



**FOREST SERVICE MANUAL  
NATIONAL HEADQUARTERS (WO)  
WASHINGTON, DC**

**FSM 2400 – TIMBER MANAGEMENT**

**CHAPTER 2430 – COMMERCIAL TIMBER SALES**

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**Approved:** TINA TERRELL  
Associate Deputy Chief, NFS

**Date Approved:** XX/XX/2020

**Posting Instructions:** Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 2400-2014-2 to FSM 2430.

<b>New Document(s):</b>	2430-2020-2	48 Pages
<b>Superseded Document(s) by Issuance Number and Effective Date</b>	2430 (Amendment 2400-2014-2, 06/02/2014)	100 Pages

**Digest:**

2430 – Revises chapter in its entirety. Makes minor corrections in spelling, punctuation, and style practices throughout the chapter. Updates references throughout. Substantive changes are as follows:

2430.1 – Removes obsolete authorities previously listed in the chapter to FSM 2401.

2430.2 – Removes objectives previously listed in chapter to FSM 2402.

2430.3 – Removes policy information previously in chapter to FSM 2403.

2430.41 – Revises responsibilities section to reflect current chapter updates.

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**Digest Continued:**

2430.5 – 2430.52 - Establishes code, caption and sets forth direction for “Definitions and Terminology”.

2430.7 – Retitles section “Forms”, and clarifies where to obtain timber forms.

2431.04a – 2431.04c - Revises responsibilities of the Regional Forester, Forest Supervisor, and District Ranger for management of timber sale program and moved direction to FSM 2404.

2431.11 – Removed sale by amount from commercial sale options.

2431.31 – Changes title from “Minimum Rates” to Minimum rates previously addressed in now deleted section 2431.31b. Establishes new national minimum rates and clarifies use of minimum rates on Stewardship contracting projects.

2431.31a – Deleted section number and moved information pertaining to Standard Rates to section 2431.33.

2431.31b – Deleted section number. Minimum Rates moved to section 2431.31.

2431.31c – Deleted section number and moved material to section 2431.34 - Minimum Charges for Small Sales.

2431.32 – Retitled “Base Rates.” Adds new material defining Base Rates.

2431.33 – Retitled “Standard Rates.” Includes material formerly in 2431.31a. Material formerly in section pertaining to Discounting moved to new section 2431.36.

2431.34 – Retitled “Minimum Charges for Small Sales.” Includes material formerly in 2431.31c. Material formerly in section pertaining to Stumpage Rate Adjustment moved to 2431.37.

2431.35 – New section titled “Appraised Rates.” Includes material formerly in 2431.32.

2431.36 – New section titled “Discounting.” Contains material formerly in 2431.33.

2431.37 – New section titled “Stumpage Rate Adjustment.” Includes material formerly in 2431.34 with clarifications. Adds direction pertaining to use of Flat Rates in Stewardship contracts.

2431.41 – Adds direction to award Stewardship contracts on best value basis.

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2431.42 – Removed formula and Exhibit 01, and refers reader to FSH 2409.18, section 72.15 for procedures for assigning bid premium.

2431.7 – Clarifies that timber program announcements are not to be sent to individuals appearing as an “exclusion” in the System for Awards Management.

2431.8 – Clarifies timber access policy.

2431.9 – Removed Line Officer responsibilities for certifying accomplishment of gates 1-4 as being duplicative with other sections in the chapter.

2432.04a – Responsibilities of Regional Forester for Presale Preparation activities moved to FSM 2404.15b.

2432.04b – Responsibilities of Forest Supervisor for Presale Preparation activities moved to FSM 2404.16b.

2432.04c – Responsibilities of District Ranger for Presale Preparation activities moved to FSM 2404.17b.

2432.04d – Responsibilities of Contracting Officer for Presale Preparation activities moved to FSM 2404.18.

2432.1 – Renames Gate 1 to “Proposal Development” to align with the project management process.

2432.12 – Adds project activities to the task list for Gate 1.

2432.12a – New section titled “Reconnaissance”. Includes material formerly at 2432.22a.

2432.12b – New section titled “Roads”. Includes material formerly at 2432.22b.

2432.12c – New section titled “Certified Silviculturists”. Includes material formerly at 2432.22e.

2432.12d – New section titled “Control Points”. Includes material formerly at 2432.22f.

2432.15 – Retitled “Gate 1 Certification.”

2432.2 – Renames Gate 2 to “Project Analysis and Decision to align with the project management process.

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2432.21 – Moves project activities, including logging and transportation analysis to Gate 1 as referenced in 2432.12.

2432.21a – Clarifies when pre-implementation activities may occur.

2432.22a – Retitled “Financial and Economic Analysis”. Material formerly in 2432.22c moved to this section. Information formerly in 2432.22a moved to 2432.12a.

2432.22b – Retitled “Changes”. Material formerly in 2432.22d moved to this section. Information formerly in 2432.22b moved to 2432.12b.

2432.22c – Retitled “Environmental Analysis”. Material formerly in 2432.22g moved to this section. Information formerly in 2432.22c moved to 2432.22a.

2432.22d – Removed this section. Material formerly in 2432.22d moved to 2432.22b.

2432.22e – Removed this section. Material formerly in 2432.22e moved to 2432.12c.

2432.22f – Removed this section. Material formerly in 2432.22f moved to 2432.12d.

2432.22g – Removed this section. Material formerly in 2432.22g moved to 2432.22c.

2432.23 – Retitled “Gate 2 Certification.” Removes obsolete references to the appeals process.

2432.31a – Retitled “Pre-Implementation Activities When Litigation is Filed”. Material formerly in 2432.31b moved to this section. Obsolete material in 2431.31a regarding appeals has been removed and information regarding pre-implementation activities has been moved to 2432.21a.

2432.31b – Removed this section. Information formerly in 2432.31b has been moved to 2432.31a.

2432.32 – Adds exhibits 01 and 02. Adds direction to select the appropriate contract or agreement form at the beginning of gate 3 activities.

2432.33 – Clarifies considering both the cost to prepare and the cost to administer a sale when selecting method for determining volume. References current policy in FSM 2441 to document decision to use Designation by Prescription in the cruise plan.

2432.34a – Adds reference for where to find direction pertaining to contributed funds.

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2432.34b – Adds reference to procedures when a temporary road will cross non-Federal lands.

2432.35 – Retitled “Timber Sale Summary.” Material formerly in 2432.36 moved into this section. Gate certification information formerly in 2432.35 moved to 2432.36.

2432.36 – Retitled “Gate 3 Certification.” Material formerly in 2432.35 moved into this section. Timber Sale Summary information formerly in 2432.36 moved to 2432.35.

2432.41 – Adds preparing a road package and sample contract to activities at gate 4.

2432.43 – Clarifies procedures when a road will be constructed to a higher standard than need for the timber harvest only.

2432.46 - Clarifies timber prospectuses are not to be sent to individuals appearing as an “exclusion” in the System for Awards Management.

2432.48 – Retitled “Gate 4 Certification.”

2432.54 – Retitled “Bid Protests.” New section adding existing policy regarding Bid Protests. Refers readers to FSH 2409.18, section 66 for procedures to follow when a bid protest is filed. Information pertaining to Bid Repudiation formerly in this section moved to 2432.55.

2432.54a – Section number deleted. Material pertaining to Notice to Purchaser moved to 2432.55a.

2432.54b – Section number deleted. Material pertaining to Assessment of Damages moved to 2432.55b.

2432.55 – Retitled to “Bid Repudiation.” Includes material formerly in 2432.54. Information pertaining to Certification formerly in this section moved to 2432.56.

2432.55a – New section titled “Notice to Purchaser.” Includes material formerly in 2432.54a.

2432.55b – Retitled to “Assessment of Damages.” Includes material formerly in 2432.54b.

2432.56 – New section titled “Gate 5 Certification.” Includes material formerly in 2432.55.

2432.62 – Adds reference to FSH 2409.19, Ch. 60 for procedures for awarding a Stewardship contract.

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2432.65 – Retitled “Gate 6 Certification” and adds reference to the Forest Products Financial System.

2433 – Moved material in paragraphs a-e, and except as noted below all material in 2433 subsections to new FSH 2409.18a, Timber Sale Debarment and Suspension Procedures Handbook.

2433.03 – New section titled Policy including existing policy pertaining to debarment and suspension referrals.

2433.04 – Retitled to “Responsibilities.” Refers reader to new FSH 2409.18a, Zero code.

2434 – Removed material pertaining to objectives, policies, responsibilities and other information pertaining to the Timber Sale Pipeline Restoration Fund and added it to FSH 2409.19, Ch. 50.

2434.01 – Moved authority for the Timber Sale Pipeline Restoration Fund to FSM 2401.1.

2435 – Removed material pertaining to objectives, policies, responsibilities definitions and other information pertaining to the Salvage Sale Program and added it to FSH 2409.19, Ch. 70.

2435.01 – Moved authority for the Salvage Sale Program to FSM 2401.1.

2436 – Removed information and direction pertaining to the Brush Disposal Program and added it to FSH 2409.19, Ch. 40.

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### **2430.1 - Authority**

The principal statutes and regulations governing forest management and commercial timber sales on national forests are listed in FSM 2401.

### **2430.2 - Objectives**

Objectives of commercial timber sales are stated at FSM 2402.

### **2430.3 - Policy**

Refer to FSM 2403.

### **2430.4 - Responsibility**

1. FSM 2404.1 sets out the responsibilities for the Chief, Deputy Chief for National Forest System and Associate Deputy Chief of the National Forest System for forest management when serving as the Suspending and Debarring Official.

2. FSM 2404.21 sets out the scope of timber sale and disposal authority, and FSM 2404.28, Exhibit 01, sets out specific delegations of timber sale and disposal authority.

3. FSM 2450.4 sets out specific responsibilities concerning timber sale contract administration.

### **2430.41 - Chief**

Refer to FSM 2404.11.

### **2430.42 - Regional Forester**

Refer to FSM 2404.15.

### **2430.43 - Forest Supervisor**

Refer to FSM 2404.16.

### **2430.44 - District Ranger**

Refer to FSM 2404.17.

### **2430.5 – Definitions and Terminology**

### **2430.51 - Definitions**

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Convertible – Term used for forest products that can be converted into a board foot or cubic foot unit of measure. Examples include lumber, pulp, and firewood.

