

TIMBER SALE PROSPECTUS

Sale Name :	East Armuchee	Type of Sale :	Premeasured
National Forest :	Chattahoochee/Oconee	Ranger District :	Conasauga
Bidding Method :	Sealed Bid	Bid Guarantee :	\$11,400.00

Location of Bid Opening : Conasauga Ranger District Office

Date : 06/25/2013

Time : 10:00 AM

1. INTRODUCTION. This prospectus furnishes prospective bidders with information not contained in the published advertisement and is designed to enable bidders to decide whether or not to further investigate the sale. The prospectus is not a legally binding document, but is offered to provide general information about a sale. The contract does not include descriptions, estimates, and other data in this prospectus, unless otherwise stated. In the event that the prospectus contains an error or contradicts the sample contract, the contract governs. Bidders are urged to examine the timber sale and make their own estimates. Timber sale Contract 2400-6T will be used. Inspect the sale area and the sample contract before submitting a bid. Obtain the appraisal, other information on the timber, and conditions of sale and bidding at Forest Service offices listed above and in the named attached advertisement.

2. BIDDING. This is a Sealed Bid sale. Bidders must submit sealed bids on prepared forms they can obtain from Forest Service offices listed above and in the attached advertisement. The forms include instructions for bidding and submission of the required certifications. A bid guarantee must be included with the bid in the form of cash, a bid bond on form FS-6500-13 (4/82) or later, certification of annual bid bond allocation on form FS-6500-13a (4/82) or later, an irrevocable letter of credit, a certified check, bank draft, cashiers check, official bank check, or bank or postal money order payable to the Forest Service, USDA in the amount specified above and in the bid form. The bid guarantee shall be returned to each bidder whose bid is not accepted.

3. LOCATION AND DESCRIPTION OF TIMBER. Refer to the sample contract and sale area map attached to the sample contract for legal location of sale area, location of payment units, location of cutting units, the acreage of sale area, and the cutting unit acreage.

THE FOLLOWING GENERAL LOCATION, ROUTES OF ACCESS, ACREAGES, AND OTHER SPECIAL LOCATION DATA DO NOT SUPERSEDE THE SALE AREA MAP OR SAMPLE CONTRACT.

The sale area is located on the Chattahoochee-Oconee National Forests, Conasauga Ranger District, approximately 4 miles north from Subigna in Walker and Chattooga Counties, including about 1420 acres, of which an estimated 451 acres are marked and/or designated for cutting. The methods of cut include about 383 acres of thinning and 68 acres of two-aged regeneration cutting.

This is a premeasured timber sale. The following listing of Included Timber by method of cut is for information only. Refer to the sample contract for specific requirements.

All trees that meet utilization standards listed in AT2 within Individual Tree Marked Payment Units 06, 08 -11 (CTM as shown on Sale Area Map) that are designated for cutting have been marked by paint spots below stump height and at about eye level. Sawtimber trees have 2 spots on the stump and small roundwood trees have 1 spot. Individual trees shall be cut so as to leave paint visible on the stump. Unit boundaries are marked in orange paint.

All trees that meet utilization standards listed in AT2 within Leave-Tree Marked Payment Units 02 - 05 (LTM as shown on Sale Area Map) are designated for cutting except (a) those trees marked with paint at about eye level and below stump height, (b) dead trees that do not meet utilization standards, and (c) reserve tree which are to be left uncut. Unit boundaries are marked in orange paint.

All trees that meet utilization standards listed in AT2 within Designation by Spacing Payment Units 01, 07, and 12 (DxSPA as shown on the Sale Area Map) are designated for cutting except trees designated by paint or description (spacing and/or stump diameter) to be left

uncut. Unit boundaries are marked in orange paint.

4. TIMBER QUANTITIES AND RATES. The quality, size, cut per acre, and product suitability of the timber are estimates based on detailed cruise information on file and available for inspection at the Forest Service offices listed above and in the advertisement. VOLUME QUANTITIES LISTED HEREIN ARE MADE AVAILABLE WITH THE UNDERSTANDING THAT VALUES SHOWN ARE FOREST SERVICE ESTIMATES AND ARE NOT GUARANTEED. For these reasons, bidders are urged to examine the timber sale area and make their own estimates.

