

**UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs**

**TIMBER SALE CONTRACT
PART B
STANDARD PROVISIONS**

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B1.0 Definitions

As used in these provisions and in Part A of the contract to which they are attached:

“**Agency**” means the Bureau administrative office having jurisdiction over the logging unit.

“**Approving Officer**” means the officer who approves the contract or an authorized representative.

“**Bureau**” means the Bureau of Indian Affairs, or the Director, Bureau of Indian Affairs (hereinafter referred to as Director), or any other person or persons duly authorized to act for the Bureau of Indian Affairs or the Director.

“**Contract Year**” means calendar year or other period of time defined in the contract.

“**Officer in Charge**” means the forest officer of highest rank assigned to the supervision of forestry work at the Agency having jurisdiction over the logging unit, or an authorized representative.

“**Operational Area**” means the logging unit, lands adjacent to it, and other property that within which the logging, yarding, processing, or transporting of timber under the contract are conducted, and includes private, Indian and Bureau roads and their associated rights-of-ways used to access the logging unit.

“**Purchaser**” means the purchaser of timber under the contract and any successor(s) in interest.

“**Purchaser’s Operations**” means all activities and use of equipment by the purchaser, purchaser’s employees, agents, contractors, subcontractors, or their employees or agents, acting in the course of their employment in the Operational Area.

“**Regional Director**” means the Regional Director of the Bureau of Indian Affairs Region within which the logging unit is located, or his or her authorized representative.

“**Scaling Handbook**” means FSH2409.11, the *National Forest Scaling Handbook* (as revised), or other scaling reference approved by the Regional Director.

“**Seller**” means the Indian Tribe(s) or the individual owner(s) of the timber sold under the contract.

“**Superintendent**” means the Superintendent or other Bureau official representing the Agency having jurisdiction over the logging unit or the authorized representative.

B2.0 General Conditions

B2.1 Outstanding Indebtedness

Purchaser agrees in the performance of this contract not to employ, or otherwise contract for, the services of any individual or business entity, which has an outstanding indebtedness to the United States resulting from unauthorized cutting, removal of forest products, or damage against Indian lands.

B2.2 Bureau Services

The Bureau will furnish their customary services within a basic workweek of 8 hours per day for 5 days per week, exclusive of Saturdays, Sundays and Government holidays. If additional services are requested by Purchaser and approved by Superintendent, Purchaser shall pay for such services as required by the Act of July 30, 1956 (25 U.S.C. 407d).

B2.3 Performance Bond

As further guarantee of the faithful performance of the provisions of this contract, Purchaser delivers herewith and agrees to maintain a bond acceptable to the Approving Officer in the dollar amount stated in Part A.

B2.31 New Bond

Should the bond delivered herewith, or any bond delivered hereafter in connection with this contract, become unsatisfactory to Approving Officer, Purchaser shall, within 30 days of receipt of demand, furnish a new bond satisfactory to Approving Officer. Any extension of time for completion of this contract beyond the original contract period may be granted only with the consent of surety on bond or delivery of a new bond.

B2.4 Entry

Purchaser shall have the right to enter upon only such land as is described in Part A of this contract for the sole purpose of cutting and removing designated timber (as defined in Part A) and performing the obligations authorized under this contract. Any unauthorized entry, occupancy, or use of Indian lands, or the unauthorized use or taking, willfully or through neglect, of Indian resources may be prosecuted to the fullest extent of Tribal, Federal or State law.

B2.5 Correspondence

Notices, requests or other actions where formal written notice or report is required herein will be made through the Superintendent.

B2.6 Title

Title to the timber covered by the contract shall not pass to the Purchaser until it has been paid for, scaled, and removed from the logging unit.

B2.7 Risk of Loss

The risk of loss for all timber, which has been cut, shall be borne by Purchaser. The risk of loss as to all standing timber, and fallen timber not a result of Purchaser's acts or omissions, shall remain with the Seller, except for predetermined volume sales, in which case the risk of loss shall pass to Purchaser upon the approval of the contract by the Approving Officer, and except as otherwise provided in Part B11.7 herein.

B2.8 Interpretation of Contract

The decision of the Approving Officer shall prevail in the interpretation of the contract, subject to the right of appeal prescribed in Part B2.16 herein.

B2.9 Modification

The conditions of sale as set forth in the contract may be modified only through a written agreement between Seller and Purchaser prior to the expiration of the contract. No modification shall become effective until approved by the Approving Officer.

B2.10 Extension of Contract Dates

At least 30 days prior to the contract expiration date, Purchaser must request an extension in writing, including an explanation of why an extension is necessary. Contract extensions may be granted for good cause at the discretion of the Approving Officer. Payment penalties may apply as determined by the Approving Officer. An extension of time for the performance of the contract is a modification of contract and shall be treated as provided for in Part B2.9 herein.

B2.11 Assignment of Interest

The assignment by the Purchaser of any or all interest under the contract shall not affect any of the obligations of the parties under the contract until the assignment has been approved by Approving Officer, after consultation with the seller.

