

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

Forest Service Manual 5400 – Landownership

Chapter 5420 – Land Purchases and Donations

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Responsible Staff:

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

Digest:

5420: This is a technical amendment that converts the format and style of this chapter (previously in “Applixware”) to the new FSM template using the agency’s current corporate word processing software. Where chapters were previously organized into more than one document, they are now merged into one chapter whenever possible.

Although some minor typographical and technical errors have been corrected, this amendment contains no changes to the substantive direction in this chapter.

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This chapter provides direction for the conveyance of lands to the United States by purchase or donation. Related subjects are in FSM 5440, FSM 5460, FSM 5470, and FSM 5480.

5420.1 - Land Purchase and Donation Authorities

Land purchase and donation authorities available to the Forest Service fall into general and specific categories. The general authorities have Service-wide application; the specific authorities apply to congressionally designated areas.

The text of pertinent laws is in FSM 1020.

5420.11 - General Land Purchase Authorities

5420.11a - Weeks Law of March 1, 1911

(36 Stat. 961, as amended). This law is the primary land acquisition authority for the Forest Service. The Weeks Law, as amended, authorizes the Secretary of Agriculture to purchase lands within the watersheds of navigable streams in order to promote regulation of the flow of navigable streams or for the production of timber. Before the Secretary of Agriculture can purchase lands under the Weeks Law, the legislature of the State in which they are located must consent to the acquisition of these lands by the United States for the purposes of the Weeks Law. All lands purchased under this authority must be within established National Forests or purchase units.

5420.11b - Act of August 3, 1956

(79 Stat. 1034). Section 11(a) of this law provides that the Department of Agriculture can purchase land or interests therein, as necessary, to carry out its authorized work. However, there can be no purchases under this authority, unless provision is made therefore in the applicable appropriation or other law.

There are no limitations as to where the Secretary of Agriculture can use this authority. It serves as the primary authority for administrative-site acquisitions and Land and Water Conservation Fund (L&WCF) purchases where the Weeks Law or specific authorities do not apply.

5420.11c - Act of March 3, 1925

(43 Stat. 1133, as amended). This law authorizes the Secretary of Agriculture to purchase land for National Forest headquarters, Ranger Stations, dwellings, or other sites required for the effective performance of the authorized activities of the Forest Service.

5420.11d - Anderson-Mansfield Reforestation and Revegetation Act of October 11, 1949

(63 Stat. 762). This act authorizes the Secretary of Agriculture to acquire land or interests therein for nurseries to reforest and revegetate National Forests and other lands administered by the Forest Service.

5420.11e - Act of August 29, 1935, Fulmer Act

(49 Stat. 963). This act authorizes the Secretary of Agriculture, subject to certain conditions and stipulations and to the benefiting State enactment of specified legislation, to purchase lands in the name of the United States and to make them available for management as State forests.

5420.11f - Act of September 21, 1944

(58 Stat. 737). This law authorizes appropriation for the purchase of lands where such action is necessary or beneficial for administration and public use of the National Forests. The act is general legislation, and an appropriation is necessary to make it effective.

5420.11g - Flood Control Act of December 22, 1944

(58 Stat. 905). This act has limited applicability to Forest Service functions but may be used in special situations. The act authorizes the Secretary of Agriculture to acquire land for flood and erosion control purposes after obtaining State consent.

5420.11h - Department of Agriculture Organic Act of September 21, 1944

(58 Stat. 734, as amended). Section 213 of this act provides for the purchase of water rights.

5420.11i - Endangered Species Act of December 28, 1973

(87 Stat. 884, as amended). Section 12 of the November 10, 1978, amendment (92 Stat. 3766) directs the Secretary of Agriculture to establish and implement a program under the National Forest System to conserve fish, wildlife, and plants, including those listed as endangered or threatened species. In order to carry out this program, the Secretary has the authority to acquire lands, waters, or interests therein by purchase, donation, or otherwise.

5420.12 - Specific Land Purchase Authorities

The specific area purchase authorities include the Receipts Acts, the National Recreation Area authorities, and the Wild and Scenic River, National Trail, and Wilderness System authorities. All others are summarized as other special authorities. Many of these acts do not have national application. Regional Foresters shall supplement this section of the Manual, as needed, to define the authorities specific to each Region.

