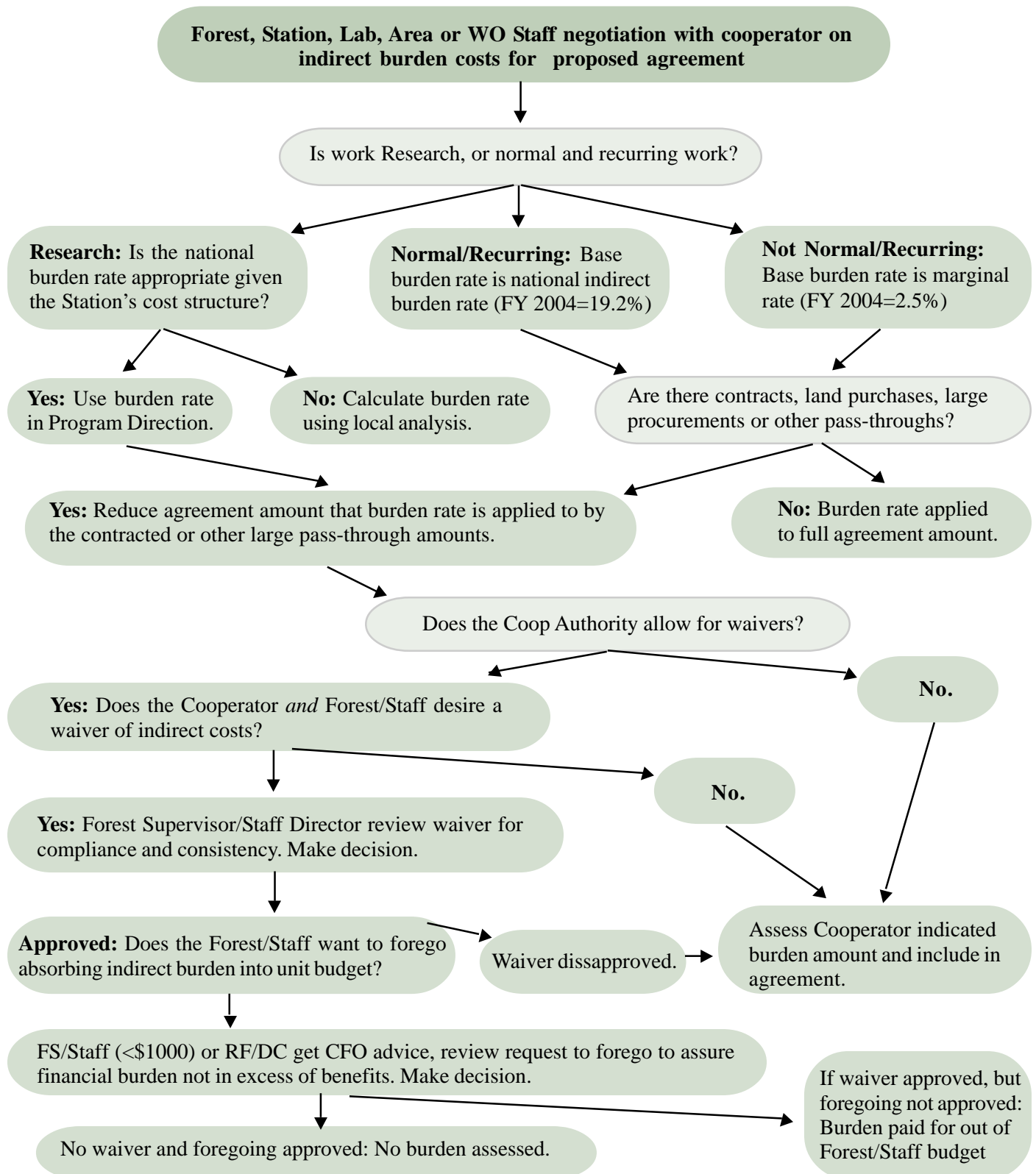
FSM 1580 supersedes the information in this table in the event of any discrepancies.
Reference: Interim Directive 1909.13-2004-1; 40.43b – Exhibit 1

¹ P.L.: Public Law

² FS 1580-1: “Cost Share Agreement/ Cost Reimbursement Agreement”

Determining the Appropriate Indirect Cost to be Borne by a Potential Cooperator

The following flow chart illustrates the steps that Forest Service personnel go through to calculate or waive indirect costs. Reference: FSH – ID 1909.13-2004-1, 40.43c, Exhibit 01.



Reimbursement of Travel Expenses

The Forest Service may pay for a partner's travel expenses if there is a direct benefit to the agency. To demonstrate direct benefit, the following issues should be addressed in a justification statement. The justification statement should include:

- Purpose of the trip as it relates to Forest Service programs.
- Proposed itinerary, including mode(s) of transportation.
- Statement of direct benefit or service to be rendered to the agency.
- How the benefit or service will be formally documented, such as in a written report or oral presentation.
- With whom the non-government personnel will interact to accomplish the service or benefit rendered.
- Total cost to the agency, including per diem, transportation, and incidental expenses.

Individual travel authorizations can be approved at the local Forest level by the fiscal officer using travel document AD 202. Only the AD 202 is necessary for payment of travel expenses.

Out-of-State Rural Community Coordinator Meeting

There is a national rural community coordinator meeting being held in another state. A local Forest Service unit wants the executive director of a community-based organization to attend so that she can take part in group discussions and bring back innovative ideas generated by the participants. To reimburse her for travel expenses, Forest Service staff would prepare a justification statement addressing the seven points shown above. The fiscal officer would then complete the AD 202. There would be no need to enter into a new agreement to specifically cover this trip.

The Difference Between Volunteers and Partners

It is important to note that the Forest Service does not have to register partners as volunteers, and there is no need to enter into a Forest volunteer agreement. In the example in the sidebar, the executive director will not be attending the meeting as a Forest Service volunteer but as an employee of a nonprofit organization. However, there may be situations where an individual should be treated as a volunteer instead of a partner. An example is when a Forest sends an individual to a customer service training session to prepare this person to become a docent at a Forest Service Visitor Information Center. Travel of volunteers falls under the federal travel regulations. FSM 1833.5 discusses travel and incidental expenses for volunteers.

Is a Contract Appropriate?

In some cases, the Forest Service contracts for the service individuals will provide at events, workshops, or for projects. In these arrangements, individuals make their own travel arrangements and are reimbursed for their expenditures as part of their contracts. In some situations, contracts can be less costly in terms of the time required to prepare and process justification statements and AD 202s. Contracts less than \$2,500 do not have to be done competitively.



Use of Government-Owned Vehicles by Non-Federal Partners

There may be occasions for the Forest Service to consider providing government-owned vehicles for use by non-federal parties as part of their contribution to a partnership. Due to liability considerations, the decision to do so must be weighed carefully. An Interim Directive (ID 1580-2004-2) issued in May, 2004, allows for this use as long as *all* the following conditions exist:

- The Forest Service and the non-federal party have a legally binding written agreement (such as a Cost Share Agreement or other statutorily authorized agreement) in which the use of a government-owned, leased, or rented vehicle is specified as part of the Forest Service's contributions.
- The government-owned, leased, or rented vehicle will be used for official Forest Service activities only and in accordance with the terms of the agreement.
- Only properly licensed and qualified drivers will operate the vehicles.
- Drivers have completed a defensive driving course within the last three years.
- Drivers have received and read a copy of the Driver Operating Guide, EM-7130-2, available in Forest Service offices.
- The non-federal partner maintains and provides proof of comprehensive liability insurance. The policies must cover at least \$250,000 per occurrence for bodily injury and property damage.
- Drivers must comply with Executive Order 13043 detailing appropriate seatbelt use.



Although liability insurance reduces the risk to the Forest Service, it does not eliminate it. The line officer must decide if the level of risk to his or her unit is an acceptable one and proceed accordingly. If the risk outweighs the benefit, then other arrangements should be made for vehicle use. If the risk is manageable, but the activity itself involves, for example, transporting large numbers of people in a government-owned van or bus, then requiring a higher level of liability insurance may be prudent.

IX. Conduct and Ethics

The public expects every person and partner involved with government funds to be committed to high professional and ethical standards and accountable for their actions. Understanding and maintaining these standards, and complying with relevant legal authorities can play an important role in a partnership's success.

While it is primarily the responsibility of Forest Service employees to be aware of and understand conduct and ethic guidelines, partners also need to gain an understanding of these important issues in order to ensure successful partnerships. The sidebar at the beginning of this chapter summarizes important points for partners to keep in mind. The remainder of the chapter is dedicated to what Forest Service employees need to know.

Conducts and ethics is a complex subject where one encounters a lot of "gray" area. If there are ever any doubts, agency ethics officers should always be consulted. This chapter covers general guidelines for maintaining ethical standards while working as partners with non-federal organizations. It strives to bring clarity to conduct and ethic issues in the following areas:

- Working with non-federal organizations
- Working with partners who are fundraising
- Acceptance of gifts and donations
 - By the Forest Service
 - By the National Forest Foundation, on behalf of the agency
- Recognizing donors/partners and recognizing individuals

Remember, it is always important to consult with appropriate agency and Department personnel on a specific partnership undertaking. More formal information on authorities and regulations underlying conduct

and ethics issues is provided in Appendix H – Additional Legal References for Conduct and Ethics – or may be obtained in consultation with the designated Agency Ethics Advisor in the Washington Office or the Primary Ethics Advisor in the Forest Service Region, Area, Forest or Station. The Office of General Counsel can also provide information and guidance. Non-Forest Service partners should discuss these issues with their Forest Service counterparts.

USDA Office of Ethics

(<http://www.usda-ethics.net>)

This website provides easily accessible information on ethics. It includes:

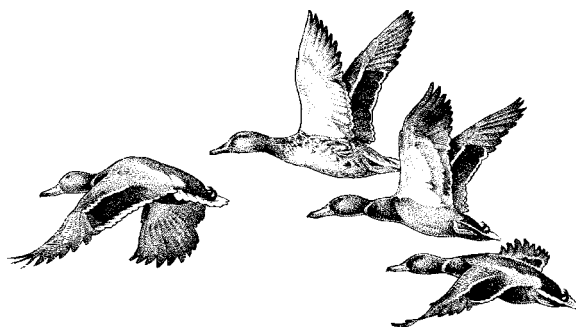
- Rules of the Road – A compendium of laws, regulations, and guidelines.
- Interactive modules that include examples and scenarios.
- Answers to frequently asked questions
- Downloadable forms in a variety of matters and variety of formats
- Links to USDA ethics advisors and other ethics websites.

Summary Points for Partners:

- The official responsibility of federal employees is to represent the government. They can only be involved in non-federal organizations in ways that do not compromise this responsibility. Conflicts of interest or perception of impropriety must be avoided.
- A written partnership work agreement that clearly outlines mutual expectations and responsibilities of each partner can help clarify concerns regarding conduct and ethics.
- Creating an official liaison position is an appropriate way to involve a Forest Service employee in a non-federal organization. Official involvement as a liaison requires prior approval of the line officer in conjunction with the appropriate agency ethics officer.
- The Forest Service cannot endorse or sponsor commercial enterprises, products or services.
- Forest Service employees working in an official capacity can participate in fundraising meetings or events under limited conditions to give an official speech dealing with Forest Service interests relevant to the event. They cannot endorse or promote fundraising campaigns.
- Capital improvement campaigns require that federal agencies agree upon the improvements needed through a capital investment plan, completed environmental analysis, and decision document.
- Forest Service employees can be involved in a personal capacity with non-federal organizations. However, they cannot serve because of their employee assignment or position with the Forest Service and there must be no other conflict or appearance problem. They must participate on their own personal time and at personal expense.

