

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

**Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements
Handbook
Chapter 10 - Grants & Agreements Administration**

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Superseded Directive: 1509.11_10, Amendment 1509.11-2019-1, February 27, 2019

Approved by: Claudette Fernandez, Deputy Chief, Business Operations

Date approved: November 13, 2020

Responsible Staff:

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

Revises chapter in its entirety. Updates Grants Management Specialist (GMS) to read GMS, Grants and Agreement to read G&A throughout and removes Acquisition Management (AQM) throughout the chapter. Other changes to direction in this chapter are as follows:

11: Replaces “a two-level certification system” with “a three-level National certification system;” replaces the “senior Grants Management Specialist in the Region” with “the head of the Grants & Agreements (G&A) organization at every Region or Station;” replaces the “Regional Acquisition Management (AQM) Directors” with “Regional G&A Directors or Lead Region/Station G&A employees, where there is no G&A Director;” replaces “AQM Director” with “Grants and Agreement Director” and sets forth direction.

11.1: Adds instructions on temporary suspension of certification while on a detail outside GS-1109.

11.11: Adds direction on G&A System User Management Application (UMA), where Managers can be consulted for more information on roles available for non-certified individuals working in the G&A process.

11.13: Replaces direction on “When an employee otherwise meets the qualifications for Level II certification, they are not required to obtain a Level I certification prior to the Level II certification” with “Level I certification must be obtained prior to requesting the Level II certification.”

11.14: Changes title from “Certification from other Agencies” to “Non-Operational Certification” and sets forth direction.

11.15: Establishes code, caption and sets forth direction for “Certification from other Agencies”, previously located in section 11.14. Changes the requirements for newly hired GMS coming from outside the Agency. Replaces “50 new agreements and 10 modifications” with “40 new agreements and 20 modifications.”

11.21: Adds examples of noncompliance that are relevant to a letter of warning.

11.41: Updates direction on Instrument Review Training requirements; revises exhibit 1, with Recommended Training Hours from Ongoing up to 12 hours; and replaces Formal Agency Training (FAT) with Formal Forest Service Training (FFST).

11.43: Changes title from “Other, Desired Training and Competencies for Levels I and II for Grants Management Specialists” to “Non-Operational Certification Training Requirements.” Incorporates direction from 11.44 and sets forth direction.

11.44: Establishes code, caption, and sets forth direction on “Other, Desired Training and Competencies for Levels I, II, and Non-Operational Certification for GMS.”

15.1: Adds direction on “print out of System for Award Management (SAM) registration to validate entity type, DUNS/EUIs, or exclusions; other applicable documentation; such as RACA transmittal forms FS-6500-205, RACA job code/shorthand code assignment form FS-6500-208; invoices, bills for collection, or other supporting documentation for bills, such as transaction registers or detailed expenditure reports; and direction for applicable documentation such as: Economy Act Determination Letter, Acting Delegation Letter, Master Agreement, or Person Model information, and any other documentation relevant to the agreement.

Table of Contents

10.1 - Authority	7
10.2 - Objective	7
10.3 - Policy	7
10.4 - Responsibilities	7
10.5 - Definitions	7
10.6 - Ethics and Grants & Agreement Instruments	8
11 - Grants and Agreements Specialist Certification	8
11.1 - Certification Requirements.....	8
11.11 - Non-Certified Individuals	9
11.12 - Level 1 Certification	9
11.13 - Level II Certification	10
11.14 - Non-Operational Certification	10
11.15 - Certification from other Agencies.....	10
11.2 - Revocation of Certification	11
11.21 - Letter of Warning.....	12
11.3 - Transfer of Certification within the Forest Service.....	12
11.4 - Standards of Competency and Training Requirements	12
11.41 - Level I Training Requirements	13
11.42 - Level II Training Requirements	17
11.43 - Non-Operational Certification Training Requirements	20
11.44 - Other, Desired Training and Competencies for Levels I, II, and Non-Operational Certification	21
12 - Natural Resource Manager (NRM).....	21
12.1 - User Assistance and Technical Guidance	21
12.2 - General Requirements	22
13 - Identification and Use of Forest Service Instruments	22
13.1 - Transactions Covered under Federal Grants and Cooperative Agreements Act of 1977, (FGCA), as Amended, (Federal Financial Assistance).....	23
13.2 - Transactions not Covered under Federal Grants and Cooperative Agreements Act of 1977 (FGCA)	23
13.3 - Transactions Exempt from Provisions of FGCA by OMB Approval	24
13.4 - Transactions Exempt from Provisions of FGCA by Specific Statutory Language	24
13.5 - Principal Purpose Test	25
13.6 - Strawman Prohibition	26
13.7 - Service-wide and Master and Supplemental Project Agreements.....	26
13.71 - Service-wide Master Memorandum of Understanding	26
13.72 - Region-wide Master Memorandum of Understanding.....	26
13.73 - Washington Office Master and Supplemental Participating or Challenge Cost- Share Agreements.....	27
13.74 - Region, Forest, Station and Institute Master Agreements.....	28
13.8 - The Master and Supplemental Project Agreements Templates.....	29

13.81 - Master Agreements	29
13.82 - Supplemental Project Agreements Templates	29
13.83 - Supplemental Project Agreements that Require an Annual Operating Plan and Financial Plan.....	29
14 - Procedures for Initiating, Negotiating, Formatting, and Executing Instruments	30
14.1 - Initiating Instruments.....	30
14.11 - The Bona Fide Needs Rule and Appropriations Period of Availability	30
14.12 - Federal Identifier Number (Grant or Agreement Number)	31
14.13 - Budget Object Code Matrix	34
14.2 - Negotiating Instruments.....	35
14.21 - Grants and Agreements with Funding that Exceeds 1 Year.....	35
14.22 - Review of Risk Posed by Applicant or Cooperator.....	35
14.22a - Review of System of Award Management (SAM) Profile	35
14.22b - Review of Risk Posed by Applicant or Cooperator	36
14.3 - Form and Components of an Instrument	37
14.4 - Steps for Executing an Instrument	37
15 - Procedures for Administering Instruments	38
15.1 - Official File.....	38
15.2 - Post-Award Meeting	40
15.3 - Approvals.....	41
15.4 - Payment Procedures	41
15.5 - Project Monitoring	41
15.51 - On-Site Reviews.....	42
15.52 - Telephone Calls/Desk Reviews	42
15.6 - Performance and Financial Reports	42
15.61 - Performance Reports	42
15.61a - Incoming Funds.....	43
15.61b - Outgoing Funds.....	43
15.62 - Financial Reports	44
15.7 - Forest Service Initiated Audits and Financial Reviews	45
15.71 - Forest Service Initiated Audits.....	45
15.72 - Forest Service Initiated Financial Reviews	45
15.8 - Modifications to Instruments	46
15.81 - Form and Components of a Modification	47
15.82 - Steps for Finalizing Modifications.....	48
15.9 - Ratifications.....	49
15.91 - Ratification Scenarios	49
15.92 - Ratification Requirements	50
15.93 - Ratification Process	50
16 - Procedures for De-obligation and/or Close-out of Instruments.....	51
16.1 - Collection Agreements	51
16.11 - Reporting Requirements	52
16.12 - Refund/De-obligation of Funds	52

16.13 - Close-out	52
16.2 - Agreements Using Health and Human Services Payment Management System (PMS) - NA and NRS only	52
16.21 - Reporting Requirements	52
16.22 - De-obligation of Funds.....	52
16.23 - Close-out	53
16.3 - All Other Forest Service Funded Instruments	53
16.31 - Financial and Project Progress Reports.....	53
16.32 - De-obligation of Funds and Close-out.....	53
16.34 - Examples of Acceptable, Substantive, De-obligation Documentation.....	55
16.35 - Examples of Acceptable, Substantive, Close-out Documentation	55
16.4 - Managing Unliquidated Obligations.....	56
16.5 - Official File-Closed.....	56
17 - Remedies for Noncompliance.....	56
17.1 - Performance Issues	56
17.2 - Imposing Specific Additional Conditions	57
17.3 - Terminate Grant or Agreement	58
17.31 - Notice of Termination	58
17.32 - Opportunities to Contest Notice of Termination due to Deficiencies or Cause....	59
17.33 - Effects of Termination.....	60
17.4 - Questioned and Disallowed Costs.....	60
17.41 - Identifying unallowable/questioned costs.....	60
17.42 - Resolution of Questionable or Disallowed Costs.....	60
17.43 - Notice of Questioned Costs.....	61
17.43a - Issuing an Email or Letter	61
17.43b - Issuing a Report	61
17.43c - Issuing a Bill of Collection	62
17.44 - Resolution of Disallowed Costs	62
17.44a - Substitution of Costs	62
17.44b - Offset or Withholding of Costs	62
17.44c - Bill of Collection	62
17.44d - Combination Method for Rectifying Disallowed Costs	63
17.45 - Opportunities to Appeal Notice of Disallowed Cost or Bill for Collection	63
18 - Debarment and Suspension	64
18.1 - Responsibilities	64
18.2 - Causes for Suspension and Debarment	66
18.21 - Causes for Debarment	66
18.22 - Notice of Proposed Debarment	67
18.23 - Contesting Debarment.....	67
18.24 - Decision to Debar	68
18.25 - Length of Debarment	69
18.3 - Suspension.....	69
18.31 - Causes for Suspension	69