FACTS – Acronym for the Forest Service Activity Tracking System, a data base in the Natural Resource Manager system for recording and tracking land management activities.

FPFS – Acronym for the Forest Products Financial System. FPFS is an automated system that produces the necessary accounting and statistical data required for a timber sale contract, Integrated Resource Contract, or forest product permit.

IRTC – Acronym for Integrated Resource Timber Contract. An IRTC may also be referred to as an Integrated Resource Contract, Stewardship Contract, or Stewardship End Results Contract. IRTC's are a sale of property contract executed by a timber sale Contracting Officer.

Merchantable – Convertible and non-convertible products that has, based on local market and sale conditions, sufficient appraised value to generate a positive return at the appraisal point.

TIM – Acronym for the Timber Information Manager, a data base in the Natural Resource Manager system for tracking timber sale preparation activities (sec. 2431.9).

Non-convertible – Term used for forest products that cannot be converted into a board foot or cubic foot unit of measure. Examples include Christmas trees, mushrooms, boughs, and pine nuts.

Unmerchantable – Convertible and non-convertible products that has, based on local market and sale conditions, insufficient appraised value to generate a positive return at the appraisal point, except that sawlogs shall never be classified as unmerchantable regardless of appraised value.

### **2430.52 - Terminology**

Integrated Resource Contract forms FS-2400-13 and FS-2400-13T are timber sale contract forms used for Stewardship End Result projects where the value of products sold is greater than the cost of services performed (FSH 2409.19, sec. 62.11).

There are differences in terminology between Timber Sale Contracts used solely for the sale of products and Integrated Resource Contracts that combine the sale of property with the procurement of services. For ease in reading this chapter, and unless noted otherwise, when the following timber sale terms are used they apply to the equivalent Integrated Resource Contract terms:

<u>Timber Sale Term</u>	<u>Integrated Resource Project Term</u>
1. Timber Sale	Integrated Resource Project or

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	Stewardship Project
2. Timber Sale Contract	Integrated Resource Contract or Integrated Resource Timber Contract
<u>Timber Sale Term</u>	<u>Integrated Resource Project Term</u>
3. Purchaser	Contractor
4. Sale Area	Contract Area
5. Sale Area Map	Contract Area Map
6. Division A/AT Specific Conditions	Part A/AT Specific Conditions
7. Division B/BT Standard Provisions	Parts B/BT through J/JT Standard Provisions
8. Division C/CT Special Provisions	Part K/KT Special Provisions

The numbering system for contract provisions differs between FS-2400-6/6T contracts and the September 2004 version of FS-2400-13/13T contracts. For ease in reading this chapter, and unless noted otherwise, references to a FS-2400-6/6T timber sale contract provision apply to the corresponding provision with the same descriptive title in the Integrated Resource Contract. FS-2400-13/13T contracts with an issue date of (10/19) use the same division structure and provision numbers as the FS-2400-6/6T contracts.

### **2430.6 - References**

Line Officers shall comply with direction in the Forest Service Manual (FSM) Title 2400 and the Forest Service Handbooks listed in FSM 2409 to carry out their responsibilities for commercial timber sales.

### **2430.7 - Forms**

The Office of Regulatory and Management Services (ORMS) manages Forest Service forms. All forms that collect information from the public need a Forest Service form number from the Washington Office Forms Program Manager, as well as an Office of Management and Budget (OMB) control number documenting compliance with the paperwork reduction. Forms created by field personnel that collect information from the public are not authorized for use without approval from ORMS.

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Most Forest Service forms cited in this chapter are available on the following SharePoint site: <https://usdagcc.sharepoint.com/sites/fs-orms/orms-forms/Pages/FormsHome.aspx>, or are generated by the TIM or FACTS programs. Forest Service users will find a link to forms in the service-wide box on their home page. Users must eAuthenticate to enter the SharePoint site. Contract and permit forms referenced in this chapter can be found on the Washington Office Forest Management web site at: <http://fsweb.wo.fs.fed.us/fm/contracts/index.shtml>.

## **2431 - MANAGEMENT OF TIMBER SALE PROGRAM**

### **2431.04 - Responsibility**

#### **2431.04a - Regional Forester**

Refer to FSM 2404.15a.

#### **2431.04b - Forest Supervisor**

Refer to FSM 2404.16a

#### **2431.04c - District Ranger**

Refer to FSM 2404.17a.

### **2431.1 - Commercial Sale Fundamentals**

#### **2431.11 - Methods of Measurement**

For payment purposes, the volume of commercial sales may be determined by two measurement methods: scaled sales or presale measurement sales (FSH 2409.18, Ch. 11.1). In scaled sales the volume for payment purposes is determined by direct measurement of logs following felling of the trees. In presale measurement sales the volume for payment purposes is determined by cruise methods prior to sale advertisement. Presale measurement sales are also referred to as tree measurement sales.

Presale estimated quantities of timber sales must be determined by following the policy in FSM 2440 and the procedures in FSH 2409.12 regardless of whether the volume for payment purposes is determined by cruising or scaling.

#### **2431.12 - Size of Timber Sales**

There is no limit on the size of timber sales by volume or value of timber, but authority of Line Officers is limited to sales of specific sizes or value (FSM 2404.28). Match sale sizes to the needs of potential bidders in the area of interest while providing for cost-efficient operations, taking into account landscape scale restoration objectives, resource needs, and the economic viability of the program (FSM 2403.4).

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### **2431.13 – Duration of Timber Sales**

There is a 10-year limit on the duration of timber sales (16 U.S.C. 472a (c) and 36 CFR 223.31). The Chief has the authority to approve timber sales of durations longer than 10 years (FSM 2404.11).

The Consolidated Appropriations Act of 2018 amended section 604 of the Healthy Forests Restoration Act of 2003 to authorize awarding Stewardship contracts for terms not to exceed 20 years on areas where the majority of Federal lands are in fire regime groups I, II or III. Authority of Line Officers to approve sales under this authority is limited to sales of specific size or value as listed in FSM 2404.28.

### **2431.2 - Timber Sale Program Schedules**

#### **2431.21 - Regional Timber Sale Schedule**

The Regional timber sale schedule lists all proposed timber sales, the timber volumes therein, the methods of harvest, and the associated road activities, when available and pertinent, for the upcoming 5-fiscal-year period. Include in the list detailed information for all sales where site-specific analysis, in accordance with procedures under the National Environmental Policy Act, has been completed (sales scheduled for three years in the future, but at least one year in the future) and more general information for the sales proposed in the final two years of the 5-fiscal-year period.

#### **2431.21a - Sources of Information for Regional Timber Sale Schedule**

The following sources of information may be used in developing and maintaining the Regional Timber Sale Schedule:

1. Approved Forest plan.
2. Decision records from projects.
3. The Timber Information Manager (TIM) database (FSH 2409.14).
4. Road Management Objectives (RMO) (FSM 7710).

#### **2431.21b - Budget Update**

Two budget updates must be performed on the Regional timber sale schedule.

1. Update the information in the Regional timber sale schedule to conform to the President's budget within 90 days of its submission to Congress, usually in February.

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2. Update the information in the Regional timber sale schedule to conform to the budgeted amounts within 90 days of the date of enactment of the appropriations.

### **2431.22 - Forest Timber Sale Schedule**

The Forest timber sale schedule in the Forest plan, or the timber sale action plan where there is no approved Forest plan, lists proposed sales scheduled in each year of the Forest planning period. The content requirements of the Forest timber sale schedule are the same as those of the Regional timber sale schedule (FSM 2431.21).

### **2431.3 - Rates**

#### **2431.31 - Minimum Rates**

National Forest System timber and forest products shall be sold for appraised rates or minimum rates (for example, base rates), whichever is higher (36 CFR 223.60 & .61; FSM 2431.32). Minimum rates are the lowest rate for which the Forest Service may sell timber even if an appraisal indicates a lower rate. Pursuant to 36 CFR 223.61 minimum stumpage rates, must be established for species and products on individual National Forests, or groups of National Forests.

No timber may be sold or cut under timber sale or Stewardship contracts for less than the national minimum stumpage rates established below.

1. Except as addressed elsewhere in this section, the national minimum rate for species and convertible products is \$0.25/ per hundred cubic feet (CCF) or equivalent.

The minimum rate for non-convertible products is \$0.01 per unit of measure.

Regional Foresters may establish higher minimum rates for species and products on individual National Forests or groups of National Forests if market conditions indicate higher rates are justified (FSM 2404.15a).

2. The national minimum rate for species and products sold pursuant to section 604 of the Healthy Forest Restoration Act (HFRA) (Stewardship End Result Contracting Projects) is \$0.00/CCF or equivalent. Regional Foresters are not authorized to establish higher minimum rates for species and products sold in Stewardship contracts. A base rate of \$0.00/CCF allows all the timber value to be applied to stewardship work items in a contract.

3. Redetermined Rates. Redetermined rates may be less than minimum rates established by Regional Foresters but not less than national minimum rates for species or products in the following situations:

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- a. Rate redetermination for environmental modification (contract provision B/BT3.31).
  - b. Rate redetermination after catastrophic modification (contract provision B/BT3.32).
  - c. Rate redetermination for market change (contract provision B/BT3.33).
4. The national minimum rate for species and products sold pursuant to 36 CFR 223.2 Disposal of Timber for Administrative Use is \$0.25/CCF or equivalent.
5. The national minimum rate for all species of personal use firewood is \$5.00/CCF or equivalent (2431.34). Regional Foresters may establish higher minimum rates where conditions indicate higher rates are justified (FSM 2404.15a).

### **2431.32 - Base Rates**

Base rates are the lowest rates of payment for timber that are authorized by the contract (specific condition A/AT4). Base rates are not subject to change except for reduction under contract provisions:

1. Rate redetermination for environmental modification (contract provision B/BT3.31).
2. Rate redetermination after catastrophic modification (contract provision B/BT3.32).
3. Rate redetermination for market change (contract provision B/BT3.33).

Base rates are the higher of either:

1. The minimum rates, or
2. The Knutson-Vandenberg (K-V) deposits for essential reforestation, plus timber property value, plus \$0.25 CCF.

Base rates in timber sale contracts must not be set higher than established minimum rates for purposes other than assuring adequate funds for reforestation and any timber property value (36 CFR 223.61).