The Forest Service can accept gifts from individuals, organizations, foundations, corporations, associations, and other entities. (For more information, refer to the section on “Acceptance of Gifts” in this Chapter or to Appendix I – Highlights from the USDA Directive on Acceptance of Gifts).

- Forest Service Employees can only solicit gifts under very limited conditions (see Appendix I – Highlights from the USDA Directive on Acceptance of Gifts).
- The purpose of the National Forest Foundation includes encouraging, accepting, and administering private gifts of money and property, both real and personal, for the benefit of the activities and services of the Forest Service.



Working with Non-Federal Organizations

Forest Service employees can play an important official role in organizations outside the federal government. They can also participate unofficially as involved and concerned citizens. There are many benefits to official participation including sharing information, providing technical advice, and developing mutual understanding of each others' goals, objectives and organizational cultures. All of these benefits contribute to building trust, effective relationships, and effective partnerships. The involvement of federal employees in non-federal

organizations, however, must comply with legally defined ethical standards. The sole responsibility of federal employees acting in their official capacities is to represent their agency. Participation in non-federal organizations must not affect federal employees' ability to do their jobs objectively. Any conflicts of interest or possible perception of impropriety must be avoided. What follows describes how federal employees can participate in non-federal organizations while upholding their responsibility to the government.

Official capacity: A federal employee is participating officially if assigned by a superior, working on official time, reimbursed for travel expenses, using a government vehicle, in official uniform, on federal premises, or invited to participate as a result of his or her official position. In an official capacity, the employee participates solely as a representative of the United States.

Official liaisons: Liaisons are official Forest Service representatives assigned to non-federal organizations by appropriate Forest Service officials when there is a significant and continuing Forest Service interest in participating. Liaisons must follow the conduct and ethics rules for federal employees described in this chapter. They can provide advising, consulting, and technical services to governing boards and represent the Forest Service in discussions on matters of mutual interest. They may not be involved in a management or fiduciary role in the non-federal organization and may not vote. Managers or supervisors appoint employees to this role and may not appoint themselves. A liaison's duties are "official business" and can be performed using government resources such as time, equipment, supplies, and vehicles. (A sample agreement for a liaison position is provided in Appendix J – Liaison Agreement.)

Documentation: As federal employees and partners work closely together on projects of mutual benefit, it is easy for distinctions between the parties to become blurred. Forest Service employees should develop a partnership working agreement to clearly articulate an employee's role and participation, particularly if that the employee is participating as an agency liaison. This working agreement should identify the objectives for the federal employee's participation, limits of the official participation, expected benefits to each partner, policies on endorsements and advertising, and responsibilities of each partner.

Endorsement: The recommendation or promotion of commercial enterprises, products, and services are considered endorsements. Regulations prohibit agencies and employees from making reference to commercial enterprises or brand names of commercial products in interviews, and in written, audio, and visual materials unless certified by the agency's information director as in the public interest. References in the public interest include acknowledging the contributions of a commercial enterprise in an officially approved, mutually beneficial partnership project when the business, products, and services are not promoted or recommended.

Official Participation in Non-Federal Organizations:

What a Forest Service Employee Needs to Know

- Forest Service employees can serve as official liaisons, technical advisors, committee chairpersons, or members representing the agency when there are no conflict of interest or impartiality concerns (or those concerns have been officially waived). Their title or position must not appear to endorse the non-federal organization or appear to affect impartiality.
- Employees should clearly define their participation through a partnership working agreement, particularly if they are serving as an official liaison. This agreement clarifies conduct and ethics concerns, identifies the objectives for the employee's participation, and articulates responsibilities of each partner and expected benefits. (See the sample agreement for a liaison position in Appendix J – Liaison Agreement.)
- The Forest Service can purchase memberships in non-federal organizations to stay informed of the activities of the organizations.
- Forest Service employees can attend national conferences and meetings on official travel and time for professional development when it is part of their official training plan. They can schedule time for official participation, in concurrence with their supervisors.
- Employees can present proposals and ideas related to their official duties within the non-federal organization to appropriate Forest Service and federal officials.
- The Forest Service can accept travel and subsistence costs (airfare, lodging, etc) provided by the non-federal organization in connection with official duties under 31 USC 1353. Traveling employees require prior approval from an agency ethics advisor.

Forest Service employees may not:

- Participate in a fiduciary role (officer, director, trustee) unless authorized by statute or a departmental waiver.
- Participate in an official capacity if they are already an active participant in the organization in an un-official capacity or personal role.
- Participate in internal issues of the non-federal organization, e.g. budgets, fundraising, membership, by laws, political action committees, or for-profit activities.
- Endorse the products or services of non-federal organizations.
- Represent anyone other than the United States before a federal agency or court in connection with a matter in which the United States is a party or has an interest.
- Accept compensation for official duties performed with the non-federal organization including honoraria, salaries, and contract payments.
- Utilize appropriated funds to accomplish, through non-federal organization personnel, anything that Forest Service employees cannot be assigned to perform.
- Perform services in support of grass roots efforts by the non-federal organization to lobby Congress.

Fiduciary role: A legal duty where one is bound to act in another's best interest, such as a board member acting in the interest of the organization on whose board the employee serves, or a trustee acting on behalf of a beneficiary.

Working in a Personal Capacity with Non-Federal Organizations:

What a Forest Service Employee Needs to Know

- Forest Service employees can participate in non-federal organizations in an unofficial personal capacity. Informing supervisors is encouraged to ensure that federal policies are being followed.
- Personal participation must occur on an employee's personal time, not during official work time. The Forest Service will not cover an employee's travel expenses, authorize the use of government vehicles, allow meetings on federal property, or permit the use of government equipment for this type of participation.
- An employee may not serve in a personal capacity as an officer of a non-federal organization, member of the board of directors, or in any similar position if is offered to the employee based on his or her official Forest Service assignment or position.
- To serve a non-federal organization for pay or as an unpaid consultant, a Forest Service employee may need to seek prior approval [5 CFR, part 8301]

For additional guidance on working in a personal capacity refer to Appendix H – Additional Legal References for Conduct and Ethics – and the USDA Office of Ethics Website (<http://www.usda-ethics.net>).

Note: Where an employee is an active participant or fiduciary of a non-federal organization in a personal capacity, the potential for conflict is very high if there is interest in that person having significant “official duties” to perform involving the same organization.

Working with Partners who are Fundraising

The implementation of many partnership projects depends upon monetary support, and fundraising is an important strategy for obtaining the necessary funds. Non-federal organizations support partnership projects by providing in-kind services, gifts, donations, and participating in fundraising campaigns. These kinds of support are important and appreciated but often approached by the Forest Service with hesitancy due to the uncertainty that arises from ethical issues that can be involved. This section discusses the difference between fundraising and negotiating with partners in the context of a partnership agreement, Forest Service involvement in fundraising events, and a note on co-applying for grants.

It is important to understand that negotiating and documenting a partnership arrangement, where the Forest Service and a cooperator are coming together and contributing resources towards a mutually beneficial outcome, is not considered fundraising. In addition, the partner contributions to a partnership arrangement are not considered “gifts” subject to Departmental Regulations on Acceptance of Gifts (see next section). Forest Service employees can negotiate with partners in the context of a partnership agreement and partners can then fundraise to generate their contribution to the partnership arrangement.

Partners can fundraise – by direct mail, conducting events, or other means – and use those funds to contribute towards a mutual benefit arrangement or other type of agreement. The manner in which the partner raises funds from outside sources is not governed by the Forest Service or Department of Agriculture Regulations. However, government ethics policy and regulations regarding conflict of interest and avoiding the appearance of impartiality make it important for the Forest Service to consider the source of partner contributions when considering whether to enter into a partnership arrangement. In addition, if Forest Service employees are involved in partner fundraising events, then conduct and ethic guidelines for federal employees apply, and are detailed below.

Forest Service involvement in fundraising events of partners or other non-federal organizations is subject to the same conduct and ethic guidelines for Forest Service employees in any fundraising event. In other words, it is extremely limited! Outside of making an official speech, fundraising in an official capacity is limited to the, 1) Combined Federal Campaign, 2) Special solicitations approved by the Director of the Office of Personnel Management, (e.g., Tsunami Relief in 2005).

Forest Service Involvement in Partner Fundraising Events:

What a Forest Service Employee Needs to Know

- Attending fundraising events in an official capacity is permitted – though restricted to approved and official remarks. Participation may not appear to endorse the fundraising effort or the organization.
- Employees can be named on invitations as speakers (without title) but neither the employee nor the agency can be shown as sponsors.
- Employees can wear their uniforms when attending meetings and fundraising events as representatives of the agency. Again, their remarks must be limited to programs, projects, or subjects related to the agency's mission.
- Agency employees cannot ask for money or support, or receive donations on behalf of the non-federal organization. They can provide information about how contributions benefit Forest Service programs.
- Raising funds in a personal capacity for a charitable non-federal organization that is completely separate from a person's federal government job is allowed other than prohibited sources or subordinates.
- Federal employees may not use or permit the use of their position, title, or authority to support the fundraising effort occurring in his or her personal capacity.

A Note on Co-Applying for Grants:

Many opportunities exist for employees and partners to work together on grant proposals and applications for land stewardship activities. Co-application for grants requires close work between partners and non-federal organization for programs that will be jointly delivered. It is important to ensure that proposed activities follow agency policy and procedures.

Applying for grants to non-federal entities: Forest Service employees may assist partners in applying for grants to the extent that:

- The grant furthers the mission of the Forest Service
- The Forest Service is authorized to accept the grant funds for the purposes proposed
- Forest Service employees are authorized by the agency to perform those duties

Applying for grants to other federal entities*:

Forest Service employees may assist partners in applying for grants to the extent that:

- The Forest Service is allowed by statute to apply for such grant money, and
- The three conditions set forth above for non-federal entities have also been met.

**Note: The Office of General Council, General Law, is currently reviewing issues related to USDA scientists co-applying for federal grants. Those reviews are still being formulated. Additional information will be provided in future editions of the Partnership Guide.*

Definitions of Fundraising and Solicitation for Forest Service Employees:

Fundraising: Raising funds for a nonprofit* organization by: 1) soliciting funds, 2) selling items, or 3) actually and visibly participating in the conduct of an event (beyond mere attendance) where some portion of the cost of attendance may be taken as a charitable tax deduction.

*Note: This is not approval to raise funds on behalf of a for-profit organization; such conduct would be far more restricted.

Solicitation: Asking for something of value either as a gift or at a price below its market value. Unless an exception applies, federal employees may not solicit (or accept) gifts for themselves, their relatives, or a charity they recommend by: 1) using their federal position, 2) from subordinates, or 3) from “prohibited sources.” See section below on Acceptance of Gifts for regulations under which THE AGENCY can solicit and accept gifts.

Forest Service Authority to Accept and Solicit Gifts/Donations

In the course of developing and documenting mutual benefit partnership arrangements and working with grants and cooperative agreements, the involved parties discuss, negotiate, and document in-kind contributions, cash, and other program outlays. These contributions are not considered “gifts” under the terms of gift acceptance laws and regulations, but rather part of the overall partnership negotiation.

The following section describes the new Department of Agriculture Regulations on Gifts that are independent of

a mutual benefit arrangement or other partnership negotiation. The terms “gifts” and “donation” are used interchangeably in the following discussion and apply to cash, real property or other forms of contributions to the Forest Service.