18.32 - Notice of Suspension	69
18.33 - Contesting Suspension	70
18.34 - Decision to Suspend.....	70
18.35 - Length of Suspension	70
18.4 - Notice of Proposed Debarment and/or Suspension	71
18.5 - Debarment or Suspension Investigation and Referral Process	71
18.51 - Referral Record.....	73
18.52 - Transmittal Letter	74
18.53 - Notice of Proposed Debarment and/or Suspension	77
18.54 - Opportunity to Contest Debarment and /or Proposed Suspension	78
18.55 - Settlement and Voluntary Exclusion.....	79
18.6 - Taking Action to Exclude a Recipient/Cooperator	79
18.7 - Period of Debarment and Suspension	80
18.71 - Period of Debarment	80
18.72 - Period of Suspension	80
18.73 - Scope of Debarment or Suspension.....	81
18.8 - Request for Reconsideration and Appeal	82

10.1 - Authority

See FSM 1580.1.

10.2 - Objective

See FSM 1580.2.

10.3 - Policy

See FSM 1580.3.

10.4 - Responsibilities

See FSM 1580.4.

10.5 - Definitions

Agreement. FSM 1580 instruments not considered Federal financial assistance transactions.

Award. Unless noted otherwise, the term means the awarding document for either a grant or cooperative agreement.

Certification. The process of ensuring Grants & Agreements (G&A) Specialists meet knowledge, training, and competency-based requirements.

De-obligation. The portion of the Federal awarding agency's obligated funds, not spent by the recipient/cooperator in the pursuit of the grant's/agreement's objectives, which have been administratively recovered by the Federal awarding agency.

Federal financial assistance. All grants and cooperative agreements as defined under the Federal Grants and Cooperative Agreements Act (see FSH 1509.11, ch. 20 of this handbook) that provide funds to a non-Federal entity for a public purpose authorized by law.

Inherently Governmental Function. A function that is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities that require either the exercise of discretion in applying Government authority or the exercise of value judgments in making decisions for the Government.

Ratification. The signed, documented action taken by a signatory official to approve a previously undocumented and or unauthorized commitment.

10.6 - Ethics and Grants & Agreement Instruments

All Grants and Agreements (G&A) proposals and awards should routinely be evaluated for compliance with ethics related laws, regulations, and directives, including, but not limited to: Conflict of Interest, Federal Criminal Conflict of Interest, and the Standards of Ethical Conduct for Employees of the Executive Branch. See FSM 1580.42, and USDA Ethics, Rules of the Road, index at <https://www.ethics.usda.gov/rules.htm> for links to additional ethics related resources.

11 - Grants and Agreements Specialist Certification

A three-level National certification system establishes a standard of competency based upon formal training and on-the-job experience for Grants Management Specialists (GMS).

The head of the Grants & Agreements (G&A) organization at every region or station, typically the G&A Director, should submit their recommendation to certify an individual specialist at Level I, Level II or for a non-operational certification to the Washington Office, G&A Director. Regional G&A Directors or Lead region/station G&A employee, where there is no G&A Director, are responsible for reviewing Lead GMS recommendations on certifications. For Washington Office based specialists, the National G&A Director will review and approve recommendations made by the Branch Chief for G&A Operations or Policy or the Washington Office, Deputy Director for G&A for sufficiency. GMS sitting in State and Private Forestry (S&PF) units not reporting to a G&A Director should work through their Supervisor for review and recommendation to the Washington Office, G&A Director for certification. Those requests approved by Regional G&A Directors, Washington Office, Branch Chief of Operations or Policy or the Washington Office, Deputy Director of G&A are then sent to the Washington Office, G&A Director, who is responsible for formally certifying that the GMS meet the following requirements:

11.1 - Certification Requirements

1. Individuals certified as GMS shall meet standards for competency based on formal training and on-the-job experience, as identified in this chapter.
2. Individual training and development plans must be maintained for each GMS by their Supervisor.
3. Level I, Level II, Non-operational certified GMS shall work full time in Grants and Agreements within the G&A organization. Official details outside GS 1109 will result in a temporary suspension of certification by the Washington Office, G&A policy office. For a State & Private Forestry GMS reporting to a State and Private Forestry Director or Deputy Regional Forester, see FSM 3080. The Regional G&A Director or equivalent supervisory G&A Lead is responsible for alerting the Washington Office with the need to temporarily suspend the certification of the GMS. This is necessary in order to maintain separation of duties in the GMS responsibilities and system role assignments.

4. Level I certification can be obtained for General Schedule (GS) 1109 series grade 9 and above and Level II certification can be obtained for GS 1109 series grade 11 and above. Non-Operational certification is reserved for GMS in the 1109 series grade 9 and above that serve in a G&A leadership position or work primarily in a policy function. Successful completion of the pre-requisite experience and required training are required to be eligible for certification. Job duties and certification level should be commensurate with position held by the certified specialist. GMS hired into an official Washington Office sponsored trainee program may request initial certification prior to achieving GS 9 level if they meet all requirements for Level I.

5. GMS that administer Stewardship Agreements shall have completed at least 24 hours of Stewardship Contracting/Agreements training. There is no separate certification process for Stewardship Agreement administration. Hours toward the minimum training requirement must be documented as part of the employee's Level I or Level II training record. Stewardship training should consist of Formal Agency Training (FAT) and On-the-Job Training (OJT).

6. For training requirements associated with the execution of fire related agreements, see FSH 1509.11, chapter 30.

7. Regions shall not impose any additional requirements to the national certification policy. If the GMS has met national certification requirements, Regions shall not withhold submission of certification request to the Washington Office. If the GMS has met National certification requirements and there is a reason certification is not warranted at time of submission, documentation should be provided to the Washington Office. A GMS may appeal any certification decision by submitting an inquiry to the Washington Office Policy inbox.

11.11 - Non-Certified Individuals

Contractors, volunteers, or other agency staff are ineligible for Forest Service GMS certification and therefore have a limited role in any grants and agreements review. Any action taken by contractors, volunteers, or other agency staff must be reviewed and final signature applied by a certified specialist. Grants Management Specialist system roles will only be granted to certified individuals. G&A System User Management Application (UMA). Managers can be consulted for more information on roles available for non-certified individuals working in the G&A process.

11.12 - Level 1 Certification

Level I certification constitutes the operating level for a GMS. Level I certified GMS are authorized to negotiate, develop, administer, modify, and close out instruments under commonly used authorities available for Forest Service use for the units within their service area. Level I certified GMS shall forward instruments that encompass more than their service

area or have Regional, Station, or multi-regional or Station implications to a Level II GMS. For requirements, see section 11.41, Standards of Competency and Training Requirements.

11.13 - Level II Certification

Level II certification constitutes the highest operational certification level issued to a GMS. Level II certified GMS are authorized to negotiate, develop, administer, modify, and close-out instruments under commonly used authorities within their service area. The service area for a Level II GMS may be Regional or Station (for example, Zone or Center) or Multi-Regional. Level II certified GMS provide program leadership, coordinate training, and oversee the certification process of GMS within the units of their responsibility.

Level I certification must be obtained prior to requesting the Level II certification. For requirements, see section 11.42, Standards of Competency and Training Requirements.

11.14 - Non-Operational Certification

Forest Service G&A Directors and Washington Office, Policy GMS will have a limited role in the operation of grants and agreements development. If a G&A Director has a U.S. Forest Service Level I or II certification, a Non-operational certification is not needed. Non-operational certified (NOC) GMS provides program leadership, evaluates and promotes guidance and ensures compliance and accountability. The NOC shall meet or exceed 40 training hours every two years to maintain certification. The NOC will not be required to complete the Forest Service G&A processing of 40 new agreements and 20 modifications. The non-operational G&A positions will be granted system access to allow for monitoring and reporting on G&A operations. For training requirements, see section 11.43 Standards of Competency and Training Requirements.

11.15 - Certification from other Agencies

GMS hired with an existing certification external to the Forest Service will be reviewed in consideration of the standards set forth in section 11.4. Requests to review an existing certification for GMS hired to the Forest Service must be made through the Regional G&A Director and sent to the Washington Office, G&A Director, as outlined in section 11. Existing certifications will be reviewed in consideration of the standards set forth in section 11.12 and 11.13. All newly hired GMS, coming from outside the Agency, shall also complete the Forest Service G&A processing of 40 new agreements and 20 modifications. Evidence of existing certification as well as detailed documentation of criteria met to obtain certification is required. Determination to award Forest Service G&A certification is not guaranteed and is dependent upon applicability to Forest Service G&A certification requirements.