The Consolidated Appropriations Act of 2018 (H.R. 1625), amended the Healthy Forests Restoration Act of 2003 (HFRA)(Pub. L. 108-148). The amendment added section 604(e)(2)(B) specifying the Knutson-Vandenberg Act shall not apply to any Stewardship contract. Therefore, Stewardship contracts shall not include provisions for collecting K-V deposits.

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### **2431.33 - Standard Rates**

Standard rates apply to Forests, Districts, or appraisal zones. Use standard rates where situations do not justify a detailed sale specific appraisal, including personal-use firewood sales. Standard rates shall equal or exceed minimum rates established pursuant to FSM 2431.31 and 2431.34.

Coordinate rates with adjacent Forests, market areas, or appraisal zones, to ensure continuity between rates for similar products where similar market conditions exist.

Standard rates represent the lowest rates at which the Forest Service may sell timber without a supporting sale specific appraisal calculation. Establish standard rates for stumpage in the manner described in FSM 2420 and FSH 2409.18, chapter 40.

### **2431.34 - Minimum Charges for Small Sales**

The minimum charge for commercial and personal-use sales, including other forest products (FSM 2467), is \$20 per transaction, except that the minimum charge for personal use of a Christmas tree is \$5 per transaction.

The minimum rate for personal-use firewood is \$5 per hundred cubic feet with a minimum charge of \$20 per transaction regardless of the permit or tag form used.

The minimum charge for products sold on Permit Form FS-2400-1, Forest Products Removal Permit and Cash Receipt is \$20. Refer to FSH 2409.18, section 84 for instructions on use of permit form FS-2400-1. Associated deposits, if any, are in addition to the minimum charge for product values.

The Regional Forester shall establish higher minimum charges, if necessary, to offset processing costs to the Government (FSM 2404.15a).

### **2431.35 - Appraised Rates**

Follow procedures in FSM 2420 and FSH 2409.18, Timber Sale Preparation Handbook, Ch. 40, to establish fair market value of timber under sale conditions not governed by minimum or standard rate procedures.

### **2431.36 - Discounting**

Discounting, when approved, is a procedure designed to encourage early removal of timber by reducing payment rates of timber harvested in the early years of long-term sales. The use of discounting on an area-wide basis is permissible upon the Chief's approval of the Regional Forester's request when remaining volume under contract in an area exceeds three times the allowable sale quantity (ASQ) or exceeds three or more years of the average sell volume, whichever is greater. Consider total unprocessed volume inventories held by area purchasers.

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Base the request to provide a discounting incentive on the need for increasing or providing an even flow of timber receipts to the Government. Document the need and rationale for discounting to:

1. Support a need for immediate harvesting, such as an economic incentive for early removal of fire-damaged, insect-damaged, or wind-thrown timber;
2. Support the accomplishment of land management objectives; and/or
3. Provide for optimal utilization of salvage timber.

Refer to FSH 2409.15, Ch. 50 for instructions on discounting procedures.

**2431.37- Stumpage Rate Adjustment**

1. Forest Service timber sale contracts (Contract Forms FS-2400-6, FS-2400-6T, FS-2400-13 and FS-2400-13T) that exceed 1-year in contract length in the western United States must provide for stumpage rate adjustment, except when:
  - a. Sales lack a significant amount of saw timber,
  - b. An index is not available for the predominant species in the sale, or
  - c. There is no reasonably accurate conversion to cubic feet.
  - d. Flat rates may provide the best value for stewardship Integrated Resource Timber contracts (IRTC) (FSH 2409.19, Ch. 60). However, risks to both the government and the contractor must be carefully weighed when making the decision to use flat rates on contracts over two years in length.
  - e. Products included in a stewardship Integrated Resource Service contract (IRSC) must be sold at rates not subject to stumpage rate adjustment pursuant to the procedures in provision B/BT3.1(FSH 2409.19, sec. 62.12).
2. Use contract provision B/BT3.2 - Escalation Procedure when providing for stumpage rate adjustment. The provision provides that 100 percent of the difference between current and base lumber price indices will be added to Tentative Rates during periods of increasing lumber prices, and 100 percent of the difference will be subtracted from Tentative Rates during periods of declining prices. Pursuant to B/BT3.2 such adjustment shall not result in a rate below Base Rate or an increase exceeding the difference between Tentative Rates and Base Rates.
3. When a species is to be adjusted with the stumpage rate adjustment procedure in the contract, a lumber price base index must be selected for entry in specific conditions A/AT4a and A/AT5.

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a. Northern Regions (R1) through Alaska Region (R6) are authorized to use the lumber price indices prepared for the Forest Service by the Western Wood Products Association (WWPA), and approved on a monthly basis by the Washington Office, Director, Forest Management. If a species or product does not have a suitable lumber price index, the species should be sold at flat rates and listed in specific condition A/AT4b in the contract.

b. Alaska Region (R10) is authorized to develop and study possible indices for recommendation to the Chief for use in implementation of stumpage rate adjustment in Alaska.

4. When ponderosa pine trees are young, and the lumber produced from these trees is predominantly studs and dimension, as is generally the case in the Intermountain Region (R4), the price changes of lumber produced from these young trees may be more typical of price changes associated with white woods than the price changes associated with the Rocky Mountain ponderosa pine index. Young timber has a high proportion of juvenile wood, smaller limbs, more pointed tops, lower defect, and usually has a smaller diameter than older trees. Regional Foresters are authorized to supplement the description of young timber to meet local situations, as needed. A sale specific determination of what products are typically being produced from timber similar to what is being offered will indicate which index is most applicable. When appropriate:

a. Northern Region (R1) through Intermountain Region (R4) are authorized to use the white woods lumber price index for ponderosa pine.

b. Other Regions are authorized to use the white woods lumber price index when 51 percent or more of the ponderosa pine trees have the characteristics of young timber.

#### **2431.4 - Bidding**

Pursuant to 16 USC 472a(e) bidding methods must:

1. Ensure open and fair competition,
2. Ensure that the Federal Government receives not less than fair market value for the public resource,
3. Take into consideration the economic stability of communities whose economic well-being depends upon National Forest System timber, and
4. Remain consistent with the objectives of the National Forest Management Act of 1976 and other Federal statutes.

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Furthermore, 16 USC 472a(e)(3) requires monitoring bidding patterns involved in the sale of national forest materials and that evidence of collusive bidding be reported to the Attorney General of the United States with any supporting evidence. Regional Foresters may alter bidding methods or take such other actions deemed necessary in areas where there is evidence of collusive bidding. Refer to FSH 2409.18, chapter 60 for additional information on monitoring for non-competitive bidding patterns.

### **2431.41 - Bidding Method**

In order to achieve the objectives stated above, use sealed bidding methods in Southern Region (R8) and Eastern Region (R9). Use oral auction and sealed bidding methods in Northern Region (R1), Rocky Mountain Region (R2), Southwestern Region (R3), Intermountain Region (R4), Pacific Southwest Region (R5), Pacific Northwest Region (R6), and Alaska Region (R10) to the extent of historical use (FSM 2404.23). Regional Foresters may approve changes to these bidding methods as needed to assure that conditions in 16 USC 472a(e) are met.

Award stewardship contracts on best value basis (36 CFR 223.302 and FSH 2409.19, sec. 63).

### **2431.42 - Skewed Bidding**

Skewed bidding occurs on unit rate bidding sales where the bidder assigns most or all the bid premium to one or a few of the biddable species in a manner that may not reflect the real value of individual species on the sale. Skewed bidding can affect data used in future transaction evidence appraisals and sale administration problems especially associated with utilization on scale sales.

1. Use only the proportionate rate method set out in this section for distributing the bid premium among advertised species, or species groups with listed volumes, for sales measured for payment by scaling or other forms of post-sale volume determination. The proportionate rate method may be used on pre-sale measurement (tree measurement) sales, and should be used on tree measurement sales in areas where skewed bidding is detected.

Contracting Officers must accept only those bids that represent the total bid value for the timber sale, or the weighted-average value for all species or species groups related to proportionate rate bidding. Disregard species bid values shown on the bid form by the bidder. After receipt of bids and the determination of the high bidder, the Contracting Officer shall assign bid premiums and include this information in the sale award information sent to the high bidder.

2. Assign any bid premium following the procedure in FSH 2409.18, section 72.15

### **2431.43 - Bid Guarantee**

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Require a bid guarantee of 10 percent of the advertised product value rounded up to the next \$100 for National Forest System timber sales. Integrated Resource Timber Contracts awarded on a best value basis do not require a bid guarantee (FSH 2409.19, sec. 62, Exhibit 01).

### **2431.5 - Resale of Timber from Uncompleted Contracts**

Regulations generally preclude considering a bid, in the resale of timber remaining from any uncompleted timber sale contract, from any person, or an affiliate of such person, who failed to complete the original contract (36 CFR 223.86). Follow the regulations applicable to the resale of timber from uncompleted contracts. When environmental conditions preclude extension of a sale, document the decision so no doubt exists about the original purchaser's status in regard to any resale of the uncompleted contract (36 CFR 223.86(b)(3)(iii)).

### **2431.6 - Disposal of Firewood**

Dispose of personal-use firewood material to an individual by lump sum, using unadvertised sale procedures. Limit personal use of firewood to the amounts typically needed for domestic household use in a year's time or less if the firewood resource is limited. Unlike free-use firewood that must be used for domestic purposes, purchased firewood may be resold. See FSM 2462 for requirements for free personal use of firewood. Apply the minimum charge for small sales (FSM 2431.34) to each transaction, regardless of the number of product removal permits or tags issued to an individual.

Coordinate the personal-use firewood and special forest product programs with adjacent administrative units or other Government agencies in order to meet the management goals to:

1. Conduct the program in a cost-efficient manner.
2. Strive to make existing firewood available to all potential users in a manner that is consistent with protection of other resource values and within budget and personnel constraints.

### **2431.7 - Timber Program Announcement**

The timber program announcement includes volume resulting from timber sales and stewardship contracts. Issue timber program announcements every six months on a fiscal year basis to parties who have displayed an interest in the forest timber program. Advise such parties about public meetings concerning the proposed timber and stewardship contracts. Do not send timber program announcements to individuals appearing as an "exclusion" in the System for Award Management (FSH 2409.18a, 04.8).