The party to whom an interest is assigned must provide a bond as specified in the contract or obtain a commitment from the previous surety to be bound by the assignment when approved. The approval of an assignment by Approving Officer shall not operate to change the provisions of the contract. Unless otherwise provided for therein, an assignment shall not relieve the assignor of any of the responsibilities and liabilities under the contract.

B2.12 Suspension of Operations

The Superintendent may, after written notice to the Purchaser, suspend any or all of the Purchaser's Operations under the contract if the Purchaser violates any of the requirements of the contract. Any suspension notice from the Superintendent shall be delivered within 10 working days. Prior to any written notice from the Superintendent (if required), the Officer in Charge may immediately suspend any portion of the Purchaser's Operations. Such suspension is necessary to stop or prevent damages to the land or other property of the Sellers or the Bureau if continued operations threaten the Seller's or the Bureau's interests or if continued operations pose a threat to public safety. The notice will provide Purchaser with justification for the suspension and identify corrective measure requirements. The continued failure of Purchaser to comply with the directions in the notice shall be grounds for revocation by the Approving Officer of all rights of the Purchaser under the contract. Suspension of operations may be continued until Purchaser furnishes evidence satisfactory to the Officer in Charge or Superintendent that corrective measures have been implemented.

B2.121 Resumption of Operations

Operations suspended through action of the Superintendent may resume upon receipt of a written notice from the Superintendent that the suspension is lifted. Operations suspended by the Officer in Charge may resume with written authorization from the Officer in Charge.

B2.13 Failure to Complete Contract

Purchaser shall be liable for the depreciation in the value for the remaining timber and for any costs or expenses incurred by or caused to the Seller or the Government because of failure to complete all obligations under the contract. The amount of the depreciated value and the costs and expenses resulting from Purchaser's failure to complete the contract will be determined by the Approving Officer.

B2.14 Termination

The contract may be terminated at any time by written agreement between the Seller and the Purchaser. Termination agreements shall not become effective until approved by the Approving Officer. The Purchaser is required to fulfill all contract obligations not affected by a termination or partial termination under Part B2.14.

B2.15 Disputes

Purchaser or Seller may submit complaints of any action or decision made under the contract by the Superintendent or the Officer in Charge in accordance with the following procedure. Complaints shall be made in writing to Superintendent. Complaints shall be made within 30 days of the action or decision in dispute unless the party making the complaint furnishes reasons satisfactory to the Superintendent for granting a longer period of time. Superintendent may extend the period for such length of time as deemed reasonable. If Superintendent is not the Approving Officer of the contract and the dispute is not resolved to the satisfaction of the parties, a written complaint may then be submitted to the Regional Director. If the Regional Director is not the Approving Officer and his or her decision is not satisfactory to the parties, a complaint may be submitted in writing to the Bureau Director or the Interior Board of Indian Appeals under Part B2.16 herein.

B2.16 Appeals

Any challenge to action under 25 CFR Part 163 taken by an Approving Officer or subordinate official exercising delegated authority from the Secretary shall be exclusively through administrative appeal or as provided in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended). Such appeal(s) shall be filed in accordance with the provisions of 25 CFR Part 2, Appeals from administrative actions, except that an appeal of any action under Part 163 of this title shall not stay any action unless otherwise directed by the Secretary (25 CFR 163.33).

B2.17 Application of Proceeds

If obligations of Purchaser have not been fully discharged by the contract expiration date, any money advanced or deposited hereunder shall be retained and applied toward unfulfilled obligations of Purchaser without prejudice to any other rights or remedies of Bureau.

B2.18 Contract Closure

Upon completion of all terms and obligations of the timber sale contract, Purchaser will be issued a Statement of Completion, and written notice from the Approving Officer that all contract obligations have been met and shall be paid any refunds due.

B3.0 Payments and Deposits

B3.1 Amount Payable for Timber

All timber shall be paid for at the contract rates in effect at the time of scaling except as otherwise provided for in the contract.

B3.2 Method of Payment

Purchaser shall pay for the timber covered by the contract in advance of cutting. Payments and deposits shall be by electronic funds transfer, certified check, cashier's check or postal money order and shall be transmitted to the Office of Special Trustee for American Indians or as otherwise directed by the Approving Officer. Payment for sales of predetermined volumes can be either a single payment or installment payments as specified in Part A of this contract. Payment for estimated volume sales shall be in the form of advance payments and advance deposits as described below.

B3.3 Advance Payments on Allotment Timber

Advance payments are partial payments of the estimated value of timber to be cut on each allotment and are required in all sales of allotment timber. Advance payments are not refundable. Advance payments are specific to individual scaling units and shall be credited against timber at Current Contract Rates as it is cut and scaled. Unless otherwise specified in the contract, Purchaser shall pay 25 percent of the estimated stumpage value of the timber to be cut, computed at the bid rates, within 30 days from the date of approval of each allotment contract and before cutting begins. The Purchaser may be required to make additional advance payments if specified in the contract. The Approving Officer may change the amount of the advance payment on any allotment because of estimate errors, catastrophe, or other reason he or she determines valid. If the advance payments on any allotment exceed the total value of timber cut on that allotment by the Purchaser, the amount of the advanced payments shall be declared to be the value of the timber so cut.