5420.12a - Receipts Acts

There are eight purchase laws, commonly known as Receipts Acts that apply only to specific National Forests or parts of National Forests. These laws are for:

1. Purchase of lands within Uinta and Wasatch National Forests, Utah. Act of August 26, 1935 (49 Stat. 866), as amended by act of May 26, 1944 (55 Stat. 227).

2. Purchase of lands within Cache National Forest, Utah. Act of May 11, 1938 (52 Stat. 347), as amended by act of May 26, 1944 (58 Stat. 227) and act of July 24, 1956 (70 Stat. 632).

3. Purchase of lands within San Bernardino and Cleveland National Forests in Riverside County, California. Act of June 15, 1938 (52 Stat. 699), as amended by act of May 26, 1944 (58 Stat. 227).

4. Purchase of lands within Humboldt and Toiyabe National Forests, Nevada. Act of June 25, 1938 (52 Stat. 1205), as amended by act of May 26, 1944 (58 Stat. 227).

5. Purchase of lands within the Ozark and Ouachita National Forests, Arkansas, act of March 5, 1940 (54 Stat. 46).

6. Purchase of lands within the Angeles National Forest, California, act of June 11, 1940 (54 Stat. 299).

7. Purchase of lands within the Cleveland National Forest in San Diego County, California, act of June 11, 1940 (54 Stat. 297).

8. Purchase of lands within the Sequoia National Forest, California, act of June 17, 1940 (54 Stat. 402).

5420.12b - National Recreation Area Authorities

These laws provide for the acquisition of lands or interests in lands in specific National Recreation Areas (NRA) as follows:

1. Spruce Knob-Seneca Rocks NRA, West Virginia, act of September 28, 1965 (79 Stat. 843).

2. Whiskeytown-Shasta-Trinity NRA, California, act of November 8, 1965 (79 Stat. 1295).

3. Mt. Rogers NRA-Jefferson National Forest, Virginia, act of May 31, 1966 (80 Stat. 190).

4. Flaming Gorge NRA-Ashley National Forest, Utah and Wyoming, act of October 1, 1968 (82 Stat. 904).

5. Oregon Dunes NRA, act of March 23, 1972 (86 Stat. 99).

6. Sawtooth NRA, act of August 22, 1972 (86 Stat. 612).

7. Hells Canyon NRA, act of December 31, 1975 (89 Stat. 1117).

8. Indian Peaks Wilderness Area, Arapaho NRA and Oregon Islands Wilderness Area Act of October 11, 1978 (92 Stat. 1095).

5420.12c - Wilderness, Wild and Scenic River, and National Trail System Authorities

Amendments to the initial legislation have increased and modified these three systems of special areas. While there are minor variations among amendments, the management objectives and acquisition authorities are similar within each system.

1. Wilderness Preservation System

a. Wilderness Act of September 3, 1964 (78 Stat. 896, as amended). The 1964 act authorizes the Secretary of Agriculture to acquire privately owned land within the perimeter of any area designated as wilderness under provisions of the act, if: (1) the owner concurs in such acquisition, or (2) Congress specifically authorizes the acquisition (sec. 5(c)). Gifts or bequests of land (sec. 6(a)) as well as private contributions and gifts may be accepted for use in furthering the purposes of the act.

Since 1964, amendments to the act have added several wilderness areas to the system. Other legislation, such as the Eagles Nest Wilderness Act of July 12, 1976 (90 Stat. 870) and the Absaroka-Beartooth Act of March 27, 1978 (92 Stat. 162), has added new areas by reference to the Wilderness Act. In these cases, the acquisition authority remains the 1964 act.

b. Eastern Wilderness Act of January 3, 1975 (88 Stat. 2096). This act added several areas in the Eastern United States to the Wilderness Preservation System and proposed several more for study. The act also provides a revised acquisition authority for these eastern areas. Section 6(b) authorizes the Secretary of Agriculture to acquire by purchase with donated or appropriated funds, by gift, exchange, condemnation or otherwise, such lands, waters, or interests therein as determined necessary or desirable for the purposes of the act.

