



**16. BIDDER RESPONSIBILITY CERTIFICATION:** Subject to the penalties prescribed in 18 USC 1001, Bidder certifies, by signing this bid form, that to the best of Bidder's knowledge that the following representations are accurate and complete:

- a. Bidder has not employed or retained any company or person (other than a full-time bona fide employee working solely for the Bidder) to solicit or secure a contract for this timber or forest product.
- b. Bidder has not paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the Bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of contract for this timber or forest product, and agrees to furnish information relating thereto as requested by the Contracting Officer.
- c. Bidder meets the requirements in 36 CFR 223.101 regarding determination of purchaser responsibility.
- d. That if awarded this contract that Bidder will complete the timber sale contract to its terms and any modifications thereof including requirements to purchase, cut, and remove the included timber or forest product by the termination date.
- e. Bidder has not modified or altered any of the standard wording contained on this form and the only additions are in the blanks provided, or where explicitly authorized.

**16a. BIDDER CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS:** Subject to the penalties prescribed in 18 USC 1001, Bidder certifies, by signing this bid form, that to the best of Bidder's knowledge the following representations are accurate and complete.

- a. Bidder and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from timber sales (covered transactions) by any Federal department or agency.
- b. Bidder and its principals have not within a 3-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- c. Bidder and its principals are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph b of this certification.
- d. Bidder and its principals have not within a 3-year period preceding this bid had one or more public transactions (Federal, State, or local) terminated for breach or default of a timber or forest product contract.

Bidders that cannot certify this block, in whole or in part, shall submit an explanation with their bid. (See instruction 16.)

**16b. BIDDER INFORMATION REQUIREMENTS:** Subject to the penalties prescribed in 18 USC 1001, Bidder certifies, by signing this bid form, that to the best of Bidder's knowledge that the following information is accurate.

- a. Bidder  has,  has not participated in a previous contract subject to the provision of section 202 of Executive Order 11246 (Non-discrimination in Employment) of 9/24/65, as amended; and that the Bidder  has,  has not submitted required compliance reports under such previous contracts.
- b. Bidder together with its affiliates employs the following number of persons and is classified as:  
 1-25  26-500  Over 500 **and** a:  Manufacturer  Nonmanufacturer of sawtimber.

**17. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION:** Subject to the penalties prescribed in 18 USC 1001, Bidder certifies and represents, by signing this bid form, that the following representations are accurate and complete:

- a. By submission of this bid each Bidder also certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that in connection with this sale:
  - (1) The prices in this bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other Bidder or with any potential competitor
  - (2) The prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening of bid, directly or indirectly to any other Bidder or to any potential competitor; and
  - (3) No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a bid.
- b. Each person signing this bid or proposal certifies that:
  - (1) The Signer is the person in the Bidder's organization responsible within that organization for the decision as to the prices bid herein and that the Signer has not participated, and will not participate, in any action contrary to a(1) through a(3) above; or
  - (2) The Signer is not the person in the Bidder's organization responsible within that organization for the decision as to prices bid herein but that the Signer has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to a(1) through a(3) above, and as their agent does hereby so certify; and that the Signer has not participated, and will not participate, in any action contrary to a(1) through a(3) above.
- c. A bid will not be considered for award where any portion of item a or item b, above, has been deleted or modified. Where these provisions have been deleted or modified, the bid will not be considered for award unless Bidder furnishes with the bid a sworn statement which sets forth in detail the circumstances of the disclosure and the Chief, Forest Service, or the Chief's designee, determines that such disclosure was not made for the purpose of restricting competition.

**18. ROAD CONSTRUCTION OPTION:**  Check box if Bidder is a small business and wishes to have Forest Service construct all specified roads. You may not change an election once made. Failure to mark box constitutes agreement to build roads. Election may not be changed subsequent to time set for opening bids. (See also instructions 11, 12, and 13.)