B3.31 Advance Payments on Tribal Timber

Advance payments may be required on sales of timber from Tribal land. When required, these advance payments will operate the same as provided for in B3.3 herein.

B3.4 Advance Deposits

Advance deposits are used in the sale of estimated volumes to maintain an operating balance against which the value of timber to be cut from Tribal or allotted lands will be charged. Purchaser shall make advance deposits at such times as called for by the Approving Officer and in such amounts as required by the contract. Advance payments shall not operate to reduce the size of advance deposits required by the Approving Officer. The Approving Officer may reduce the minimum size of the last advance deposit before completion of the sale or before periods of approximately three months or longer during which no timber cutting is anticipated.

B3.41 Application of Advance Deposits

Advance deposits shall be applied to Tribal and allotment timber after the approval of a scale report. Advance deposits shall be applied to allotment timber only after the advance payments on the allotment have been fully credited to scale.

B3.42 Advance Deposit Balance

To compute the advance deposit balance, the estimated value of timber cut but not yet scaled shall be deducted from the amount of advance deposits currently available.

B3.43 Suspension of Operations

If advance deposits are not received within 15 days of written request or if at any time the balance in advance deposits are reduced below the required minimum advance deposits balance, the Superintendent may suspend all or any part of the operations until the requested advance deposit is received.

B3.44 Interest

Purchaser will not receive interest earned on funds paid to, or deposited with, the Bureau pursuant to Part B3.2 herein, except as to those funds returned or refunded to the Purchaser. Interest accrued on the principle amount retained for breach of contract will be treated as a penalty and distributed to the Sellers.

B3.45 Refund of Advance Deposits

The Approving Officer may, at his or her discretion, refund to Purchaser certain advance deposit funds prior to contract closure when Purchaser requests the refund, and: (i) logging operations may be inactive for approximately three months or longer, (ii) the balance of advance deposits is in excess of the required minimum advance deposit balance specified in the contract, and (iii) there is not an unexcused deficiency in minimum harvest requirements. The Approving Officer shall refund the total unobligated balance of advance deposits after all timber covered by the contract has been paid for and Purchaser has fulfilled all contract requirements.

B4.0 Rates of Payment

B4.1 Current Contract Rates

Current Contract Rates shall be the species and product unit rates identified in Part A7 (Predetermined) and Part A9 (Estimated) of the contract, or periodically determined according to procedures stated in Part A9 (Estimated), unless superseded by rates determined under Part B4.2 herein.

B4.2 Other Payment Rates

B4.21 Payment for Cutting Deficiency

If Purchaser fails to meet the minimum cutting requirements and no relief is granted, the Purchaser shall pay, as liquidated damages, an amount for losses to the Seller arising from deterioration of deficient volume, a delay or loss of growth in the residual stand, delay in establishing a new stand, and from delay in receipt of planned income or other causes, if provided for in the contract. The volume of timber scaled during the following contract year shall not be applied to the minimum requirements for that year until the existing deficiency has been made up. All timber scaled to correct a cutting deficiency shall be paid for at the stumpage rates in effect at the end of the contract year in which the deficiency occurred or at the rates in effect at the time of scaling, whichever are higher, plus the liquidated damage amount, if provided for in the contract. Normal stumpage rate procedures shall be applied at the start of the first monthly period subsequent to the monthly reporting period in which the deficiency is satisfied.

B4.22 Undesignated Timber Cut or Damaged

Purchaser may be required to pay at triple the Current Contract Rates for timber not designated for cutting which is cut or seriously damaged.

B4.23 Unauthorized Cutting

Purchaser shall be responsible for unauthorized cutting that occurs within the logging unit or during times that Purchaser is unauthorized to cut designated timber. Purchaser agrees to pay triple Current Contract Rates for all material removed and/or damaged from unauthorized cutting.

B4.24 Unauthorized Movement

Products that are moved contrary to the instructions of the Officer in Charge shall be paid for by Purchaser at double Current Contract Rates.

B4.25 Waste Material

Waste material shall be paid for at Current Contract Rates. The amount or volume of waste material will be determined based on the Bureau's Scaling Handbook or procedures.

B4.26 Salvage

For Timber Contracts for the Sale of Estimated or Predetermined Volumes, the Purchaser shall be given the option to cut, at Current Contract Rates, undesignated timber within the logging unit that meet Utilization Standards in Part A11 of the contract, and which are damaged by catastrophe subsequent to contract approval. When the damage has resulted in an appreciable diminished value of the timber for which the risk of loss remains with the Seller, the Approving Officer shall prescribe the stumpage rates applicable to the damaged timber.

B5.0 Utilization

B5.1 Sales of Estimated Volumes

In sales in which the volume of timber is to be determined by measurement of cut products, timber shall be cut to yield the maximum stumpage value of the tree.