Road Construction Costs. The advertised rate does not include the estimated cost of specified road construction. The estimated road construction cost has been included in the appraisal as a cost that the purchaser will incur. The purchaser will be responsible for the road construction cost and WILL NOT receive credit towards stumpage costs for this expense, i.e., THIS SALE DOES NOT INCLUDE PURCHASER CREDIT and bidders should consider the cost of road construction when developing their bids.

THE MINIMUM ACCEPTABLE BID RATE IS STATED IN THE ATTACHED BID FORM. THESE RATES ARE EFFECTIVE AT THE TIME OF ADVERTISEMENT.

Estimated Quantities and Rates per Unit of Measure

Species	Product	Unit of Measure	Estimated Quantities	Average DBH	Advertised Rates	Base Rates	Required Deposits	
							Slash Disposal	Road Maintenance
Hardwoods	Sawtimber	CCF	693.00	N/A	\$9.95	\$6.97	\$0.00	\$0.00
Southern Yellow Pine	Sawtimber	CCF	3,332.00	N/A	\$30.94	\$19.83	\$0.00	\$0.00
White Oak	Sawtimber	CCF	21.00	N/A	\$45.67	\$28.25	\$0.00	\$0.00
Hardwoods	Pulpwood	CCF	1,074.00	N/A	\$1.00	\$1.00	\$0.00	\$0.00
Softwood - Other	Pulpwood	CCF	1,828.00	N/A	\$1.00	\$1.00	\$0.00	\$0.00
TOTAL		CCF	6,948.00				\$0.00	\$0.00

5. PERIOD OF CONTRACT. The normal operating season covers the period between 03/15 and 12/15. Contract termination date is 12/31/2016. Extensions of this contract may be granted only when the purchaser has met specified conditions.

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 30 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 time award is delayed during Normal Operating Season.

The purchaser must submit a Plan of Operations to the Contracting Officer for approval before operations begin or within 60 days of sale award, whichever is earlier. The plan must show how the purchaser plans to complete the contract by the termination date. In addition to the Plan of Operations, the purchaser must submit an annual Operating Schedule before commencing operations. This schedule will include the anticipated major activities and needs for harvest. This annual Operating Schedule does not require concurrence of the Forest Service.

6. PAYMENT. Payment for timber and any required deposits for slash disposal or road maintenance are required in advance of cutting. The Purchaser may transfer purchaser credit into the contract, or provide an acceptable payment guarantee prior to cutting. Payment for required deposits must be a cash payment. The purchaser shall make advance deposits in accordance with provision B(T)4.212 - Advance Deposits.

The high bidder whose bid is accepted shall, at the time the contract is signed and returned by the bidder, make a downpayment

pursuant to Title 36, Section 223.49, of the Code of Federal Regulations. The Contracting Officer will notify the high bidder of the amount necessary to make this payment. In no case shall the downpayment be less than 10 percent of the total advertised value plus 20 percent of the bid premium. After receipt of the downpayment and a satisfactory performance bond and upon execution of the timber sale contract, the Forest Service will return the bid guarantee. A cash bid guarantee may be applied to the downpayment at the request of the purchaser. The purchaser cannot apply the amount deposited as a downpayment to cover other obligations due on the sale until conditions stated in the contract for release of downpayment have been met. Refer to the sample contract for the specific conditions.

By 11/23/2015, the purchaser shall have paid for, or in lieu thereof, deposited cash in the amount of: (1) 50 percent of the total estimated bid premium, or (2) 35 percent of the total estimated sale value at bid date, exclusive of required deposits, rounded up to the next \$100.

By 07/31/2016, the purchaser shall have paid for, or in lieu thereof, deposited cash in the amount of 75 percent of the total estimated sale value at bid date, exclusive of required deposits, rounded up to the next \$100.

If a qualified bidder elects to have the Forest Service construct specified roads, the contract shall provide for collection of not less than the full estimated cost of the roads stated in this prospectus, in addition to the current contract rate value and required deposits. Contract FS-2400-6T provides for collecting the estimated public works road construction cost as each payment unit is released for cutting, at a rate accelerated on 80 percent of the estimated volume.