The Forest Service **cannot** solicit donations unless authorized by law to accept donations, and may only solicit donations in the manner authorized by government regulations. The Department’s Gift Act authority, (7 U.S. C, 2269), authorizes the Secretary and agencies of the Department to accept donations. This law includes the authority to solicit, but only in the manner authorized under government-wide ethics regulations and Departmental ethics and gift acceptance regulations (DR 5200-3). Navigating between these laws and regulations is challenging so when a particular issue is raised, talk with your local office of the Office of General Counsel (OGC).

In addition to the Gift Act cited above (7 USC, 2269), the Forest Service has other specific statutory authorities to accept gifts and donations primarily related to real property as outlined in the Forest Service Manual 5420 (FSM 5420). The Forest Service’s authority to accept gifts under these statutes is of course, subject to Departmental Regulation 5200-3, the Department’s gift acceptance regulation.

Accepting gifts without statutory authority is an improper augmentation of agency appropriations. Such gifts must be returned to the donor or turned into the Treasury of the United States as miscellaneous receipts

The USDA Directive on Acceptance of Gifts was extensively revised in 2003 and sets forth Department policies and procedures for acceptance and solicitation of gifts of property, including cash, to the Department and agencies of the Department. All units of the Forest Service should have copies of this regulation, be familiar with its content, and seek guidance from the Office of the General Counsel and agency ethics officials whenever questions arise. The full text of the

regulation is available at <http://www.ocio.usda.gov/directives/files/dr/DR5200-003.htm>.

Gifts to the Forest Service:

What a Forest Service Employee Needs to Know

- For gifts of personal property, including cash, the Chief of the Forest Service or the Chief's Designee may accept unconditional gifts.
- Conditional gifts of personal property can be accepted only by the Department's Chief Financial officer or that official's designee.
- Gifts of real property may also be accepted under the provisions of the Forest Service Manual (FSM 5420).
- Gifts cannot be accepted from people engaged with the Forest Service or USDA's Natural Resources and Environment mission area as a contractor or contract bidder, borrower, grantee, cooperator, lessee, permittee, or other program participant, with certain exceptions. Gifts from applicants for Forest Service loans, grants, leases, or other program participation also cannot be accepted.
- Some gifts can be accepted from the restricted sources mentioned above if they are commemorative in nature, specifically authorized by statute, or if public benefit outweighs an appearance of loss of impartiality. (See Appendix I – Highlights from the USDA Directive on Acceptance of Gifts – for additional information on restricted sources and exceptions.)
- The Forest Service **cannot** solicit donations unless authorized by law to accept donations, and they may only solicit donations in the manner authorized by government regulations. Many restrictions exist regarding soliciting for gifts. Direct mail appeals, direct fundraising events, hiring development officers, or conducting any game of chance are not allowed. In addition, gifts **MAY NOT** be solicited from any of the restricted sources mentioned above even

if the gift could be accepted as an exception.

- Gifts must be documented with a gift acceptance letter that includes a statement that acceptance is not an endorsement. An annual report of gifts received or copies of all gift acceptance letters must be submitted to the Department's Office of Procurement and Property Management.
- Soliciting multiple or duplicate gifts that creates a substitute funding stream for routine operational expenses is not allowed.

Acceptance of Gifts by the National Forest Foundation

The National Forest Foundation (NFF) was created in 1990 as a non-profit corporation under the National Forest Foundation Act. The NFF was established to assist the Forest Service in all of the agency's program and mission areas. The purposes of the NFF include encouraging accepting and administering private gifts of money and or real and personal property for the benefit of, or in connection with, the activities and services of the Forest Service.

Restrictions in the USDA regulations described above do not apply to the NFF when it accepts gifts for the benefit of the Forest Service. This unique gift acceptance authority includes authority for the NFF to solicit funds on behalf of the Forest Service

Gifts to the National Forest Foundation:

What a Forest Service Employee Needs to Know

- The National Forest Foundation can accept and solicit gifts on behalf of the Forest Service that may be controversial or prohibited if given directly to the agency.
- Gifts that are inconsistent with the purpose and mission of the Forest Service, or that are not in the best interest of the agency, may not be accepted.
- Gifts can include real property and interests in real property. It can be restricted or provide

benefit to private interests as long as there is benefit for the NFF.

- Gifts that contain conditions on their use by the Forest Service may be improper or unlawful for the agency to accept. A gift of property with conditions on its management cannot be accepted if those conditions conflict with land management planning policies including the National Environmental Policy Act and the National Forest Management Act.

Gift: A donation of something of value in which less than market value is paid or given to the donor in return. It can be cash, securities, land, facilities, personal property, and services.

Conditional Gift: A gift made for a specific purpose or with conditions on its use.

Unconditional Gift: A gifts made with no conditions on its use. It can be used for any authorized purpose by the Forest Service.

More information on gifts can be found at the USDA Office of Ethics website at <http://www.usda-ethics.net/index.htm>. The website includes “Rules at a Glance,” “Gifts from Outside Sources,” and the text of rules governing ethics and conduct issues regarding gifts and donations.

Donor and Partner Recognition

The Forest Service recognizes that partners are essential to protecting and restoring the health of forests, grasslands, and the communities that depend on them. Voluntary partner contributions in support of a cause may come in a variety of forms, including volunteer time and expertise, materials or other real property, and

money. Recognizing donors and partners for these important contributions demonstrates the agency’s appreciation and underscores the value that the Forest Service places on partnership contributions toward achieving the mutual goals of the agency, the partner, and the public.

The section provides general guidelines for donor and partner recognition. It discusses guidelines for how to recognize organizations as well as appropriate ways to recognize individual efforts.

This is not intended to be a comprehensive guide in donor or partner recognition. A more in depth study of this issue is underway. It is strongly encouraged that donor/partner recognition plans be developed as partnerships are developed and agreements put in place. While approval of such plans would be at the unit level, the National Partnership Office should be considered as a resource and reviewer during the development of donor/partner recognition plans.

Basic Principles of Donor and Partner Recognition

- Recognizing the support of donors and partners is important.
- Appropriate recognition may take the form of letters of appreciation, press releases, public events, mementos, signs, displays, plaques, certificates and other items that commemorate the gift. (If the donation is considered a “gift” under the USDA regulations detailed above, an acceptance letter is required.)
- The donor/partner should be recognized *within the context of the project or program benefiting from the donation.*
- Recognition of corporate donations must not give the impression of product endorsement, advertising, commercialization or solicitation.
- All physical forms of onsite recognition should be tasteful and non-obtrusive. Onsite recogni-

tion may take the form of displays/exhibits, banners, signs or plaques. Onsite recognition associated with the provision of services should be posted in close proximity to the service.

- Donor/partner recognition plans should be developed. Consult the National Partnership Office as needed.

Endorsement: The recommendation or promotion of commercial enterprises, products, and services are considered endorsements. Regulations prohibit agencies and employees from making reference to commercial enterprises or brand names of commercial products in interviews, and in written, audio, and visual materials unless certified by the agency's information director as in the public interest. References in the public interest include acknowledging the contributions of a commercial enterprise in an officially approved, mutually beneficial partnership project when the business, products, and services are not promoted or recommended.

Appropriate:

- "The Pinecone Trailhead is maintained under a voluntary agreement by employees of XYZ Equipment Company in partnership with the Forest Service."
- "The Pinecone Trailhead was reconstructed with contributions donated by XYZ Equipment Company in partnership with the Forest Service."

Not appropriate:

- "The Forest Service recommends XYZ Equipment Company for its volunteer assistance in maintaining the Pinecone Trailhead."

Credit lines and logos: Only short, discrete, tasteful donor credit lines, including name script or a logo, are appropriate on printed or electronic material, audio/video products, construction or restoration signs, wayside exhibits, kiosks, interpretive signs, or as recognition for a special event. Advertising slogans may not appear. The Forest Service may not recognize partners or donors on government motor vehicles.

Interpretive programs (including interpretive signage): If a donation is integrally related to the existence of an interpretive program, such programs may identify the donor or partner and how the donation is used.

Donor/partner boards and walls: Donor recognition boards or walls are permitted in visitor centers or other appropriate visitor facilities. All boards or walls must be approved in accordance with Department Regulations 104-84.105(4) (a) (1) (see description of the regulation below, under "Naming").

Special events: The Forest Service is encouraged to recognize partner or donor support for, or sponsorship of, Forest Service hosted special events such as festivals, clean-up days, or other volunteer events. This recognition may appear on banners, posters, flyers, and similar items. If the Forest Service is the primary host, it should be clear that it is a Forest Service event held in cooperation with "xyz" organization or company. Recognition of donors can include names, name script, and logos. Recognition may not include specific product names, slogans or advertisements. The Forest Service does not have control over non-Forest Service hosted events in which we are participating.

For guidance of sponsorship recognition at concession sites please refer to FSM2300, Chapter 2340.03, 11.

Naming: Naming of features or facilities, or other forms of permanent recognition, may not be used to recognize monetary contributions or other donations to

a Forest or the Forest Service. Any exceptions must be approved by the Chief.

The USDA has issued regulations governing the erection of memorials, plaques, and cornerstones and the naming of facilities and projects (Departmental Regulations, 104-84.105). A memorial or plaque may be erected on buildings and building sites in recognition of outstanding cooperation by a group [104-84.105(4) (a) (1)]. Approval of a memorial or plaque must be obtained from the Director of the USDA's Office of Operations, and the Forest Service must submit a justification for the memorial or plaque and a sketch or photograph showing the design or location.

The National Forest Foundation and other Non-Profit Partners

The Forest Service may consider accepting donations through the National Forest Foundation (NFF). Under the act that created the NFF, the purpose of the NFF includes accepting private gifts of money for the benefit of, or in connection with, the activities and services of the Forest Service (16 USC 583j).

There are a number of other non-profit organizations which work closely with the Forest Service to help accomplish the mission of the agency. These non-profit partners provide another avenue in which private gifts can be made to support programs, activities or services of the Forest Service.



Recognizing Individual Effort

Conduct and ethics rules governing federal employees place limits on the kinds of awards they can give and receive. The following guidelines on appropriate forms of recognition for individuals and organizations involved in partnership and collaborative work will help prevent problems with ethical issues, while allowing for many creative ways to recognize and demonstrate appreciation for the hard work of committed individuals.

Forest Service employees recognizing individual non-federal partners:

- Recognition is most effective when focused at the local level on specific achievements and positive results.
- Non-monetary awards such as letters, certificates, plaques, coffee cups, briefcases, or gift certificates, can be offered to recognize outstanding individuals and express gratitude.
- Awards should display a Forest Service shield or other appropriate inscription related to the recognition.
- Monetary or cash awards cannot be offered.
- Recognition ceremonies provide excellent opportunities to communicate partnership accomplishments.
- Award ceremonies may offer light refreshments and incur other miscellaneous costs to enhance the effectiveness of the event.
- Press releases, newsletters, and success stories featuring outstanding individuals, their work, and recognition ceremonies provide further communication of successes to the general public and local community.

A Creative Opportunity

Use the talents of creative employees to express gratitude and provide meaningful rewards. What better way is there to commemorate a particular project and significant individual than to write a song or poem, draw a picture, or frame a photo?

Annual Interior and Related Agencies Appropriation Act

This act gives the Forest Service the specific authority to provide non-monetary awards and to incur necessary expenses for the non-monetary recognition of private individuals and organizations. For more information, see FSM 6511.13e at http://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsm?6500!.