Stumps shall be cut as low as practicable to avoid waste. Stumps which exceed the maximum height shall be paid for by the Purchaser at the rates per stump specified in Part A9 of the contract. In addition, the Officer in Charge may require the Purchaser to recut such stumps to the maximum allowable height.

B5.2 Sales of Predetermined Volumes

In sales in which the volume of timber sold was determined prior to the sale, the Officer in Charge may require the Purchaser to recut stumps which exceed the maximum height as defined in Section B8.321 herein.

B6.0 Cutting Requirements

B6.1 Maximum Volume

The volume of timber cut on the logging unit during any contract year, not including the cutting deficiencies from any previous year or years or the volume of timber salvaged pursuant to Section B6.43 herein, shall not exceed the maximum volume specified in the contract.

B6.2 Minimum Volume

The Bureau will make a reasonable and conscientious effort to keep scaling current, but the volume presented for scaling by the Purchaser within the contract year will not be counted as part of the minimum volume unless actually scaled. Cutting performance in any contract year beyond the minimum required shall not be applied against the cutting requirements of subsequent contract years. The shortfall in required annual production will be added to the minimum volume required for the following year. If Purchaser fails to meet the minimum cutting requirements, the volume of timber scaled during the following contract year shall not be applied to the minimum requirements for that year until the existing deficiency has been made up.

B6.21 Relief from Minimum Cutting Requirements

If the Purchaser fails to meet the minimum cutting requirements specified in the contract, the Approving Officer at the request of the Purchaser may relieve the Purchaser in whole or in part from the minimum annual cutting and paying requirement when, in the opinion of the Approving Officer, the Purchaser is prevented by factors beyond his or her control from meeting the minimum cutting requirements, or when such relief is in the best interest of the Seller.

B6.3 Final Year Volume

During the last year for cutting and paying under the contract, the actual volume of timber designated for cutting shall be controlling if less than or more than the minimum volume required in the contract.

B6.4 Damaged Timber

B6.41 Damage by Purchaser

Merchantable timber damaged during Purchaser's Operations shall be cut and paid for. Undesignated merchantable timber determined by the Officer in Charge to have been damaged during Purchaser's Operations shall be paid for at Current Contract Rates, or as stated in B4.22 herein, at the discretion of the Approving Officer. Any damaged timber or waste material, which is paid for, shall become the property of Purchaser and may be removed from the logging unit at any time prior to the expiration of the contract at Purchaser's option and as directed by Officer in Charge. Damage includes but is not limited to any injury to the living crown, bole or roots of a tree. If timber is injured or damaged to the extent that, in the opinion of the Officer in Charge, it will constitute a hazard to residual trees if not removed, or a safety hazard to the public, Purchaser may be required to remove such injured or damaged timber.

B6.42 Damage by Catastrophe

All timber within the logging unit of the species and minimum merchantability specified in the contract which is damaged but not rendered unmerchantable by insects, disease, windthrow, fires or by other forces subsequent to the date the contract is approved, shall be termed merchantable. In contracts for the sale of predetermined volumes in which minimum merchantability standards are not specified, merchantability shall be determined in accordance with customary standards. The Purchaser shall cut and pay for damaged merchantable timber as expeditiously as possible and as the Approving Officer may direct, except as otherwise provided for in Parts B4.26 and B6.4 herein.

B6.421 Unmerchantable Damaged Timber

In the event that any timber covered by the contract is lost, destroyed or damaged by catastrophe to the extent that it is unmerchantable, there shall be no obligation on the part of the Bureau to designate, or on the part of the Purchaser to accept and pay for, other timber in lieu of that destroyed or damaged.

B6.43 Additional Salvage of Damaged Timber

If, in the opinion of the Approving Officer, additional salvage operations are necessary to prevent losses to the Indian owners and cannot be reasonably removed in the Purchaser's operation, the Approving Officer may offer all or part of the damaged timber for sale under separate contract(s).

B7.0 Scaling

Scaling as used in these provisions may include various volume determination methods including, but not limited to, log rule, measuring, counting, weighing, sampling, and tree measurement before felling or any reasonable method prescribed by the Approving Officer. Products presented for scaling in other than sawlog form shall be measured as provided for in the contract.

B7.1 Scaling Services

B7.11 Personnel

Unless a certified third party or consumer scaling agreement is approved, certified Bureau and/or Tribal employees shall conduct all log scaling under an approved agreement.

B7.12 Scaling Organizations

The Bureau may enter into written agreements to accept scaling services from an established scaling organization acceptable to the Approving Officer.

B7.2 Scaling Specifications

Unless otherwise provided for in the contract, the following specifications are prescribed for scaling logs: (a) the Scribner Decimal C log rule shall be used, (b) measurement shall follow instructions contained in the Scaling Handbook, (c) the maximum scaling length of a single log segment shall be 20 feet, (d) all logs exceeding the maximum scaling length shall be scaled as two or more segments, (e) maximum trim allowance is six (6) inches per segment.