If bidder elects the road option, payment for right-of-way timber will be made in advance of cutting. The timber will be decked by the road contractor and will be made available to the purchaser when notified by Forest Service of location and availability. If purchaser and road contractor agree, purchaser may cut and remove right-of-way timber as part of the specified road construction.

7. PERFORMANCE BOND. A performance bond is required. The penal sum of the bond will be 10 percent of the total bid value of the sale, rounded up to the nearest \$100 when the total bid value is \$10,000 or less; and rounded up to the nearest \$1,000 when the total bid value exceeds \$10,000 or \$12,000.00 whichever is greater. If an irrevocable letter of credit is used to secure the performance bond, the termination of the letter of credit must be at least 6 months past the contract termination date.

8. SPECIFIED ROADS. The Forest Service has determined that the following National Forest System roads shall be constructed or paid for, in whole or in part, by the timber sale purchaser. Sufficient information to permit a prospective bidder to calculate the likely cost to be incurred for road construction is available at the Forest Supervisor's Office. See the sample contract for verification of specific details and information concerning construction specifications. CONSTRUCTION ESTIMATES AND INFORMATION CONTAINED HEREIN, TOGETHER WITH RELATED SPECIFICATIONS, ARE NOT GUARANTEED. The following roads are those that Forest Service considers necessary to remove the timber from this sale.

Road Number	Road Name	Traffic Service	Approximate Miles/Kilometers	Estimated Road Construction Cost	Type of Work *
310	EAST ARMUCHEE CREEK	A	3.1 / 4.99	\$54,566.00	R
227	MANNING MILL	A	2.1 / 3.38	\$30,086.00	R

* C = Construction
R = Reconstruction

The required specified road completion date for all roads is 10/15/2014. If provision C(T)5.13# - Road Completion Date has different dates for projects, this is the final road completion date.

Total estimated construction cost allowed in appraisal is \$84,652.00

A bidder qualifying as a small business concern may elect to have the Forest Service construct the specified roads listed above. Completion dates for construction apply whether construction is performed by the purchaser or by the Forest Service. If the bidder elects Forest Service construction, it is the Forest Service's intent to perform construction through CONTRACT. The Forest Service

shall not award the timber sale contract unless either it receives a satisfactory road construction bid or, if it fails to receive such a bid within 120 days of opening timber sales bids, the bidder agrees to perform road construction.

If purchaser elects Forest Service construction, the total estimated public works construction cost that would require to be paid in addition to current contract rates is \$84,652.00. See provision C(T)4.12#- Amount Payable for Timber in the sample contract for additional information.

The following changes will be made to the sample contract when the Forest Service constructs specified roads:

A(T)3 - Timber Designations: "Specified Road Clearing" will be changed to "Construction Clearing" C(T)2.323.

A(T)7 - Change the title to "Permanent Roads To Be Constructed by Forest Service."

A22 or AT19 - Make the following changes in A22 or AT19:

- Add C(T)2.323 - Construction Clearing.
- Add C(T)4.12# - Amount Payable for Timber.
- Add C(T)8.41 - Limitation of Performance by Other Than Purchaser.

9. ROAD MAINTENANCE. Purchaser shall perform or pay for road maintenance work, commensurate with purchaser's use, on roads controlled by Forest Service, and used by purchaser in connection with this sale. Road maintenance requirements are based on the predicted haul route. Any change in the purchaser's actual haul route may necessitate a change in the roads to be maintained and/or in the amount of required deposit for road maintenance. Required deposits for road maintenance are listed in Section 4 and in the sample contract. Maintenance specifications are in the sample contract.

10. INAPPLICABLE STANDARD PROVISIONS. See sample contract.

11. SPECIAL PROVISIONS. See sample contract.

12. SET-ASIDE SALES. Not Applicable.

13. LOG EXPORT AND SUBSTITUTION RESTRICTIONS. Not Applicable.

14. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE REVIEW. If the total bid value plus required deposits for this contract exceeds \$10 million, before award, the Forest Service shall request an equal employment opportunity compliance review of the high bidder to determine compliance with the provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967 and Executive Order No. 12086 of October 5, 1978.