Each timber program announcement must include the schedule of sales and Stewardship contracts for the ensuing 12-month period. The timber program announcement for the first six months of the 12-month period must be firm, attainable, and changed only in the event of natural catastrophe, litigation, new environmental information, or other situations where a change is in

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the best interest of the Government. Sales and stewardship contracts may be shifted within the 6-month period to take advantage of improved market conditions and increase individual sale and program cost efficiency. Generally, include in the timber program announcement only sales and Stewardship contracts on which sale preparation activities have been completed through gate 3 (FSM 2432.3). Small sales on which gate 3 activities have not been completed may also be included.

The timber program announcement for the second six months of the 12-month period may be more flexible than the first 6-month period, but must contain well thought-out, attainable sales and Stewardship contracts.

### **2431.8 - Timber Access Policy**

Obtain all right-of-way and cost-share jurisdictions identified as necessary for adequate management of the individual National Forest. Established pursuant to the Forest Roads and Trails Act, cost-share roads are those constructed and maintained through cooperative agreements with landowners, primarily major corporate timber landowners, to share the costs of a single road system and facilitate the exchange of rights-of-way between private landowners and the government. The roads within a cost-share jurisdiction or area provide access to intermingled lands within the National Forest System and promote the productive management and use of the lands. Acquire the appropriate easement for the level of access needed pursuant to direction in FSM 2460.

### **2431.9 - Timber Information Manager (TIM)**

Track the accomplishment of timber sale preparation activities using reporting points, or “gates,” described in FSM 2432 and in FSH 2409.18, chapter 10.

## **2432 - PRESALE PREPARATION**

Conduct presale preparation by completion of the series of steps, or gates, set out in the following sections FSM 2432.1 through 2432.6.

### **2432.04 - Responsibility**

The Line Officer with delegated authority (FSM 2404.28) has the responsibility to certify gates 1 through 4 by approving the certification form generated by the Timber Information Manager (TIM). This includes certifying that the sample contract, prospectus, appraisal, and advertisement fairly and accurately represent the sale conditions. The Contracting Officer has the responsibility to certify gate 5 by signing the certification form generated by TIM.

A financial efficiency analysis is required at gates 1 and 2 of the timber sale preparation process in conformance with FSH 2409.18, chapter 10. An economic efficiency analysis is not required, but may provide important information to the decision process, particularly where the sale is

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designed primarily to achieve forest stewardship objectives or where effects on non-market costs and benefits are substantial (FSH 2409.18, ch.10).

The Responsible Official shall be able to determine how each proposed project is expected to affect the financial position of the overall Timber Sale program, and whether non-market and/or non-monetary benefits will outweigh net costs if the financial analysis is negative. It is important to consider these criteria prior to making substantial investments in the project (beyond gate 1) and in the selection of an alternative (at gate 2).

**2432.04a - Regional Forester**

Refer to FSM 2404.15b

**2432.04b - Forest Supervisor**

Refer to FSM 2404.16b.

**2432.04c - District Ranger**

Refer to FSM 2404.17b.

**2432.04d - Contracting Officers**

Refer to FSM 2404.18.

**2432.1 - GATE 1: Proposal Development**

Gate 1 consists of initial planning activities for a proposed action following the procedures in the sections below. A decision to proceed onto Gate 2 is documented in a project plan approved by the responsible line officer. 2432.11 - Purpose of Timber Sale Project Plan

The timber sale project plan documents the early overview of proposal development to ensure the addition of timely, efficient, and environmentally sound timber sale proposals to the timber sale action plan. It documents the determination that further investment in the proposal is warranted. A timber sale project plan may have one or more timber sales or permit areas.

**2432.12 - Tasks**

Complete the following tasks:

1. Identify the Forest plan goals and objectives to be achieved or contributed to as a result of implementing the proposal. Identify the primary purpose of the project or portions of the project as guided by FSH 2409.18, section 21. Identify critical issues associated with the proposal.

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2. Develop estimates of pertinent data, such as timber volume, acreage, and harvest methods, related to the proposal.
3. Plan and develop project activities including logging and transportation systems that achieve Forest plan objectives, integrate resource requirements consistent with the Forest plan, and meet Forest plan standards and guidelines in the most cost-efficient manner.
4. For timber sale proposals that are expected to exceed \$100,000 in value, complete a financial efficiency analysis using the guidance provided in FSH 2409.18, section 65.12.
5. Determine whether the timber sale is feasible (for example, the likelihood it will sell, given current market conditions), whether it represents the most cost-efficient means of achieving the Forest plan objectives, and whether continued investment in the proposal is prudent.
6. Document this determination along with supporting information in the timber sale project plan.

**2431.12a - Reconnaissance**

Conduct intensive reconnaissance sufficient to identify important resource values, potential problems, and alternative site-specific treatments that will meet resource objectives.

**2431.12b - Roads**

Follow the guidance in FSM 7712 for travel analysis.

During environmental analysis, identify the need to obtain jurisdiction over roads (FSM 5460).

Evaluate each proposed road construction or reconstruction project to determine the least-cost facility (considering cost of construction, maintenance, and hauling) for the sale. Compare the standard required for the sale with that needed for future management. When a higher standard facility is required for future management, include supplemental funding to construct the higher standard (FSH 2409.18, sec. 31.2).

**2431.12c - Certified Silviculturists**

Use certified silviculturists to prepare silvicultural diagnoses and prescriptions that respond to the proposed action and selected alternative respectively (FSM 2478.03).

**2431.12d - Control Points**

During intensive field reconnaissance, mark or otherwise positively identify on the ground, control points, key resources, boundaries, and other crucial details necessary to ensure an accurate passage of the selected alternative for sale area layout in gate 3.

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### **2432.13 - Content of Timber Sale Project Plan**

Concisely present the appropriate data needed by the Responsible Official, including the estimated proposed sale value and volume, financial efficiency information, and other resource products to determine whether to proceed with the environmental analysis and project design.

Do not exclude potential alternatives that should be examined during the gate 2 process.

### **2432.14 - Sources of Information**

Use field reconnaissance surveys from affected resources, current aerial photographs, inventories, and the Forest plan. Conduct on-the-ground reviews of the project area to verify existing data and do extensive reconnaissance of the area as necessary to ensure project feasibility, both technical and financial, of timber sale projects.

### **2432.15 – Gate 1 Certification**

Enter only the project name, project identification number, estimated volume, and estimated bid date in the Timber Information Manager (TIM). The timber sale project plan must be attached to the certification form. The responsible Line Officer for the project shall certify on a gate 1 certification form, generated by TIM and titled Timber Sale Project Plan, that:

“The proposed National Forest timber sale project is feasible to prepare and will be consistent with the Forest plan, and further investment of resources and capital in the proposal is warranted.”

### **2432.2 - GATE 2: Project Analysis and Decision**

The analysis and decision process provides for an analysis within and adjacent to the proposed project area. The purpose is to develop an environmentally sound and cost-efficient project under National Environmental Policy Act (NEPA) provisions and to develop a design for field layout of the project. Completion of the project analysis and decision process results in the selection of a project alternative. A timber sale project design may have one or more timber sales or permit areas.

### **2432.21 - Purposes**

The purposes of the activities at gate 2 are:

1. To develop sound project analysis and decision consistent with the Forest plan using an interdisciplinary process and NEPA procedures.
2. To integrate resource analyses with estimates of financial and economic effects to provide decision makers with an understanding of the trade-offs between alternatives. This information

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is needed to make informed decisions about project alternatives and project operations (FSM 1971).

3. To integrate resource goals and objectives of the approved Forest plan into project design.

**2432.21a - Pre-Implementation Activities Prior to Completion of a National Environmental Policy Act (NEPA) Decision**

Implementation of a timber sale or integrated resource timber contract decision begins upon the award of the contract, as documented by the Contracting Officer's letter of award.

Implementation of an integrated resource service contract (IRSC) begins upon the award of the contract as documented by the Contracting Officer's signature of the award document (FAR 48 CFR Subpart 4.1). Implementation of an Indefinite-Delivery, Indefinite-Quantity (IDIQ) Stewardship contract typically begins upon the execution of the base contract or the issuance of an individual task order.

Pre-implementation activities may occur prior to issuance of the final NEPA decision that involves timber sales, including the period covering an objection review, if any. Some examples of pre-implementation activities include but are not limited to, layout, traversing, marking or designating timber, cruising, signing of sale area or unit boundaries, survey and design of roads, posting boundaries of areas that would need protection during project implementation, surveying for wildlife species or archeological sites, and appraisal.

A pre-advertisement to alert prospective purchasers with sufficient information about a proposed sale is permitted and is advisable where the Responsible Official intends to advertise for less than 30 days, pursuant to 36 CFR 223.81.

Whenever pre-implementation activities occur prior to issuance of a decision memo, decision notice, or record of decision for the timber sale caution should be exercised to avoid the false impression that the Responsible Official has in fact decided on the sale(s) prior to signing a final decision document.

Bid opening of timber sales or setting a date for receipt of proposals on Stewardship projects may never occur prior to the issuance of a NEPA project decision.

Direction for pre-implementation activities when environmental litigation is filed is provided in FSM 2432.31a.

**2432.22 - Tasks**

Perform tasks in accordance with sections FSM 2432.22a through FSM 2432.22c.

**2432.22a - Financial and Economic Analysis**

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Complete a financial and, if necessary, economic analysis, as guided by FSH 2409.18, chapter 20, for each timber sale in the project proposal expected to exceed \$100,000 in advertised value, and evaluate unusual requirements on sales of lesser value. Sales qualifying for a short advertising period under 36 CFR 223.81 do not require formal analysis. Identify sale purpose and analyze each timber sale in the project proposal to develop cost-efficient alternatives and identify the most cost-efficient alternative.

Use the financial and economic analyses in making decisions about whether to proceed with project investments and, if so, which alternative will be implemented to achieve Forest plan objectives. Operate timber sale projects in the most cost-efficient manner practicable to achieve the objectives outlined by the Forest plan and to produce a program where long-term benefits exceed costs (FSM 2403).

Where timber harvest is proposed primarily for the purpose of achieving forest stewardship purposes (FSH 2409.18, sec. 23.2), a full range of alternatives, including practical and feasible non-harvest options, must be analyzed in the environmental analysis process. It is not necessary to include harvest or non-harvest options that are not practical or feasible from a biological, social, or legal standpoint or those that do not meet Forest plan objectives, or standard and guideline requirements (FSH 1909.15). For timber sales where a financial and economic (if necessary) analysis is required, complete the analysis for each alternative considered, including the “no action” alternative, if analyzed (FSH 2409.18, sec. 23.2).