Partners recognizing Forest Service employees:

- Both parties should be aware that Forest Service employees must follow ethical guidelines set by law.
- Forest Service employees may accept tokens of appreciation such as plaques, certificates, trophies, and greeting cards.
- Snacks such as coffee or donuts that are not part of a meal may be accepted.
- Prizes in contests open to the public are acceptable.
- Non-cash awards valued at \$200 or less, or honorary degrees from sources not affected by the employee's performance or non-performance of duties, are permitted. Cash awards and other awards valued at more than \$200 are allowed under special circumstances approved by an agency Ethics Advisor.
- Conference fee waivers and meals when an employee is speaking in an official capacity or attending a widely attended event are permitted.
- Agency employees may receive gifts worth up to \$20 per occasion up to a maximum value of \$50 from any single source per calendar year.
- Gifts based on close personal relationships or based on outside activities or social events can be accepted.
- Gifts cannot be accepted in return for being influenced in the performance of official duties.

- Gifts cannot be solicited or coerced by the employee.
- Gifts accepted so frequently that they appear questionable are not permitted.

Prohibited gifts must be returned or their market value paid to the donor. Those that are perishable may be given to a charity, shared among all employees in the office, or destroyed

Awards Versus Gifts

The permitted awards described above are not considered "gifts" as previously defined in "Acceptance of Gifts and Donations." For more information, visit the USDA Office of Ethics website (<http://www.usda-ethics.net/index.htm>).

Award programs

National, regional, and local award programs designed by the Forest Service are other important ways to recognize the agency's partners. Many are annual programs with specific categories for partnership and collaborative efforts. For an extensive table of these programs, visit the Partnership Resource Center <http://www.partnershipresourcecenter.org/resources/index.php>



X. Communicating Partnership Successes

Communicating the accomplishments created by partnerships can increase the visibility of projects and partnerships. It can also inspire others to get involved, create a sense of community, help partnerships learn from one another, and generate new ideas for creative projects. There are many ways to raise public awareness of the novel ways that people are working to support the land and communities. This chapter will introduce:

- Channels for communication
- What to include in a partnership story
- Available resources
- Forest Service databases that include partnerships

Channels of Communication

Communication can happen through many channels. Newsletters, press releases, and websites are examples of communications venues that can be used. The Forest Service and its partners each have networks for disseminating information. These networks can and should be used to publicize successes. Field trips, recognition ceremonies, partner meetings or conferences, and other special events also provide opportunities to share work with others. Awards programs designed by the Forest Service and others recognize individuals on a national, regional, and local level.

Partnership stories are often shared electronically on websites. The websites of many on-going partnerships contain regular updates of their work. Narratives or success stories are commonly published on the websites of partner organizations, the National Forest Foundation, and the Partnership Resource Center. Websites for the Forest Service, its specific staff areas, Forests, and Regions also highlight partnership successes.

What to Include

Narratives written for any media venue, including newsletters, flyers, press releases, and websites, are useful avenues for reporting successes to any audience. They should describe the who, what, when, where, why, and how of the partnership along with its accomplishments.

The following is a list of the key elements to include when writing about the accomplishments of a partnership. Highlight the successes by describing them in the first paragraph.

- Project name
- Partners involved
- Purpose of the partnership and/or project
- Accomplishments and outcomes
- Dates of the partnership and/or project
- Geographic location including the office, District, Forest or Grassland, county, state, and Region for projects involving the Forest Service
- Forest Service and other programs involved
- Funds spent and/or leveraged
- Contact information

Resources

An excellent place to share success stories is through the Forest Service's online Success Story Reporting System. Forest Service employees from any Region can submit partnership stories online, and the general public can view these stories and search the database. A monthly newsletter is generated using the narratives from this online service. The newsletter is often used to inform members of Congress and others who want to know more about the agency's partnership activities. (<http://ssrs.r9.fs.fed.us/>)

The Community Tool Box provides tips for developing flyers, brochures, newsletters, and press releases.

Developed by the National Park Service's Rivers, Trails, and Conservation Assistance Program, its advice helps with selecting the right tool for reaching the target audience. (http://www.nps.gov/phso/rtcatoobox/index_comtoolbox.htm)

"Creating Effective Relationships with the Media" is a fact sheet that offers tips for generating recognition and publicity by working with the media. It was developed by the Social Sciences Institute of the USDA Natural Resources Conservation Service and is part of the Institute's series on People, Partnerships, and Communities. Though focused on partnerships in agriculture, the publications in this series contain valuable information for any partnership effort.

(<http://www.ssi.nrcs.usda.gov/publications/#ppcs>)

Forest Service Databases

Accomplishments reported by Forest Service employees help the leadership understand the value of partnerships in terms of money saved, work accomplished on the ground, and relationships built. The Forest Service uses various database systems that track partnerships and/or their accomplishments to provide the information required by Congress on the agency's partnership projects. The databases also help with assessing how the agency can better support partnership efforts. In the coming years, the agency will be working to improve the systems for reporting the accomplishments of partnerships.

The online Partnership Resource Center provides links to Forest Service data management systems that contain partnership information. The kind and amount of data, accessibility to the data, and reporting capability varies widely among these systems. (http://www.partnershipresourcecenter.org/resources/pubs/fs_dbs.php).

The Forest Service is undergoing a process for developing performance measures for partnerships as part of its efforts to ensure accountability through improved business planning. The agency's Performance and Accountability Report for 2003 is available online. (<http://www.fs.fed.us/plan/par/2003/final/index.shtml>)



Appendix A: Acronyms

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| APPL: Association of Partners for Public Lands | MOU: Memorandum of Understanding |
| BIA: Bureau of Indian Affairs | NACO: National Association of Counties |
| BLM: Bureau of Land Management | NCSSF: National Commission on Science for Sustainable Forestry |
| CAP: Community Assistance Program | NEPA: National Environmental Policy Act |
| CCR: Central Contractor Registration | NFF: National Forest Foundation |
| DOI: Department of the Interior | NFPA: National Fire Protection Association |
| DOT: Department of Transportation | NFS: National Forest System |
| EIS: Environmental Impact Statement | NGO: Non-governmental organization |
| EPA: Environmental Protection Agency | NPS: National Park Service |
| F&WS: Fish and Wildlife Service | NUCFAC: National Urban and Community Forestry Advisory Council |
| FACA: Federal Advisory Committee Act | NWCOS: Northwest Colorado Stewardship group |
| FAR: Federal Acquisition Regulations | OMB: Office of Management and Budget |
| FS: Forest Service | PBCI: Poarch Band Creek Indians |
| FSH: Forest Service Handbook | PL: Public Law |
| FSM: Forest Service Manual | RAC: Resource Advisory Committee |
| FY: Fiscal Year | RCD: Resource Conservation District |
| G&A: Grants and Agreements | RC&D: Resource, Conservation, and Development Council |
| GSA: General Service Administration | RMP: Resource Management Plan |
| HUB Zone: Historically Underutilized Business Zone | RO: Regional Office. The Forest Service has nine Regions, each one often referred to as an RO. |
| ID: Interim Directive | |
| IRS: Internal Revenue Service | |
| MAP: Matching Awards Program | |

S&PF: The State and Private Forestry branch of the Forest Service.

SBA: Small Business Administration

SO: Supervisors Office. Each National Forest or Grassland has an office referred to as the Supervisors Office.

USC: United States Code

USDA: United States Department of Agriculture

WO: Washington Office – the national headquarters for the National Forest System.

WSC: Wilderness Stewardship Challenge

WUI Fire Program: National Wildland/Urban Interface Fire Program

Appendix B: Glossary of Terms

Authority: The Forest Service must have appropriate authority derived from legislation prior to entering into any grant, cooperative agreement, or other agreement, which could result in the use, obligation, or other commitment of any Forest Service resources.

Building capacity: Increasing the knowledge, skills, or ability to accomplish work by acquiring or sharing resources (such as equipment or materials), funding, or people through their knowledge, skills, and expertise.

Certification: The process of ensuring Grants and Agreements Specialists meet knowledge, training, and competency based requirements.

Collaboration: A process where groups that disagree, often significantly, come together to identify common interests, define common problems, and seek solutions that reach beyond what any one of them could accomplish on their own. A collaborative relationship may be documented through formalized paperwork, but often it is not.

Collection Agreement: An agreement used to accept money, equipment, property, or products by the Forest Service from a non-federal party to carry out a purpose authorized by law. These agreements may involve both trust fund collections (advances) and reimbursements.

Co-location: The sharing of buildings and facilities with other federal agencies or partners.

Co-application: When a federal agency applies for grants with non-federal organizations.

Conditional gift: A gift made for a specific purpose or with conditions on its use.

Conflict of interest (or appearance of conflict of interest): Any action taken by a Forest Service employee on behalf of a partner that could be construed by another partner or the public as an entitlement to

obtain special consideration or advantage in current or future transactions with the agency.

Contributed funds: A voluntary transfer of cash with consideration for a specific project as authorized under the Cooperative Funds Act of June 30, 1914 (16 USC 498) and the Granger- Thye Act of April 24, 1950 (16 USC572).

Contribution: To give something to a common purpose, to have a share in any act or effect, or to discharge a joint obligation. Contributions may take the form of money, materials, supplies, or labor. A contribution is *not* to be confused with a gift or a donation.

Cooperative Agreement: A legal instrument under Federal Assistance used by the Forest Service to document a transaction where the Forest Service is substantially involved with the project. (See Substantial Involvement.)

Cost-sharing agreements: Mutual benefit arrangements in which the Forest Service and partner(s) share mutual interests and benefit in the same qualitative way from the agreement. Cost-sharing agreements include Participating Agreements, Challenge Cost Share Agreements, and Research Joint Venture Agreements.

Deliverable: Product, service, or property that is a requirement of a contract or agreement.

Direct cost: Expenses that can be specifically attributed to the delivery of a Forest Service program or a program's output and accomplishments. Direct costs include, but are not limited to, personnel costs; material, supplies, and equipment costs; and other costs such as office space, computer equipment, and utilities.

Donation: Cash voluntarily provided to the Forest Service when such transfer is made without any consideration. (See Gift.)

Federal Financial Assistance: A relationship between a federal agency and a non-federal recipient where the purpose is the transfer of money, property, services, or anything of value to the recipient for public benefit, is referred to as “federal financial assistance.” Assistance includes, but is not limited to grants, loans, loan guarantees, scholarships, mortgage loans, insurance, and other types of financial assistance, including cooperative agreements and technical assistance. A grant or cooperative agreement is the legal instrument used to document a financial assistance transaction.

Fiduciary role: A legal duty where one is bound to act in another’s best interest, such as a board officer acting in the interest of the organization the officer serves, or a trustee acting on behalf of a beneficiary.

Force account work: Work accomplished by permanent or temporary Forest Service personnel.

Forest Plan: A plan developed for each National Forest describing in general terms the locations and guidelines under which certain types of uses or projects can take place.

Forest Service funding: Funds appropriated to the Forest Service, or received by the Forest Service.

Friends association: A nonprofit group organized outside of the Forest Service.

Gift: A voluntary, gratuitous transfer of property. It can include any gratuity, favor, discount, entertainment, hospitality, loan, cash, security, land, facility, personal property, forbearance, or other item having monetary value. It includes services such as transportation, local travel, lodging, and meals, whether provided in-kind, such as the purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

Grant: A legal instrument under Federal Assistance used by the Forest Service to document a transaction

where the Forest Service is not substantially involved with the project. (See Substantial Involvement.)

Grants and Agreements (G&A) Specialists: A Forest Service employee certified to have the responsibility to award, administer, and close-out grants, Cooperative Agreements, and other agreements.

Indirect costs: Joint or common expenses that are necessary for the operation of the Forest Service, but not specifically identifiable with or traceable to a specific program or output. Often referred to as “overhead,” indirect costs are incurred as part of general management and administrative support of an organization, and can include office and personnel expenses, computers, and utilities.