15. AWARD. The Contracting Officer is required to make a determination of bidder responsibility as stated in Title 36, Section 223.101, of the Code of Federal Regulations.

To determine a purchaser to be responsible, a Contracting Officer must find that:

- a. The purchaser has adequate financial resources to perform the contract or the ability to obtain them;
- b. The purchaser is able to perform the contract within the contract term taking into consideration all existing contracts and Governmental business commitments;
- c. The purchaser has a satisfactory performance record on timber sale contracts. A prospective purchaser that is or recently has been seriously deficient in contract performance shall be presumed not to be responsible, unless the Contracting Officer determines that the circumstances were beyond the purchaser's control and were not created through improper actions by the purchaser or affiliate, or that the purchaser has taken appropriate corrective action. Past failure to apply sufficient tenacity and perseverance to perform acceptably under a contract is strong evidence that a purchaser is not a responsible contractor. The Contracting Officer shall consider the number of contracts involved and extent of deficiency of each in making this evaluation;
- d. The purchaser has a satisfactory record of integrity and business ethics;

e. The purchaser has or is able to obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract;

f. The purchaser is otherwise qualified and eligible to receive an award under applicable laws and regulations.

Bidders, by signing the bid form, certify that, to the best of bidder's knowledge the bidder will meet the requirements in 36 CFR 223.101, determination of purchaser responsibility, and, if awarded this contract, that bidder will complete the timber sale contract and any modifications thereof in accordance with its terms including requirements to purchase, cut, and remove included timber.

16. FALSE STATEMENTS ACT. Bidders, by signing the bid form, certify that they are aware that bidder is subject to the penalties prescribed in 18 U.S.C. 1001, Chapter 47, Fraud and False Statements (P.L. 104-45). The Act states "whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both."

17. DAMAGES. This contract shall be terminated for breach pursuant to paragraph 16, 19, and/or 21 of the bid form and the terms of the sample contract if: 1) bidder fails to execute a timber sale contract, furnish a downpayment, or furnish a satisfactory performance bond within 30 days of the award letter's date; or 2) bidder is found to have violated the False Statements Act in making any statement or certification on the bid form including not meeting purchaser responsibility requirements, and bidder has made a false statement. The bid guarantee shall be retained, in whole or in part, by the Forest Service to satisfy any damages that may be assessed.

18. SUSPENSION AND DEBARMENT CERTIFICATION. Non-procurement debarments and suspensions are governed by the Government-wide common rules (7 CFR 3017).

These rules require each timber sale purchaser, to submit a certification for itself, its principals, and its affiliates when bidding on sales. The bidder must designate its status regarding debarment, suspension, and other matters as specified on the bid form. The bidder, by signing the bid form, certifies this status. An explanation for not submitting a certification may be submitted. The Contracting Officer will determine whether the explanation provides sufficient reason for permitting participation in the bidding. Also, as a timber sale purchaser enters into transactions with subcontractors, these subcontractors must certify their eligibility. The certification titled "Subcontractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" must be provided to subcontractors, but completed certifications are not required to be submitted with bid forms. Purchaser must keep these subcontractor certification forms on file for review by the Forest Service, if requested.

The certification forms and instructions for subcontractor transactions are provided as an addendum to the bid form.

19. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) LOGGING REGULATIONS. Conduct of operations on this timber sale is subject to inspection for compliance with the logging operations regulations at 29 CFR 1910.266 by OSHA. This standard is applicable to the entire logging industry wherever logging operations occur. Information is available to assist purchasers to ensure compliance with the logging operations regulations during conduct of this timber sale from the U.S. Department of Labor, Occupational Safety and Health Administration, OSHA, 2183 North Lake Parkway, Building 7 Suite 110, Tucker, GA 30084, (770) 493-6644.

20. GENERAL.

A site visit is planned on 06/12/2013 to look at the sale area. Interested parties should meet at the Conasauga Ranger District Office at 0900 am.