### **2432.22b - Changes**

If any changes in gate 1 occur, document the changes in the timber sale project design (gate 2), in the timber sale summary (gate 3), or in the timber sale report (gate 4).

### **2432.22c - Environmental Analysis**

Complete the appropriate environmental analysis and documentation in compliance with 36 CFR 220. Document the decision regarding which alternative will be used to implement the proposal or, not implement it (no action alternative), in the proper decision document (decision memo, decision notice, or record of decision).

### **2432.23 – Gate 2 Certification**

Update the estimated volume and estimated bid date for the project in the Timber Information Manager (TIM). Enter into TIM the estimated miles of specified road construction and reconstruction, type of NEPA decision document, and whether objections were filed.

The Responsible Official for the project shall certify on a gate 2 certification form, generated by TIM and titled Timber Sale Project Design, that:

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“This National Forest timber sale project has a signed NEPA decision document by the Responsible Official, has an analysis file documenting the analysis and the information used in the analysis, and a sale implementation plan (project plan) which provides field instruction for carrying out the selected alternative.”

### **2432.3 - GATE 3: Sale Plan Implementation**

Use the direction provided during the environmental analysis and decision-making process to implement the timber sale project design for individual timber sales identified in the selected alternative approved at gate 2. Completion of this activity passes the sale through gate 3 of the timber sale preparation process and permits the appraisal and advertisement to proceed.

#### **2432.31 - Purpose**

The purposes of the activities at gate 3 are:

1. To meet the direction and intent of the environmental analysis and decision-making process through the field layout of the proposed timber sale or Stewardship project and the necessary road system.
2. To complete marking, cruising, surveys, and collection of all other data necessary to appraise the timber and to complete the appraisal which initiates gate 4.

#### **2432.31a - Pre-Implementation Activities When Litigation Is Filed**

When a decision to authorize a timber sale or Stewardship contract is the subject of litigation, and advertisement, bid opening, receipt of proposals, or contract award has not yet occurred, contact the Washington Office, Director, Forest Management prior to proceeding with any or all such actions. Washington Office, Forest Management will coordinate with Washington Office, Ecosystem Management Coordination staff and Washington Office, Office of the General Counsel. Note that litigation may also occur before or after gate 3.

Factors to consider whether to proceed with, or defer, such actions include:

1. Status of the challenged projects (whether the contract(s) have been advertised, bids have been opened, or proposals have been received).
2. Strength of the project’s NEPA analysis and compliance with other applicable laws, regulations and policies, including compliance with Forest land and resource management plans.
3. Likelihood that a temporary restraining order or a preliminary injunction will be granted.
4. Likelihood of incurring contract damages if further project actions are suspended or terminated, and if so, estimated amount.

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5. Likelihood of paying attorney's fees if the project moves forward, and if so, estimated amount.
6. Willingness of apparent high bidder to enter into a Pre-Award Waiver, Release and Limitation of Liability Agreement (Form FS-2400-0076) with the Forest Service. (This option is not applicable to integrated resource service contracts.)
7. The effects of further project actions on the Government's litigation strategy.

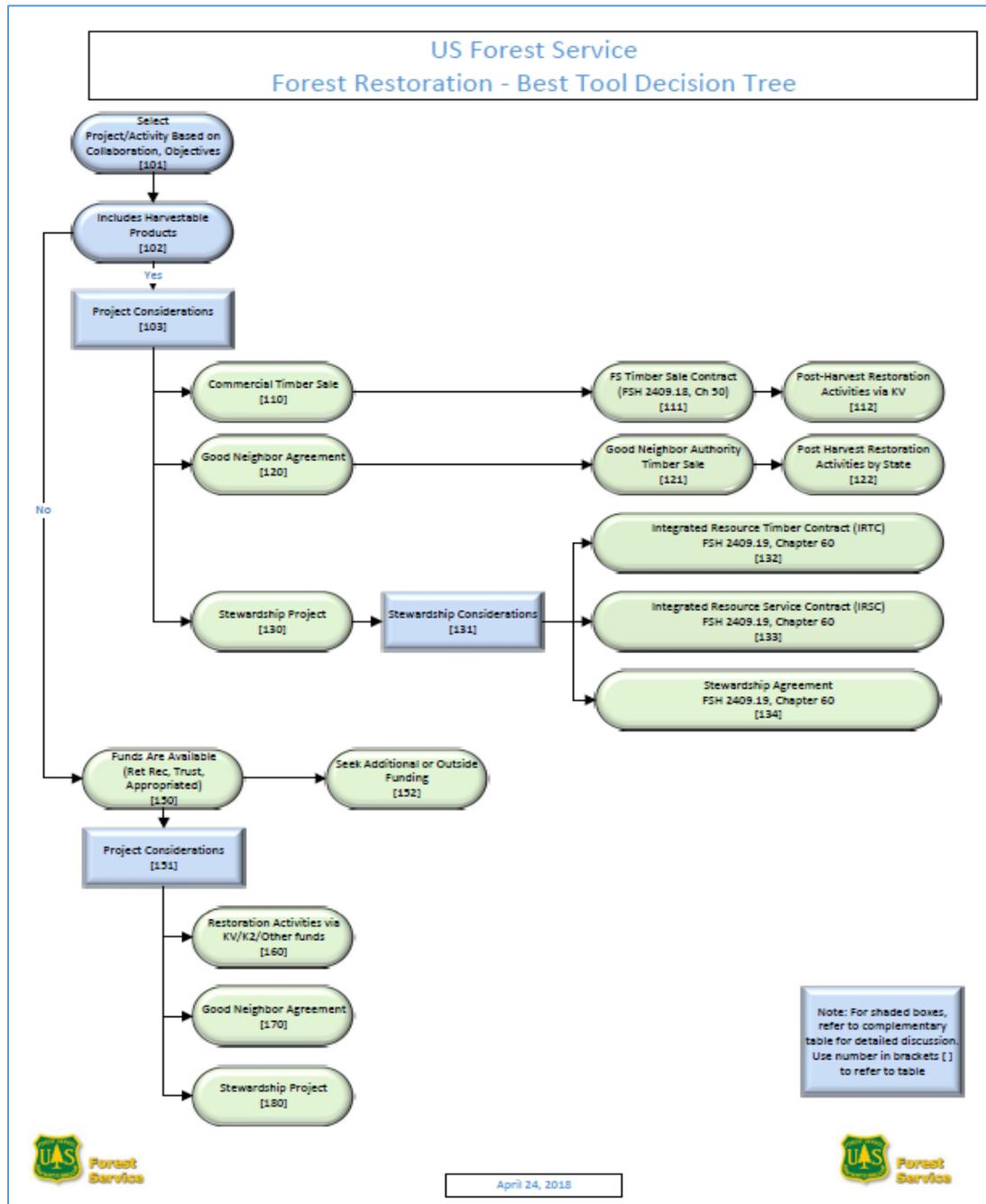
**2432.32 - Tasks**

1. Select the appropriate contract or agreement form to be used considering resource management objectives, authority and policy, cost to prepare and administer, available personnel and skills to prepare and administer, and any other pertinent factors. Refer to Exhibit 01, USFS Forest Restoration Best Tool Decision Tree and Exhibit 02, Decision Considerations as an aid in the selection process.

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**2432.32 - Exhibit 01**

**Forest Restoration – Best Tool Decision Tree**



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**2432.32 - Exhibit 02**  
**Decision Considerations**

US Forest Service  
 Forest Restoration - Best Tool Decision Tree  
 Decision Considerations

Decision Point	Discussion of Decision Point	Decision Factors to Consider	References/ Authorities
101 - Select Project/Activity Based on Collaboration, Objectives	Projects should be selected based on the needs of the forest and the goals of the Forest Plan. Collaboration with partners should be done at this step so all involved will have input on the activities that will be implemented. See FS-ECM website for more information on developing a collaborative or how to best implement a collaboration effort.	Up-front collaboration with government agencies (Federal, State, local), Tribal governments, local communities, non-governmental organizations, and any interested groups or individuals (NEPA scoping is not adequate collaboration).	FS-EMC Website, FSH 2409.18, Ch 10
		What potential activities are best based on the condition of the resource.	
		There are organizations interested in completing restoration treatments through an agreement	
102 - Includes Harvestable Products	Projects are evaluated for harvestable products that will help decide if there is the potential to generate funds to implement restoration activities.	Inventory estimates.	FSH 2409.18 (Timber Sales)
		Logging opportunities.	Timber Sales
		New or innovative products.	FSH 2409.19, Chapter 60 (Stewardship)
103 – Project Considerations	As projects are identified, there are many decisions or issues that need to be evaluated to decide what tool(s) to pick for implementation. There is not one definite answer to the decision.	Does the proposed action meet one of the seven land management goals contained in the Stewardship law?	Stewardship
		Economically Feasible	Timber Sales
		Industry Interest & Capability	
		FS Programs Impacts	
		Can you combine harvest with restoration	Stewardship
		Is Best Value Award appropriate?	Stewardship
		Opportunity to trade goods for services	Stewardship
		Our capacity to prep, implement and monitor	Stewardship/GNA
		Funding available or needed?	Stewardship
		Promote local workforce or industry	
		Willing partners	Stewardship/GNA
		Opportunity to bundle several contracts into one and treat a larger landscape scale.	Stewardship
		Contract term of up to 20 years	Stewardship
Small Business set aside potential	FSH 2409.18		
131/151 - Stewardship Considerations	There are many factors that go into deciding which type of stewardship contract is selected. FSH 2409.19, Chapter 60 discusses the various instruments available for the user to select which route to take. The most important factor in this decision is whether there is harvestable products that will be removed and how much value this will yield.	Partner Interest with Cost Share, Mutual Benefit, Mutual Interest	Stewardship, FSH 2409.19, Chapter 60
		Need for IDIQ?	
		Will FS cooperatively develop, plan and implement project	
		Does the cost of the service work items exceed the value of the forest products?	