**19. CONTRACT, DOWNPAYMENT, AND BOND:** The Bidder whose bid is accepted will, within \_\_\_ days of the award letter's date, or any written extension thereof by the Forest Service, execute a timber sale contract which shall be provided by the Forest Service and be based on the sample contract referenced in the prospectus. Bidder shall submit a downpayment and furnish a satisfactory performance bond, in accordance with the provisions of such timber sale contract, in the penal sum as prescribed in the prospectus for this sale, and otherwise complete the process described on this form and pages attached hereto. Simple interest shall be assessed at the Current Value of Funds Rate for a late downpayment. Bidder agrees that its failure to comply with this paragraph shall constitute repudiation of its bid pursuant to instruction 9 of the Instructions to Bidders portion of this form.

**20. DOWNPAYMENT:** Pursuant to 36 CFR 223.49, the Bidder to whom award is made must make a downpayment at the time the contract is signed by the Bidder and returned to the Forest Service in the amount of:

Ten percent of the advertised value, plus 20 percent of the total bid premium.

\_\_\_ percent of the advertised value, plus \_\_\_ percent of the total bid premium, based on the Chief's determination this amount is necessary to deter speculation or is necessary to achieve the management objectives of the National Forest System.

NOTICE: The indicated downpayment amount shall be increased to 20 percent of the total advertised value and 40 percent of the total bid premium if the Contracting Officer determines that the Bidder meets the criteria for additional downpayment established by 36 CFR 223.49.

**21. FIRM OFFER:** Subject to the penalties prescribed in 18 USC 1001, the Bidder hereby agrees not to withdraw this bid after the bid opening. Signing this bid form binds the Bidder to accept award under the terms of the sample contract and this bid form if its bid is accepted within 90 days after bid opening. The period for acceptance may be extended by written notice from Bidder. If Bidder qualifies as a small business and elects road construction by the Forest Service, then the Bidder agrees that its offer shall remain open through the period stated in the prospectus although that period may exceed 90 days.

**22. TERMS OF BIDDER'S OFFER:** Bidder certifies and represents that the Bidder has read and understands each and every provision of this bid form (together with any attachments thereto) and the sample contract. The Bidder agrees that it assumes the responsibility to clarify any questions before signing this form. The Bidder agrees that the written provisions of this bid form (together with any attachments) and the sample contract constitute the entire agreement of the parties until a written contract is executed and neither the bid form (and any attachments) nor the sample contract can be orally modified. The Bidder expressly adopts the terms of this bid form and the sample contract as material parts of the Bidder's offer for the advertised timber or forest products.

**23. DISCLAIMER OF ESTIMATES AND BIDDER'S WARRANTY OF INSPECTION:** Before submitting this bid, the Bidder is advised and cautioned to inspect the sale area, review the requirements of the sample contract, and take other steps as may be reasonably necessary to ascertain the location, estimated volumes, construction estimates, and operating costs of the offered timber or forest product. Failure to do so will not relieve the Bidder from responsibility for completing the contract.

The Bidder warrants that this bid is submitted solely on the basis of its examination and inspection of the quality and quantity of the timber or forest product offered for sale and is based solely on its opinion of the value thereof and its costs of recovery, without any reliance on Forest Service estimates of timber or forest products quality, quantity or costs of recovery. Bidder further acknowledges that the Forest Service: (i) expressly disclaims any warranty of fitness of timber or forest products for any purpose; (ii) offers this timber or forest products as is without any warranty of quality (merchantability) or quantity, and (iii) expressly disclaims any warranty as to the quantity or quality of timber or forest products sold, except as may be expressly warranted in the sample contract.

The Bidder further holds the Forest Service harmless for any error, mistake, or negligence regarding estimates except as expressly warranted against in the sample contract.

**24. CERTIFICATION OF COMPLIANCE WITH EXPORT AND SUBSTITUTION RESTRICTIONS:** The Bidder certifies, by signing this bid form, that the Bidder is in compliance with applicable prohibitions against export and substitution prescribed in the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 USC 620, *et seq.*). In Alaska, exports of logs, cordwood or primary products derived from included timber may not be transported from Alaska without Regional Forester approval. (See instruction 15.)