c. Act of June 22, 1948 (62 Stat. 568, as amended) and act of October 21, 1978 (92 Stat. 1649). These acts established the Boundary Waters Canoe Area in the Superior National Forest and subsequently revised the designation and boundaries to the Boundary Waters Canoe Area Wilderness (BWCAW) and Mining Protection Area. Acquisitions within the designated wilderness boundary shall be under the authority in the act of June 22, 1948, as amended (Thye-Blatnik Act).

d. Act of July 12, 1976 (90 Stat. 905). This act established the Alpine Lakes Management Area in the Snoqualmie National Forest. Section 4(a) authorizes and directs the Secretary to acquire with donated or appropriated funds, by gift, exchange, or otherwise, such non-Federal lands, interests, or any other property in conformance with the provisions of section 4 of the act.

2. Wild and Scenic Rivers System. The act of October 2, 1968 (82 Stat. 906-918, as amended) establishes the Wild and Scenic River System, designates 8 rivers as components of the system, and required the study of 27 other rivers. The act authorizes the Secretary of the Interior and the Secretary of Agriculture to acquire lands and interests in land within the authorized boundaries of any component of the National Wild and Scenic Rivers System.

The majority of the amendments to the 1968 act have added new rivers to the system, proposed others for study, or revised authorization ceilings. Regional Foresters may supplement the Forest Service Manual to reflect modifications in language in some of the more recent legislation.

3. National Trails System. The act of October 2, 1968 (82 Stat. 919, as amended) authorizes the heads of Federal agencies administering the established National Trails to acquire lands or interests in lands by written cooperative agreement, donation, purchase, and exchange, where applicable, within the exterior boundaries of areas under their administration.

5420.12d - Other Land Purchase Authorities

There are several special purpose acquisition authorities that are not receipts acts or part of an established special areas system or a National Recreation Area. They are:

1. Act of March 3, 1931 (46 Stat. 1516, as amended, 16 U.S.C. 582). This act extends the land purchase provisions of the Weeks Law, as amended, to Puerto Rico. It limits lands purchased in Puerto Rico under its authority to 50,000 acres.

2. Act of February 12, 1938 (52 Stat. 28). Also known as the McCarran Act, this act authorized the Secretary of Agriculture to acquire by purchase, exchange, or condemnation, any of the lands described in the act. The described lands are within the boundary of the Toiyabe National Forest.

3. Act of October 24, 1951 (65 Stat. 609). This act authorizes the Secretary of Agriculture to acquire by donation, purchase, or condemnation such tract or tracts of land at or near Missoula, Montana, as the Secretary may judge to be suitable for the construction thereon of certain fire control facilities.

4. Act of September 14, 1962 (76 Stat. 545). This act added certain described lands to the Wasatch National Forest and authorizes the Secretary of Agriculture to acquire any of the described lands and other lands within the National Forest situated in the same township as the described lands.

5. Act of June 14, 1965 (79 Stat. 129). This act authorizes the Secretary of Agriculture to acquire certain described real property by exchange, purchase, or otherwise. After acquisition of this property, the boundaries of the Kaniksu National Forest shall extend to cover the acquired property.

6. Act of October 1, 1965 (79 Stat. 899). This act authorizes the Secretary of Agriculture to acquire such non-Federally owned land in the Uinta National Forest described in the act as the Secretary finds suitable to accomplish the objectives of the act.

7. Act of December 22, 1974 (88 Stat. 1732). This act established the Cascade Head Scenic-Research Area (CHSRA) and extended the boundaries of the Siuslaw National Forest to include the entire CHSRA. The act establishes four subareas with management objectives. The Secretary of Agriculture is authorized to acquire lands, waters, or interests therein by donation, purchase, exchange, or otherwise.

8. Act of June 10, 1977 (91 Stat. 210). This act amends the Land and Water Conservation Fund Act of 1965. Section 2 of this amendment authorizes the Secretary of Agriculture to acquire those privately owned lands within the boundaries of the Roosevelt National Forest that are suitable for National Forest purposes and were adversely affected by the Big Thompson flood of July 31, 1976. The act also authorizes the Secretary to acquire such other adjacent private lands within the Forest as are available and suitable for National Forest purposes.