In-kind contributions: Contributions made to the total cost of a project where the contributor incurs no cash expense. In-kind contributions may be valued at what it would have cost if the contributor had paid for the item or service itself.

Instrument: A document or formalized arrangement used to accomplish a specific type of work and define rights, duties, entitlements, and/or liabilities. Examples include grants, permits, Memoranda of Understanding, Challenge Cost Share Agreements, Cooperative Agreements, and other agreements.

Interested party/prohibited source: An entity or individual who is or seeks to be engaged in a contractual, financial, or business relationship with the Forest Service, and who has a legally recognized private interest that may be substantially affected by the proposed activity. Interested parties include Forest Service permittees, vendors, bidders and potential bidders on Forest Service Timber sales, licensees, and organizations engaging in activities regulated by the Forest Service. This concept applies to gifts of real or personal property and donated funds.

Interpretive associations: Nonprofit, tax-exempt corporations that develop and publish cooperative environmental education and forest history materials to support the agency's interpretive and educational programs and provide high quality service to its visitors.

Liaison: Official liaisons are official Forest Service representatives assigned to non-federal organizations by appropriate agency officials when there is a significant and continuing Forest Service interest in participating in the given non-federal organization.

Line officer: Forest Service employees with the authority to make project decisions. Forest Supervisors and District Rangers are line officers.

Marginal burden rate: The indirect cost charged when the Forest Service provides services for another party, including other agencies and partners, through "reimbursable" type agreements. The marginal rate is applied to projects in which the work provided by the agency is not considered normal and recurring, or not part of a unit's typical annual program of work. (See National Burden Rate.)

Matching contributions: The value of third party in-kind contributions plus that portion of the allowable costs of recipients not provided by the federal government.

Memorandum of Understanding (MOU): A written plan between the Forest Service and other parties for carrying out their separate activities in a coordinated and mutually beneficial manner. It is used when there will not be an exchange of funding or resources but there is a need to formally document the relationship.

Micro-purchasing: Any procurement less than \$2,500.

Mutual benefit: Mutual benefit exists when both the government and the partner benefit in the same qualitative way from the objectives of the agreement.

Mutual interest: Interests common to both parties that relate to the accomplishment of their respective missions.

National burden rate: The method used by the Forest Service to calculate and collect indirect costs incurred when the agency provides services for another party, including other agencies and partners, that are normal or recurring for the agency.

Non-cash contribution: A non-monetary contribution toward the completion of a project.

Official capacity: A federal employee is participating officially in an activity or organization if assigned by a superior, working on official time, travel costs are covered, using a government vehicle, in official uniform, on federal premises, or invited to participate as a result of one's official position.

Open-ended agreements: In all cost-sharing arrangements (Participating Agreements, Challenge Cost Share Agreements, and Research Joint Venture Agreements), open-ended agreements can cover long-term projects (but not more than five years) for which the Forest Service has funding available for only the first year (or other period).

Other agreements: Forest Service instruments which are not considered federal assistance relationships within the coverage of the Federal Grants and Cooperative Agreements Act of 1978 (31 USC 6301-6308). This includes the following agreement types: Participating, Challenge Cost Share, Joint Venture, Cooperative Research and Development, and Cost-Reimbursable.

Partner (Cooperator): An individual or entity that voluntarily cooperates with the Forest Service on a project and is willing to formalize the relationship by entering into a Memorandum of Understanding or other agreement such as Challenge Cost Share, Collection,

Interagency, Participating, Research Joint Venture, Cooperative Research and Development, or Research Cost-Reimbursable Agreements.

Partnership: A voluntary, mutually beneficial arrangement entered into for the purpose of accomplishing mutually agreed upon objective(s). Specific legislative authority must exist to form partnerships where the parties anticipate exchanging funds, property, or other items having value.

Procurement (also procurement transaction): A written legal contract between the Forest Service and a non-federal entity that documents the purchase or lease of property or services by the Forest Service for its direct benefit or use.

Prohibited sources: Individuals, organizations, or businesses with litigation pending with the agency; seeking to obtain a contract, lease, or other business from the agency; conducting operations regulated by the agency; having interests that may be substantially affected by performance or non-performance of an employee's official duties; or that have been suspended or terminated from participating in USDA programs or its agencies.

Public benefit: Activities that accomplish a public purpose.

Recipient: An organization receiving Federal Financial Assistance directly from the Forest Service to carry out a project or program.

Reimbursable agreements: Agreements between parties where the performing entity agrees to provide the resources and perform services on behalf of the paying entity. The paying entity pays for the resources and services provided on its behalf by the performing entity. Costs are borne initially by the performing entity, and subsequently those costs are forwarded to the paying entity for reimbursement, in accordance with the terms of the agreement.

Signatory official: A Forest Service employee with written authority to execute and be the responsible party for grants, cooperative agreements, and other agreements for programs under their jurisdiction.

Sole source determination: A determination made by a contracting officer that no other organization has the capacity and qualifications to provide the good or service in question except the specific organization identified.

Solicitation: A specific, written document or oral request for money.

Substantial involvement: The Forest Service is substantially involved in a project when the agency reviews and approves one stage of work before the next stage can begin, reviews and approves proposed subgrants and contracts, is involved in the selection of key recipient personnel, and/or directs or redirects the work because of interrelationships with other projects.

Technical assistance: Non-financial assistance provided by an employee to a recipient or partner, such as sharing information and expertise. This does not include the transfer of funding.

Unconditional gift: A gift made with no conditions on its use. It can be used for any authorized purpose by the Forest Service.

Volunteer: A person who gives time and talent to advance the mission of the Forest Service and who receives no salary or wages from the Forest Service for the voluntary service. A sponsored volunteer is supervised by another institution or organization or by a unit of state or local government.

Appendix C: Contacts and Partner Websites

National Forest Foundation Contacts

To contact the National Forest Foundation, visit http://www.natlforests.org/contact_us.html.

Forest Service Contacts

For links to the following Forest Service contacts, visit the Partnership Resource Center – http://www.partnershipresourcecenter.org/contact_us.php.

- Cooperative Fire Protection Program Contacts
- Interpretive Association Coordinators
- Partnership Coordinators and National Partnership Office
- Tribal Coordinators
- Volunteer Coordinators

For Grants and Agreements Specialists, visit the Forest Service's Acquisition Management website – <http://www.fs.fed.us/business/>.

Federal Agencies Partnership Websites

National Park Service –

<http://www.nps.gov/partnerships/>

U.S. Army Corps of Engineers –

<http://corpslakes.usace.army.mil/partners/partners.html>

U.S. Department of Interior –

<http://www.doi.gov/partnerships/>

U.S. Environmental Protection Agency –

<http://www.epa.gov/epahome/partnerships.htm>

U.S. Fish and Wildlife Service –

<http://partnerships.fws.gov/>

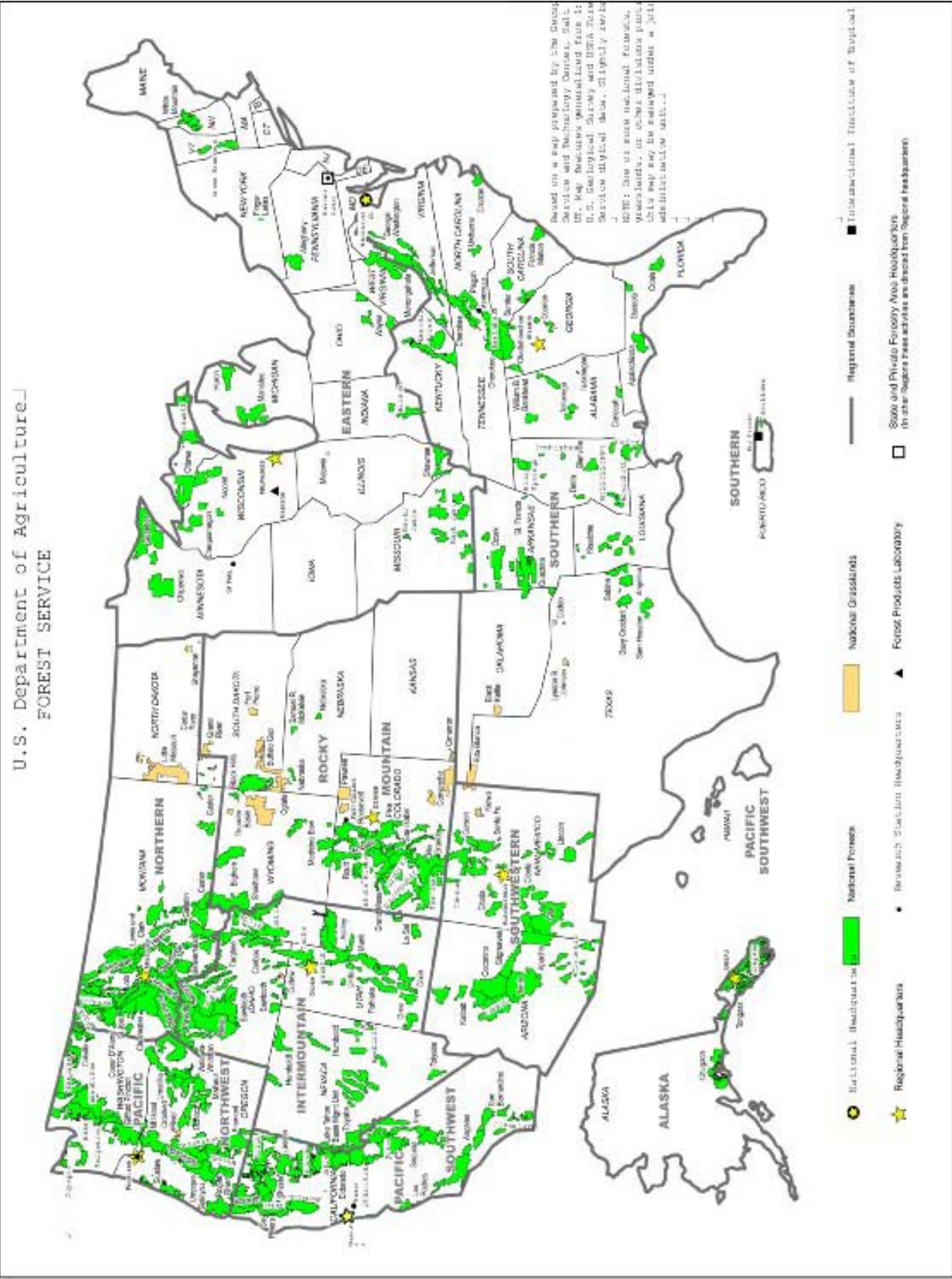
U.S. Geological Survey –

<http://www.usgs.gov/partnerships.html>

Other Partners

An extensive list of partner websites is available on the Partnership Resource Center website – <http://www.partnershipresourcecenter.org/find/alpha.php>

Appendix D: Forest Service Regions



Appendix E: State and Private Forestry Programs

Note: Appendix A – Glossary of Terms – defines acronyms used in this table.

