

**Forest Service Handbook  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Handbook 2309.12 – Heritage Program Management Handbook  
Chapter 70 - Permits, Agreements, and Contracts**

**Amendment:** 2309.12-2015-1

**Effective date:** April 14, 2015

**Duration:** This amendment is effective until superseded or removed.

**Approved by:** Leslie A. C. Weldon, Deputy Chief, NFS

**Date approved:** April 8, 2015

**Responsible Staff:**

**Last Change:**

**Superseded Document(s):**

**Digest:** Following is an explanation of the changes throughout the directive by section.

**2309.12:** Establishes new handbook “FSH 2309.12, Heritage Program Management Handbook.”

**Zero code:** Establishes codes, captions, and sets forth new direction for the management of the Heritage Program.

**10:** Establishes codes, captions, and sets forth direction for the coordination and consultation requirements for the Heritage Program.

**20:** Establishes codes, captions, and sets forth direction for the planning requirements for the Heritage Program.

**30:** Establishes codes, captions, and sets forth direction for the identification, evaluation, and allocation for management use requirements for the Heritage Program.

**40:** Establishes codes, captions, and sets forth direction for protection and stewardship requirements for the Heritage Program.

**50:** Establishes codes, captions, and sets forth direction for public education and outreach requirements for the Heritage Program.

**Forest Service Handbook 2309.12 – Heritage Program Management Handbook**

**Chapter 70 - Permits, Agreements, and Contracts**

**Amendment:** 2309.12-2015-1

**Effective date:** April 14, 2015

**60:** Establishes codes, captions, and sets forth direction for the management of heritage collections for the Heritage Program.

**70:** Establishes codes, captions, and sets forth direction for administering the permits, agreements, and contracts for the Heritage Program.

**80:** Establishes codes, captions, and sets forth direction on the uniform guidance and procedures for Heritage professionals to manage and report cultural resource information.

**Table of Contents**

70.1 – Authority.....	4
70.4 – Responsibility.....	5
71 – Permit for Archaeological Investigations.....	5
71.1 – Applicant Qualifications.....	6
71.2 – Description of Proposed Work .....	6
71.3 – Issuance .....	7
71.4 – Administration .....	8
71.5 – Collections, Records, and Reports .....	8
71.6 – Information Confidentiality .....	8
71.7 – Discovery of Human Remains .....	9
72 – Agreements .....	9
72.1 – NHPA Agreements .....	9
72.2 – Partnership Agreements .....	10
73 – Procurement and Contracts.....	10
73.1 – Heritage Program Roles .....	11
73.11 – Technical Specialist .....	11
73.12 – Contracting Officer’s Representative and Inspector .....	12
73.2 – Contract Administration Guidelines .....	12
73.3 – Statement of Work and Prospective Contractors List.....	13
73.4 – Procurement Types .....	15
73.41 – Request for Quotation .....	15
73.42 – Request for Proposal.....	15
73.5 – Contract Types .....	15
73.51 – Fixed-Price .....	16
73.52 – Indefinite Delivery-Indefinite Quantity Contract.....	16
73.53 – Performance Based Contracts .....	16
73.54 – GSA Schedule Contracts .....	16
73.55 – 8a Contracts.....	16
73.6 – Cultural Resource Deliverables .....	17

This chapter provides uniform guidance and procedures for Heritage professionals responsible for administering permits for archaeological investigations, National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.) and partnership agreements, and contracts. Use this direction in conjunction with FSM 2367, FSM 2710, and FSH 2709.1.

## 70.1 – Authority

Antiquities Act of 1906 (16 U.S.C. 431-433), the Archaeological Resources Protection Act of 1979 as amended (16 U.S.C. 470aa-mm) and its uniform regulations at Title 36, Code of Federal Regulations, Part 296 – Protection of Archaeological Resources, and the Organic Act of 1897 as amended (16 U.S.C. 473-478, 479-482 and 551). The Forest Service authorizes Special Use Permits (FS 2700-32 - Permit for Archaeological Investigations) under these Acts.