9. Act of December 23, 1980 (94 Stat. 3381). This act provides for the acquisition of environmentally sensitive lands in the Lake Tahoe Basin. Public Law 96-586, is commonly known as the Santini-Burton Act.

5420.13 - Donation Authorities

Many of the acquisition authorities include the right to accept donations. This section highlights the principal, general authorities and references the other acts previously described in FSM 5420.11.

1. General Authorities

a. Act of June 7, 1924 (43 Stat. 654). Section 7 of this law (Clarke-McNary Act) authorizes the Secretary of Agriculture to accept title to donations of land that is chiefly valuable for growing timber crops. Tracts wholly or largely composed of arable or rangelands, barren, permanent brush or shrub types, or lands characterized as urban or developed are not acceptable under the act.

b. Act of March 3, 1925 (43 Stat. 1133, as amended). Section 5 of this act authorizes the Secretary of Agriculture to accept donations of land for any National Forest or experimental purpose. Lands may be acquired inside or outside National Forests, as necessary for the intended use of the site.

c. Act of August 3, 1956 (70 Stat. 1034). Section 11 of this act provides for the acquisition of land, or interest therein, by purchase, exchange, or otherwise, as may be necessary to carry out the Department's authorized work.

Accept donations under this authority only when there is provision for such donation in the applicable appropriation or other law.

d. Act of October 10, 1978 (92 Stat. 1065). This law provides authority to the Secretary of Agriculture, on behalf of the United States, to accept, receive, hold, utilize, and administer bequests or devises of real and personal property made for the benefit of the Department of Agriculture or for the accomplishment of any of its functions.

e. Act of December 28, 1973 (87 Stat. 884, as amended). This is the Endangered Species Act.

2. Specific Authorities. The following acts authorize the Secretary of Agriculture to accept donations for the benefit of specific systems or management areas:

- a. The National Recreation Area authorities in FSM 5420.12b, except item 4.
- b. The system authorities in FSM 5420.12c, except item 1(b).
- c. The other authorities in FSM 5420.12d, items 3, 5, 7, and 9.

5420.14 - Laws, Regulations, and Executive Orders Affecting Purchases and/or Donations

5420.14a - Condemnation

See FSM 5480 for direction.

5420.14b - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

(84 Stat. 1894). This act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or Federally assisted acquisition programs. It also establishes uniform and equitable land acquisition policies for Federal and Federally assisted programs. While the act does not cover land donations and exchanges, all Forest Service land purchases, including partial interest acquisitions, must comply with the appropriate provisions of the statute. Title III outlines acquisition policies; title II describes benefits under the relocation provisions.

5420.14c - National Environmental Policy Act of 1969

(83 Stat. 852). Forest Service land purchases are based on authorities and policies consistent with the National Environmental Policy Act objectives. In order to ensure that the application of these authorities meets the requirements of law and policy, the planning and evaluation process for land purchases shall conform to the guidelines in FSM 1950.

5420.14d - Land and Water Conservation Fund Act of September 3, 1964

(78 Stat. 897, as amended). This act is primarily a funding authority for land acquisition. Purchases using funds appropriated under this act must be primarily of value for outdoor recreation purposes or to conserve habitat for fish, wildlife, and plants, including those listed as endangered or threatened species.

5420.14e - Executive Order 11990 (Wetlands) and Executive Order 11988 (Floodplains)

These May 24, 1977, executive orders deal with water-related areas of environmental concern. The intent of Executive Order 11990 is to help avoid the long- and short-term adverse effects associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in the wetlands whenever there is a practicable alternative. The intent of Executive Order 11988 is to help avoid the long- and short-term adverse impact associated with the occupancy and modification of floodplains and to avoid direct and indirect support of flood development whenever there is a practicable alternative (FSM 2500).

5420.14f - Office of Management and Budget Circular A-95

Part II of this circular includes Forest Services programs that involve the acquisition, disposition, and use of land and real property for Federal purposes. Guidelines for implementing this circular are in FSM 1560.