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The form of contract or agreement selected will have a strong bearing on preparation and administration activities and must be decided at the beginning of gate 3. Basic options include:

- a. Timber Sale Contract
  - b. Stewardship Contract including an Integrated Resource Timber Contract (IRTC) or an Integrated Resource Service Contract (IRSC).
  - c. Stewardship Agreement
  - d. Good Neighbor Agreement
2. Provide quality control for sale plan implementation, including development and maintenance of specific certification programs (FSM 2440, 2450, 2470, and 7700).
  3. Require review of financial analysis assumptions from gate 2 to ensure that silvicultural systems, logging systems, regeneration, slash disposal methods, and other sale related activities represent the least-cost means of achieving the sale objectives and do not burden the sale with unnecessary costs.
  4. Design roads to be constructed on National Forest System lands to standards appropriate for their intended uses, considering safety, cost of transportation, and impacts on lands and resources, and traffic that will use the road during the sale.
  5. Perform all marking and measurements needed to locate on the ground all the treatments identified in the selected alternative.
  6. Secure the necessary data for the appraisal of the timber sale.

**2432.33 - Sale Area Layout and Volume Determination**

In selecting marking and measurement methods, select the least-cost method that achieves the desired results. Since saving costs during sale preparation may increase sale administration costs, consider both the costs to prepare and the costs to administer when selecting least cost methods. Prepare marking and designating guides that meet the objectives developed during environmental analysis and policy at FSM 2442.

Document the decision to use Designation by Prescription in the cruise plan and follow the procedures in FSM 2441.

See FSM 2440, FSH 2409.12, Timber Cruising Handbook, and FSH 2409.18, Timber Sale Preparation Handbook, for volume determination and sale layout procedures.

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### **2432.34 - Timber Sale Transportation Facilities**

During transportation planning, identify and plan the development and use of both specified and temporary roads and provide for road management objectives (FSM 7710). Use this guidance to locate, survey, design, and develop quantities for specified roads.

Plan all roads prior to the sale according to FSM 7710. Document any additions to the forest transportation system in the forest transportation atlas. Do not include inventories of temporary roads in the forest transportation atlas. Show the location of proposed temporary roads and existing and proposed National Forest System roads in an attachment to the timber sale summary.

#### **2432.34a - Specified Roads**

Specified roads include those roads planned for future recurrent land management uses and roads for which the timber sale contract specifies the locations, standards, and construction specifications.

Locate, design and construct specified roads to serve the resources involved in accordance with the Forest plan, to facilitate completion of the transportation system and provide the stability and durability appropriate for their intended service life and uses (FSM 7720).

1. Specified road costs. The purchaser pays for the cost of building a road to the standard needed for consistency with applicable environmental laws and regulations and as needed for timber harvest. If the sale contract provides for road design standards in excess of those needed for the harvest and removal of timber from that sale, including measures to protect adjacent resource values, provision shall be made in the contract for compensating the purchaser for the additional costs, unless the purchaser elects Government construction under section 14(i) of the National Forest Management Act of 1976. In the absence of supplemental funds, reschedule or redesign the sale.
2. Road standards. Determine road standards in accordance with FSM 7710 and FSM 7721.
3. Maximum economy roads. Pursuant to the Forest Roads and Trails Act of 1964, plan for the least-cost road needed to meet the resource objectives for the sale.

Where roads of a higher standard than needed in the harvest and removal of timber are to be constructed as specified roads, the purchaser of National Forest System timber shall not bear that part of the cost necessary to meet such higher standard unless purchaser elects Government construction under section 14(i) of the National Forest Management Act of 1976 (36 CFR 223.38).

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Use of a higher standard road may increase road construction costs, but result in lower log haul and road maintenance costs. When future management needs require use of a higher standard than that needed for the immediate sale, the amount to include as an appraisal cost is the estimated road construction cost which results in the lowest total transportation cost of the sale, plus hauling and maintenance cost savings to the sale due to construction of the higher standard road.

4. Bridges and culverts. When designing roads, plan to install permanent type culverts in specified roads where needed for long-term, constant service facilities (FSM 7722).
5. Reconstruction. When reconstruction standards result in costs that exceed purchasers' needs or transportation costs (reconstruction, hauling, and maintenance), explain this need in the timber sale report and use appropriated funds to augment the road reconstruction costs allowed in the appraisal to the extent of the added cost. Planning in gates 1 and 2 should recognize this need.
6. Specifications. Use the Service-wide construction specifications and provisions for construction and reconstruction of specified roads (FSM 7721).
7. Use of contributed funds. Refer to FSH 2409.18, section 31.25 for criteria and procedures pertaining to the use of contributed funds. Include integrated transportation analysis as a prerequisite to funding consideration.
8. Maintenance of National Forest System roads by purchaser. During the sale preparation process, develop road maintenance criteria.

#### **2432.34b - Temporary Roads**

Use temporary roads only for short-term, non-recurrent purchaser use. Do not plan or permit purchasers to construct temporary roads in lieu of building specified roads needed for future recurrent management of the area. In general, temporary roads constructed for purchaser's use shall be treated by the purchaser in accordance with the standard provisions of the contract after they have served the purchaser's purpose, unless additional measures are prescribed. Follow the procedures in FSM 5461.21 when a temporary road is planned that will cross non-Federal lands. Temporary roads to remain open for short-term access for post-sale treatments should generally be treated by the Forest Service within two years of acceptance of the subdivision or payment unit and have been addressed in the NEPA decision.

#### **2432.35 - Timber Sale Summary**

Document sale preparation activities completed during implementation in the timber sale summary generated by TIM (FSH 2409.18, ch. 40). Include information needed to prepare the sale for appraisal and advertisement (gate 4). Preparation of this summary and Line Officer approval of the gate 3 certification generated by TIM marks the completion of gate 3.

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### **2432.36 – Gate 3 Certification**

Update the estimated volume, estimated miles of specified road construction and reconstruction, and estimated bid date for the timber sale in the Timber Information Manager (TIM). Add data to TIM including sale number, State, county, legal description, sale objectives, salvage status, percent of salvage volume, cruise volume, cutting unit descriptions, and the contract species name and conversion factor.

The responsible Line Officer for the timber sale shall certify on a gate 3 certification form generated by TIM entitled Timber Sale Summary that:

“This National Forest timber sale has been fully prepared in accordance with 36 CFR 223.30 and is consistent with the Forest plan and applicable NEPA decisions. In addition, this sale is still feasible based on Forest plan objectives, financial efficiency, and salability to potential purchasers”.

### **2432.4 - GATE 4: Final Package Preparation, Review, Appraisal and Offering**

This activity includes the preparation of the appraisal report, advertisement, bid form, prospective bidder letter, prospectus, Sale Area Improvement Plan, Brush Disposal Treatment Plan, Salvage Sale Fund Plan, and sample contract. The gate concludes with the offering of the completed sale package through advertisement or notice of availability in the case of a deficit sale.

If litigation is served or filed challenging a timber sale or stewardship contract decision, follow the direction in FSM 2432.31b.

### **2432.41 - Purposes**

The purposes of the activities at gate 4 are:

1. To compile and document the data used to calculate the advertised price.
2. To generate interest in the timber sale or stewardship contract so that competitive bidding is likely.
3. To provide information on the timber sale requirements to prospective bidders.
4. To calculate required deposits.
5. To prepare a road package responsive to management objectives addressed in the NEPA decision if specified roads are needed.
6. To prepare and review a sample contract and completed sale package.

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### **2432.42 - Appraisal**

See FSH 2409.18, chapter 40, and FSM 2420 for timber sale appraisal direction.

### **2432.43 - Specified Road Costs**

If the sale contract provides for road design standards in excess of those needed for the harvest and removal of timber from that sale, including measures to protect adjacent resource values, provision shall be made in the contract for compensating the purchaser for the additional costs, unless the purchaser elects Government construction under section 14(i) of the National Forest Management Act of 1976. In the absence of other funds, reschedule or redesign the sale.

Note the purchaser's share of the cost to build a road to a higher standard than needed for the timber sale is the estimated construction cost for the standard of road needed for timber harvest only (FSM 2432.34a). If the purchaser elects Forest Service construction, the Forest Service must initially finance the total public works cost for the standard of road needed for the timber harvest, plus the public works cost of the additional road work. The purchaser will reimburse the Forest Service for the public works cost attributed to the standard of road needed for the timber harvest as deposits with stumpage payments.

### **2432.44 - Timber Sale Plans**

1. Prepare the Sale Area Improvement (K-V) Plan for inclusion in the Timber Sale Report generated by TIM. FACTS must be used to create the Sale Area Improvement (K-V) Plan. Use the guidance found in FSM 2477 and FSH 2409.19, chapter 30 when preparing the K-V Plan.
2. Prepare the Salvage Sale Fund (SSF) Plan for inclusion in the Timber Sale Report generated by TIM in gate 4. Use the guidance found in FSM 2435 and FSH 2409.19, chapter 70 when preparing the SSF plan.
3. Prepare the Brush Disposal (BD) Treatment Plan for inclusion in the Timber Sale Report generated by TIM. The Brush Disposal Treatment (BD) Plan is created in FACTS. Use the guidance found in FSH 2409.19, chapter 40 when preparing the BD plan.

### **2432.45 - Bidding Methods**

Include the bidding method selected for the sale and, if necessary, the method selected to control skewed bidding in the bid forms, advertisement, and prospectus as appropriate.

### **2432.46 - Prospectus**

Use a prospectus to attract interest in a timber offering, to direct attention to new and changed procedures, and to furnish information in addition to that contained in the advertisement, enabling prospective bidders to decide whether further investigation is warranted. Do not duplicate information found in other documents (36 CFR 223.83). Use a prospective bidder

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letter to inform prospective bidders that a timber sale is being offered and a complete bid package is available upon request. The prospective bidder letter provides only a minimum amount of information to the prospective bidder and does not replace the prospectus. Do not send prospective bidder letters to individuals appearing as an “exclusion” in the System for Award Management (FSH 2409.18a, 04.8). The prospectus and prospective bidder letter are prepared as part of the Timber Information Manager (TIM) and TIM automatically enters many of the fill-in items.

When prospective bidders or interested parties request a prospectus, include it with the advertisement, bid form, and sale area map. TIM generates the prospectus displayed in the FSH 2409.18, chapter 50.

Prepare a prospectus for all sales formally advertised for 30 days or longer and emergency sales advertised for less than 30 days (36 CFR 223.80 through 223.83, FSH 2409.18, section 53.

### **2432.47 - Advertisements**

Follow the direction in 36 CFR 223.80 through 223.82, 223.111, and 223.117. FSH 2409.18, chapter 50, provides a sample format for advertisements. Follow direction in FSH 2409.19, chapter 60 for advertising Integrated Resource Timber Sale Contracts.