**25. SMALL BUSINESS SET-ASIDE SALE:** This is a small business set-aside sale. Section 15 of the Small Business Act of 1958 authorizes award of this sale to a qualified small business as stated in 13 CFR 121.507. If the Contracting Officer or another interested party questions the representation of the high Bidder within 5 working days of bid opening, the Contracting Officer may defer award of this sale pending consideration by the Small Business Administration.

In addition to certifying Bidder's small business status, small businesses awarded set-aside sales will also be required to execute SBA form 723, Small Business Certification, which is required on every preferential sale of set-aside timber at the time the sale contract is executed. The Small Business Administration certification confirms the representation of the size status of the firm, provides assurance that the firm will maintain records of all sales or exchanges of sawtimber from this sale for 3 years, and acknowledges the possible penalties for violating the foregoing.

The Bidder certifies, by signing this bid form, that it is a small business concern within the terms of definitions listed below:

a. In sales of National Forest timber, a small business is a concern that is primarily engaged in the logging or forest products industry, is independently owned and operated, is not dominant in its field of operation, and together with its affiliates, does not employ more than 500 persons.

b. In contracts of National Forest timber with any part to be resold, a small business is a concern that meets the requirements of item a, above, and agrees that it will not sell or exchange more than 30 percent (50 percent in Alaska) of the advertised sawtimber quantities to a concern that does not qualify as small business.

c. In contracts of National Forest timber not to be resold for manufacture into lumber and timbers, a concern is a small business when it meets the requirements of item a, above, and it agrees that in manufacturing lumber or timbers from National Forest timber, it will do so only with its own facilities or those of concerns that qualify as small businesses.

**26. SPECIAL SALVAGE SALE TIMBER SALE PROGRAM SET-ASIDE SALE:** This is a small business set-aside sale. Preferential award of this sale to small business concerns employing 25 or fewer employees is authorized by section 15 of the Small Business Act of 1958 (13 CFR 121.508). If you submit the high bid and the Contracting Officer or another interested party questions your status within 5 working days of bid opening, the Contracting Officer shall defer award of this sale pending consideration by the Small Business Administration (SBA).

The Bidder certifies, by signing this bid form, that it is a small business concern within the terms of definitions listed below:

a. In connection with sale of Government-owned special salvage timber, designated by the Forest Service as a special salvage timber sale (SSTS), a small business is a concern that is primarily engaged in the logging or forest products industry, is independently owned and operated, is not dominant in its field of operation, and, together with its affiliates, did not employ more than 25 persons during any pay period for the last 12 months.

b. In contracts of National Forest timber with any part to be resold, a small business is a concern that meets the requirements of item a, above, and agrees that, as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. "Significant logging of timber" means that the firm uses its own employees to accomplish two or more of the following elements: Felling and bucking, yarding, and loading. The firm further agrees to subcontract such SSTS logging elements not accomplished with its own employees only to concerns eligible for preferential award of an SSTS.

c. In contracts of National Forest timber not to be resold for manufacture into lumber and timbers, a small business is a concern that meets the requirements of item a, above, and agrees to manufacture a significant portion of the logs with its own employees. "Manufacture of logs" means, at a minimum, a breakdown of a log into the rough cut of the finished product. The firm further agrees to accomplish the logging of SSTS timber, exclusive of hauling, with its own employees or to subcontract such logging only to concerns eligible for preferential award of an SSTS.

**27. CERTIFICATION OF NON-AFFILIATION:** The timber included in this sale is timber remaining from an uncompleted timber sale contract. Title 36, Code of Federal Regulations, part 223.86, states: "Except as otherwise provided in this section, no bid will be considered in the resale of timber remaining from any uncompleted timber sale contract from any person, or from an affiliate of such person, who failed to complete the original contract: (1) because of termination for purchaser's breach; or (2) through failure to cut designated timber on portions of the sale area by the termination date. Where a third-party agreement has been approved in accordance with §223.114; the original purchaser shall not be affected by this section unless such purchaser is an affiliate of the third party. As used in this section, 'person' includes any individual, corporation, company, association, firm, partnership, society, joint stock company, or other business entity or the successor in interest of any of the foregoing business entities. A person is an 'affiliate' when either directly or indirectly: (1) a person controls or has the power to control the other, or (2) a third person or persons control or have the power to control both."