5420.14g - Department of Agriculture Guidelines for Administrative-Site Acquisitions

Agriculture Property Management Regulation section 104-18.5007 requires approval of the Assistant Secretary for Administration before initiation of any action, other than appraisal, in connection with the purchase, acceptance of a donation, or exchange of real property for sites for administrative or research laboratory buildings when (1) the total estimated fair market value exceeds \$25,000, or (2) the Department of Agriculture is acquiring completed buildings costing more than \$250,000 in lieu of new construction.

5420.14h - Congressional Oversight and Approval Requirements

By agreement, the Chief of the Forest Service submits all purchases, exchanges, and sales over \$250,000 in value to the House Subcommittee on Forests, Family, Farms, and Energy, for a 30-day oversight with the exception of purchases in the Lake Tahoe Basin under the Santini-Burton Act.

Section 17 of the National Forest Management Act of October 22, 1976 (90 Stat. 2962) requires submission of all land purchase and exchange cases under authority of the Weeks Law and related acts involving \$25,000 or more to the Agriculture Committees of the House and Senate for 30-day oversight review.

The conference report on the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1979 (P.L. 95-465) directed the Forest Service to submit Land and Water Conservation Fund Act (L&WCF) inholding and composite purchase cases over \$150,000 to the Senate and House Appropriation Committees for oversight and approval. This report also stipulates that declarations of takings for all L&WCF inholding and composite purchase cases require advance approval regardless of cost.

Advance approval is also required by the Senate and House Appropriations Committees for all proposed declarations of taking and all cases where the purchase price exceeds the appraised value unless such payment is determined by condemnation or declaration of taking.

5420.2 - Objective

The Forest Service objective is to acquire those lands or interests in land needed to:

1. Enhance the multiple use and sustained yield of the goods and services from the National Forest System.
2. Protect and improve the quality of renewable resources.

3. Protect and preserve important historic, cultural, and natural aspects of the national heritage.
4. Provide for access, use, and enjoyment of the forest resources by the public.
5. Improve administrative efficiency and effectiveness of the National Forest System.

5420.3 - Policies

Base purchases and donations on approved land and resource management, landownership, and composite plans.

Acquire only those interests in land necessary to provide for planned management needs, as jointly agreed to by Federal agencies in "Policy for use of the Federal Portion of the Land and Water Conservation Fund" published in the Federal Register, volume 47, no. 89, Friday, May 7, 1982.

Support proposed purchases and donations following the National Environmental Policy Act objectives. Follow the guidelines in FSM 1950.

Acquire lands or interests in land as free of reservations as possible. Avoid acquiring lands subject to (1) provisions for reversion of title to the grantor, (2) outstanding rights or covenants in prior conveyances providing for reversion of title, or (3) special conditions or covenants that seek or tend to limit or impair the rights of the Government to manage the lands for National Forest purposes.

Encourage donations of land to consolidate the National Forests, to improve resource management, and to obtain land needed for administration or research purposes.

Purchase lands on a willing seller basis at a price established as just compensation that shall not be less than the approved appraisal of fair market value. Lands may be purchased for less than fair market value if the landowner so requests after being offered just compensation.

Evaluate proposed land acquisitions that meet requirements described at FSM 5421.34 using the Land Acquisition Priority System described at FSM 5421.33.

5420.4 - Responsibilities

(See FSM 5404).

5420.41 - Associate Deputy Chief for the National Forest System

The Associate Deputy Chief shall submit requests for approval to the House and Senate Committees on Appropriations:

1. Before filing declarations of taking.
2. Before paying more than the approved appraised value (except for condemnations and declarations of taking).
3. When processing composite and in holding cases in excess of \$150,00.

5420.42 - Washington Office, Director of Lands

The Washington Office, Director of Lands shall:

1. Accept or terminate options to purchase lands or interests therein pursuant to laws authorizing the purchase of lands for the National Forest System. (Region 5 has limited authority in the Lake Tahoe Basin.
2. Review and may approve counter offers in excess of approved appraised values and establish just compensation (P.L. 91-646) after obtaining written approval by House and Senate Committees on Appropriations (except for condemnation and declarations of taking).
3. Issue letter of intent to nonprofit organizations outlining acquisition proposal in situations where there are no appropriated funds.