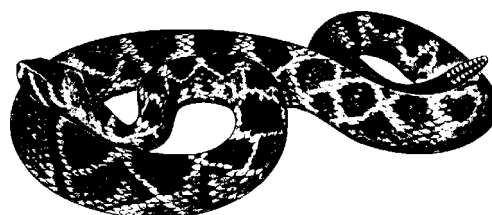
| Administrative Unit | Program | Goals | Partners | Links |
|-----------------------------|---|--|---|--|
| Cooperative Forestry | Economic Action Programs | Facilitate and foster sustainable community development, including healthy communities, sustainable ecosystems, and diverse economies | RC&Ds, NACOs, state foresters, tribes, Economic development organizations, NGOs, other federal agencies, local businesses and community leaders | http://www.fs.fed.us/spf/coop/programs/eap/index.shtml |
| | Economic Recovery | Provide technical and financial assistance to build capacity and diversify the economies of natural resource dependent rural communities located in or near National Forests | National Forests, local action teams adjacent to National Forests | http://www.fs.fed.us/spf/coop/programs/eap/rca.shtml |
| | Rural Development | Facilitate and stimulate economic potential of local economies historically dependent on forest resources | RC&Ds, NACOs, state foresters, Economic development organizations, NGOs, other federal agencies, local businesses and community leaders | http://www.fs.fed.us/spf/coop/programs/eap/rca.shtml |
| | Forest Products Conservation & Recycling | Technical and marketing assistance to improve processing and use of forest products waste, residues and low-valued timber | States, universities, forest industries | http://www.fs.fed.us/spf/coop/programs/eap/eap_products.shtml http://www.fpl.fs.fed.us/fpcr_dir.html |
| | Forest Products Lab Technology Marketing Unit | Provide a broad scope of expertise in wood products, utilization and marketing, technology transfer, and technical assistance. | | http://www.fpl.fs.fed.us/ http://www.fpl.fs.fed.us/tmu |

| Administrative Unit | Program | Goals | Partners | Links |
|---------------------|---|---|---|---|
| | Wood in Transportation | Financial and technical assistance for demonstration and commercialization of wood-based technologies for transportation | RC&Ds, state DOTs, universities, FS Research Stations | http://www.fs.fed.us/na/wit |
| | Institute of Hardwood Technology Transfer and Applied | Provides technical and financial assistance to customers in the eastern hardwood region to address economic, environmental, technological, and social challenges by providing state of the art access to information resources. | Products Lab | |
| | Landowner Assistance Programs | | Private landowner groups, state forestry agencies, private forestry consultants, tribes | http://www.fs.fed.us/spf/coop/programs/loa/index.shtml |
| | Forestry Stewardship Program | Enable private forest landowners to create forest management plans to meet personal forest management goals while providing environmental, economic and social public benefits | State Stewardship Committees, state foresters, tribes, conservation districts | http://www.fs.fed.us/spf/coop/programs/loa/fsp.shtml |
| | Forest Legacy | To protect environmentally important private forests across the nation and promote the sustainable forest management of those working lands to provide benefits to people and society | State Stewardship Committees, conservancies, land trusts | http://www.fs.fed.us/spf/coop/programs/loa/flp.shtml |

| Administrative Unit | Program | Goals | Partners | Links |
|-------------------------------------|--|--|--|---|
| | Forestland Enhancement Program | Provide educational, technical, and financial assistance to help private forest landowners implement their sustainable forestry management objectives | State Stewardship Committees | http://www.fs.fed.us/spf/coop/programs/loa/flep.shtml |
| | Reforestation, Nurseries and Genetic Resources | Provide seedlings for reforestation, technical assistance to landowners, establish genetically superior strains, transfer technology to states | | http://www.rngr.net/ |
| Fire and Aviation Management | | Protect life, property, and natural resources on the 192 million acres of NFS lands and an additional 20 million acres of adjacent state and private lands | State and territorial foresters, DOI, BIA, F&WS, NPS | http://www.fs.fed.us/fire/ |
| | Wildland Fire Management | (Includes Preparedness and Operations) | | http://www.fs.fed.us/fire/partners |
| | Preparedness | Coordinate activities associated with planning, prevention, detection, information and education, pre-incident training, equipment and supply purchase | | http://smokeybear.com http://firewise.org |
| | Operations | Coordinate activities associated with suppression of wildland fires, hazardous fuel reduction and burned area emergency rehabilitation | | http://www.fs.fed.us/fire/ |

| Administrative Unit | Program | Goals | Partners | Links |
|---------------------------------|----------------------------------|---|--|---|
| | Cooperative Fire Protection | Provide financial and technical support to states to promote efficient wildland fire protection by providing equipment, training and technical assistance to local volunteer fire agencies. | | http://www.fs.fed.us/fire/ |
| | Federal Excess Personal Property | Re-use excess federal property for use in rural and wildland fire fighting | | http://www.fs.fed.us/fire/partners/fepp |
| Forest Health Protection | | Protect and improve the health of America's forests | State foresters; other federal, state and local agencies and state departments of agriculture; National Forests; tribes; universities and research communities | http://www.fs.fed.us/foresthealth/ |
| | Forest Health Monitoring | Monitor the forests of the U.S. to determine improvements or detrimental changes to forest health that occur over time. Report annually concerning such monitoring. | State foresters, FS Forest Inventory and Analysis | http://fhm.fs.fed.us/ |
| | Forest Health Management | Evaluate forest insect and disease situations. Direct and implement measures to prevent, retard, or suppress unwanted, native and invasive forest insects, pathogens, and plants affecting trees and forests. | State foresters, other federal agencies, National Forests, state Departments of Agriculture, tribes, universities and research communities | http://www.fs.fed.us/foresthealth/forest_health_management.shtml |

| Administrative Unit | Program | Goals | Partners | Links |
|-------------------------------------|---------------------------------------|---|---|---|
| | Technology Development | Develop and apply cutting-edge technologies, such as Geographic Information Systems, Insect and Pathogen Modeling, Aerial Photography, and Data Visualization | State foresters, other federal agencies, National Forests, state Departments of Agriculture, FS Research, universities and research communities | |
| | Technical Assistance | Provide technical information and advice on the various techniques available to maintain healthy forests | State foresters, other federal agencies, National Forests, state departments of agriculture, tribes | http://www.fs.fed.us/foresthealth/pesticide/index.shtml |
| | Pesticide Management and Coordination | Provide technical information and advice in managing and coordinating the use of pesticides, report uses on NFS lands, and conduct human health and ecological risk assessments | State foresters, other federal agencies, National Forests, state departments of agriculture, tribes | http://www.fs.fed.us/foresthealth/pesticide/index.shtml |
| Urban and Community Forestry | | Provide technical and financial assistance to help improve the quality of life in towns, communities, and cities by improving the stewardship of urban natural resources | State foresters, RC&Ds, Economic development organizations, state and local governments, other federal agencies, tribes, local business and community leaders | http://www.fs.fed.us/ucf/ |



| Administrative Unit | Program | Goals | Partners | Links |
|---------------------|---|--|---|---|
| | National Urban and Community Forestry Advisory Council (NUCFAC) | Provides advice on urban and community forestry to the Secretary of Agriculture. Council members are drawn from all levels of government, citizen action groups, industry and trade associations, educational institutions, and nonprofit organizations. NUCFAC tasks include: develop a national urban and community forestry action plan; evaluate implementation of the plan; and develop criteria and make recommendations for an urban and community forestry challenge cost-share program. | Any non-federal nonprofit or for-profit organization or agency, tribes | http://www.treelink.org/nucfac |
| | Green Infrastructure | Provides training through a partnership with the Forest Service, F&WS and The Conservation Fund using a strategic approach to conservation that addresses the ecological, social and economic impacts of sprawl and the accelerated consumption and fragmentation of open land. | State foresters, RC&Ds, Economic development organizations, state and local governments, other federal agencies, tribes, local business and community leaders | http://www.greeninfrastructure.net/ |

| Administrative Unit | Program | Goals | Partners | Links |
|--|---------------------|---|--|---|
| | Technology Transfer | Provides innovative technology and resources to improve the condition of urban ecosystems, watershed and wildlife habitat. | State foresters, RC&Ds, Economic development organizations, state and local governments, other federal agencies, tribes, local business and community leaders | http://www.fs.fed.us/ucf/program_overview.htm |
| Conservation Education | | Connect people to the land by providing them with the tools they need to take informed actions related to sustaining natural and cultural resources | Connect people to the land by providing them with the tools they need to take informed actions related to sustaining natural and cultural resources | http://na.fs.fed.us/spfo/ce/index.cfm |
| Office of Tribal Relations | | Implement Forest Service tribal relations policies and continue to build long-term, collaborative working partnerships with Indian tribes | Indian tribe, band, nation, pueblo, community or other organized group (including Alaska Natives) within the U.S. that the Secretary of the Interior has identified on the most current list of tribes maintained by the BIA | http://www.fs.fed.us/spf/tribalrelations/ |
| Sustainable Resource Management | | Coordinates the Forest Service's leadership responsibilities for sustainable forest and resource management through extensive multi-stakeholder collaboration and integrated actions with federal and external partners | Federal, state, and local governments; tribes; non-governmental organizations; businesses. International and domestic | http://www.fs.fed.us/sustained/msie4.html |

| Administrative Unit | Program | Goals | Partners | Links |
|--------------------------------|--|---|---|---|
| Other National Programs | Community-based watershed restoration partnerships | Utilize partnerships to restore large-scale watersheds at 16 sites across the U.S. | Conservation districts, water quality councils, nonprofit organizations, RC&Ds, tribes, county commissioners, private landowners, local communities, state forestry and environmental departments, other federal agencies | http://www.fs.fed.us/largewatershedprojects/ |
| | National Agroforestry Center | Develop and disseminate agroforestry technologies and information | USDA Natural Resources Conservation Service | http://www.unl.edu/nac/ |
| | Resource Conservation and Development | Work with local RC&Ds to deliver S&PF programs to enhance conservation of natural resources | Other USDA agencies, non-governmental organizations | http://www.rcdnet.org/ |

Appendix F: Statutory Authorities

The authorities described in Forest Service Manual (FSM) 1580.11 – 1580.16 are the most commonly used statutory authorities for government-wide, service-wide, and specific deputy area use (National Forest System, State and Private Forestry, Research and Development, and International Programs). The FSM is available online. (<http://www.fs.fed.us/im/directives/>)

1580.1 – Authority

The Forest Service must have appropriate statutory authority prior to entering into any grant, cooperative agreement, or other agreement which could result in the use, obligation, or other commitment of any Forest Service resources.

1580.11 – Government-wide Use

- **The Economy Act of June 30, 1932** (31 USC 1535, Public Law 97-258 and 98-216) – Section 601 of this Act authorizes one federal agency to requisition work, services, supplies, materials, or equipment from another federal agency (FSM 1585.12).
- **The Act of August 27, 1958** (23 USC 308(a), Public Law 85-767) – This Act authorizes the Federal Highway Administration to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways on behalf of other government agencies (FSM 1585.13).
- **Intergovernmental Cooperation Act of 1968**, as amended by the Intergovernmental Cooperation Act of September 13, 1982 (31 USC 6501-6508, Public Law 97-258) – Title III of this Act authorizes the Forest Service to provide special or technical services to states or subdivisions of states (FSM 1584.15).
- **Federal Technology Transfer Act of 1986** (15 USC 3710a, Public Law 96-480) – This Act authorizes the Forest Service to enter into cooperative research and development agreements for technological transfer for commercial purposes (FSM 1587.14).

- **Federal Grants and Cooperative Agreements Act of 1977**, as amended by the Using Procurement Contracts and Grant and Cooperative Agreements Act of September 13, 1982 (31 USC 6301-6308, Public Law 97-258) – Unless the relationship is otherwise specified by statute, this Act requires that federal agencies characterize the relationship between a federal and non-federal party as one of a procurement contract or of Federal Financial Assistance. The selection of a particular instrument, such as a procurement contract or an assistance instrument, to document the transaction is determined by this relationship. Consider specific laws, regulations, and the vesting of title to property in research activities (FSM 1580.6 and FSM 1582).
- **United States Information and Exchange Act** (22 USC 1451 and 1479, Public Law 97-241) – This Act authorizes the Forest Service to cooperate with foreign governments by providing at its request Forest Service employees with specific technical or professional qualifications (FSM 1584.16).