Logs or pieces presented for scaling measuring less than the minimum contract specifications that have not been bucked from products meeting the minimum contract specifications shall be scaled as though such bucking had been done, in accordance with the appropriate log Scaling Handbook.

B7.3 Scaling Deduction

When measuring products presented for scaling, deductions will be made for defect or damage according to the Scaling Handbook. Scaling deductions shall not be made if any defect or damage is due to carelessness, negligence, or the willful act of the Purchaser.

B7.4 Designated Scaling Point

The Officer in Charge will designate locations where products are presented for scaling at designated scaling points.

B7.5 Convenience in Scaling

The Purchaser shall roll out, deck or otherwise present products in a manner suitable for safe, accurate and efficient scaling as the Officer in Charge may reasonably direct.

B7.6 Movement of Products

Products shall not be moved from a designated scaling point until they have been scaled and until they have been stamped, painted, numbered or otherwise released by the Officer in Charge. Unauthorized movement of logs shall be paid for in accordance with B4.24. The Officer in Charge may require that products are decked, stacked or otherwise held for scaling when the average daily volume produced is too small to permit economical scaling.

B7.7 Scaling Unmerchantable Material

Timber which, in the opinion of the Officer in Charge, is more defective than the minimum merchantable percentage specified in Part A11 of the contract, and/or material that does not meet the minimum product specifications in Part A11 of the contract, will be paid for on the basis of net merchantable content or as specified in the contract when removed from the logging unit at the option of the Purchaser.

B7.8 Waste Material

Waste material is comprised of long butts, tops, broken and partially sound logs, trees designated for cutting that are not cut or which are left felled, lodged or damaged, or other products damaged or wasted by logging operations will be scaled according to Bureau scaling procedures.

B7.9 Marking Products

When a separate record of the volume of timber cut from allotments or other scaling units is required by the Bureau, Purchaser shall distinctively identify all products with paint, or perform other procedures as directed by the Officer in Charge to permit positive identification of the products with the land from which they were cut.

B7.10 Reports of Scale

The Superintendent shall furnish to Purchaser a scale report, or other document that Superintendent deems equivalent, showing the volume and value of all products scaled under the contract during each reporting period. Superintendent shall also furnish to Purchaser a report of timber cut or other record the Superintendent deems equivalent, showing the volume and value of timber scaled and the balances in advance payments and advance deposits.

B7.11 Check Scales

Purchaser may arrange with Bureau, through the Officer in Charge, for a check scaler employed by Purchaser or representing Purchaser, to conduct check-scaling services for Purchaser. A check scaler shall meet certification standards as set by the Bureau and comply with Bureau scaling procedures. Furthermore, the Bureau reserves the right to conduct check scales on third party scalers at any time. Check scales will be for gross and net volumes only unless otherwise stated in the contract. All data compiled by each party shall be exchanged at either party's request.

When products are sold by weight, certification of weight scales used shall be calibrated to insure accuracy on a schedule determined by the Officer in Charge.

B8.0 Purchaser's Operations

B8.1 Representative

Purchaser shall designate, in writing, a representative who is authorized to receive notices in regard to performance under this contract and take related action. At all times when construction or logging operations are in progress, Purchaser shall have a representative readily available in the area of such operations who shall be authorized to receive on behalf of Purchaser any notices or instructions from the Bureau in regard to performance under the contract and to take such action thereon as is required by the terms of the contract. At Purchaser's request, Bureau will designate in writing its representative who shall supervise operations under the contract.

B8.2 Logging Plan

The Superintendent may require Purchaser to present a Logging Plan for approval before initial or seasonal operations begin. Upon approval, the plan becomes a part of the contract, and any deviation from the plan will require the written consent of the Officer in Charge. The areas to be logged in any season may be designated by the Superintendent when, in his or her opinion, such action is necessary to prevent deterioration of timber from fire, insects, disease or other cause, or to insure that the logging unit is logged in such a manner as to protect fully the interests of the Seller and the Bureau.

B8.21 Operating Schedule

The logging plan shall include an annual schedule of anticipated major activities and needs for cutting designated timber, such as logging, road maintenance, and road construction. The schedule will include Purchaser's annual cutting requirements (if any) in terms of minimum and maximum volume as set forth in Part A13 (Estimated), and the sequence and time frame of logging operations. Prior to initial operations and after shutdowns of 20 days or more, Purchaser's representative shall notify the Bureau two (2) days, excluding weekends and Federal holidays, before any operations begin on the logging unit.

B8.3 Conduct of Logging

Unless otherwise specifically provided herein, Purchaser shall cut designated timber and shall remove the portions that meet utilization standards in Part A of the contract. Purchaser's logging methods shall not damage lands, property or other environmental, cultural, or property interests of the Indians or Government. Purchaser shall employ best management practices and other appropriate procedures for the protection of air, soil and water quality. The operation of all equipment shall be subject to such restrictions as the Officer in Charge may prescribe. Purchaser shall be responsible for any unauthorized cutting or damage committed by Purchaser and his or her agents, contractors, subcontractors, employees or invitees.