5420.43 - Regional Foresters

The Regional Foresters, Deputy Regional Foresters, Acting Regional Foresters, or when so designated by the Regional Forester, the Regional Lands Director shall issue letter of intent to nonprofit organizations outlining acquisition proposal in situations where there are appropriated funds. Conduct transactions that involve nonprofit conservation organizations according to the "Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies" published in the Federal Register, volume 48, no. 155, Wednesday, August 10, 1983.

5421 - Plans

(See FSM 1920 and FSM 5400)

5421.1 - Land Management Plans

These plans address needs, opportunities, and objectives in a combination of resource areas to develop coordinated management direction with the aim of optimizing public benefits from a unit of the National Forest System. These plans will include land ownership adjustment needs.

Section 6 of the National Forest Management Act of 1976 (90 Stat. 2949) and the implementing regulations propose that the Forest plan, developed for each proclaimed National Forest or combination of Forests, shall be the basic Forest Service land and resource management plan.

5421.2 - Other Interim Plans

Until Forest Plans are complete, Resource Management Plans, Land Adjustment Plans, Recreation Composite Plans, and other plans that provide landownership direction shall remain in effect.

5421.3 - Land Acquisition Priority List

5421.31 - Policy

Recommend tracts or projects for priority for acquisition that satisfy National Forest management needs and meet the minimum requirements in FSM 5421.34a.

5421.32 - Responsibilities

5421.32a - Deputy Chief, National Forest System

The Deputy Chief, National Forest System reviews, the recommendations for land acquisition and approves potential acquisitions for the Land Acquisition Priority List.

5421.32b - Director, Lands Staff, Washington Office

The Director, Lands Staff, Washington Office, or a representative, shall work cooperatively with the Directors of Recreation, Heritage and Wilderness Resources, and Watershed, Fish, Wildlife, Air, and Rare Plants, Washington Office, to review land acquisition priorities submitted annually by Regions and forward recommendations of the group to the Deputy Chief, National Forest System, for review and approval.

5421.32c - Director, Recreation, Heritage and Wilderness Resources Staff, Washington Office

The Director, Recreation, Heritage and Wilderness Resources Staff, Washington Office, or a representative, shall work cooperatively with the Directors of Lands and Watershed, Fish, Wildlife, Air, and Rare Plants, Washington Office, to review land acquisition priorities submitted annually by Regions and forward recommendations of the group to the Deputy Chief, National Forest System, for review and approval.

5421.32d - Director, Watershed, Fish, Wildlife, Air, and Rare Plants Staff, Washington Office

The Director, Watershed, Fish, Wildlife, Air, and Rare Plants Staff, Washington Office, or a representative, shall work cooperatively with the Directors of Lands and Recreation, Heritage and Wilderness Resources, Washington Office, to review land acquisition priorities submitted annually by Regions and forward recommendations of the group to the Deputy Chief, National Forest System, for review and approval.

5421.32e - Regional Foresters

Regional Foresters shall:

1. Use the Land Acquisition Priority System to generate their annual list of land acquisition priorities.
2. Transmit a report to the Chief annually by September 1 of the list of regional land acquisition priorities generated by the system.

5421.33 - Land Acquisition Priority System

Use the Land Acquisition Priority System to generate information concerning each proposed acquisition that meets the minimum requirements in FSM 5421.34a.

If several proposed acquisitions contain similar tracts, group them into one project or proposal and input information into the Land Acquisition Priority System.

Report Regional land acquisition priorities annually by October 1 using the Land Acquisition Priority System (LAPS). See FSH 5409.13, Land Acquisition Handbook, Section 15, for system instructions.

5421.34 - Criteria for Land Acquisition Proposal

Proposed land acquisitions should meet the minimum criteria at FSM 5421.34a. Proposals that do not meet the minimum criteria may be considered for acquisition but must be accompanied by a narrative justification statement as described at FSM 5421.35.

5421.34a - Minimum Criteria for Land Acquisition

To be considered for listing on the Land Acquisition Priority List, tracts or projects proposed must meet the following criteria:

1. The property is within or adjacent to the boundaries of an existing National Forest System unit.
2. The property presents no known health/safety/liability problems, (that is hazardous waste contamination, unsafe structures, and the like) that we are not willing to correct.
3. There is no current indication of opposition from current owner(s) to Federal acquisition of the property.
4. There is no current indication of community opposition.