#### **2432.47a - Purposes of Advertisements**

1. To give eligible timber operators in the locality a fair and open opportunity to examine the offered timber and to prepare a bid.
2. To prevent any possibility of favoritism in the disposal of Government-owned timber.
3. To inform interested citizens, other than timber operators, of the sale offering. See FSM 2431.2 for instructions on publicizing the annual sales program.

#### **2432.47b - Scope of Sale Interest**

1. Sales of ordinary interest. For advertisements of sales of ordinary interest do not exceed the minimum requirements of 36 CFR 223.80 and 223.82.
2. Sales of unusual interest. Advertise sales of unusual interest in trade journals, as well as in local newspapers, for periods of 45 to 90 days. Make two or more publications of the advertisement whenever the advertising period exceeds 40 days. Advertisements for such sales may include some information ordinarily included in the prospectus.
3. Formally advertised sales. Except as otherwise authorized in accordance with 36 CFR 223.80, 223.81, and 223.111, advertise all sales for 30 days or longer when:
  - a. The appraised product value exceeds \$10,000, or

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b. The sale includes construction requirements for specified roads.

4. Advertising period for emergency situations. In emergency situations where prompt removal of timber included in a sale is essential to avoid deterioration or to minimize the likelihood of the spread of insects, the Approving Officer may authorize shortening the formal advertising period to not less than seven days. In other emergency situations, or for timber sold in accordance with 36 CFR part 223.2 the Regional Forester or Chief may authorize shortening the formal advertising period to not less than seven days (36 CFR Part 223.81).

5. Unadvertised and informally advertised sales. When timber is not subject to the formal advertising requirements either under informal competitive bids or directly to operators, sell timber by negotiation (36 CFR parts 223.80 and 223.85). Limit unadvertised sales to noncompetitive transactions not exceeding \$10,000 in appraised value that result from negotiation or direct sale.

Do not make unadvertised sales totaling more than \$10,000 in appraised value, directly or indirectly, in any fiscal year to any individual, corporation, or other entity. Except, settlement sales may exceed the \$10,000 per year per individual, when the individual, corporation or other entity is operating on National Forest lands under the terms and conditions of another law, regulation, or permit (FSH 2409.18, ch. 80). For example, clearing timber to construct a road accessing mineral rights or to a private inholding. Use competitive procedures when more than one person or entity shows interest in purchasing the timber. Use competitive procedures with all set-aside sales.

Make unadvertised sales only when no reasonable likelihood of competition exists for the timber in question and document the circumstances.

Use informal advertising on sales less than \$10,000 in value, where necessary, to obtain timber harvest for salvage or other essential short-term needs. Sales sold with this procedure are not included in the limit on the non-competitive total value of awarded sales to any individual or other entity in any one-year. Publicize short notice sales adequately.

6. Firewood. Dispose of personal-use firewood material to an individual without advertisement (FSM 2431.6).

**2432.48 – Gate 4 Certification**

At this gate the Timber Information Manager (TIM) user shall:

1. Choose the timber sale or Stewardship contract or agreement type and preparation information,
2. Enter or verify needed road information,

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3. Enter road maintenance data,
4. Enter any engineering construction deposits and engineering cost share road credits,
5. Enter or verify appraisal data,
6. Enter contract provisions,
7. Enter data for the Sale Area Improvement, Brush Disposal Treatment, and Salvage Sale Fund Plans, and
8. Enter data for the bid form, advertisement, and prospectus.

The Responsible Official for the project shall certify on a gate 4 certification form generated by TIM, entitled Timber Sale Report, that:

“All attached documents and specifications for this timber sale have been completed in accordance with regulations at 36 CFR, part 223, Subpart B, and applicable Forest Service Manual and Handbook requirements and standards related to timber sales. Furthermore, the environmental documentation and NEPA decision have been reviewed; no significant new information or changed circumstances relating to the environmental impacts of this proposed action exist that require a correction, supplement, or revision to the documentation or decision; and advertisement should continue.”

### **2432.5 - GATE 5: Bid Opening**

For timber sale contracts, this activity includes accepting bids, conducting a sale auction when appropriate, determining the apparent high bidder, and preparing an abstract of the bids to be distributed to bidders and other interested parties. See FSH 2409.18, chapter 60, for detailed instructions. TIM may generate the bid opening abstract from data entered during bid opening or completed by hand.

Follow direction in FSH 2409.19, chapter 60 for evaluating best value offers for Integrated Resource Timber Contracts.

### **2432.51 - Purpose**

The purpose of gate 5 is to determine the highest responsive bid for timber sale contracts and the best value offer for Integrated Resource Timber Contracts.

### **2432.52 - Bid Monitoring**

Monitor timber sale bidding for instances of noncompetitive bidding or possible collusive behavior.

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Limit the details of the monitoring system for administrative-use only and limit access to the system to personnel with responsibility for monitoring the program. Handle requests made under the Freedom of Information Act pursuant to FSM 6270.

### **2432.53 - High Bids**

For timber sale contracts, the Contracting Officer designates the apparent high bid and initiates the actions necessary to award the sale. If problems are encountered during the bidding process the Contracting Officer shall consider whether the rejection of all bids (FSH 2409.18, ch. 60) serves the interests of the Government and has a logical, rational basis. If rejecting all bids is recommended, refer the matter to the Regional Forester for review. In Regional Forester's and Chief's sales, refer rejection of all bids or withholding of an award under 36 CFR 223.100 (c) and (d) to the Chief for a decision.

Follow direction in FSH 2409.19, chapter 60 for determining the best value offer for Integrated Resource timber sale contracts.

If litigation is served or filed challenging a timber sale decision, follow the direction in FSM 2432.31b.

Normally, the highest bidder's firm offer remains in effect for 90 days from the date of the bid opening, unless the bidder requests an extension, in writing, to the Contracting Officer. If litigation has not been resolved during the initial 90-day period, the Regional Forester shall decide to reject all bids, approve any requests for extension of a firm offer by the bidder, or award the contract, whichever is in the best interests of the Government.

### **2432.54 - Bid Protests**

By agreement with the Forest Service, the Government Accountability Office (GAO) decides bid protests concerning the sale of National Forest System timber. This is the only internal administrative bid protest procedure applicable to Forest Service timber sales. Follow procedural rules published at 4 CFR Part 21. Be aware that some of the rule applies to procurements (acquisitions). Officials acting as sale officers in opening bids and conducting auctions shall be familiar with the portion of the rule that applies to sales of timber and timber products.

Refer to FSH 2409.18, section 66 for procedures to follow when a bid protest is filed with the Government Accountability Office.

In rare cases bid protests may be filed with the Court of Federal Claims. Consult with the WO and OGC if this occurs.

### **2432.55 - Bid Repudiation**

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Consider a timber sale contract to be repudiated when a timber sale contract is not consummated because the awardee fails to make the down payment, provide a performance bond, and/or execute the contract in accordance with the conditions specified on the bid form and in the award letter.

**2432.55a - Notice to Purchaser**

The Contracting Officer shall notify the bidder of the repudiation and breach by certified mail. The date of the receipt of notice must be the date of the repudiation. Also, include notice that the bidder:

1. Is subject to exclusion from bidding on the resale pursuant to 36 CFR 223.86(a)(1).
2. May be required to make down payment equal to 20 percent of the total advertised value, plus 40 percent of the total bid premium on future Forest Service contracts pursuant to 36 CFR 223.49(e).
3. Is subject to referral for debarment and suspension (FSH 2409.18a).

**2432.55b - Assessment of Damages**

Assess damages for a repudiated sale pursuant to the terms listed in the instructions to bidders included with bid forms FS-2400-0014 or if informally advertised on bid form FS-2400-0042a. in the following manner and sequence:

1. Offer the sale to the second highest bidder at the rates bid by the highest bidder. If the second highest bidder declines the contract, offer it in turn to remaining bidders in the order of their bids. If any bidder accepts the contract offer at the high bid rate, assess damages based on the costs incurred by the Forest Service in contacting the other qualified bidders regarding accepting the award of the contract pursuant to the provisions in the sample contract.
2. If there is no second highest bidder, more than one second highest bidder (tied) or all bidders decline the contract offer, attempt to re-advertise the repudiated sale within 6 months of repudiation at the appropriate appraised rates.
  - a. Determine damages based on the difference between the total resale bid value and the total bid value of the repudiated contract. Add certain additional costs (such as interest and the cost of resale) as indicated in the applicable terms of the bid form prepared for the sale.
  - b. If there are no bids on the re-advertised sale, base damages on the difference between the re-advertised appraised value and the total bid value of the repudiated contract. Add certain additional costs (such as interest and the cost of resale) as indicated by the applicable terms of the bid form prepared for the sale.

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3. If the sale is not reoffered within 6 months or is not reoffered at all, base damages on the difference between the appraised value of the repudiated contract and the total bid value of the repudiated contract. Add certain additional costs (such as interest and the cost of resale), as indicated by the applicable terms of the bid form prepared for the repudiated sale.

**2432.56 – Gate 5 Certification**

At gate 5 the Timber Information Manager (TIM) user shall: enter bidder information from the bid form, enter initial timber sale statement of account information for the Forest Products Financial System (FPFS), and update the Sale Area Improvement, Brush Disposal Treatment, and Salvage Sale Fund Plans. Approving these updated plans is a line officer responsibility.

The Contracting Officer shall certify on a gate 5 certification form, generated by TIM, titled Timber Sale Bid Opening that:

“The bid opening was monitored for instances of non-competitive bidding or possible collusive behavior, and any affirmative findings have been appropriately reported; the Salvage Sale Fund and/or KV Plans have been updated, if needed; all bids have been reviewed to determine bidder’s responsiveness; and the apparent high bidder has been notified by letter that the sale has been tentatively awarded to that bidder”.

**2432.6 - GATE 6: Award a Timber Sale Contract**

This activity involves the work items that follow the determination of the successful bidder. Included are the determination of bidder qualification, determination of responsibility, Equal Employment Opportunity clearance, road option investigation and feasibility determination, and the sale award.

**2432.61 - Purpose**

Provide prompt award of timber sale contracts to ensure protection of the best interests of the United States.

**2432.62 - Award**

Award each timber sale to the highest qualified bidder (36 CFR 223.100), unless the Regional Forester authorizes other actions under the provisions of 36 CFR 223.101. Award a stewardship contract to the contractor whose proposal represents the best value to the Government (FSH 2409.19, ch. 60).