The purchaser or approved third-party of the original contract for this timber was \_\_\_\_\_ of \_\_\_\_\_.

The Bidder certifies, by signing this bid form, that it is not the purchaser or approved third-party who failed to complete the original contract, and that Bidder is not an affiliate of this person.

**28. CERTIFICATION OF AFFILIATION:** The Bidder certifies that a complete listing of Bidder's affiliates who are primarily engaged in the logging of forest products is included with this bid. (Add additional pages if needed. See instructions 10 and 14.):

Full Name of All Partners & Affiliates (Type or Print)	When requested by Contracting Officer in notice of tentative award, bidder agrees to furnish the tax identification number of each partner and affiliate listed herein.

**Before signing this bid, review the attached Instructions to Bidders and fill in the applicable blanks in boxes 14g, 15b, 16b, 18, 28 and 29.**

Name of Bidder: (Type or Print)	By: (Signature in Ink)	
Business Name (Type or Print)	Title: (Type or Print)	Date:

Public reporting burden for this collection is estimated to be 34 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Under the Paperwork Reduction Act of 1995, an agency shall not conduct or sponsor, and no persons are required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 0596-0066.

Deposits will be returned to unsuccessful Bidders by certified mail unless deposits are returned personally.

Receipt for Returned Deposits:

Check Number \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ dated \_\_\_\_\_ was returned to \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

**29. Personal Identification Information:**

Business Name, Address and Phone Number (Include Zip Code and Area Code) (Type or Print)

Tax Identification Number: \_\_\_\_\_

Instructions to Forest Officer: Remove and shred this page after entering bidder's Personally Identifiable Information (PII) in the appropriate data base.

### INSTRUCTIONS TO BIDDERS

**1. BIDDER'S QUALIFICATIONS:** Before a bid is considered for award, the Bidder may be required to submit a statement regarding the Bidder's previous experience in performing comparable work, business affiliates and technical organizations, financial resources, intended product processing facilities and its timber exporting history.

**2. PREPARATION OF SEALED BIDS:** Bids shall be manually signed, bid prices entered in the "Bidder's Total Sale Value Bid" box (block 14g) for all material subject to bidding and all fill-in blanks completed. Bidder's total sale value bid entered in block 14g must be equal to or greater than the minimum acceptable total sale value in block 14j. If erasures or other changes appear on the forms, the person signing the bid must initial each erasure or change.

**3. SUBMISSION OF SEALED BIDS:** Sealed bids, with the accompanying bid guarantee, must be submitted to the Sale Officer, designated by the advertisement as the receiving officer, at or prior to the time established by the advertisement. Such bids must be enclosed in a sealed envelope addressed to the designated receiving officer. The envelope should show on the outside (a) that it is a "Bid for Timber," and (b) the sale name or number, and the date and time of opening bids, as shown by the advertisement. Bids received after the time specified in the sale advertisement are late bids. At its option, bidder may provide a five digit alpha/numeric code created and held in confidence by the bidder that is placed on the outside of the bid envelope. The bidder created code will serve as bid identification if a bidder requests return of its bid prior to bid opening.

**4. PUBLIC OPENING OF SEALED BIDS:** Sealed bids will be publicly opened and posted at the time and place set for opening in the advertisement.

**5. ORAL AUCTION BIDDING:** If the advertisement provides for Sealed and Oral bids, each Bidder to participate in the oral auction must submit a sealed bid in accordance with these instructions. All parties who submit a satisfactory sealed bid will be permitted to continue bidding orally following opening and posting of the sealed bids. The Apparent High Bidder must confirm its oral bid in writing immediately upon being declared the Apparent High Bidder.