A pre-entry conference will be held with the designated purchaser representative before logging operations may begin. The purpose of this is to ensure there is a clear understanding of contract requirements and obligations.

Erosion Control Requirements: This sale has an estimated 22.6 acres of erosion control work. Purchaser shall revegetate areas where soil disturbances by the Purchaser's operations will result in soil losses from erosion, normally by seeding or planting with grasses or other suitable plant material. Purchaser shall revegetate areas designated by the Forest Service in accordance with the specifications listed in CT6.601# of the Timber Sale Contract, including temporary roads, skid trails, and landings. Refer to the Sample Contract for specific requirements.

Slash Disposal Requirements: Purchaser shall remove all logging slash and debris resulting from Purchaser's operations from cleared pipe-line and power-line rights-of-way, road surfaces, shoulders and drainage ditches, trails, and from protected Streamcourses shown on the Sale Area Map.

Purchaser shall lop and scatter all slash to lie within 2 feet of the ground for 50 feet from the Ridge and Valley Scenic Byway and for 50 feet on either side of the Pinhoti and Dry Creek Trails as shown on the Sale Area Map (sssss = Slash Treatment Zone).

In seed tree or shelterwood areas, ST as shown on Sale Area Map, Purchaser shall remove all slash and debris resulting from Purchaser's operations from within 10 feet of the bole of leave trees and from boundaries of interior leave tree groups.

Purchaser shall also remove and scatter all slash from log landings and other areas of slash accumulation in Payment Units containing Other Slash Treatments (SD as shown on the Sale Area Map).

Refer to the Sample Contract for specific requirements.

Road Reconstruction: This sale contains 5.2 miles of Specified Road Reconstruction. Activities will include road reconditioning, grubbing of vegetation within roadbed, pipe replacement, cleaning of inlets/outlets of culverts, placement of surface materials, erosion control work, and placement of temporary traffic control devices.

A special use permit has been granted for recreational activities on segments of FSR 310 which coincide with the Pinhoti Trail. These activities are scheduled for September 20 through 22 in 2013 and 2014. Plans for Purchaser's Specified Road Reconstruction work will need to be coordinated with the Forest Service so as not to impact these special use recreation activities during these time periods.

Refer to section 8 of Timber Sale Prospectus (Specified Roads) and Sample Contract for specific requirements

Road Maintenance Requirements: The Purchaser will be required to perform pre, during, and post haul road maintenance on approximately 6.3 miles of existing roads as specified in the Sample Contract under CT5.31#. Pre-haul maintenance must be completed on roads where pre-haul maintenance is specified before hauling will be permitted.

Pre-haul maintenance includes approximately 1.0 mile of dozer blading and spot placement of 54 tons of #57 rock on FS road 226.

During haul maintenance includes approximately 2.1 miles of dozer blading on FS road 227 and approximately 3.2 miles of dozer blading on FS road 310.

Post-haul maintenance includes approximately 1.0 miles of dozer blading and spot placement of 54 tons of #57 rock on FS road 226; approximately 2.1 miles of dozer blading and spot placement of 72 tons of #4 rock on FS road 227; and approximately 3.2 miles of dozer blading and spot placement of 54 tons of #4 rock on FS road 310.

Spot placement of all rock will occur at locations designated by the Forest Service. If this material is not needed, the estimated cost shall be charged to the Timber Sale Account. Refer to the Sample Contract for specific requirements.

Temporary Roads: There are an estimated 5.7 miles of temporary roads to construct or re-establish on this sale. The location and clearing widths of temporary roads shall be agreed to and all timber within clearing limits paid for prior to construction. The Purchaser, under average conditions, will need to place approximately 360 tons of rock (#4 rock) at locations designated by the Forest Service. These locations may include approaches to surfaced roads, Streamcourse crossings, steep grades, wet areas, and fills over culverts. There is one temporary road Streamcourse crossings that may require temporary placement of a 24 inch culvert measuring 20 feet in length. Refer to Sample Contract for specific requirements.