Cooperative Funds and Deposits Act of 1975 (16 U.S.C. 565 a1-a3), and the Interior and Related Agencies Appropriations Act of 1992 (Public Law 102-154). These two laws as well as a number of other laws authorize the Forest Service to develop partnership agreements. For related direction see FSM 1580 and FSH 1509.

The Federal Acquisition Regulations (FAR), Agriculture Acquisition Regulation (AGAR), FSM 6300, and FSH 6309. AGAR uniform regulations are at Title 48, Code of Federal Regulations, Chapter 4 – Department of Agriculture. All acquisitions made by the Forest Service are regulated by these authorities.

Small Business Act of 1953 (P. L. 85-536, as amended). This Act is a Federal law that established the Small Business Administration (SBA) to encourage and develop small business growth in the United States, and to aid minorities and other disadvantaged peoples in securing loans and learning management techniques. Section 8(a) established a program that authorizes the SBA to enter into all types of contracts with other agencies and to let subcontracts for performing those contracts to firms eligible for program participation, including economically disadvantaged Indian Tribes. The Heritage Program may enter into Section 8(a) contracts with Tribes to complete cultural resource work.

Tribal Forest Protection Act of 2004 (P.L. 108-278). This Act is a Federal law that provides a means for Indian Tribes to propose work and enter contracts and agreements with the Forest Service and Bureau of Land Management to reduce threats from Federal lands to adjacent Indian trust lands and Indian communities. The Law was passed in response to devastating wildfires that crossed from Federal onto Tribal lands. Tribal proposals must focus on Forest Service lands that border or are adjacent to Tribal lands; pose a fire, disease, or other threat to Indian trust land or community or is in need of restoration; and involve a feature or circumstance unique to the proposing Tribe, including cultural, archaeological, and historical resources.

## **70.4 – Responsibility**

It is the responsibility of Heritage professionals to:

1. Review Applications for Permits for Archaeological Investigations for approval by the Agency Official.
2. Assist, once the application has been approved, in the preparation of the Permit for Archaeological Investigations for signature and issuance by the Agency Official. Monitor the permit to insure that all conditions are met.
3. Prepare and administer programmatic and project memoranda of agreement to comply with the NHPA, Section 106 and Section 110.
4. Identify Heritage Program partnership opportunities and assist in the development and administration of partnership agreements.
5. Identify Heritage Program contracting needs and assist the Contracting Officers in the development and administration of procurements and contracts.

## **71 – Permit for Archaeological Investigations**

For related direction see FSM 2367.1.

Issue a Permit for Archaeological Investigations to control and regulate archaeological activities on National Forest System lands. The permit defines the intent, scope, and methodology of the archaeological activity and specifies conditions under which the permit may be suspended or terminated.

Refer to FSM 2367.11 through 2367.16 for activities requiring a permit; whether the permit is issued under ARPA, the Organic Act, or the Antiquities Act; who must have a permit; and when a permit is not required. See chapter 10, section 13.42 of this Handbook for Tribal consultation requirements prior to issuing a Permit for Archaeological Investigations for planned excavations.

Any qualified professional may apply for a permit by submitting an Application for Permit for Archaeological Investigations form (FS-2700-30, OMB No. 0596-0082) and required supporting documentation, in person or by mail, to the address of the responsible Agency Official (Forest/Grassland Supervisor).

An ARPA permit may be issued in addition to a contract or the permit requirements may be incorporated into the contract stipulations. See FSM 2367.15.