**6. BID GUARANTEE:** A bid guarantee in the form of a bid bond on form FS-6500-13 (4/82 or later version); certification of annual bid bond allocation on form FS-6500-13a (4/82 or later version); an irrevocable letter of credit, the format of which has been pre-approved by the Forest Service Regional Forester; a certified check; official bank check; bank draft; cashier's check; bank or postal money order, payable to the Forest Service, USDA; or cash, in an amount no less than that specified in item 15a, must accompany each sealed bid. Failure to submit an acceptable bid guarantee with the sealed bid will require rejection of the bid as non-responsive unless there is no other acceptable bid, or unless the Forest Service, in its sole discretion, decides to briefly delay a sale advertised for sealed bids followed by oral bids in order to allow any Bidder to cure any deficiency in its bid guarantee prior to oral bidding. Bid bonds must be accompanied by a power of attorney indicating that the person signing the bond for the surety has the power to do so. The Bidder acknowledges that bid guarantee shall be retained, in whole or in part, by the Forest Service to satisfy any damages that may be assessed if the bid is accepted and Bidder subsequently fails to furnish a cash downpayment or return the executed contract and performance bond as required. (See instruction 9.) The Bidder also acknowledges that the bid guarantee may be retained, in whole or in part, if the bid is accepted and Bidder has failed to abide by the terms of the bid or sample contract or violates the False Statements Act, including not meeting purchaser responsibility requirements in 36 CFR 223.101 or Bidder has made a false statement (block 16). Otherwise, the bid guarantee shall be returned to each Bidder whose bid is not accepted.

**7. AWARD OF CONTRACT:** Award of the contract will be made to that responsible Bidder whose bid, conforming to the invitation for bids, is most advantageous to the United States on the basis of total value. The Government may, when in its interest, reject any or all bids or waive any informality in bids received. A written award mailed (or otherwise furnished) to the successful Bidder shall be deemed to result in a binding contract without further action by either party. If timber is advertised as set-aside for competitive bidding by small businesses, award will be made to the highest Bidder qualified as a small business and who has not been determined by the SBA to be ineligible for preferential award of set-aside sales. If there are no qualified small business Bidders, Forest Service will advertise this sale without restrictions on bidder size. All small businesses qualified, as a small business by the SBA, shall be required to follow the small business set-aside provisions of the sample contract.

If an appeal or lawsuit is filed challenging the decision to award this contract or upon determination by the Regional Forester that conditions existing on this timber sale are the same as, or nearly the same as, conditions existing on other timber sale(s) in appeal or litigation, Contracting Officer may delay award or reject all bids. If delay in award is for 10 days or more during Normal Operating Season after bid opening, Contracting Officer shall, upon award, adjust the contract term to include additional calendar days in one or more Normal Operating Seasons equal to the actual time lost.

**8. DOWNPAYMENT:** The Bidder to whom award is made must make a downpayment at the time the Bidder signs the contract and returns the contract to the Forest Service. The amount of the downpayment will be calculated as shown in block 20 of this bid for advertised timber. Only cash may be used to meet this requirement. Cash deposited must be in the form of bank draft, certified, official bank, or cashier's check, bank or postal money order, or company check. After receipt of downpayment and executed contract with required performance bond, the bid guarantee will be returned to the successful Bidder.

Bidder's failure to make the downpayment in conformance with the terms, conditions, and requirements contained in Contracting Officer's letter of award shall constitute repudiation of bid pursuant to instruction 9. Bidder shall have 3 days from the required date of execution to make the downpayment at the location designated by Forest Service. Bidder shall pay simple interest at the Current Value of Funds Rate on the unpaid downpayment for the period within the 3 days in which the downpayment is late. In the event Bidder fails to make payment within the 3 days, Bidder's bid guarantee shall be retained by Forest Service and applied toward damages. If the amount of the bid guarantee exceeds the amount of damages, the balance will be refunded to Bidder.