11.2 - Revocation of Certification

The Washington Office and Regional, G&A Director have the authority to temporarily suspend or revoke a G&A certification at any time under the following situations:

1. Repeated negligence of compliance with applicable laws, regulations, and/or agency policy.
2. Violation of code of ethical conduct (5 CFR 2635).
3. Failure to maintain training standards (in this chapter).
4. Failure to maintain satisfactory performance rating.
5. Reassignment to a position not requiring certification.
6. Discontinuance of a GMS' need for certification (for example, due to unit reorganization or while on a detail assignment).
7. Separation from the Agency.

Prior to a decision to suspend or revoke a certification, corrective measures must be developed through an action plan. If there is no improvement after the corrective action plan has been implemented, a suspension or revocation of the certification may be authorized.

When a specialist has left the 1109 Grants Management Specialist (GMS) job series (items five (5), six (6) and seven (7) above) either due to permanent reassignment, temporary detail into another non G&A role or separation from the agency, the specialist will be notified by the Washington Office of Grants and Agreements (OGA) that their certification has been deactivated. The GMS should not perform their previous duties as a GMS and reviewer access to the G&A system should be suspended. Should the GMS return to their 1109 position within a period of 24 months or less, their certification will be reinstated. If the GMS returns to an 1109 position after a period of more than 24 months, they must recertify according to the level needed to fulfill their roles.

When conditions for suspension are corrected, or corrective measures show improvement, the Washington Office and Regional, G&A Director may reinstate certification. If reinstatement is to occur, it must take place within 6 months after the suspension. Retirees returning to the Forest Service as annuitants or individuals who left the 1109 GMS series will have their certification reinstated if they return within one year of separation from the Agency.

11.21 - Letter of Warning

The GMS Supervisor shall work with Employee Relations to issue a letter of warning to a GMS when three or more issues of noncompliance of G&A process or policy have been identified.

Noncompliance can include, but would not be limited to the following:

1. Executing an agreement that does not comply with policy
2. Improper or inaccurate data entry
3. Delayed data entry bringing the FS into noncompliance with DATA Act reporting.
4. Not executing the agreement in the Natural Resource Manager (NRM) database.
5. Obligations not submitted for financial approval when the agreement is executed in NRM.

The GMS shall then work closely with their Supervisor and/or G&A Lead to put together a corrective action plan to demonstrate how the issue(s) will be resolved. This plan must be sent to the Washington Office as well as to Regional, G&A Director for compliance and tracking. At the conclusion of the Corrective Action Plan timeline, the responsible unit shall report to the Washington Office satisfactory completion of the plan. If this is not achieved, revocation of certification may be considered as a next step.

Corrective Action Plan should include (list is not exhaustive):

1. Timeframe for corrective action plan.
2. Required additional training.
3. Review and oversight of workload for compliance and consistency with G&A administration.
4. Job shadow with certified Grants Management Specialist.

11.3 - Transfer of Certification within the Forest Service

When a certified GMS transfers to another Forest Service region or unit under the same professional capacity, the certification will transfer with the individual.

11.4 - Standards of Competency and Training Requirements

This section establishes a standard of competency for GMS based upon formal training and on-the-job experience.

11.41 - Level I Training Requirements

Knowledge, training, and competency requirements are mandatory in three areas to achieve a Level I G&A Certification and to maintain the Level I Certification. Based on exhibit 01, Training Requirements for Level I GMS, a Level I Certification requires the following: formal training, instrument review training, and maintenance.

In general, all training should have been completed 10 years or sooner from the date of submission. Training completed more than 10 years prior to submission of certification request may be submitted for consideration to Washington Office, G&A Policy.

1. Formal Training. The following minimum requirements are needed, as part of formal training towards Level I Certification:

- a. A minimum of 32 hours of the required Foundation Subject, Appropriation Law;
- b. At least 48 hours from the Core Subjects (and not less than 3 of the 5 courses);
- c. At least 88 hours from the G&A Elective Subjects list; and,
- d. At least 32 hours from the Supportive Elective Subjects list.

The formal training requirements may be met through Outside Professional Training (OPT) sources or Formal Forest Service Training (FFST). The Required Source column indicates the type of mandatory source(s) required to receive credit towards meeting a course requirement.

2. Instrument Review Training. A non-certified GMS shall complete the Forest Service G&A process for a minimum of 40 new agreements and 20 modifications, in order to be considered for Level I certification. A level II GMS may designate a Level I GMS to complete reviews. However, a representative sample of these agreements completed by the Level I candidate must be reviewed by a Level II GMS for satisfactory technical compliance with rules, laws and adherence to G&A procedures prior to certification as a Level I GMS. Should a GMS not have access to a diverse array of agreement types on their unit, efforts should be made to coordinate reviews of other instruments outside of the assigned unit of that GMS. Level II and/or a Supervisory GMS should assist the uncertified GMS in locating opportunities to participate in the review of other agreement types, crossing administrative boundaries if needed, in order to ensure that the GMS is able to complete their certification in a timely manner.

To meet the 40 new agreements requirement, a minimum of 5 actions of any 5 different Forest Service instrument types processed must be documented with additional types until 40 new agreements is processed. This is inclusive of all types of agreements regardless of whether it is a stand-alone, unfunded, Supplemental Project Agreement (SPA) or Master Agreement. Agreements type are those referred to by two letter

designation such as PA, CS, DG, CA, IG, IC SA, MU, GN, CO, IA, JV, CR, RD, LE, FI, FO, FP, RO, and so forth. See a complete list of agreement types at section 14.12, exhibit 01. Modifications may be any variety of agreement types.

3. Maintenance. In order to maintain certification, a Level I certified GMS shall meet or exceed 40 hours of training every 2 years. Required Foundation Subjects, Core Subjects, G&A Electives and Support Electives for all levels of certification may be used to meet maintenance requirements. Courses not listed in any of the areas can be considered to meet maintenance requirements and should be submitted to Washington Office, G&A Policy prior to registration for review and approval. Hours achieved through National or, Regional Training platforms in the areas of G&A count toward maintenance hours and do not need prior approval from Washington Office, G&A Policy.

In addition, serving on a Regional or National special G&A team or as a G&A training presenter may be used to meet maintenance requirements. G&A Leads shall confirm participation on USDA, Forest Service Government special teams, and G&A ad hoc committees. Development and delivery of Regional or National training to the G&A community to enhance the awareness of G&A processes, new requirements and policies can also be used to meet maintenance requirements.

4. Definitions:

- a. Foundation Subject. The training course that is the basis for the management of G&A related activities, Appropriation Law.
- b. Core Subject. Formal training courses that provide in-depth understanding of the administration of G&A management.
- c. G&A Elective Subject. G&A training and related activities.
- d. Support Elective Subject. Other related topics that can be utilized in G&A management.

11.41 - Exhibit 01

Training Requirements for Level I GMS

Note: The Required Foundation Subject, Core Subject, G&A Electives and Support Electives names represent subject areas and not actual course titles. Course names may be added if determined relevant as a G&A subject.

Required Foundation Subject (32 hours)	Required Source*	Minimum Training Hours
Appropriation Law	OPT	32
Plus, 3 of the 5 Core Subjects (48 hours)	Required Source	Minimum Training Hours
Cost Principles (OMB Circular and FAR)	OPT	16
Administrative Requirements (OMB Circular)	OPT	16
Federal Assistance Law	OPT	24
Introduction to Grants and Cooperative Agreements for Federal Personnel	OPT	24
Monitoring Grants and Agreements	OPT	16
G&A Elective Subjects (for a total 88 hours at initial certification)	Required Source	Recommended Training Hours
Administrative Requirements (OMB Circular)	OPT	16
Basic Procurement	OPT, FFST	40
Civil Rights Requirements for Grants	FFST	3
Closeout for Grants and Agreements	OPT, FFST	16
Cost & Price Analysis	FFST, OPT	40
Cost Principles (OMB Circular and FAR)	OPT	16
Detecting & Preventing Fraud	OPT	16
Ethics and Conduct	OPT, FFST	8
Federal Assistance Law	OPT	24
Forest Service Authorities	FFST,	up to 12 hrs.
FSM 1580/FSH 1509.11	FFST,	up to 12 hrs.
Cooperative Agreements and Substantial Involvement	OPT	8
Monitoring Grants and Agreements	OPT	16
Obligations, Payments, and Invoices	FFST	1
Accountability for Federal Grants	OPT	16
National Conference, or/and Regional Workshop/Conference,	FFST	24
Negotiation/Conflict Resolution	OPT	16
Understanding National Policy Requirements Affecting Grants and Cooperative Agreements	OPT	16
Formal Stewardship Training	FFST/OPT	24

11.41 - Exhibit 01--Continued

Training Requirements for Level I G&A Specialists

Support Elective Subjects (32 hours)	Required Source	Minimum Training Hours
FOIA/Public Affairs	FFST	There is no set minimum for training hours required for each listed course. The training requirement for electives is that the total number of training hours needs to match or exceed 32**.
Grant and Agreement Record Keeping	OPT, FFST	
Small Purchasing	FFST	
Advanced Cost Principles	OPT	
Appropriation Law Refresher	OPT	
Business Law	OPT	
Legislative Process	OPT	
Federal Grants Update	OPT	
Civil Rights Requirements for Grants	OPT	
Federal Advisory Committee Act (FACA)	OPT, FFST	
NEPA	FFST	
Special Uses	FFST	
Leasing/Property	FFST	
Appropriations Use/Budget	FFST	
Financial Policy	OPT, FFST	
Federal Grants Management 101 (OMB)	OPT	
Federal Property Training	OPT	
Additional Training that would apply (Contracting, Fire, Etc.)	OPT, FFST	

* Outside, Professional Training Sources (OPT); Formal Forest Service Training (FFST). These are mandatory sources of training.