### **71.1 – Applicant Qualifications**

Review the permit application to determine if the applicant is qualified to conduct archaeological work. The applicant shall:

1. Hold a graduate degree in anthropology or archaeology, or have equivalent training and experience (documented in a complete resume).
2. Demonstrate ability to plan, organize, outfit, staff, implement, and supervise the activities in the proposed scope of work.
3. Demonstrate ability to carry the project to completion, as evidenced by the timely completion of other research reports or similar compliance-related documents.
4. Have completed at least 16 months of professional experience and/or training in the archaeological field, laboratory, or in library research, administration, or management, including at least 4 months experience and/or specialized training in the type of activity proposed under the permit.

Applicants shall have the demonstrated academic/CRM training and research experience to investigate the types of prehistoric or historic archaeological sites covered by the permit.

### **71.2 – Description of Proposed Work**

Review the permit application to determine if all aspects of the proposed work are sufficiently described, including, but not limited to:

1. Location of proposed work.
2. Proposed work, benefits, and products.
3. Statement of the applicant's capability, past experience, and performance.
4. Resume of the Principal Investigator(s) and Project Director(s).
5. Operating plan and work completion schedule.
6. Documentation confirming curatorial facility to house resulting artifacts, samples, and records.

Review the application only after all necessary documentation is provided.

A permit application may be denied when it fails to meet minimum qualifying criteria; the applicant has a demonstrated history of noncompliance with past permits or Federal laws and/or regulations; or the applicant is non-responsive to a request for missing information. When this occurs, prepare a letter for the Agency Official's signature describing the reasons for denial in detail.

### **71.3 – Issuance**

Recommend to the Agency Official that a Permit for Archaeological Investigations (FS-2700-32, OMB No. 0596-0082) be issued when an application meets all permit requirements and conditions. Permits may not be issued for a term longer than 5 years.

Notify and consult with the appropriate Indian Tribe(s) when an application for a permit issued under ARPA could potentially affect cultural resources or areas that have Tribal, cultural, or religious importance. See 36 CFR 296.7 and chapter 10, section 13.42 of this Handbook.

Coordinate the permit application review and permit issuance when the permit activity covers more than one Forest Service administrative unit.

See FSH 2709.11, chapter 30 and FSM 2367.17 for guidance on the permit fee. Ensure that an issued permit includes the:

1. Name(s), addresses, phone numbers, and email addresses of the qualified individual(s) and the institutions/organizations responsible for conducting the permitted work.
2. Project scope of work (operating plan).
3. Detailed location.
4. Specific activities to be accomplished.
5. Project schedule and duration.
6. Products and deliverables (report schedule).
7. Logistical or other issues of concern.
8. Name of repository where any collected materials, data, and records will be deposited.
9. Plans for discovery and disposition of human remains, funerary objects, and objects of cultural patrimony.
10. Requirements to restore the land after the activity is completed.
11. Confidentiality requirements.
12. Conditions to protect workers or public safety.
13. Additional terms required by the Forest Service, such as travel or fire restrictions. Identify performance standards and rating system to objectively evaluate the permit holder's performance, including adherence to the operating plan and timely delivery of the service, product, or document resulting from the permitted activity. The performance

rating is one basis for determining whether the holder will be authorized to do future archaeological fieldwork on National Forest System lands.

#### **71.4 – Administration**

Monitor the permit holder's performance throughout the life of the permit. Provide information to the Agency Official to amend, extend, suspend, or terminate the permit.

Review the multi-year permits annually. The permit holder is required to submit an annual report enumerating all activities conducted under the permit to the Agency Official. See FSM 2709 and Title 36, Code of Federal Regulations, Part 251 – Land Uses, for guidance on permit extension, suspension, termination, and appeals.

#### **71.5 – Collections, Records, and Reports**

Ensure that all cultural resource documents and products resulting from the permitted activity are submitted to the Forest Service according to the performance schedule and meet professional standards including any applicable programmatic agreement or State requirements.