**9. DAMAGES:** Bidder acknowledges that its bid will be considered repudiated pursuant to blocks 16, 16a, 16b, 19, 21, 24, 25, 26, 27, 28 and/or 29 of this bid form if: (a) the Bidder fails to execute a timber sale contract, furnish a downpayment within 3 days of the required date of execution, or furnish a satisfactory performance bond, within the number of days listed in block 19, or any written extension thereof by Forest Service; or (b) the Bidder is found to have violated the False Statements Act in making any statement or certification on this bid form, including not meeting purchaser responsibility requirements. The Bidder acknowledges that the Bidder shall not be entitled to cure this repudiation and that it will pay damages pursuant to the following terms:

Damages due the United States shall be determined in the following manner: (a) The costs, as described in this instruction, incurred by Forest Service in contacting the other qualified bidders regarding accepting the award of the contract at the high Bidder's repudiated rate or (b) If another qualified bidder does not accept award of the contract at the high Bidder's repudiated rate:

(i) If the repudiated contract is reoffered within 6 months of the date of repudiation, damages shall be the difference between the total resale bid value and the total value of Bidder's repudiated bid, plus costs described in this instruction or

(ii) If there are no responsive bids on the reoffered contract, damages shall be the difference between the reoffered appraised value and the total value of Bidder's repudiated bid, plus costs described in this instruction or

(iii) If the repudiated contract will not be reoffered or the reoffer is not made within 6 months of Bidder's repudiation, damages shall be the difference between the appraised value of this contract as of the date of Bidder's repudiation and the total value of Bidder's repudiated bid, plus the costs described in this instruction.

The costs to be included in damages are the costs the Government incurs in making the reoffer, including, but not limited to, salary costs, document preparation and duplication costs, mailing costs, and timber sale advertisement costs.

Damages will also include interest measured by interest at the Current Value of Funds Rate established by the Secretary of the Treasury, on the difference between Bidder's retained bid guarantee and the downpayment amount and other deposits required at award. Interest will be calculated from the date of Bidder's repudiation to the date of award of the reoffered contract or to the date a determination is made not to reoffer the repudiated contract or for 6 months, whichever comes first.

Bidder and Forest Service agree that Bidder's bid guarantee shall be retained by Forest Service and applied toward damages due the United States for Bidder's failure to execute this contract.

**10. PRIVACY ACT:** All personal information is requested on a voluntary basis; however, if you do not provide this personal information, your bid will not be accepted and the contract will not be awarded to you. Solicitation of this information is necessary for the government to conduct its sale program and thus is authorized under the National Forest Management Act of 1976, (16 USC 472a). The principle purpose for collecting this information is to allow for proper award of a timber sale contract and to provide for administration of that contract after award. Other routine uses of this data include: (a) compilation of small business data to determine needs for set-aside sales, (b) determination of volume purchased in any specific time period by a single purchaser, and (c) determination of volume under contract by a purchaser.

**11. ROAD COMPLETION DATE:** The Bidder hereby acknowledges that the Bidder is aware of the road completion date in the sample contract. The Bidder also acknowledges that if the Bidder elects to have Forest Service construct specified roads, the Bidder is aware: (a) that the Forest Service expects to contract for road construction, (b) that the timber sale contract will not be awarded unless a satisfactory road construction bid is received and a road construction contract is awarded or, if the Forest Service fails to receive such a bid within a maximum period stated in the advertisement, the Bidder agrees to perform road construction, (c) that the Forest Service may extend the maximum award delay time by the amount of time needed to confirm either sale or road Bidder's size status or by any time in excess of 40 days from timber sale bid opening needed to begin solicitation of construction bids, and (d) that if the Forest Service extends the maximum award delay period because solicitation of the road contract is delayed, the Bidder may withdraw its bid without penalty.

**12. ELECTION OF ROAD OPTION AND CERTIFICATE OF SMALL BUSINESS STATUS:** The National Forest Management Act of 1976 (16 USC 472h(i)) provides that the Secretary of Agriculture may permit timber bidders qualifying as small business concerns under the Small Business Act to elect, when submitting a bid for timber, to have the Secretary build the specified roads. Bidders qualifying as a small business concern under the Small Business Act, as amended, and the regulations thereunder, may elect to have the Forest Service construct the Specified Roads required by this contract. The Bidder who does not elect agrees, if awarded the contract, to construct the roads in accordance with the contract. A Bidder who does elect acknowledges that Bidder is aware of and agrees to the conditions stated in instruction 11 above and that the Bidder is a small business concern.