B8.31 Safety

Purchaser shall facilitate the Bureau's safe and practical inspection of Purchaser's Operations and conduct of other official duties on the logging unit. Purchaser shall conduct his or her operations in compliance with prescribed safety practices and Federal Law. The Bureau may direct Purchaser to post appropriate warning signs concerning conditions arising from logging operations that the Officer in Charge determines to be hazardous.

B8.32 Felling

Felling shall be done in such a way as to prevent breakage of designated timber and damage to residual trees.

B8.321 Stump Height

The height of any stump shall not exceed one-half of its diameter or 12 inches from ground level on the uphill side, whichever is less. The Officer in Charge may authorize a different maximum height after receiving written request from the Purchaser that explains why the standard height is impractical.

B8.322 Hazard and Cull Trees

Purchaser shall fell designated hazard and cull trees as directed by the Officer in Charge. Hazard and cull tree felling shall be completed in each part of the logging unit as logging progresses.

B8.33 Skid Trails and Landings

Skid trails and landings will be located in such a manner as to minimize erosion and to protect residual trees and young growth as directed by the Officer in Charge.

B8.34 Treatment of Slash

Treatment of slash as specified in the contract shall be accomplished by the Purchaser concurrently with other phases of Purchaser's Operations. Slash includes, but is not limited to, limbs, tops, damaged young growth and other material resulting from Purchaser's Operations. Purchaser shall lop and pile all slash compactly for burning unless otherwise specified in Part A of the contract. Slash piles shall be placed a sufficient distance from reserved trees and young growth to prevent unnecessary damage as a result of burning.

B9.0 Protection Measures

B9.1 Residual Trees

Purchaser's Operations shall avoid damage to young growth and other trees that are reserved from cutting.

B9.2 Land Survey Monuments

Purchaser shall protect all survey monuments, witness corners, reference monuments, and bearing trees against destruction, obliteration or damage. The Purchaser shall hire a licensed surveyor to reestablish or restore any monuments, corners or accessories that are destroyed, obliterated or damaged by Purchaser's Operations.

B9.3 Cultural Resources and Special Status Plant and Animal Species

Purchaser has a general duty to protect all known and identified areas, sites, resources and species herein referenced from impact, damage or removal during Purchaser's Operations. Purchaser shall immediately notify the Bureau if disturbance occurs to any site identified in Part A of the contract as needing special protection measures and shall immediately halt operations to minimize further disturbance until the Bureau authorizes Purchaser to proceed. Purchaser shall bear costs of resource evaluation and restoration to identified sites damaged by Purchaser's Operations. Such payment shall not relieve Purchaser from civil or criminal liability otherwise provided by law. Discovery of additional areas or members of species needing special protection shall be promptly reported to the Officer in Charge. Purchaser's Operations may be delayed or terminated if the Officer in Charge determines there is risk of damage from continued operations. Should any human remains or associated grave goods or gravesites be discovered at any time during the course of Purchaser's Operations, Purchaser must immediately notify the Officer in Charge and cease all operations in the discovery area. Purchaser may resume operations upon notification from the Officer in Charge.

B9.4 Streams and Wetlands

Purchaser's Operations shall be conducted in a manner that will minimize damage to rivers, streams, riparian areas, wetlands, or moist meadows. Streams as here referred to include both flowing and intermittent watercourses. Written approval of the Officer in Charge is required for the hauling, skidding or yarding through any watercourse or wetland.

B9.5 Hazardous Material Disposal

Purchaser shall take immediate action to contain any hazardous materials spills that have occurred because of Purchaser's Operations. The Purchaser must notify the Bureau immediately of such spills. Hazardous materials will be disposed of as directed by the Officer in Charge. Hazardous materials include, but are not limited to, petroleum products such as fuel, oil, and hydraulic fluids, and contaminated soils, rock, and vegetative material. Purchaser is responsible for environmental liabilities arising from his or her actions.

B9.6 Soils

Purchaser's Operations shall be conducted in a manner to minimize adverse impact to soils. In areas where soil is particularly susceptible to erosion, Purchaser will take reasonable and practicable measures to retain road surfaces and prevent the gulying of roads and skid trails, and stabilize barren areas created by landings or other actions that expose the soil. The Officer in Charge may suspend operations in whole or in part for such periods as may be deemed necessary to avoid damage when ground conditions are unfavorable.

B9.7 Sanitation

Purchaser is expected to maintain all lands in a clean and sanitary condition. All equipment, rubbish, garbage, litter, and other refuse resulting from the Purchaser's Operations and occupancy shall be removed and disposed of properly. The Officer in Charge may, in his or her discretion, designate specific locations and other conditions for the servicing of equipment. The servicing of equipment is not permitted within the Operational Area without the permission of the Officer in Charge.

B10.0 Construction and Maintenance of Roads and Other Improvements

B10.1 Authorization

Purchaser is authorized to construct and maintain such roads, bridges and other transportation facilities the Bureau deems necessary for cutting designated timber, subject to applicable regulations and such conditions as the Bureau may impose. All such construction, improvement and maintenance activities shall be performed as directed by the Bureau and are necessary for Purchaser's Operations under the contract. In these Provisions, "construction" shall also include reconstruction.