The permit holder is required to submit the following to the Agency Official within 90-days of the date of the final report:

1. All artifacts, samples, and collections and original or clear copies of all records, data, photographs, and other documents resulting from activities authorized by the permit with the curatorial facility named in the permit.
2. Catalogue and description of all materials deposited with the curatorial facility named in the permit, including the facility's accession or catalogue numbers, and confirmation signed by an authorized curatorial facility official.

Provide copies of final reports resulting from agency-permitted work to the State Historic Preservation Officer (SHPO), Indian Tribe, and other suitable professionals as appropriate.

#### **71.6 – Information Confidentiality**

The permit holder is required to keep the specific location of cultural resources confidential. Without prior Forest Service written approval, the holder cannot publish any location or other information identifying archaeological sites that could compromise their protection and management by the Federal Government.

The Heritage professional, with the consent of the Agency Official, should use appropriate means to make final reports and documentation resulting from permitted work available to the public, as appropriate.

Any published article, paper, or book containing results of work conducted under an archaeology permit must specify on which National Forest or Grassland that work was performed. The



holder is required to submit a copy of any published or unpublished report, article, paper, or book resulting from the permitted activities to the Agency Official and the appropriate official of the curatorial facility named in the permit. See chapter 80, section 86 of this Handbook.

### **71.7 – Discovery of Human Remains**

If human remains are discovered during approved excavation or other permitted activities, the permit holder immediately notifies and coordinates actions with the Agency Official and Heritage professional to follow procedures outlined in the permit conditions and procedures described in FSM 2364.13 and chapter 40, section 42.2 of this Handbook.

## **72 – Agreements**

For related direction see FSM 2367.2.

Develop agreements on behalf of the Heritage Program to meet legal compliance responsibilities under NHPA Section 106 and Section 110 and to develop cooperative partnerships that provide mutual benefit to the Forest Service and the cooperator.

### **72.1 – NHPA Agreements**

Programmatic agreements and memoranda of agreement are routinely executed between the Forest Service and the SHPO, and in some cases the Advisory Council, to comply with NHPA Section 106 and Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties. These agreements are part of a regulatory process outside the purview of the Forest Service Grants and Agreement program (see FSH 1509.11.61.23). The Regional Office must review and approve all Forest/Grassland NHPA Programmatic Agreements. Provide copies of these agreements to the Grants and Agreements program for tracking purposes.

Develop a programmatic agreement to:

1. Define standards and specific procedures to expedite parts of the standard NHPA Section 106 process while assuring quality performance and control. Example: A Regional programmatic agreement requires Forests/Grasslands to have qualified professional heritage staffing, adequate cultural resource records systems, and extant predictive models or inventory plans in order to expedite the SHPO review of certain types of Agency projects, including “negative” inventories.
2. Define management specifications from identification and through protection treatments for a specific class of cultural resources. Example: A Forest programmatic agreement describes identification, evaluation, consultation, protection, and conservation procedures for its abundant prehistoric petroglyphs and pictographs.
3. Address specific types of projects or undertakings that are extensive and multi-year; procedurally and legally complex; or have the potential to affect numerous cultural resources. Such agreements stipulate planning, inventory, and evaluation requirements

and treatment options. Example: A programmatic agreement outlines uniform cultural resource identification, evaluation, consultation, and protection procedures for landscape-scale integrated ecosystem restoration projects.

Develop Memoranda of Agreement (MOA) to avoid, minimize, or mitigate the adverse effects of an Agency or Agency-authorized action on a historic property or unevaluated cultural resource. See chapter 40, section 42.14 for elements of an MOA to resolve adverse effects.

## **72.2 – Partnership Agreements**

Establish partnerships between the Forest Service and the public or private sector cooperators or partners to accomplish mutually benefitting Heritage Program work. A partnership is voluntary, mutually beneficial, and entered into for the purpose of accomplishing specific objective(s) between the Forest Service and its partner(s). The Grants and Agreements (G&A) program administers partnership agreements.