If you wish to elect Government construction, you must so indicate in block 18 on the bid form that you submit in response to the advertisement. You may not make this election at a later time. If you do not elect Government construction on your original bid form and you receive contract award, you must construct needed specified roads. You must elect Government construction for all of the specified roads as a package. Election of Government construction of a portion of the roads constitutes a non-responsive bid. When you elect Government construction, you must certify your firm as a qualified small business concern and acknowledge your understanding that award of the sale cannot take place until the Forest Service ensures road construction.

The Forest Service must rely upon independent contractors to construct the roads when you request Government construction. The Forest Service shall make a good-faith effort to let a contract for the construction. Without receipt of a satisfactory bid under Federal Procurement Regulations, the Forest Service can only award the timber sale contract to you if you agree to perform the construction. This problem does not arise often, but you should consider the possibility when deciding upon your election.

The Act also requires that when the Bidder elects to have the Secretary build the roads, the price paid for the timber must include all of the estimated construction costs of the roads. The Bidder must pay the total cost of the road, regardless of the amount that the bid value exceeds base rate value. This means that you may be billed at a rate higher than the bid rate.

**13. ELECTION OF ROAD OPTION:** The Roads and Trails Act of 1964 (Public Law 88-657) provides that the Secretary of Agriculture shall not require a purchaser to bear costs necessary to meet a higher road standard than is needed for the immediate harvest and removal of timber. The contract requires construction of some or all segments of road number(s) \_\_\_\_\_ to a design standard higher than that needed for this sale. Any bidder may elect at the time of sealed bid submission to have the Forest Service construct this (these) road(s). A Bidder who does elect Government construction acknowledges that the Bidder is aware of and agrees to the conditions stated in instruction 11 above.

If you wish to elect Government construction, you must so indicate in block 18 of the bid form that you submit in response to the advertisement. You cannot make this election at a later time. If you do not elect Government construction on your original bid form

and you receive the contract award, you must construct the above specified road(s). You must elect Government construction for all of the identified specified road(s) as a package. Election of Government construction of a portion of the road(s) constitutes a non-responsive bid. When you elect Government construction, you must acknowledge your understanding that award of the sale will not take place until the Forest Service ensures road construction.

Except in rare instances, and then only when indicated in the advertisement, the Forest Service must rely upon independent contractors to construct the road(s) when you request Government construction. The Forest Service shall make a good-faith effort to let a contract for the construction. Without receipt of a satisfactory bid under Federal Procurement Regulations, the Forest Service can only award the timber sale contract to you if you agree to perform the construction. This problem does not arise often, but you should consider the possibility when deciding upon your election.

#### 14. DEFINITIONS:

Affiliates: Business concerns or individuals are affiliates of each other if, directly or indirectly, (a) either one controls or has the power to control the other; or (b) a third party controls or has the power to control both.

Bidder: A Bidder is any individual, organization, or other legal entity that submits a bid for, or may be expected to submit a bid for, a National Forest System timber sale.

Covered Transactions: Covered transactions include both non-procurement and procurement transactions. A primary tier transaction is between a Federal Agency and a person. A lower tier transaction is between a participant in a covered transaction and another person. A procurement contract is a covered transaction if it is awarded to a participant in a non-procurement transaction and the amount of the contract is equal to or greater than \$25,000.

Current Value of Funds Rate: A rate of interest established by the Secretary of the Treasury.

Manufacturer: A concern with an existing sawmill, specialty mill (such as a cedar mill, shingle or shake plant, pole plant, or deadwood stud mill), veneer mill, or other manufacturing facility within an economic or logical haul distance, or with firm commitments and permits for construction of such facility. The purpose of this facility is processing the sawtimber component of timber sales.

Nonmanufacturer: A non-manufacturer is:

- a. Any concern which manufactures, with its own or leased facilities, or contracts for manufacture less than 50 percent of its total annual sawlog production within an economic or logical haul distance to such facilities, including pulp and fiberboard mills without a contiguous integrated manufacturing facility for lumber, timbers, or veneer from a sawtimber component.
- b. A specialty concern that does not have the capacity to manufacture 50 percent or more of its average annual sawlog production because of factors such as timber species or size.
- c. Any concern purchasing National Forest timber outside an economic and logical haul distance to its manufacturing facility.
- d. Any pulp mill, fiberboard mill, or chip plant that purchases sales with a sawtimber component when it has no manufacturing facility for lumber, timbers, or veneer.