If proposed projects are of particular importance to the Forest Service, but do not meet the minimum criteria, prepare a narrative justification statement using the direction at FSM 5421.35.

5421.35 - Narrative Justifications for Special Cases

When proposed land acquisitions do not meet all four of the minimum criteria in FSM 5421.34a, prepare a narrative justification. The justification should explain why the proposal should be considered for acquisition. Describe the outstanding attributes it possesses.

5422 - Funds

5422.1 - Land and Water Conservation Fund Act of September 3, 1964

(78 Stat. 897, as amended). The Land and Water Conservation Fund Act (L&WCF) is the major source of acquisition funds available to the Forest Service. The fund expires September 30, 1989, and appropriations are not subject to fiscal year limitations. Examine the annual appropriations act each year for specific direction regarding the use of these funds.

The amendments to the Endangered Species Act (92 Stat. 3751) expanded the uses of L&WCF moneys to include the acquisition by purchase, donation, or otherwise of such lands, waters, or interests therein to conserve fish, wildlife, and plants.

In FY 1982, the Congress made appropriations directly to the involved agencies, instead of through the Department of the Interior. The Department of the Interior is still responsible to Congress for the administration of these funds.

5422.2 - Weeks Law

Weeks Law funds are included in the Construction and Land Acquisition (C&LA) line item of Forest Service appropriations. The C&LA appropriations are no-year funds and carry over to succeeding fiscal years. Always use Weeks Law funds with the Weeks Act authority of March 1, 1911, as amended; all lands acquired with these funds must meet the requirements of this act.

5422.3 - Receipts Acts Appropriations

The Receipts Acts (FSM 5420.12a) provide for the use of certain receipts to acquire lands. The funds may be appropriated annually but cannot exceed the available deposits from the specific National Forest area. These annual appropriations are returned to the general receipts if they are not obligated by the end of the fiscal year.

5422.4 - Protection and Management Appropriations

Protection and Management Appropriations generally are not available for land purchase. The only exception is the purchase of administrative sites under \$50,000. In these cases, the Regional Forester can approve the use of benefiting function moneys to pay the purchase price and administrative expenses associated with the acquisition. Use this funding method only in those cases where the need was unforeseen and where it is not possible to defer the acquisition.

5422.5 - Reprogramming

Congress appropriates funds for specific activities or projects such as acquisitions in wilderness areas or acquisition in a specific wild and scenic river. The appropriation committees have established a process whereby funds appropriated for one purpose may be reprogrammed for another need. However, reprogramming is justifiable only when an unforeseen situation arises; and then only if postponement of the project or the activity until the next appropriation year would result in actual loss or damage. Do not use convenience or desire as a justification for reprogramming.

Any acquisition or activity deferred by reprogramming shall not be done later by means of further reprogramming. Funds must be obtained for the deferred activity through the regular appropriation process.

The activity for which there is a reprogramming request must meet the current guidelines for that activity. For example, a composite purchase must be within an approved composite.

The Chief has authority to approve land acquisition reprogramming of \$100,000 or less (cumulative reprogramming actions into or out of a project cannot exceed \$100,000 within the Fiscal Year). Reprogramming actions over \$100,000 require Appropriations Committees review and approval. No funds may be reprogrammed into an activity after funds have been reprogrammed out of that activity without Congressional agreement.

5422.6 - Obligations

Be sure that funds are available to cover the expenditure when the obligation is incurred. In condemnation cases, sufficient funds must be available to meet any reasonable excess awarded by the court.

Obligations are terminated:

1. By payment.
2. When the contract that provided the basis for the obligation terminates without possible liability against the United States.
3. In condemnation proceedings when there is action to relieve the Government from any liability under the award or to discontinue the proceeding according to law.

Other than the above three items, decisions to terminate obligations will be made by the Washington Office, Director of Lands, on a case-by-case basis.

Under no circumstances does an officer of the Government have the authority to terminate, amend, or revise an accepted option, purchase agreement, or contract that is not to the advantage and benefit of the Government (FSM 5422 and FSM 6512).