Agreements commonly executed on behalf of the Heritage Program include, but are not limited to: Memorandum of Understanding (MOU), Challenge Cost-Share (CCS), Participating Agreements, and Inter-Agency Agreements.

Follow these steps when developing and implementing a partnership agreement:

1. Discuss potential partnership with G&A Specialists to ensure proper use of appropriations, availability of authority, and selection of the appropriate instrument to accomplish a specific action.
2. Prepare an agreement with G&A assistance using the appropriate Agency agreement form, including work requirements, expected products, and a financial plan detailing all Forest Service and cooperator costs and obligations.
3. Issue a Permit for Archaeological Investigations to the cooperator if the proposed archaeological activities fall under the purview of the Organic Act, Antiquities Act or ARPA.
4. Monitor partnership agreements and work closely with the cooperator and G&A staff to address any issues or deficiencies.

## **73 – Procurement and Contracts**

For related direction see FSM 2367.3.

Use Federal procurement and contracting to purchase goods and services beneficial to the Heritage Program. The Integrated Acquisition System (IAS) is the tracking system for Forest Service requisition and contract processes.

Acquire all necessary training to qualify as certified requisitioners and/or to participate in the Federal procurement process as a Technical Specialist, Contracting Officer's Representative (COR), or Inspector.

Federal and Agency procurement regulations define required training, roles, and responsibilities for Forest Service personnel involved in the acquisition process. Training is recurrent to maintain COR qualifications.

The Small Business Act (SBA) and the Tribal Forest Protection Act (TFPA) provide mechanisms for Tribes to enter into contracts and agreements with the Forest Service. Section 8a of the SBA applies to Native Americans. The TFPA proposals apply to Forest Service lands when they: border or are adjacent to Tribal lands; pose a threat to the Indian trust land; or involve a feature or circumstance unique to the proposing Tribe, including cultural resources.

Consider Tribal contracting opportunities under the SBA and TFPA project proposals based on Forest/Grassland heritage program needs and priorities. Consult and coordinate with Forest/Grassland Procurement Specialists, the appropriate Agency Official, and Tribal Government Relations Program staff as appropriate when developing contracts under the SBA or TFPA.

### **73.1 – Heritage Program Roles**

A designated Contracting Officer (CO) is responsible for administering all facets of the acquisition process. Qualified Heritage professionals may assist the Contracting Officer as a Technical Specialist and/or a Contracting Officer's Representative and Inspector.

#### **73.11 – Technical Specialist**

It is the responsibility of a Technical Specialist to:

1. Identify procurement or project need, enter it into Work Plan, and obtain necessary approval.
2. Develop the Statement of Work (SOW) with technical specifications and provide a government estimate of procurement or contract cost.
3. Ensure that the SOW conforms to the Agency mission and need, and has received NHPA Section 106 compliance, Tribal, engineering, administrative, or other necessary reviews/approvals and funding.
4. Input procurement data into the Integrated Acquisition System (IAS), if identified as the requisitioner.
5. Provide SOW, government estimate, maps, drawings, photographs, specifications, mailing lists of potential contractors, copy of work plan, copy of the IAS requisition, a

list of government-furnished property if applicable, and other required solicitation (contract package) documentation to the Procurement Official.

6. Assist the Contracting Officer, as requested, to review the solicitation and provide technical review/evaluation of quotes or proposals for contract award.

### **73.12 – Contracting Officer’s Representative and Inspector**

It is the responsibility of a Contracting Officer’s Representative (COR) and Inspector to:

1. Monitor contractor performance and work progress through all contract phases and document the performance and work in contract daily diaries or field logs.
2. Apprise the CO about changed conditions, contract delays, contract non-compliance, work stoppages or suspensions, payment authorizations, and proposed contract modifications, as necessary.
3. Participate with the CO in all or a portion of the technical aspects of contract modification and negotiations.
4. Advise the CO in resolution of potential disputes, finding remedies, analyzing contract claims, and recommending settlement positions.
5. Closeout the COR or Inspector file, including all daily diaries and other documentation and submit the completed file to the CO, and facilitate the return of any government furnished property and all artifacts, artifact catalogues, data sheets, maps, photographs, and report copies, and so forth to the Forest Service.
6. Distribute completed reports to the SHPO, Indian Tribes, other agencies, universities, curatorial facilities, and interested parties, as required or appropriate.