**Support elective subjects not listed here may be considered if relevant and applicable to the position held by the GMS (ex. Formal Writing Course).

11.42 - Level II Training Requirements

Knowledge, training, and competency in the following areas are required in addition to Level I Training requirements prior to certification as a Level II Grant Management Specialist. In general, all training should have been completed 10 years or sooner from the date of submission. Training completed more than 10 years prior to submission of certification request may be submitted for consideration to Washington Office G&A Policy.

See section 11.42, exhibit 01, Training Requirements for Level II G&A Specialists.

1. Formal Training. The following minimum requirements are needed, as part of formal training towards Level II Certification:

- a. A minimum of 32 hours of the required Foundation subject, Appropriations Law;
- b. At least 96 hours of Core Subjects (5 of the 5 basic Core Subjects must be completed);
- c. At least 136 hours of G&A Elective Subjects; and
- d. At least 32 hours of Level I electives.

2. Maintenance. A Level II certified GMS shall meet or exceed the 40 hours of training every 2 years to maintain certification. Annual requests from the Washington Office will be made to a Lead specialist requesting documentation to demonstrate progress toward maintenance hours for Level II certified specialists within their area of oversight. Level I and Level II Core Subjects, G&A Electives, Support Electives, training related to other desired skills and participation in national training or policy efforts may be used to meet the maintenance requirements. Courses not listed in any of these areas can be considered to meet maintenance requirements and should be submitted to Washington Office G&A Policy prior to registration for review and approval. Hours achieved through National, Regional or the Acquisition Community Training (ACT) platform in the areas of G&A or all-AQM count toward maintenance hours and do not need prior approval from Washington Office G&A Policy.

In addition, serving on a Regional or National special G&A team or as a National G&A training presenter may be used to meet maintenance requirements. G&A Leads shall confirm participation on USDA, Forest Service or Federal government special teams, and G&A ad hoc committees. Development and delivery on Regional or National training to the G&A community to enhance the awareness of G&A processes, new requirements, and policies can also be used to meet maintenance requirements.

Retaking courses previously completed to achieve Level 1 or II certification after a period of 5 or more years will also count toward a specialist's maintenance hours.

11.42 – Exhibit 01

Training Requirements for Level II GMS

Note: The Required Foundation Subject, Core Subject, G&A Electives and Support Elective names represent subject areas and not actual course titles.

Completion of Level I Certification Requirements, which includes:		
32 hours of the required Foundation Subject, that is, Appropriations Law	For specifics, see sec. 11.41 - Exhibit 01: Training Requirements for Level I GMS	
48 hours of Core Subjects, (3 of the 5 courses)		
88 hours of G&A Elective Subjects		
32 hours of Level I Support Electives		
Plus, 2 additional Core subjects that include Grant Administration and Management (for an overall training total of 96 hours):	Required Source*	Minimum Training Hours
Cost Principles, OMB Circulars, and Federal Acquisition Regulations	OPT	16
Federal Assistance Law	OPT	24
Introduction to Grants and Cooperative Agreements for Federal Personnel	OPT	24
Uniform Administrative Requirements OMB	OPT	16
Monitoring Grants and Agreements	OPT	16

11.42 – Exhibit 01--Continued

Training Requirements for Level II G&A Specialists

G&A Elective Subjects (for an overall training total of 136 hours)	Required Source	Minimum Training Hours
Appropriation Law Refresher	OPT	There is no set minimum for training hours required for each listed course.
Audit of Federal Grants and Cooperative Agreements	OPT	
Advance Cost Principles	OPT	
Budget Execution and Use	OPT	
Budgeting and Accounting	OPT	
Closeout of Grants and Agreements	OPT	
Detecting and Preventing Fraud	OPT	
Evaluating Financial Management Capabilities and Internal Controls	OPT	
Federal Property	OPT, FFST	
Federal Budget Process	OPT	
Federal Grants Update	OPT	
Fundamentals of Overhead Cost Rates	OPT, FFST	
Understanding National Policy Requirements Affecting Grants	OPT	
G&A Community Training	FFST	
Support Elective Subjects (for maintenance requirements)	Required Source	Minimum Training Hours
Federal Grants Update	OPT	There is no set minimum for training hours required for listed course.

* Outside, Professional Training Sources (OPT); Formal Forest Service Training (FFST). These are mandatory sources of training.

11.43 - Non-Operational Certification Training Requirements

Knowledge, training, and competency in the following areas are required to obtain a non-operational G&A Certification for a G&A Directors or Washington Office, Policy GMS who will not perform any operational work as a regular part of their assigned duties. Individuals in these roles who previously held Level I or II certification shall maintain their previously held certification level or may transfer their certification level to non-operational, as desired. Individuals who serve in these roles without prior certification may use training previously completed in the ten (10) years prior to their assumption of their non-operational role in OGA. Training completed more than ten years prior to their need for certification must be retaken. A specialist in this position has a period of two years (24 months) to complete all required courses. This certification will ensure they have the proper understanding of grants and agreements regulations.

11.43 Exhibit 01

Training Requirements for Non-Operational GMS

Required Foundation Subject (for an overall training total of 96 hours)	Required Source*	Minimum Training Hours
Appropriation Law	OPT	32
Audit of Federal Grants and Cooperative Agreements	OPT	16
Cost Principles	OPT	16
Monitoring Grants and agreement	OPT	16
Administrative Requirements OMB Circular	OPT	16
Forest Service Authorities	FFST	24

* Outside, Professional Training Sources (OPT)

11.44 - Other, Desired Training and Competencies for Levels I, II, and Non-Operational Certification

Exhibit 01, Other, Desired Training and Competencies for Levels I, II, and Non-Operational Certification for GMS.

11.44 - Exhibit 01

Other, Desired Training and Competencies for Levels I and II GMS and Non-Operational Certification

Subject Matter
Ability to Research Laws, Regulations, Statutes, and Related Information
Communication Skills (Written and Oral)
Organizational Skills
Record Keeping
Time Management
Computer Literacy, Including NRM Functionality Training
Understanding Financial Reporting Requirements
Understanding the Forest Service Mission and Programs
Understanding Management/Political Issues
Knowledge of Cooperative Work Fund Collections, Overhead, and Reimbursable Accounting
Leadership Courses
Washington Office GMS Competencies

12 - Natural Resource Manager (NRM)

12.1 - User Assistance and Technical Guidance

There are a number of assistance tools available online such as the NRM Quick Guides and NRM Help website. Additional assistance maybe provided by a G&A Specialist.

Users can access the NRM Grants and Agreements Help at:
<http://fsweb.nrm.fs.fed.us/support/help/ga/>.

Technical processes for data-entry system functionality are documented in the “Grants & Agreements Help” function in the NRM Net and are incorporated by reference as directives under this section.

12.2 - General Requirements

Users can request access to roles through the User Management Application (UMA) in NRM. Role access is approved or denied by an official designated in each Region, Station, Area, or IITF as the UMA approver. Users shall not be granted access for multiple roles that conflict with the separation of duties principle and cross-functional boundaries. For example, a user shall not be granted the G&A Program Approver role and the G&A Specialist role.

In order to access NRM, the following steps must be followed:

1. Visit <https://iweb.fs.usda.gov/login/welcome.html>.
2. Select the Login to NRM icon.
3. Click on "Default NRM Dashboard." This step leads the user to USDA's e-Authentication, which is a security portal for agency computer applications. At this point an e-Authentication account is needed. If the user does not have an account, then visit <http://www.eauth.egov.usda.gov/eauthEmployeeCreateAccount.html> and complete the application. If the user does have an e-Authentication account, then go to step 4, below.
4. Read the e-Authentication warning banner and click, "Continue."
5. Enter user id and password.
6. If the user has an UMA role, then they will automatically be directed to the NRM Dashboard.
7. For new NRM Users instruction on how to request an NRM User Account instruction is available at <http://basenet.fs.fed.us/support/help/uma/>. The user shall complete the application. Once this is done, please contact the Region, Station, or Area G&A lead, user Application Manager. Once the application is approved, the user receives an NRM e-mail confirmation of their approved NRM User Role.
8. The new user should then follow steps 1 thru 6.