1580.12 – Service-wide Use

- **Cooperative Funds Act of June 30, 1914** (16 USC 498 as amended by Public Law 104-127) – This Act authorizes the Forest Service to accept money received as contributions toward cooperative work in forest investigations or protection, management, and improvement of the National Forest System (FSM 1584.11).
- **Granger-Thye Act of April 24, 1950** (16 USC 572) – Section 5 of this Act authorizes the Forest Service to perform work to be done for the benefit of the depositor, for administration, protection, improvement, reforestation, and such other kinds of work as the Forest Service is authorized to do on lands of the United States: (a) on state, county, municipal, or private land within or near National Forest

land, or (b) for others who occupy or use National Forests or other lands administered by the Forest Service (FSM 1584.12).

- **Acceptance of Gifts Act of October 10, 1978** (7 USC 2269, Public Law 95-442) – This Act authorizes Forest Service acceptance of cash, as well as donations of real personal property (FSM 1584.13).
- **Cooperative Funds and Deposits Act of December 12, 1975** (16 USC 565a1-a3, Public Law 94-148) – This Act authorizes the Forest Service and partners to perform work from which they would accrue mutual non-monetary benefit (FSM 1587.11).
- **Interior and Related Agencies Appropriations Act of 1992** (Public Law 102-154, (Challenge Cost Share)) – This Act authorizes the Forest Service to cooperate with others in developing, planning, and implementing mutually beneficial projects that enhance Forest Service activities, where the partners provide matching funds or in-kind contributions. Partners may be public or private agencies, organizations, institutions, or individuals (FSM 1587.12). The Act also gives the agency the authority to provide non-monetary awards and to incur necessary expenses for the non-monetary recognition of individuals and organizations (FSM 6511.13e).
- **Title 7, United States Code, Section 2204a** – This section provides for the exchange of personnel and facilities in each field office of the Department of Agriculture to the extent necessary and desirable to achieve the most efficient use of personnel and facilities, and to provide the most effective assistance in the development of rural areas in accordance with state rural development plans (FSM 1585.11).
- **Federal Employees International Organization Service Act** (5 USC 3343 and 3581-3584, as amended) – This Act authorizes the Forest Service to send employees to an international organization which requests services for a

period not to exceed 5 years.

- **National Agricultural Research, Extension, and Teaching Policy Act of 1977** (Public Law 95-113), as amended by the Food Security Act of 1985 (7 USC 3318, and 3319, Public Law 99-198) and further amended by Public Law 105-198 – This Act authorizes the Forest Service to:
 - Enter into joint venture agreements with any entity or individual to serve the mutual interest of the parties in agricultural research and teaching activities, whereby all parties contribute resources to accomplish those objectives (7 USC 3318(b)).
 - Enter into cost reimbursable agreements with state cooperative institutions or other colleges and universities without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out agricultural research or teaching activities of mutual interest (7 USC 3319(a), FSM 1587.13).
- **Youth Conservation Corps Act of 1970** (16 USC 1701-1706, 1723) as amended by the Title II, Public Land Corps Act of 1993 (Public Law 91-378) – This Act authorizes the Forest Service to utilize the Corps or any qualified youth or conservation corps to carry out appropriate conservation projects on public lands, Indian lands, and Hawaiian homelands. Conservation projects may be carried out on state, local, or private lands as part of disaster prevention or relief efforts in response to an emergency or major disaster declared by the President (FSM 1581.25(a)).
- **Volunteers in the National Forest Act of 1972**, as amended (16 USC 558a – 558d, Public Law 92-300) – The Secretary is authorized to recruit, train, and accept individuals as volunteers for or in aid of interpretive functions, visitor services, conservation measures and

development, or other activities in and related to areas administered by the Secretary through the Forest Service. The Secretary is authorized to provide for incidental expenses.

1580.13 – Research

- **Forest and Rangeland Renewable Resources Research Act of 1978**, as amended (16 USC 1641-1646, Public Law 95-307) – This Act authorizes implementation of a program of forest and rangeland renewable resources research, dissemination of the research findings, and the acceptance of gifts, donations, and bequests and the investing thereof (FSM 1581.11 and FSM 1584.14).

1580.14 – State and Private Forestry

- **Cooperative Forestry Assistance Act of 1978**, as amended (16 USC 2101-2114, Public Law 95-313) – This Act authorizes the Forest Service to work through and in cooperation with state foresters or equivalent agencies, and other countries in implementing technical programs affecting non-federal forest lands (FSM 1581.13).
- **National Forest Dependent Rural Communities Economic Diversification Act of 1990** (7 USC 6601 note, Public Law 101-624) – Title XXIII, Subtitle G, Rural Revitalization Through Forestry, authorizes Forest Service establishment and implementation of educational programs and technical assistance to businesses, industries, and policy makers to create jobs, raise incomes, and increase public revenues in ways that are consistent with environmental concerns (FSM 1581.15).
- **America the Beautiful** (16 USC 2101, Subtitle C, Public Law 101-624) – This law created the National Tree Trust, a nonprofit foundation, to promote public awareness and solicit private sector contributions to encourage tree planting projects. It allows the Forest Service to promote principles of basic forest

stewardship and provide increased assistance to others to plant and maintain trees and improve forests in rural areas (FSM 1581.14).

1580.15 – International Programs

- **The International Forestry Cooperation Act of 1990** (16 USC 4501, Public Law 101-513, as amended) – This Act authorizes Forest Service cooperation and assistance with domestic and international organizations to further international programs which support global environmental stability, scientific exchange and educational opportunities, and technical and managerial expertise (FSM 1581.12).

1580.16 – National Forest System

- **Cooperative Law Enforcement Act of August 10, 1971** (16 USC 551a, Public Law 92-82) – This Act authorizes Forest Service cooperation with state or political subdivisions to enforce or supervise laws and ordinances of a state or political division on National Forest System lands (FSM 1582).
- **The Reciprocal Fire Act of May 27, 1955** (42 USC 1856a, Public Law 84-46) – This Act authorizes the Forest Service to enter into reciprocal agreements with any fire organization maintaining fire protection facilities in the vicinity of National Forest lands (FSM 1582).
- **National Forest Roads and Trails Act of October 13, 1964** (16 USC 532-538, Public Law 88-657) – This Act authorizes Forest Service financing and/or cooperation with other public agencies, private agencies, or individuals for acquisition, construction, and maintenance of forest development roads within or near National Forests (FSM 1582).
- **National Trails System Act** (16 USC 1246(h), Public Law 90-543) – This Act authorizes Forest Service cooperation with the states or their political subdivisions, landowners, private organizations, or individuals to operate,

develop, and maintain any portion of national trail system trails either inside or outside a federally administered area (FSM 1581.21).

- **Wild and Scenic Rivers Act** (16 USC 1271 et seq., Public Law 90-542) – This Act authorizes Forest Service cooperation with states or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources (FSM 1581.22).
- **Federal Noxious Weed Act of 1974** (Public Law 93-629, 7 USC 2801 et seq., Public Law 101-624) – Title XIV, Subtitle D: Other Conservation Measures, authorizes the Forest Service to issue cooperative agreements with state agencies (or political subdivisions responsible for the administration or implementation of state laws regarding undesirable plants) for establishment of undesirable-plant management programs and integrated management systems to control or contain undesirable plant species, and to issue specific cost-sharing cooperative agreements with state and local agencies to manage noxious weeds in an area if a majority of landowners in that area agree to participate in a noxious weed program (FSM 1581.23).
- **National and Community Service Act of 1990** (42 USC 12501, Public Law 101-610) – Subtitle C, National Service Trust Program, establishes the Corporation for National Community Service, which may enter into contracts or cooperative agreements with federal agencies to support a national service program carried out by the agency (FSM 1581.24).
- **Sikes Act of September 1, 1960** (16 USC 670g-6701, 670o, Public Law 86-797, as amended) – This Act authorizes the Forest Service to cooperate with state wildlife agencies in conservation and rehabilitation programs for fish, wildlife, and plants considered threatened or endangered (FSM 1581.26).

1587.15 – Wyden Amendment (Watershed Restoration and Enhancement Agreements)

In accordance with specific statutory authorities, this law allows the Forest Service to enter into cooperative agreements with willing federal, tribal, state, and local governments, private and nonprofit entities, and landowners. The purpose of these agreements is to protect, restore, and enhance fish and wildlife habitat, as well as other resources on public or private land that benefit those resources within the watershed. The benefits are to improve, maintain, or protect ecosystem conditions through collaborative administration and/or implementation of projects; improve collaborative efforts across all ownerships, not limited solely to adjacent Forest Service lands; and increase operational effectiveness and efficiency through coordination of efforts, services, and products.

Cooperative agreements used may include the types of instruments contemplated under this chapter (FSM 1587.03). In addition, Federal Financial Assistance instruments (grants or cooperative agreements) may be used when their use is appropriate (FSM 1581.03). The full authority is the Department of Interior and Related Agencies Appropriations Act, 1999, FSM 1587.15, FSH 1509.11, Chapter 60, Wyden Amendment, Section 323(A), as included in Public Law 105-277, Div. A, Section 101 (e) as amended by Public Law 107-63, Section 330.

Appendix G: Reading List

Articles and Books

Peter S. Adler and Juliana Birkhoff. 2002. Building Trust: When Knowledge from 'Here' Meets Knowledge From "Away". [<http://www.resolve.org/about/pubs.html>.] Policy Consensus Center.

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Appendix H: Additional Legal References for Conduct and Ethics

This appendix provides more formal legal references for conduct and ethics practices in the Forest Service and USDA.

Working in an Official Capacity with Non-Federal Organizations (NFOs)

Conflicts of Interest/Impartiality

Forest Service Employees May:

- Serve in any non-fiduciary, non-employee position that is reasonably required to accomplish the agency mission such as a Forest Service liaison, technical advisor, committee chairman, or member. (If there are any conflict or interest or impartiality concerns they need to have been addressed or waived in advance.)

Forest Service Employees May Not:

- Participate as a fiduciary (officer, director, or trustee) or as an employee of the NFO unless specifically authorized by statute or a departmental waiver (18 USC 208.) Requests for Departmental Waivers must be submitted through the Mission Area Ethics Advisor in the Washington Office.
- Participate in any other official capacity if you already:
 - Serve in your *personal* capacity as a fiduciary or employee of that organization (see 18 USC 208); or
 - Participate actively in your personal capacity such as committee chair, fundraiser, or spokesperson (see 5 CFR 2635, Subpart E). (Note: This doesn't include simple membership.)

Internal Issues

Forest Service Employees May:

- Participate in discussions on issues related to Forest Service interests and the specific official purposes underlying your assignment.

Forest Service Employees May Not:

- Participate in internal non-federal organization issues such as budgets, fundraising, membership, by-laws, office space considerations, political action committees, or for-profit activities.

Lobbying/Representing before the Federal Government

Forest Service Employees May:

- Present NFO proposals and ideas that relate to your official duties with the organization to appropriate Forest Service and other federal officials for consideration.
- Provide Congress with official information requested with regard to matters under your official duties with the NFO, where it is appropriate for you to do so and through proper agency channels.

Forest Service Employees May Not:

- Represent the interests of the NFO before any federal employee, agency, or court in connection with a matter in which the United States is a party or has an interest IF the matter is not related to the official duties that you perform with them (18 USC 205).
- Seek or accept compensation from the NFO

or anyone else for services performed behind the scenes in connection with such an improper representation (18 USC 203).

- Perform services in support of grass roots efforts by the NFO to lobby Congress (18 USC 1913).