Participant: Any person who submits a proposal for, enters into, or reasonably may be expected to enter into a covered transaction. This term also indicates any person who acts on behalf of or is authorized to commit a participant in a covered transaction as an agent or representative of another participant.

Sale Officer: An individual delegated responsibility for any specific aspect or task in the bidding or awarding process for timber sales.

Small Business: In sales of National Forest timber a small business is a concern that: (a) is primarily engaged in the logging and forest products industry; (b) is independently owned and operated; (c) is not dominant in its field of operation; and (d) together with its affiliates does not employ more than 500 persons.

**15. CERTIFICATION OF COMPLIANCE WITH EXPORT RESTRICTIONS**: Certain restrictions on the purchase and export of unprocessed logs cut from National Forest timber apply in various parts of the country. Pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 USC 620, *et seq.*), the Bidder acknowledges that the Bidder is aware of the applicable export restrictions. The Bidder is aware that these restrictions affect the disposition of the included timber and is aware that the restrictions may reduce the potential value of the timber.

**16. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS-TIMBER SALE TRANSACTIONS**: The inability of a person to provide the certifications in block 16a will not necessarily result in denial of participation in this timber sale (covered transaction). The Bidder shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Forest Service's determination whether to enter into this timber sale. However, failure of the Bidder to furnish a certification or an explanation shall disqualify such person from participation in this timber sale.

The certification is a material representation of fact upon which reliance was placed when the Forest Service determined to enter into this timber sale. If it is later determined that the Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Forest Service may terminate this timber sale for cause or default.

The Bidder shall provide immediate written notice to the Forest Service officer, to whom this bid is submitted, if at any time the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms 'covered transaction,' 'debarred,' 'suspended,' 'ineligible,' 'lower tier covered transaction,' 'participant,' 'person,' 'primary covered transaction,' 'principal,' 'proposal,' and 'voluntarily excluded,' as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Forest Service for assistance in obtaining a copy of those regulations.

The Bidder agrees by submitting this bid that, should the proposed timber sale transaction be entered into, it shall not knowingly enter into any subcontractor transaction (lower tier covered transaction) with a person who is proposed for debarment under 48 CFR 9.4 or who is debarred, suspended, declared ineligible, or voluntarily excluded under 48 CFR 9.4 from participation in this timber sale, unless authorized by the Forest Service's non-procurement Debarment and Suspending Official.

The Bidder further agrees by submitting this bid that Form AD-1047 *Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions* shall be completed by the Purchaser and provided to the Contracting Officer upon request.

**17. SUBCONTRACTOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:** Pursuant to 2 CFR 180.355 each timber sale purchaser shall require subcontractors to include a certification for it and its principals in any proposal submitted in connection with this timber sale. Purchasers shall keep the certifications on file until the termination date of the contract. Form AD-1048 *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions* shall be completed by the Purchaser and provided to the Contracting Officer upon request.

A participant in a timber sale may rely upon a certification of a prospective subcontractor that it is not proposed for debarment under 48 CFR 9.4, or is not debarred, suspended, ineligible, or voluntarily excluded from the timber sale, unless it knows that the certification is erroneous. A timber sale purchaser may decide the method and frequency by which it determines the eligibility of its principals. Each timber sale purchaser may, but is not required to, check for those listed as Excluded in the System for Award Management.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this provision. The knowledge and information of a timber sale purchaser is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized in paragraph 5 of the instructions for certification, if a contractor knowingly enters into a subcontractor transaction with a person who is proposed for debarment under 48 CFR 9.4, or who is suspended, debarred, ineligible, or voluntarily excluded under 48 CFR 9.4, from participation in this contract, in addition to other remedies available to the Federal Government, the Forest Service may terminate this contract for cause or default and/or pursue suspension and/or debarment.