### **73.2 – Contract Administration Guidelines**

In addition to the regulations in the FAR, AGAR, and FSM 6300 and FSH 6309, follow these guidelines when involved with Federal procurement and contracting as a Heritage Program Technical Specialist, COR, or Inspector.

1. Prepare a thorough statement of work with clear technical requirements.
2. Document in writing all contacts and communications with the contractor in a daily diary or field log.
3. Report contract problems in writing and in person immediately to the CO.
4. Decisively implement corrective measures as necessary to prevent project delays and problems.

5. Expect that contract change orders and modifications may be necessary to successfully complete some (especially complex) projects.

### **73.3 – Statement of Work and Prospective Contractors List**

Develop a clear and thorough statement of work (SOW) that includes purpose and need, methodologies, technical requirements, schedules, and deliverables.

Consult with all appropriate experts and Technical Specialists to ensure that the SOW and its intended outcome or products are realistic and can be accomplished within the contract time frame.

Seek peer review of the SOW when new field methodologies are being proposed (for example, remote sensing).

Consult with the SHPO and Indian Tribes as appropriate.

The following exhibit shows the necessary components of a SOW for standard Heritage Program work: survey, testing, and data recovery. Other components may be required for building restoration, interpretive exhibits, and other types of projects, or for performance-based contracts.

**73.3 – Exhibit 01**

**Statement of Work Components**

<b>Component</b>	<b>Content</b>
Project Description	Project name and type State and county National Forest or Grassland, Ranger District Geographic area Legal location Legal authority Description of the undertaking Purpose & need
Agency Contacts	CO, COR, CI, Heritage professional (technical advisor)
Government-furnished Property	Maps, cultural resource records, field reports, other data essential to meeting contract specifications
Contractor-furnished Items	Technical equipment essential to meeting contract specifications (GPS, Total Station, special software)
Standard & Technical Definitions	Key terms to understanding contract requirements
Technical Specifications	Critical tasks, Work elements, Technical requirements, Performance standards, Quality assurance plan
Performance Schedule	Work activities Deadlines-due dates
Deliverables	Reports, field data & catalogues, other products
Permit Requirements	Permit for Archaeological Investigations, other
Human Remains	NAGRA protocol Unanticipated discovery plan
Disposition of Collections	Curation requirements
Information Management	Requirements for security & dissemination
Health and Safety	Specific job hazards & safety requirements
Evaluation Criteria	Criteria for evaluating technical proposal, qualifications, price
Payment Procedures	Payment schedule and amounts
Exhibits	Maps, photographs, records, etc.

Provide the CO with a list of qualified and prospective contractors. This list may be derived from professional consultant lists prepared by the SHPOs or archaeological and historical organizations. Procurements advertised in Federal Business Opportunities and other Federal sources are open to all qualified bidders.

Consult with the CO, before providing additional information to prospective contractors with questions about technical work requirements. If this additional information deviates from the technical specifications in any way, share it with all prospective contractors.

All quotes/proposals are submitted to the CO and are confidential.

### **73.4 – Procurement Types**

Federal procurement regulations identify the procedures by which agencies receive a quote/proposal for a specific commodity or service.

Consult FAR, Agency purchase card regulations, and Contracting Specialists for micro-purchase amounts and limits. Acquisition of products and services above those micro-purchase limits requires competition to secure the best value and price for the Government.

Consult FAR and Contracting Specialists for all regulations and requirements related to competitive procurement types. A general description of each follows.