Protection of Improvements: The Purchaser shall protect and take responsibility for promptly repairing any damage caused to the following improvements located within or adjacent to the Sale Area: roads, trails, land survey monuments, and witness bearing trees. The Pinhoti and Dry Creek Trails dissect several Payment Units within the sale. Slash Zones and Directional Felling objectives are required along the trail as a protective measure. Refer to the Sale Area Map for location of these protection measures (DF = Directional Felling objectives; sssss = Slash Treatment Zones). A telephone line is located within Payment Unit 11 near the Ridge and Valley Scenic Byway; refer to the Sale Area Map for its location. Purchaser's operations shall be conducted so as to not cause damage to this protected improvement. Refer to the Sample Contract for specific requirements.

Streamcourse Protection: Culverts, bridges, fords shall be required where temporary roads or skid trails cross protected Streamcourses shown on the Sale Area Map. All vehicles are prohibited within a pink marked boundary along either side of Streamcourses designated

on the ground and shown on the Sale Area Map, except at crossings designated by the Forest Service. Refer to the Sample Contract for specific requirements.

Protection Measures for Plants, Animals, Cultural Resources, and Cave Resources: There are several Cultural Resource Sites within the Sale Area. These sites are designated on the ground with white paint (three slashes and a stump mark), but are not shown on the Sale Area Map. Sites shall be protected from Purchaser's operations by avoidance. The location of the sites will be disclosed to the Purchaser prior to operations on the Sale Area. Refer to the Sample Contract for specific requirements.

Protection of Special Areas: Payment Units 06 - 12 have been designated as special areas (symbol = SA), as shown on the Sale Area Map to restrict operations during specified periods. Operations shall not be conducted during the following times: Weekends, starting at 5:00 pm Fridays through 6:00 am Mondays for the life of the sale.

Additionally, a Special Area is located in Payment Unit 11 - see approximate location on Sale Area Map - symbol = SA. Purchaser shall protect this special area by avoidance. Refer to the Sample Contract for specific requirements.

Directional Felling: In areas shown on the Sale Area Map (symbol = DF), Purchaser shall control direction of fall of Included Timber. Directional Felling objectives are required along the Pinhoti and Dry Creek Trails in Payment Units 07 - 12; along the Ridge and Valley Scenic Byway located along boundary of Payment Unit 11; and along the Protected Improvement (telephone line) also located in Payment Unit 11 and adjacent to the Ridge and Valley Scenic Byway. Refer to the Sample Contract for specific requirements.

Designation by Spacing: In Payment Units where Included Timber has been designated by CT2.351#-Designation by Spacing (symbol = DxSPA), as shown in the Sale Area Map, volume of leave trees (less than 21 inch stump diameter) estimated to be in skid trail corridors has been included in the volume listed in AT2.

Purchaser shall install and maintain appropriate safety warning signs at locations designated by the Forest Service.

Required Winching: This timber sale includes harvest of Included Timber within riparian corridors (defined as areas within 100 feet of both sides of perennial and/or intermittent streams). To protect soil and water resources in these sensitive areas, ground-based skidders will not be allowed to operate within areas inside riparian corridors. Drive-to-tree feller bunchers will be permitted within the riparian corridor to cut designated trees. The Purchaser will be required to winch material from areas within the riparian corridor into adjacent areas where ground-based skidders are permitted. As an alternative, the Purchaser will be permitted to use drive-to-tree feller bunchers to sever trees, and then back out of the riparian corridor with tree(s) verticle to adjacent areas where ground-based skidders are permitted to operate. The areas where winching is required is shown on the Sale Area Map with the symbol W. Please note that this requirement is not unit-wide, but rather is only required within the Boundary of Required Winching (symbol = +++-+-+), as shown on the Sale Area Map. The boundary for Required Wincing will be designated on the ground by the Forest Service prior to operations in applicable Payment Units. It is estimated that approximately 3 percent of the Sale Area, or 14.6 acres, are affected by this requirement. Refer to the Sample Contract for specific requirements.

Failure to furnish deposit with bid in the form and amount specified in the advertisement prior to the Bid Opening will result in a disqualification of the Bid.

The USDA Forest Service is an equal opportunity provider and employer.