B10.2 Construction

The location and design of all roads to be constructed by Purchaser shall minimize damage to land, improvements and the environment. Bureau may, before construction begins, require approval of location and design by inspection or through the submission of plans and specifications for the location and design of roads and other improvements. All bridges, drainage structures, cattle guards or other improvements installed on any road by the Purchaser shall be designed and installed in a manner that facilitates long-term usage of the road. Installed structures will be left intact at the completion of logging operations, unless the removal of such improvements is authorized or required by the Superintendent. Installations not specified in Part A of the contract will occur only with prior approval of the Officer in Charge.

B10.3 Existing Improvements

Purchaser may be given permission to use existing improvements which, are already on lands covered by the contract and which are necessary for Purchaser's Operations under the contract, subject to applicable regulations and such conditions as the Superintendent may impose. Purchaser shall protect roads and other improvements within the Operational Area and those designated on the logging unit map(s), and shall make restoration of any such road or improvement damaged by Purchaser's Operations.

B10.4 Maintenance

B10.41 Bureau Roads

Bureau roads are open to public use but may be closed by the Bureau, in its discretion, for reasons including, but not limited to: public safety, fire prevention or suppression, fish and game protection, and prevention of damage to unstable roadbeds. The Bureau may require that Purchaser maintain Bureau Roads used in conjunction with Purchaser's Operations under this contract in proportion to Purchaser's share of use.

B10.42 Other Roads

Purchaser shall pay road maintenance fees for the use of designated roads maintained by a third party as specified in the contract.

B10.43 Periods of Non-use

During periods of non-use, the Bureau, in its discretion, may direct the Purchaser to maintain roads and other improvements within the Operational Area that the Superintendent has determined are necessary for the management or protection of Indian Lands.

B10.44 Prior to Abandonment

The Bureau, in its discretion, may direct the Purchaser to maintain roads within the Operational Area prior to abandonment or permanent closure.

B10.5 No Obstructions

All transportation facilities which are designated by the Officer in Charge, as being necessary for the administration and protection of Indian lands shall at all times be kept free of obstructions resulting from Purchaser's Operations.

B10.6 Use by Other Parties

Roads or improvements constructed by the Purchaser under authority of the contract, or on rights-of-way held by the Bureau, may be used by other parties as authorized by the Bureau, provided that, in its opinion, the use by other parties will not cause unreasonable interference with Purchaser's Operations.

B10.7 Road Use Agreements

The Purchaser must abide by the terms of any applicable road use agreements on file with the Bureau. The Purchaser shall be responsible for obtaining right of way across land for which right of way has not been obtained or included as part of the logging unit.

B10.8 Removal

All roads and other improvements used, maintained, constructed or installed by Purchaser shall be left intact at the completion of Purchaser's Operations under this contract unless the removal of such roads or improvements is required by the Approving Officer. Purchaser shall remove all personal property and temporary structures prior to the contract expiration date or a date specified by the Officer in Charge. Personal property left after that date will be deemed abandoned and subject to confiscation and/or trespass fees.

B11.0 Fire Prevention and Suppression

B11.1 Fire Plan

When requested by the Bureau, the Purchaser shall prepare, in cooperation with the Officer in Charge, a plan for the prevention and reporting of wildfires on the logging unit. At a minimum, the plan shall include a communication plan for reporting wildfires; a description of fire prevention and control measures on the logging unit; and a list of qualified personnel and equipment available for implementing the plan.

B11.2 Fire Reporting

Purchaser shall immediately report any and all wildfires to the appropriate authority specified in the Fire Plan.

B11.3 Fire Precautions

Purchaser shall, both independently and in cooperation with the Bureau, take all reasonable and practicable action to prevent fires from Purchaser's Operations. Purchaser shall furnish and maintain in good and serviceable condition such wildland firefighting tools and equipment, and take such fire prevention measures as may be required by the Superintendent to meet the fire protection requirements of the contract and the existing fire danger. The requirements shall not be less than are required under the laws of the State in which the logging unit is located.

B11.4 Suspend Operations

The Officer in Charge may require the Purchaser to suspend any or all of Purchaser's Operations when ignition conditions identified in the Fire Plan are met, or when fire is within or threatening the Operational Area.

B11.5 Suppression Assistance

When called upon by the Superintendent, Purchaser shall make available personnel and equipment identified in the Fire Plan for use in suppressing wildfire on or threatening the Operational Area, in accordance with Bureau policy.

B11.51 Personnel

Personnel identified in the Fire Plan as fully qualified under current Bureau standards will be eligible for temporary hire by the Bureau. Such personnel will work under the direction of any authorized employee of the Bureau.

B11.52 Equipment

Qualified equipment identified in the Fire Plan may be rented from Purchaser by the Bureau or Incident Management Team as provided for in the Fire Plan.