Award timber sales and stewardship contracts promptly, taking into consideration the need to:

1. Make a determination of purchaser’s responsibility and document the findings (36 CFR 223.101).

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2. Complete Equal Employment Opportunity pre-award compliance review.
3. Provide time for size class challenges on set-aside sales (FSH 2409.18, sec. 90.42).
4. Arrange for Government construction of specified roads under 36 CFR 223.84 and 223.100.
5. Respond to a confirmed intention to file or the filing of a bid protest with the Government Accountability Office (4 CFR 21).
6. Resolve litigation filed against the project or contract. If litigation is served or filed challenging a timber sale or stewardship contract, follow the direction in FSM 2432.31b.

**2432.63 – Re-advertisement**

A Contracting Officer may sell, without re-advertisement, open sales which received no bids or no valid bids, at any time within 1-year of the original advertisement, if the action is within the officer's authorization (36 CFR part 223.85) (FSM 2404.21 and 2404.26) and if there is no evidence of competitive interest. The Contracting Officer shall sell and award the sale at not less than the original advertised rates, unless the sale is reappraised and re-advertised. However, there should be no compulsion to accept a later offer at or above the advertised rates. SBA set-aside sales that are no-bid must not be sold without re-advertisement.

If, within 15 days of the bid date, the Contracting Officer receives an application for the purchase of a previously advertised sale offering, solicit informal bids similar to that used with short notice sales.

**2432.63a – Re-advertisement of No-bid SBA Set-aside Sales**

Pursuant to 36 CFR 223.103, set-aside sales that receive no bids must be re-advertised as open sales where all purchasers, regardless of size class, may bid on the sale. Strive to re-advertise these sales within 30 days of the no-bid date.

**2432.64 - Sale Volume Exceeds Approving Officer Authorization**

If a sale harvest volume exceeds the volume authorized for the sale approving officer, continue to administer and close it with the original approving officer. If rate redetermination, modification, or extension of a timber sale contract results in a larger than authorized sale, refer the case for approval to the officer authorized to approve that class of business.

In an informally advertised sale, the highest informal bid may result in a total value in excess of a Contracting Officer's authorization. In such cases, the Contracting Officer may award the sale, provided the appraised value did not exceed the limitation. Otherwise, the sale must be approved by a Contracting Officer with authority for the higher value sale.

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### **2432.65 – Gate 6 Certification**

At gate 6, the Timber Information Manager (TIM) user will enter the final award data into the Forest Products Financial System (FPFS). At this gate, TIM will print the contract, performance bond, and down payment bill for collections.

Printing of the contract by TIM, award of the contract, and contract execution will certify gate 6 as accomplished.

### **2433 - NONPROCUREMENT DEBARMENT AND SUSPENSION**

Debarments and suspensions are serious administrative actions taken to assure that the Government only conducts business with responsible persons. The Suspending and Debaring Official may take debarment and suspension actions only to protect the public's interest and to protect the Government in future business dealings. Debarment and suspension actions are not used to punish persons lacking business integrity or honesty or as a means of penalty for prosecution of an illegal activity. Non-procurement debarments and/or suspensions are implemented under three different regulations:

1. Title 36 CFR part 223, Subpart C - Suspension and Debarment of Timber Purchasers, is used to debar persons who violate the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 U.S.C. 620, et seq.). The procedures for debarment under these regulations are found in FSM 2455.4.
2. Title 2 CFR Part 180 - OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement) provides a Government-wide system of debarment and suspension for non-procurement programs and activities.
3. Title 2 CFR Part 417 - Non-procurement Debarment and Suspension, supplements 2 CFR 180 as the (USDA) policies and procedures for non-procurement debarment and suspension specific to USDA and the Forest Service.

Use these regulations to debar and/or suspend individuals, organizations, or other entities, including purchasers of timber sale contracts. These regulations cover all timber sale contract forms. The procedures provide for reciprocal exclusion of persons who have been excluded under 48 CFR part 9.4 of the Federal Acquisition Regulations. They also provide for the consolidated listing of all persons who are excluded, or disqualified by statute, Executive Order, or other legal authority.

Procedures for debarment and suspension under these regulations are found in FSH 2409.18a.

#### **2433.03 - Policy**

Refer to FSM 2403.7.

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### **2433.04 - Responsibilities**

FSM 2404 and 2431.04 set out the general responsibilities related to debarment and suspension. Other responsibilities specific to suspension and debarment are set out in FSH 2409.18a, Zero Code.

### **2434 - TIMBER SALE PIPELINE RESTORATION FUND**

The Timber Sale Pipeline Restoration Fund is a special fund established by Congress to provide an additional source of revenue for the Forest Service to rebuild the timber sale pipeline under the regular sales program (not the Salvage Sale program) and to address the backlog of recreation maintenance and rehabilitation projects. The term "timber sale pipeline" refers to timber sale preparation work leading to gates 2 and 3 of the timber sale process, where the sale is planned for offer in any future year other than the one where the timber sale is being prepared. Refer to FSH 2409.19, chapter 50 for Objectives, Policies, Responsibilities and other information pertaining to the Timber Sale Pipeline Restoration Fund.

#### **2434.01 - Authority**

Refer to FSM 2401.1.

### **2435 - SALVAGE SALE PROGRAM**

Salvage situations may evolve rapidly, and frequently, the affected resources deteriorate quickly. The Salvage Sale program provides the means to sustain ecological values and to expedite the efficient recovery of the forest resource value and volume from trees killed or damaged through catastrophic events, such as fire, insects, disease, wind throw, or hurricanes. In some cases, the Salvage Sale program is used to remove associated trees for timber stand protection because of susceptibility to insect and disease attack, genetic inferiority, or stand overstocking.

To help with the recovery of damage to resources due to catastrophic events and to minimize associated losses, use the Salvage Sale Fund (SSF) to prepare and administer qualifying salvage sales. When SSF funds are unavailable, use appropriated funds, in accordance with approved procedures, to accomplish Salvage Sale program work.

Refer to FSH 2409.19, chapter 70 for Objectives, Policies, Responsibilities, definitions and other information pertaining to the Salvage Sale Program and appropriate uses of salvage sale funds.

#### **2435.01 – Authority**

Refer to FSM 2401.1.

### **2436 - BRUSH DISPOSAL PROGRAM**

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The Brush Disposal Program allows for the disposal of unwanted logging debris resulting from timber sale contracts and permits. Prepare Brush Disposal Treatment Plans (form FS-2400-62) and any supporting documents in accordance with policy and guidelines applicable to the sale area. Expect the purchaser to assume responsibility only for the disposal of slash resulting from the purchaser's operation.

Refer to FSH 2409.19, chapter 40 for information and direction pertaining to the Brush Disposal Program and appropriate uses of brush disposal funds.

## **2439 - PROGRAMS WITH SMALL BUSINESS ADMINISTRATION**

### **2439.01 - Authority**

1. Small Business Act. This Act (15 U.S.C. 631, *et seq.*) provides for the use of set-aside sales to ensure that small business firms receive the opportunity to purchase a fair proportion of the total sales of Government property.
2. National Forest Management Act of 1976. Section 14h of this Act (16 U.S.C. 1600 (note)) provides for special funds and additional volume for sales of salvage timber to small business concerns.
3. Title 13, Code of Federal Regulations, part 121 (13 CFR part 121). These regulations, promulgated by the Small Business Administration (SBA), provide definitions and processes used by the SBA in administration of the Small Business program.

### **2439.02 - Objectives**

1. To ensure that small business timber purchasers have the opportunity to purchase a fair proportion of the sales of National Forest System timber.
2. To administer the small business Timber Sale Set-Aside program consistently between and across the National Forests within each Region.

### **2439.03 - Policy**

1. The scheduled recomputation of shares in each market area must occur every 5 years, beginning with the 1991 recomputation.
2. Make a portion of Salvage Sales of National Forest System timber available for bidding by small loggers or small manufacturers (FSH 2409.18, sec. 93) where such need exists.
3. Cooperate fully with Small Business Administration representatives in meeting the spirit and objectives of the small business Timber Sale Set-Aside program.

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4. Administer the program for small businesses as a class and not as individual firms or communities.

**2439.04 - Responsibility**

**2439.04a - Chief**

The Chief reserves the authority to:

1. Make final decisions in disputes between the Forest Service and the Small Business Administration (SBA) not resolved at lower levels in the following:
  - a. Disputes between the agencies on selection of individual sales to be set aside.
  - b. Disputes between agencies on emergency inclusion or exclusion of timber sales to be set aside when the timber is in urgent need of harvesting.
2. Enter into agreements with the SBA as necessary to ensure that a fair proportion of National Forest System timber sales are made available to small businesses.

**2439.04b - Deputy Chief, National Forest System**

It is the responsibility of the Deputy Chief, National Forest System to:

1. Provide advice to Regional Foresters on award of set-aside timber sales protested, appealed, or otherwise disputed by interested parties.
2. Revise the policy and procedures implementing the program in response to issues, changing needs, or agreements with the SBA.
3. Authorize variations from the required set aside program, including setting aside timber sales, prior to a triggering event (FSH 2409.18, sec. 90.5, para. 14).

**2439.04c - Regional Forester**

It is the responsibility of the Regional Forester to:

1. Resolve conflicts and disputes with SBA representatives referred by Forest Supervisors.
2. Promptly refer cases to the Suspending and Debarring Official for debarment or suspension when timber Purchasers are found to be in violation of contract provisions that specify the requirements of set-aside timber sales (FSM 2433.04c).
3. Establish new small business shares resulting from recomputations recommended to the Regional Forester for approval by Forest Supervisors.

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**CHAPTER 2430 - COMMERCIAL TIMBER SALES**

4. Notify Regions and Forests of small business bid protests that may affect timber purchasers also operating across Region and Forest boundaries.
5. Provide local instructions and guidelines for administration of the requirements of Small Business programs.
6. Resolve set-aside sale selection disputes between the local representative of the SBA and Forest Supervisors.
7. Direct and report the results of any special studies or examinations of the set-aside program conducted within the Region.

**2439.04d - Forest Supervisor**

It is the responsibility of Forest Supervisors to administer the Timber Sale Set-Aside program in accordance with applicable policies and procedures.

**2439.1 - Timber Sale Set-Aside program**

See FSH 2409.18 for the procedures for implementing the Small Business Timber Sale Set-Aside program.