#### **73.41 – Request for Quotation**

Use the Request for Quotation (RFQ) process for cultural resource work such as field survey and small-scale subsurface testing that is highly standardized with set and predictable outcomes. An RFQ is often the best choice for time-critical work if the limitations of the process (lowest bid-best value requirement) are fully understood.

An RFQ invites consultants to submit a quote on a specific service or product according to set technical requirements and within a set timeframe. It includes exact work specifications to insure that all consultants are quoting on the same service and to ensure that the Government receives the required work. Proposals may be part of the RFQ process.

#### **73.42 – Request for Proposal**

Use the Request for Proposal (RFP) process for cultural resource projects that are large-scale or complex, or where innovation, experience, performance, timing, and quality are essential. Major data recovery work (excavation) and building restoration are two examples.

An RFP invites consultants to submit a proposal for a specific service or product. In addition to the price quote, the proposal specifically describes how the work will be accomplished. A Forest Service review panel evaluates the proposals and makes the selection based on the quality of the proposal and the price. The RFP is a lengthier process than the RFQ.

### **73.5 – Contract Types**

Consult FAR and Contracting Specialists for all regulations and requirements related to contract types. A general description of each follows.

### **73.51 – Fixed-Price**

Use a fixed-price contract for cultural resource projects with a fixed schedule, outcome and termination date, such field survey, building stabilization, or interpretive exhibit construction.

This is the primary method of contracting in which a specified price is paid for the specified product or service (deliverables) regardless of the contractor's actual costs. The price is usually not subject to any adjustment unless certain provisions are included in the contract. A fixed-price contract places minimum administrative burden on the contracting parties, but subjects the contractor to risks arising from full responsibility for all cost escalations.

### **73.52 – Indefinite Delivery-Indefinite Quantity Contract**

Use an Indefinite Delivery-Indefinite Quantity (ID-IQ) contract for cultural resource work that is highly standardized and routine but is multi-year in scope, such as NHPA Section 106 survey where thousands of acres of timber are being treated annually to combat insect and disease infestation.

An ID-IQ contract provides for an indefinite quantity within stated limits, of supplies or services during a fixed period of time. Multiple awards may be made under an ID-IQ contract. Once awarded, the Government submits task orders to the contractors for individual work requirements. An ID-IQ is appropriate when the Government cannot predetermine, above a specified minimum, the precise quantities of supplies or services required during the contract period.

### **73.53 – Performance Based Contracts**

A performance-based contract allows the Agency to define the desired results (product, deliverables) rather than the process or method used to obtain them, allowing the contractor more flexibility in how to achieve the results. A detailed SOW is not necessary. Describe the work in a performance based contract in terms of objectives and include quality assurance provisions.

Use performance-based contracting to complete a wide range of NHPA Section 106 and 110 projects.

### **73.54 – GSA Schedule Contracts**

Use GSA Schedule Contracts when available and appropriate for the procurement need. The GSA has established long-term Government contracts, precluding the need for competition. See [www.GSA.gov](http://www.GSA.gov) to review the list of qualified vendors that provide archaeological services.

### **73.55 – 8a Contracts**

An 8a Contract is a sole source contract with a certified vendor administered by the Small Business Administration (SBA). The CO works with the SBA and the vendor to negotiate a fair



price per project. See *www.SBA.gov* to review the list of qualified vendors that provide archaeological services.

### **73.6 – Cultural Resource Deliverables**

Cultural resource products delivered under Federal contracts are the property of the United States Government.

Treat all products such as field reports, maps, or notes that contain site locations or descriptions as confidential information. These data are protected under The Freedom of Information Act as amended (FOIA) (5 U.S.C. 552) and other regulations and may not be disclosed in publications, presentations, or other media without prior written approval of the Forest Service. A contractor does not retain any proprietary rights to the resulting deliverables unless otherwise legally specified. For related direction, see section 71.6 and chapter 80, section 86 of this Handbook.