13 - Identification and Use of Forest Service Instruments

A Program Manager should consult with their respective G&A Specialist prior to any concrete discussion with a potential recipient(s) or cooperator(s) to ensure proper use of appropriations, availability of authority, and selection of the appropriate instrument to accomplish a specific action.

13.1 - Transactions Covered under Federal Grants and Cooperative Agreements Act of 1977, (FGCA), as Amended, (Federal Financial Assistance)

The selection of an appropriate instrument should be based upon the provisions of the Federal Grants and Cooperative Agreements Act of 1977 (FGCA) (31 U.S.C. 6301-6308) and consideration of specific laws and regulations listed in FSM 1580.1. Under the FGCA, there are two choices:

1. Federal Financial Assistance Transactions. If there is a specific authority and appropriated funds available for its use, a Federal financial assistance transaction may be awarded in the form of a grant or cooperative agreement, depending upon the degree of Forest Service involvement. Such awards are subject to the Office of Management and Budget (OMB) administrative provisions located in 2 CFR Part 200, as implemented by U.S. Department of Agriculture (USDA) regulations located in 2 CFR Part 400, which contains the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Grants and cooperative agreements are primarily available to be used with Research, State and Private Forestry, and International Programs appropriations to transfer a product or service of value (for example, funds) to stimulate or support others' activities for public benefit. Grants and cooperative agreements are not available to receive a product or service, that is, a deliverable, for direct Forest Service benefit. A grant is appropriate where the Forest Service is not substantially involved. A cooperative agreement is appropriate where the Forest Service is substantially involved.

2. Procurement Transactions. Use a procurement contract or purchase order where the intention is to acquire goods or services for the direct benefit of the Forest Service. These transactions are governed by the Federal Acquisition Regulations and FSH 6309.32, unless specifically exempted. These are not considered grants or agreements, and they are not covered in this handbook.

13.2 - Transactions not Covered under Federal Grants and Cooperative Agreements Act of 1977 (FGCA)

1. Sale of Government property and services for full value (for example, timber sales). These transactions are not agreements covered by this chapter.
2. Collection agreements, regardless of whether the contributed funds are advanced or reimbursed. See FSH 1509.11, chapter 40 of this handbook.
3. Interagency agreements. See FSH 1509.11, chapter 50 of this handbook.
4. Intra-agency agreements. These transactions are not external agreements covered under FSM 1580.

5. Leases, licenses, or permits (for example, for grazing or recreational use where the Government receives full value for the authorization). These transactions are not agreements covered under FSM 1580.
6. Transactions, other than collection agreements, where goods, services, or money flow to the Forest Service (for example, gifts or donations).
7. Volunteer Agreements. These are not agreements covered under FSM 1580. See FSM 1830, Volunteer Programs, for more information.
8. Other agreements not covered by the FGCA. Consistent with specific statutory authority (see ch. 70 of this handbook) and OMB exemptions (see FSH 1509.11, ch. 30 of this handbook) granted to the Forest Service, some transactions are not considered either procurement contracts or Federal financial assistance as defined under the provisions of the FGCA. These types of transactions may be entered into under one or more specific authorities and when specific criteria are met. Some of these types of agreements are used to form what the Forest Service commonly refers to as partnerships. Although these transactions are distinguished from procurement contracts and Federal financial assistance, it is still important to maintain sound administrative and financial control, and to follow all statutory and regulatory requirements, where applicable, such as: procurement, labor law, competition, and Government Printing Office requirements.

13.3 - Transactions Exempt from Provisions of FGCA by OMB Approval

OMB specifically exempted three Forest Service authorities (see FSH 1509.11, ch. 30 of this handbook), which were implemented prior to February 4, 1979, from the requirements of the Federal Grant and Cooperative Agreements (FGCA) Act of 1977. These exempted agreement types are:

1. Cooperative Law Enforcement Agreements.
2. Cooperative Forest Road Agreements.
3. Cooperative Fire Protection Agreements.

13.4 - Transactions Exempt from Provisions of FGCA by Specific Statutory Language

Some Forest Service authorities specifically state that they are not subject to the requirements of the FGCA. These agreement types are:

1. Participating Agreements (including Wyden Amendment).
2. Challenge Cost-Share Agreements.
3. Joint Venture Agreements.

4. International Joint Venture Agreements.
5. Cost Reimbursable Agreements.
6. Cooperative Research and Development Agreements.
7. Material Transfer Agreements.
8. Non-Disclosure Agreements.
9. Stewardship Agreements.
10. Good Neighbor Agreements.

13.5 - Principal Purpose Test

Based on the FGCA, G&A Specialists shall analyze each proposed FSM 1580 transaction on a case-by-case basis to determine its principal purpose, whether it is a procurement, a Federal Financial Assistance transaction, or another type of transaction. In some cases, non-FGCA transactions exist based on specific legislative authorities where the proposed transaction is neither a procurement nor assistance transaction (as specifically defined in the FGCA) or is specifically exempted from FGCA requirements. In these non-FGCA transactions, the G&A Specialist shall determine whether the proposed transaction:

1. Belongs to another agency staff area (for example, procurement, property, leasing, special uses, and so forth);
2. Falls under another FSM 1580 transaction type (for example, Exempted, Collection, Partnership Agreement, or MOUs);
3. Is more appropriately established under a Volunteer Agreement; or
4. Is a gift or donation.

Agency transactions that have a principal purpose of acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the U.S. Government necessitate the use of a procurement contract instrument (31 U.S.C. 6303). Exceptions, however, may exist. For example: If the proposed procurement transaction is between Federal agencies for services, then the G&A Specialist shall process the instrument as an Interagency Agreement, under FSH 1509.11, chapter 50 of this handbook.

Agency transactions that have a principal purpose for transferring a product or service of value to a recipient to carry out a public purpose authorized by a law of the United States must be characterized as assistance transactions (31 U.S.C. 6304 and 6305). A grant instrument must be used when the assistance transaction does not have the substantial involvement of the Agency (31 U.S.C. 6304(2)). If the Program Manager expects substantial involvement on behalf of the

Agency, then a cooperative agreement instrument must be used (31 U.S.C. 6305(2)). See FSH 1509.11, chapter 20 for additional guidance.

All proposed non-FGCA transactions, falling under FSM 1580 guidance, require appropriate statutory authority to enter into and must meet all other requirements as expressed in FSM 1580.1, Authority and in this handbook.

Additionally, the FGCA does not limit the number of transactions to carry out a proposed project. In other words, a combination of two or more transactions may be used to carry out a proposed project (for example, a contract and a grant may be used). See 31 U.S.C. 6308. This is the policy for non-FGCA transactions as well.

13.6 - Strawman Prohibition

FSM 1580 instruments may not be used to carry out an activity that the Agency would not be permitted to do on its own. An example of this prohibition would be using Participating Agreements for procuring goods, services, property, and equipment for the Agency's direct benefit, or using a cooperator other than the National Forest Foundation to solicit funds on behalf of the Forest Service.

13.7 - Service-wide and Master and Supplemental Project Agreements

13.71 - Service-wide Master Memorandum of Understanding

Service-wide Master Memorandum of Understanding encompass agency-wide memorandum of understanding agreements and multi-regional memorandum of understanding agreements. Service-wide Master Memorandum of Understanding (SU) must only be issued at the Washington Office level and are posted on the national G&A Web site, <http://fsweb.wo.fs.fed.us/aqm2/wo/grants/ServiceWideAgreements.php>.

13.72 - Region-wide Master Memorandum of Understanding

Region-wide Master Memorandum of Understanding encompass region-wide memorandum of understanding agreements and multi-forest memorandum of understanding agreements. Region-wide Master Memorandum of Understanding (RU) must only be issued at the Regional Office level.

13.73 - Washington Office Master and Supplemental Participating or Challenge Cost-Share Agreements

When the Forest Service negotiates and agrees to enter into a nation-wide Master Participating or Challenge Cost-Share Agreement (Master Agreement) with a national organization, and the Master Agreement anticipates and enables the Forest Service and cooperator staffs to implement locally-based projects, then the following are required:

1. The Washington Office G&A staff is responsible for creating and administering the Master Agreement.
2. However, the Forest Service and cooperator's local units create any necessary Supplemental Project Agreement, along with a corresponding financial plan (for example, using FS-1500-17A), to administer the locally based projects. The local unit G&A Specialist shall link the Supplemental Project Agreement to the Master Agreement in the NRM record by entering the Master Agreement's agreement number in the Master Agreement data field.
3. The Master Agreement must contain all the relevant components required for the instrument agreed upon, that is, a Participating Agreement and Cost-Share Agreement must meet all requirements under FSH 1509.11, chapter 70 of this handbook, except that a financial plan is not required. Most Master Agreements do not include a financial plan. Instead, a Master Agreement usually contains financial and budgetary related information, such as:
 - a. Other financial terms, such as form and time of payment(s),
 - b. Estimated price lists (these must not be used as financial plans),
 - c. Types of contribution(s), and
 - d. Estimated period of performance (for all future Supplemental Project Agreements).
4. When composing or modifying the Master Agreement, the Washington Office must ensure that the relevant language is broad enough to encompass all anticipated local activities and provides guidance for the development of Supplemental Project Agreements, for example, purpose, statement of mutual interest and benefit, party responsibilities and scope of work, period of performance, terms and conditions, Washington Office and National cooperator contact information, and so forth. See section 79 of this handbook for a sample of a Master Participating Agreement and an associated Supplemental Project Agreement.