B11.6 Fire Suppression Costs

B11.61 Purchaser Fire

The origin or spread of all wildfires on the Operational Area for which Purchaser, Purchaser's employees, or Purchaser's subcontractors or their employees, are responsible by act or neglect are classified as either Negligent Fire or Non-Negligent Fire.

B11.611 Negligent Fire

A person has acted "negligently" if he or she has departed from the conduct expected of a reasonably prudent person acting under similar circumstances. In the case of logging operations, for example, this would include things such as disposing of burning materials in a careless manner, unattended campfires, and equipment fires caused by inadequate maintenance. Negligence will be determined by the Approving Officer.

B11.6111 Penalty for Suppression Costs

All suppression costs including those incurred by the Bureau of suppressing any such fire ignited through Purchaser negligence shall be borne by Purchaser.

B11.612 Non-Negligent Fire

A Non-Negligent fire is any fire caused by the Purchaser, which is not considered negligent by the Approving Officer.

B11.6121 Penalty for Suppression Costs

The Purchaser shall pay one-half of the total suppression costs for non-negligent purchaser fires as determined by the Approving Officer.

B11.6122 Maximum Penalty for Suppression Costs

The maximum penalty for suppression costs is twenty-five percent of the total estimated value of the contract, up to a maximum of \$300,000.

B11.62 Non-Purchaser Fire

Fires on or outside the sale area for which the Purchaser or his or her employees, his or her subcontractors or their employees, are in no way responsible by act or neglect are hereinafter called non-Purchaser fires. The Purchaser shall be reimbursed, at rates authorized by the Bureau, for all qualified equipment and/or personnel hired by the Bureau for non-Purchaser fire suppression.

B11.7 Fire Damage

Purchaser's liability for timber damage sustained from Non-Negligent Fire and Non-Purchaser Fire shall follow the Risk of Loss stated in Part B2.7 herein; otherwise Purchaser shall pay for all damages caused by the Purchaser Fire to timber or any other property of the Tribe, Individual Indian Beneficiaries, or the Government in an amount to be determined by the Bureau.

B12.0 Other Conditions

B12.1 Sales of Other Materials

The Bureau reserves the right to sell from the logging unit during the period of this contract any materials or products not subject to its terms, but shall not permit removal, possession, or use thereof that will materially interfere with Purchaser's Operations.

B12.11 Salvage Sales of Minor Volumes

With written agreement between Purchaser and Approving Officer, separate sales of minor volumes of designated timber may be made to salvage scattered single trees or small groups of trees that Superintendent determines cannot be reasonably removed by Purchaser's Operations.

B12.2 Provisions Required by Statute

B12.21 Indian Labor

When Purchaser is operating concurrently with a common crew, under a contract with a federal government agency, the non-discrimination clause of the federal government contract shall prevail, except that preferential treatment to Indians may be granted under a publicly announced employment practice within the provisions of Section 703(i) of Public Law 88-352, the Civil Rights Act of 1964 (78 Stat.257). Preferential treatment to Tribal members enrolled in the Tribe on whose land the contract is operating and other Indians shall include employment by Purchaser and his or her subcontractors under this contract, of Indians at the same wages as other labor, and in preference to other labor not already in his or her employment, whenever Indian labor seeking employment is qualified. Purchaser may be required to make available to the Bureau employment and payroll records as is necessary to enable the Bureau to ascertain compliance with this section. Such records shall be considered confidential and shall be available only to Bureau employees whose official duties require access to the information therein.

B12.22 Officials Not to Benefit

No Member of, or Delegate to Congress, or Bureau of Indian Affairs Director shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to a corporation or unit of Government contracting for its or for the public's general benefit.

B12.3 Purchaser's Records

Records pertaining to the logging, manufacture and sale of material covered by the contract shall be open to inspection at any reasonable time by authorized Bureau employees for the purpose of obtaining information of the type used by the Bureau in appraisals and redetermination of stumpage rates. The information so obtained shall be regarded as confidential and the right of inspection shall extend for a reasonable time beyond the expiration date of the contract to provide the Bureau an opportunity to obtain relevant information for the full contract period.

B12.4 Indemnity

Purchaser assumes all risk of injury and/or death of its employees, subcontractors, and third party persons and all loss of/or damage to property, except as specified otherwise in this contract, resulting from actions or omissions of Purchaser under this contract. Purchaser agrees to indemnify and save harmless Seller and Bureau from any and all liability, loss, cost and expense including attorney's fees resulting from such injury, death, loss and/or other damage.

B12.5 Insurance

Purchaser shall provide and maintain in force at all times during the performance of the contract, Worker's Compensation Insurance, provided and maintained for all employees of Purchaser engaged in work under the contract as required by state law. When directed by the Bureau, Purchaser is required to provide and maintain public liability insurance and/or other types of insurance as specified under Part A13 (Predetermined) and A17 (Estimated). When requested by the Bureau, Purchaser will provide proof of such coverage during the term of the contract. Certificates of Insurance shall be furnished to the Bureau within 30 days following contract approval. Purchaser shall provide 30-day notice to the Bureau in the event of cancellation, non-renewal or a material change in the policies.