Compensation, Honoraria, and Gifts

Forest Service Employees May Not:

- Seek or accept compensation (including honoraria) from any non-federal party for official duties that you perform in connection with the non-federal organization (18 USC 209).
- Seek or accept anything of value from the NFO given for your personal benefit or for the personal benefit of anyone else unless permitted under 5 CFR 2635.204. (An NFO with which USDA partners is a prohibited source to USDA.¹) Gifts given for the benefit of the agency are treated separately.
- Personally accept travel and subsistence costs provided by the NFO in connection with your official duties other than as permitted by law. 31 USC 1353 (travel costs paid by Non-Federal Sources); DR 5200-3 (Agency Gift Acceptance Directives), 5 USC 4111 (Training Act), or 5 USC 7342 (Foreign Gifts and Decorations Act).

Recognition/Endorsement of Non-Federal Partners

Forest Service Employees May:

- Officially promote employee official participation in the joint venture.

- Co-sponsor a non-fundraising “kick off” event.
- Erect a plaque or memorial honoring the NFO’s contribution to the project. For example, the Forest Service could erect a small plaque by the trailhead stating “The Pinecone Trail was reconstructed with contributions donated by XYZ Equipment Company in partnership with the Forest Service.”
- Issue a factual announcement publicizing successful completion of the project and the non-federal organizations role in that completion.

Forest Service Employees May Not:

- Officially encourage or require employees to become members of NFOs.
- Raise funds for or on behalf of the NFO, even if related to a joint venture;
- Erect a billboard or sign that serves more as an advertisement for the NFO than a memorial to a joint venture;
- Issue a statement aimed primarily at promoting the NFO’s programs or products. For example, the Forest Service cannot recommend ABC Equipment Company for trail maintenance work based on its volunteer assistance in maintaining the Pinecone Trailhead.
- Otherwise endorse the products or services of the NFO (5 CFR 2635, subpart G). For example, Jane Firefighter may not appear in a TV commercial stating that she uses DEF drops whenever she’s fighting fires and feels a cold coming on.

Prohibited sources include any person or entity:

- That seeks official action from USDA (e.g., a Special Use Permit applicant)
- That conducts or seeks to conduct business with USDA (e.g., a logging contractor)
- That conducts activities regulated by USDA (e.g., a slaughterhouse)
- That has interests that may be substantially affected by performance or nonperformance of the employee’s official duties (e.g., a litigant with USDA)
- An organization a majority of whose members are prohibited sources (e.g. a trade association)

Appropriated Funds

The Agency May:

- Use appropriated funds to purchase an NFO membership for use by the agency. The agency then has the power to select whom it will assign to perform official duties under that membership.

Forest Service Employees May:

- Attend NFO meetings and provide information about what can be done with additional funds that may be raised through a partnership.
- Attend national conferences and meetings on official travel and time for professional development when it is part of the employee's official training plan.

Forest Service Employees May Not:

- Use appropriated funds to purchase or renew an NFO membership for a specific agency employee.
- Use appropriated funds to pay for official training accomplished through an NFO of which you may also be a member in your personal capacity.
- Utilize appropriated funds to accomplish, through NFO personnel, anything that Forest Service employees cannot be assigned to perform.

Fundraising/Fundraising Events

Forest Service Employees May:

- Attend an event in an official capacity only to the extent permitted by 5 CFR part 2635, including giving an official speech.
- If the agency approves of the content and your status as the appropriate speaker, deliver an appropriate official speech on a subject appropriate to the event. As a speaker, the employee's name may appear on the invitation but not their title. Neither the employee nor the Forest Service may be shown as a sponsor or shown in a manner that implies endorsement.

- Permit use of agency properties and sites for fundraising events only in accordance with departmental directives.

Forest Service Employees May Not:

- Participate in planning a fundraiser by or on behalf of the NFO.
- Directly or indirectly solicit or receive donations for or on behalf of the NFO.
- Make a donation of appropriated funds to the NFO as part of a fundraising effort.
- Actively participate in any fundraising event through such actions as standing in a receiving line, serving drinks, sitting at the head table, or making a speech soliciting funds.

Working in a Personal Capacity with Non-Federal Organizations

Forest Service Employees May: (amongst other lawful activities and in conformity with conflict of interest laws):

- Serve in any lawful position or role with the NFO, subject to the conflict of interest laws.
- Participate in all internal matters relating to the NFO.
- Participate, in a personal capacity, in lobbying efforts by the NFO before Congress.
- Accept compensation from the NFO, subject to USDA regulations concerning prior agency approval of outside employment (See 5 CFR Part 8301).
- Participate in all aspects of fundraising subject to the limitations mentioned above.

Forest Service Employees May Not:

- Participate officially, without waiver or agency approval, in any matter involving the NFO if you are a fiduciary of, employee of, or an active participant in the NFO (other than simply as a member);
- Represent the NFO, by personal appearance or communication, before any federal agency

or court concerning any matter in which the United States has an interest, or accept or seek compensation from anyone for services that you render in support of representations made by another before a federal agency or court on behalf of the NFO.

- Use your official title, position, or authority in support of fundraising activities by the NFO, or solicit or accept donations from persons whom you have reason to know are (1) prohibited sources to USDA, or (2) your official subordinates.

Appendix I: Highlights from the USDA Directive on Acceptance of Gifts

This appendix provides excerpts from the USDA Directive that address authorized gifts, prohibited gifts, solicitation of gifts, and additional considerations. For the entire text of the USDA Directive on Acceptance of Gifts, see <http://www.ocio.usda.gov/directives/files/dr/DR5200-003.htm>.

Authorized Gifts

A gift is a donation of something of value to the Forest Service in which nothing of value is paid or given to the donor in return. Where consistent with the Department's gift acceptance regulations, the Forest Service may accept contributions from individuals, organizations, foundations, corporations, associations, and other entities. Donations may be in the form of cash, securities, real property (land and improvements), facilities, personal property, and services.

For gifts of personal property, including cash, the Chief of the Forest Service or the Chief's designee may accept unconditional gifts. Conditional gifts of personal property may only be accepted by the Department's Chief Financial Officer, or that official's designee. Gifts of real property to the Forest Service may be accepted in accordance with procedures established in the Forest Service Manual (FSM 5420).

Prohibited Gifts

Consistent with federal laws and regulations restricting government conduct that is unethical, a conflict of interest, or having the appearance of a conflict of interest, the Department's gift acceptance policy contains restrictions on acceptance of gifts in situations that would raise ethical or conflict of interest concerns.

With certain exceptions, no gift may be accepted by the Forest Service from the following sources:

- a. any person who conducts activities regulated by the Department or any of its agencies;
- b. any organization where a majority of its members are persons who conduct activities regu-

- lated by the Department or its agencies;
- c. any person or organization engaged in litigation with the Department or its agencies, or with the United States, based on issues relating to the programs or operations of the Department or its agencies; and
- d. any person whose ability to participate in Department programs has been suspended or terminated for cause by the Department or its agencies.

If not prohibited under Section 6(b), a gift may be accepted by the Forest Service unless the gift is from any person who is engaged with the Forest Service, or the Department's Natural Resources and Environment mission area, as a contractor or contract bidder, borrower, grantee, cooperator, lessee, permittee, or other program participant, or who is an applicant for a loan, grant, lease, or other program participation from the Forest Service.

For details on prohibited gifts, refer to Section 6, DR 5200-3.

Exceptions to Prohibited Gifts

Under Section 6c(1), gifts from sources identified under Sections 6a and 6b of DR 5200-3 may be accepted if:

- a. The gift is commemorative in nature, from other than a for-profit entity, and intended to be used or displayed in an office setting;
- b. The gift is from a state, local, tribal, or foreign government incidental to cooperation in carrying out a federal program;
- c. The gift is authorized by the express purpose of a statutory gift acceptance authority; or
- d. Acceptance of the gift is in the public interest because the benefits relating to acceptance of the gift substantially outweigh the appearance of loss of impartiality on the part of the Department, or the Forest Service, in its dealing with the donor.

For gifts accepted under the exceptions in Section

6c(1), additional restrictions apply:

- a. For gifts under Section 6(c)(1)(a)-(c), the Chief, the UnderSecretary, or the Secretary may accept such gifts. For gifts greater than \$1,000,000, acceptance of such gifts may occur only after consultation with the Office of the General Counsel. For gifts in an amount less than \$1,000,000, the Chief of the Forest Service may delegate this gift acceptance authority to appropriate subordinate officials as agency needs and prudence allow.
- b. For gifts accepted under Section 6c(1)(d), only the Chief of the Forest Service, the UnderSecretary, or the Secretary may accept such gifts, and acceptance must be preceded by consultation with OGC.

Solicitation of Gifts

Under the Department's gift acceptance regulation, the Forest Service may solicit gifts that would not be prohibited by law. The Forest Service may not solicit gifts, however, from any source listed under Section 6, even if the gift would fall within an exception under Section 6.

There are significant restrictions on how solicitations may occur. The Forest Service may not solicit gifts through the use of direct mail appeals for monetary contributions, through direct fundraising events, through hiring of development officers, or through the conduct of any game of chance.

The department regulation also cautions agencies against soliciting multiple or duplicate gifts to create a substitute funding stream for routine operational expenses in lieu of agency appropriations.

Additional Considerations

Gift Acceptance Documentation

Gifts must be documented with a gift acceptance letter from the agency to the donor. Such letters should state that gifts in no way imply an endorsement of the gift or

the donor, nor impose any obligation on the part of the agency to provide anything to the donor, including data or information. The acceptance letter should not provide any estimate of the gift's value, nor should agency officials otherwise provide the donor with an estimated value. Proper valuation of the gift for tax purposes is the donor's responsibility.

Reporting of Gifts

Agencies are required to file an annual report on all gifts having a value greater than \$5000 during each calendar year with the Department's Office of Procurement and Property Management. The report must include details regarding the gift, including: date received; name and contact information of the donor; name of the accepting agency and official; name and description of the gift; estimated value of the gift; and the provision of the Department regulation under which the gift was accepted. In the alternative, agencies may simply submit copies of all gift acceptance letters to the Office of Procurement and Property Management

Appendix J: Liaison Agreement

FROM: Senior Official

TO: Subordinate Official

THROUGH:

SUBJECT: Appointment as Agency Liaison with _____ Association

By this memorandum, you are hereby designated to serve as Agency Liaison with the _____ Association (Association). Your designation as Agency Liaison is for the purpose(s) of _____.

During your service as Agency Liaison, you are, at all times, to act as a representative solely of the interests of the Agency and the United States; you shall not (1) serve as an officer, board member, or employee, or (2) act as agent or representative, of the Association. Your service as Agency Liaison is to conform to the requirements of 18 USC 201-209 and to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. part 2635. Specifically, during your tenure as Agency Liaison with the Association, you shall not:

- Vote on matters before the Association Board of Directors;
- Serve on committees or task groups unrelated to the above-stated purpose for your service as Agency Liaison;
- Participate in issues related solely to the business or internal interests of the Association (e.g., finances, fundraising, membership, etc.);
- Engage in lobbying efforts or representation of the Association's interests before the Federal Government [NOTE: This does not preclude you from presenting to the Agency the positions or views of the Association on matters directly related to the interests of the Agency being served through your service as Agency Liaison];
- Actively participate in Association activities in your personal capacity unless you receive written clearance from me to do so [NOTE: If you are a member, you may retain your membership; you must, however, refrain from active participation (e.g., fundraising, holding office or board membership, employment, committee activities, lobbying, etc.)].

I, _____, certify that I have read and understand the foregoing and that I agree to abide by the aforementioned requirements and conditions.

Date

Signature