5. Associated Supplemental Project Agreement financial plans must comply with chapter 70 of this handbook requirements, complete with cost element breakdown, cost analysis, and valuation of the cooperator's contribution. The financial plan and scope of work must complement one another. After the parties execute the agreement, any subsequent change to the financial plan requires the local Forest Service unit to modify the financial plan with a modification to the Supplemental Project Agreement (via the financial plan).

6. In NRM, G&A Specialists shall create a record for the Supplemental Project Agreement, entering all relevant financial and budgetary information, so that the Washington Office may generate reports listing the overall national project costs, party contributions, element cost breakdowns, invoices, liquidated and unliquidated obligations, and so forth.

13.74 - Region, Forest, Station and Institute Master Agreements

Agreements such as region-wide Master Participating, Exempted, or Challenge Cost-Share Agreements, may be issued when the following conditions are met:

1. The Master Agreement meets all the requirements for the instrument type sought (for example, a Participating Agreement and Cost-Share Agreement must meet all requirements under FSH 1509.11, ch. 70 of this handbook), including citation to the proper authority.

2. The Master Agreement uses language broad enough to encompass all anticipated local activities and provides necessary guidance for the development of local agreements within the cited authority, for example, purpose, statement of mutual interest and benefit, party obligation(s), duration, scope, terms and conditions, Forest Service and cooperator contact information, and so forth.

3. Each Master Agreement title references the proper area of coverage, such as Intermountain Region Master Challenge Cost-Share Agreement, Northern Region Master Participating Agreement, or Rocky Mountain Station Master Challenge Cost-Share Agreement.

4. Supplemental Project Agreements are issued against the Master Agreement and cite the Master Agreement number, contain a written statement that it is executed under the specific Master Agreement and incorporate all the terms and conditions of the Master Agreement by reference. Any additional provisions not identified in the Master Agreement, but specific to a Supplemental Project Agreements must be included in full text. Note: The Master Agreement number must be recorded in the Supplemental Project Agreement's NRM record, so that the Washington Office and Regions may generate reports listing the overall national and regional project costs, party contributions, element cost breakdowns, invoices, liquidated and unliquidated

obligations, and so forth. See FSH 1509.11, section 79 of this handbook for a sample of a Master Participating Agreement and an associated Supplemental Project Agreement.

5. All Supplemental Project Agreements meet the provisions of the applicable statutory authority cited under the Master Agreement and any cost-sharing requirements.
6. Each Supplemental Project Agreement to be completed is separately negotiated and documented, including scope of work, periods of performance, and separate financial plans clearly differentiating each parties' contributions (for examples, in-kind and cash). Associated financial plans must comply with FSH 1509.11, section 73.2 of this handbook, including cost element breakdown and cost analysis.
7. Each Supplemental Project Agreement is separately numbered for easy tracking and review by a G&A Specialist.
8. After execution of Master or Supplemental Project Agreements, any subsequent and material change to the financial plan, scope of work, or period of performance is captured through an official modification to the agreement.

13.8 - The Master and Supplemental Project Agreements Templates

13.81 - Master Agreements

Use the appropriate FSM/FSH chapter forms as the basis for the Master Agreement. See FSH 1509.11, section 79.31 of this handbook for an exhibit of a Master Participating Agreement.

13.82 - Supplemental Project Agreements Templates

See FSH 1509.11, section 79.32 of this handbook for an exhibit of a Supplemental Project Agreement (Participating Agreement).

13.83 - Supplemental Project Agreements that Require an Annual Operating Plan and Financial Plan

Supplemental Project Agreements that provide funding by either party, on an annual basis, must require an annual operating plan and financial plan, and must:

1. Include the initial operating and financial plans prior to execution; and
2. Require each subsequent annual operating plan to be negotiated, executed, and incorporated into the instrument by modification prior to the performance of new work.

14 - Procedures for Initiating, Negotiating, Formatting, and Executing Instruments

14.1 - Initiating Instruments

See FSH 1509.11, section 22.2 for Federal Financial Assistance Instruments; FSH 1509.11, section 32 for Exempted Agreements; FSH 1509.11, section 42 for Collection Agreements; FSH 1509.11, section 52 for Interagency Agreements; FSH 1509.11, section 62 for Memorandum of Understanding; and FSH 1509.11, section 73 for Partnership Agreements for Detailed Information.

14.11 - The Bona Fide Needs Rule and Appropriations Period of Availability

The bona fide needs rule is a fundamental principle of appropriations law. The rule applies to all Federal Government activities carried out with annual and multi-year appropriations but does not apply to no-year appropriations. For no year appropriations only, since there is no fixed period during which the *bona fide* need must arise, there is no fixed period in which the funds must be obligated and expended. Program Managers, in consultation with the G&A Specialist and the Budget Officer, shall ensure that the *bona fide* needs rule is applied properly to all applicable FSM 1580 instruments.

For annual appropriations and multi-year appropriations only, the appropriations acts determine the period of availability of appropriations. The appropriation must be obligated only to meet a legitimate, or *bona fide*, need arising in, or in some cases arising prior to but continuing to exist in, the fiscal year for which the appropriation was made. An obligation occurs when a contract, lease, purchase order, grant, or agreement is fully executed before the appropriation expires. Projected Forest Service salary expenses or other severable services do not constitute an obligation. See Comp. Gen. 316 (1958).

An annual appropriation or a multi-year appropriation expires on the last day of the period of availability and is no longer available to incur and record new obligations. Any balances, whether obligated or unobligated, retain their fiscal year identity in an expired account for that appropriation for an additional five fiscal years. During that five-year period, the balances in the expired account may be used to liquidate obligations that were properly chargeable to the account before its expiration, as well as to make certain obligation adjustments. Even though the expired appropriation is available for five years to liquidate the obligation, no sub-awards or contracts shall be awarded that go beyond the expiration date of the grant/agreement. See 31 U.S.C. § 1553(a).

When receiving funds from another Federal agency, the G&A Specialist should assist the Program Manager and Budget Officer in determining that the appropriations received from the cooperator can be obligated within the period of availability of appropriations as defined by the appropriations act. Period of performance which is defined by the start and end dates of the agreement may be different from the cooperator's appropriation's period of availability. For this reason, appropriations acts determine the period of availability of appropriations and not

the period of performance. If there are questions regarding when the availability of appropriations, the Forest Service should request clarification from the Federal funding agency and attach the correspondence to NRM and retain the document in the official file.

For further, more detailed guidance on applying the *bona fide* needs rule, and other required appropriations rules, see the Principles of Federal Appropriations Law, also known as the “Red Book,” at www.gao.gov.

14.12 - Federal Identifier Number (Grant or Agreement Number)

The Federal Identifier Number is unique to all Forest Service G&A instruments, is required by the USDA Financial and Accounting Standards, and is compatible with NRM. These agreement specific numbers provide a bulk of data relevant towards identifying a given agreement, relying on specific alpha and numeric codes to translate such information. See 14.12, Exhibit 01, Agreement Type Alpha Codes Matrix and Exhibit 02, Agreement Numeric Codes for Regions Matrix.

14.12 - Exhibit 01

Agreement Type Alpha Codes Matrix

Agreement type alpha codes are:	
CA	Cooperative Agreements
CO	Collection Agreements
CR	Cost-Reimbursable Agreements
CS	Challenge Cost-Share Agreements
DG	Domestic Grants
FI	Cooperative Fire Protection Agreements
GN	Good Neighbor Agreements
IA	Interagency Agreements
IC	International Cooperative Agreement
IG	International Grants
IJ	International Joint Venture Agreements
JV	Joint Venture Agreements
LE	Cooperative Law Enforcement Agreements
MU	Memorandum of Understanding (MOU)
PA	Participating Agreements
RD	Cooperative Research & Development Agreements (CRADA)
RO	Cooperative Forest Road Agreements
SA	Stewardship Agreement
SU	Service Wide Memorandum of Understanding
RU	Region Wide Memorandum of Understanding

14.12 - Exhibit 02

Agreement Numeric Codes for Regions/Stations/Area Matrix

Agreement numeric codes for regions are:	
01	R1, Northern Region
02	R2, Rocky Mountain Region
03	R3, Southwestern Region
04	R4, Intermountain Region
05	R5, Pacific Southwest Region
06	R6, Pacific Northwest Region
07	Enterprise Units
08	R8, Southern Region
09	R9, Eastern Region
10	R10, Alaska Region
11	Forest Products Laboratory
12	International Institute of Tropical Forestry
13	Washington Office
15	Enterprise Program
16	Job Corps
22	Rocky Mountain Research Station
24	Northern Research Station
25	Albuquerque Service Center
26	Pacific Northwest Research Station
27	Pacific Southwest Forest and Range Experiment Station
33	Southern Research Station
42	Northeastern Area State & Private Forestry

14.12 - Exhibit 02--Continued

All Forest Service Federal Identifier Numbers have a 15-digit alpha-numeric sequence, for example: 14-IA-11132650-012.

Translating this number:

14: Represents the fiscal year of award, including the last two digits of the fiscal year, that is, 2014 is “14.”

IA: Represent the 2-character alpha code for a grant or agreement type.

11: Represents the 2-character numeric code assigned to agencies from the National Finance Center. The Forest Service is assigned “11” and all Forest Service G&A use “11.”

13: Represents the 2-character numeric code for the Forest Service region that assigned the agreement number.

26: Represents the 2-character numeric code for units (for example, a forest) based on the Forest Service’s budget organizational structure codes.

50: Represents the 2-character numeric code for sub-units (for example a district) based on the Forest Service’s budget organizational structure codes.

012: Represents the 3-character sequential number assigned by the unit preparing the instrument.

14.13 - Budget Object Code Matrix

While it is the responsibility of the Budget Approver to verify the budget object code (BOC) when approving an instrument's budget information, the budget object codes matrix will prove valuable to the G&A Specialist and Program Manager. See 14.13, Exhibit 01, Budget Object Codes (BOC) Matrix.

14.13 – Exhibit 01

Budget Object Codes (BOC) Matrix

INSTRUMENT TYPE	COOPERATOR TYPE (and project activities)	BOC# & CLASSIFICATION TITLE	
Interagency Agreements	Other federal agencies	2510	Contractual Services Performed by Other Federal Agencies
Cooperative Law Enforcement Agreements	State or local law enforcement agencies	2550	
Partnership Agreements	State agencies (all activities)	2551	
Partnership Agreements – Research	All Other Entities - Research Involved	2554	For research under Joint Venture (JV), Cost Reimbursable (CR), Cooperative Research & Development (CRADA)
Partnership Agreements	All Other Entities - No Research Involved	2559	
Federal Financial Assistance	All entities	4100	Use only if a more specific BOC cannot be utilized
	State Recipients	4110	
	Individuals	4140	
Federal Financial Assistance – Research Grants	All entities	4120	

14.2 - Negotiating Instruments

When negotiating instruments with prospective cooperators/applicants, the discussions must cover at a minimum, the appropriate statutory authority; a description of the project, including methodology and technical specifications; contributions (if a funding instrument) and the responsibilities of the parties; deliverables (if funding is involved, that is, reporting requirements); the period of performance; and monitoring (for all instruments except memorandums of understanding (MOUs)). Regardless of who initiates discussions, all elements of a project are subject to negotiation. Any party may terminate discussions at any time. See FSH 1509.11, section 73.2 for more, detailed information.

14.21 - Grants and Agreements with Funding that Exceeds 1 Year

The Forest Service may negotiate the period of performance for any authorized grant or agreement for a period of up to 5 years (in most cases). The Forest Service may partially fund the instrument based on the availability (amount and time) of funds in a continuing resolution, or on a fiscal year basis. Alternatively, the Forest Service may fund the entire amount during the first year of the agreement.

If additional funds become available in a subsequent year, then the parties may modify the existing grant or agreement, through a written modification, to add the funds. The modification typically requires an updated operating plan (except, in the case of a grant, where there is a scope of work in place that covers the entire period of performance), which details responsibilities specific to the project, and a revised financial plan, which details the financial contributions of the parties.

14.22 - Review of Risk Posed by Applicant or Cooperator

14.22a - Review of System of Award Management (SAM) Profile

For any instrument without-going funding, the G&A Specialist shall verify if the non-Federal entity is eligible to receive Federal funding by checking System of Award Management (SAM) at <https://www.sam.gov/portal/public/SAM/> or any OMB designated repository of Government-wide eligibility qualification or financial integrity information. Every non-Federal entity must be registered in SAM prior to receiving any Federal funding. If not registered, the G&A Specialist will provide the cooperator with information and website for registration. An award or agreement with out-going funding should not be executed until it is verified the non-Federal entity has an active registration in SAM. G&A Specialists shall retain a copy of the search listing in the agreement file and proceed with executing the instrument.

For all instruments, if a non-Federal entity or any principals of the award or agreement are cited on the suspension and debarment list, the G&A Specialist shall immediately inform the Program Manager, retain a copy of the search listing in the agreement file, and temporarily cease with executing the instrument. The G&A Specialist shall coordinate with the Program Manager to inform the prospective recipient/cooperator of the finding.

14.22b - Review of Risk Posed by Applicant or Cooperator

In evaluating risks posed by an applicant/cooperator, the G&A Specialist may consider the applicant's/cooperator's:

1. Financial stability; quality of management systems; and financial capability to manage Federal awards. Section 23.42 of this handbook outlines the procedure in evaluating a recipient financial and management capabilities to manage Federal awards. The following forms are available to complete the assessment:

- a. FS 1500-22, Financial Capability Questionnaire;
- b. FS 1500-22A, Financial Capability Checklist, and;
- c. FS 1500-22B, Financial Capability Checklist for State Government Agencies Only.

These forms may also be used as a general guide to assess the financial capability of a cooperator under an instrument other than Federal financial assistance.

2. History of performance. The G&A Specialist should verify with the Program Manager that the applicant/cooperator has a proven record of successful performance with Forest Service agreements, when applicable. The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities should be considered. If there is a history of poor performance, issues with timeliness of compliance with applicable reporting requirements, difficulties with conformance to the terms and conditions, and, if applicable, the extent to which any previously awarded amounts will be expended prior to future award or agreement, then consider including special terms and conditions to protect the Forest Service's interests as outlined in section 17.2 of this handbook.

3. Reports, findings, or other available audits, when available. For Federal financial assistance only, if the applicant has received prior Federal grants and is subject to Federal audit requirements, the G&A Specialist should check the audit clearinghouse at <https://harvester.census.gov/facweb/Default.aspx> to ensure that the applicant/cooperator is current on their audit, and there are no areas of concern. The Audit and Assurance Branch at the Albuquerque Service Center may provide assistance with review or interpretation of any audit information.

14.3 - Form and Components of an Instrument

The G&A Specialists shall utilize the appropriate, designated Forest Service form or template for formalizing all transactions with the cooperator. In limited cases, and where appropriate, the cooperator's form may be used (for example, a cooperator's collection agreement form).

All agreements must include the following elements, as appropriate:

1. Citation of the appropriate statutory authority(ies) for entering into the agreement, except MOUs;
2. Inclusion of a scope of work that clearly describes the proposed work/project. The proposed work must be negotiated and accepted by all parties involved. The scope of work may be in the form of an addendum or written directly into the text of the agreement. Subsequent scope of work/operating plans requires a modification to the original agreement;
3. Specification of an appropriate period of performance;
4. Inclusion of a financial plan, providing a detailed break-down, except for MOUs;
5. Citation of a Forest Service Federal Identifier Number for tracking purposes;
6. Inclusion of a statement incorporating the specific terms and conditions, such as reporting requirements, and other mandatory Forest Service provision(s), when required;
7. Assurance that the instrument, including collection agreements, does not contain a recipient/cooperator's indemnification provision;
8. Inclusion of an adequate number of signature blocks for all parties; and,
9. Inclusion of a G&A statement and signature block, as described in FSM 1580.41f.

14.4 - Steps for Executing an Instrument

Execute the agreement prior to performance of any work or incurrence of costs, except when pre-award costs are permitted.

The Forest Service should avoid the commencement of work associated with a grant or agreement prior to the proper execution of the instrument. For grants and cooperative agreements only, pre-award costs may be permitted, see FSH 1509.11, chapter 20. See Ratifications, section 15.8 of this chapter, for more information on unauthorized commitments.

Specific steps associated with executing an agreement include:

1. Drafting and negotiating an agreement award document. The Program Manager, coordinating with the G&A Specialist and the cooperator/applicant, drafts and negotiates the proper instrument type. For interagency agreements, collection agreements, and memorandum of understanding, the Forest Service may accept the cooperator/applicant's instrument provided that the Forest Service authority and the mandatory provisions, or intent thereof, are included. Recipient/cooperator provisions that deviate from Forest Service provisions should be reviewed by a G&A Specialist in accordance with FSM 1580.35, Conflicting Policies and Deviations.
2. Indemnification Language. Do not accept recipient/cooperator language that agrees to indemnify, defend, or hold harmless the recipient/cooperator, its agent, or its employees from and against any or all losses, damages, liabilities, claims, or judgments resulting from, related to, or arising from the agreement.
3. Consideration of Legal Issues. If a G&A Specialist has concerns regarding a legal issue or issues with a potential agreement, then the G&A Specialist may seek Office of General Counsel (OGC) advice, in accordance any with regional protocols.
4. Concurrence and Approval. Once all parties concur with the draft agreement, the G&A Specialist shall approve the authority and format of the agreement and assign an agreement number as a control mechanism.
5. Signature. Recipient/cooperator and Forest Service must sign and date the instrument prior to execution in NRM.
6. Obligation of Funds. Obligations for Forest Service funding and collection of incoming funds must be processed by the G&A Specialist in NRM in a timely manner, once the instrument is fully signed by the signatory officials.
7. Distribution of Agreement. Distribute the executed agreement after all necessary signatures are obtained. Maintain one copy for the official file, attach an electronic version in NRM, and distribute a copy to the recipient/cooperator.

15 - Procedures for Administering Instruments

15.1 - Official File

The Forest Service should, collect, transmit, and store instrument related information and documentation. However, the Forest Service must always provide or accept paper versions of instrument related information to and from the recipient/cooperator upon request, whenever practicable. If paper copies are submitted, the Forest Service must not require more than an

original and two copies. Grants Management Specialist (GMS) shall create an official file, which includes at a minimum:

1. All pertinent internal and external correspondence that supports negotiations, revisions and major decisions. This may include, but not limited to, pre and post award letters, e-mails, and any other informational correspondence or conversation records and transmittals.
2. Application or proposal, this may include approved or documented indirect cost rate, in-kind or matching funds worksheet and tracking forms, printout of System for Award Management (SAM) registration to validate entity type, DUNS/EUIs, or exclusions, and any assurances.
3. The executed instrument, financial plans, annual operating plans, and exhibits.
4. Modifications, financial reports (such as, SF-425), monitoring and performance reports, and other applicable documentation such as RACA transmittal forms FS-6500-205, RACA job code/shorthand code assignment form FS-6500-208.
5. Close-out documentation, including FS-6500-235 or RACA closeout notification form FS-6500-243.
6. Invoices, bills for collection, or other supporting documentation for bills, such as transaction registers or detailed expenditure reports.
7. De-obligation of funds documentation (FS-6500-235 or modification, as appropriate).
8. Equipment and property disposition, if any.
9. Audit related documents.
10. Applicable documentation such as: Economy Act Determination Letter, Acting Delegation Letter, Master Agreement, or Person Model information, and any other documentation relevant to the agreement.

Forest Service units should follow their office guidance and rules when attaching the listed applicable documentation to the NRM agreement file. Fully signed and executed awards, agreements, modifications, exhibits or attachments, and other relevant documents that facilitate an auditor's review or agency reporting must be attached in NRM. Other documentation that may be used for sharing information between staffs shall also be considered when attaching relevant documents.

Records are to be retained as set forth in FSH 6209.11, Records Management Handbook, chapter 40, which establishes records retention categories, duration of retention, and format of official records.

Forest Service units must use established procedures set forth in FSM 6230 and FSH 6209.11, Records Management, and retain official electronic records in repositories approved by the Forest Service Chief Information Officer (CIO) and the Office of Regulatory and Management Services (ORMS) for storage of Government records.

Recordkeeping functionality may be built into an electronic information system or records can be transferred to an electronic recordkeeping repository that meets Federal requirements. The following functionalities are necessary for electronic recordkeeping: ability to declare, capture, and organize records, maintain records security, manage access and retrieval, preserve, and execute disposition.

The Forest Service is implementing a certified product to manage official records in an electronic environment. The electronic records management application is being implemented as part of the Pinyon Electronic Content Management System. When utilizing the Forest Service's electronic repository, Pinyon, the folder structure shall include the following, and each agreement subfolder shall include applicable items listed in 1-10 above:

Washington Office / Region / G&A Center / Forest / or Unit

Fiscal Year

Full Agreement Number (No Spaces No Dashes)

Pre-Award

Award

Modifications (create subfolders for each modification)

MOD 1

MOD 2

Billing Invoices

Closeout

Monitoring

15.2 - Post-Award Meeting

A post-award meeting is a useful tool to communicate roles and responsibilities with a recipient/cooperator. Ideally it should be held within 30 days of execution of a new grant, cooperative agreement, or any other Forest Service funded agreement. Such meetings are especially appropriate for new recipients or recipients who have received multiple Forest Service awards. See FSH 1509.11, chapter 20 for requirements regarding post-award meetings with recipients of Federal financial assistance. The purpose of the meeting should be to discuss pertinent administrative requirements such as significant provisions, award requirements, and operating procedures specifically identified in the documents. This is an opportunity to define each party's role and responsibilities and to answer any last-minute recipient/cooperator questions prior to commencement of work. The meetings may be held on-site, by telephone, or other remote means.

15.3 - Approvals

Approvals and prior approval vary depending on the instrument type and the relationship with the recipient/cooperator. For grants and cooperative agreements see FSH 1509.11, chapter 20 of this handbook. For other instrument types, see section 43.2 of this handbook as an example for detailed information.

15.4 - Payment Procedures

Payment procedures differ depending on the instrument type. See the respective chapter of this handbook specifically pertaining to the instrument type for payment procedures.

15.5 - Project Monitoring

Monitoring is an integral part of post-award administration. The purpose of monitoring is to ensure that the recipient/cooperator meets their programmatic and financial requirements of the award. There are several types of grant/agreement monitoring functions. These could include telephone calls, desk reviews, on-site reviews, performance reports, financial and legal reviews, or other tools.

Monitoring activities are to be performed by the Program Manager named in the grant or agreement under the principal contacts provision and should be documented in NRM (see NRM, Monitoring Tab). The recipient/cooperator may also make an effort to keep the Program Manager informed of the project's progress, aside from regularly scheduled performance reporting, and should also monitor any sub-recipient/sub-cooperator within the project as well.

Program Managers should maintain an ongoing, periodic assessment of current and cumulative project activities for all of their grants, cooperative agreements, and other agreements, which includes:

1. Evaluating the degree of project progress over time related to milestones established within the instrument (for example, by site visits or desk monitoring);
2. Reviewing and ensuring financial compliance with the terms of the instrument and Federal law which, in part, includes: accruals, invoicing, payments, and de-obligation;
3. Comparing performance progress and financial documents with project data reported by the recipient/cooperator; and
4. For agreements where the Forest Service is the performing agency, Program Managers shall monitor job codes assigned to ensure the correct costs are recorded and are not in excess of authorized amounts.

The Program Manager should record in NRM and in the official file all activities performed under this section.

15.51 - On-Site Reviews

Site visits offer an opportunity for the recipient/cooperator and Program Manager to review the project in detail, particularly where the project/activity is complex. Site visits to recipient/cooperator establishments by Forest Service personnel are a good way to determine appropriate use of Forest Service funded equipment, proper allocation of facilities to the instrument, or project performance in relation to performance reports. Program Manager must attach reviews to NRM, complete NRM monitoring tab administration, and retain the documents into the official file.

15.52 - Telephone Calls/Desk Reviews

Depending upon the location of the recipient/cooperator, the instrument status and amount of funding, site visits may not be reasonable. Monitoring a project may occur through telephone calls and desk reviews. Review the documentation in the file to determine the status of the project and then make direct contact by telephone to determine the status. The frequency of contact with the recipient/cooperator is at the discretion of the Program Manager. Generally, contact may be quarterly, for an experienced recipient/cooperator performing grant activities with well-defined milestones and predictable costs. File reviews and calls may occur more frequently if performance is not making satisfactory progress or there is an indication that the recipient/cooperator is not adhering to requirements or conditions. The Program Manager must attach reviews to NRM, complete NRM monitoring tab administration, and retain the documents into the official file.

15.6 - Performance and Financial Reports

15.61 - Performance Reports

Review the instrument to determine the frequency of performance reports required. Frequency and level of detail should be based on the type or complexity of the project. At a minimum, ensure that performance reports are submitted at least annually.

Optional Project Performance Report, FS-1500-23, may be used for Federal financial assistance progress reporting, and may be used for other agreements. Alternatively, the cooperator may utilize their reporting format to fulfill the progress reporting requirement of the agreement provided the information includes:

1. Recipient/cooperator's name.
2. Federal Identifier Number.
3. Reporting period.

4. Written, narrative summary of project progress, should include, but not limited to:
 - a. A comparison of actual accomplishments to the objectives of the Federal award established for the period.
 - b. The reasons why established goals were not met, if appropriate.
 - c. Additional pertinent information including, analysis and explanation of cost overruns or high unit costs, when appropriate.

For Federal financial assistance, monitoring and reporting program performance requires that recipients provide a performance report of the project no less frequent than annually and no more frequent than quarterly. Annual reports must be due 90 calendar days after the reporting period ends; quarterly or semiannual reports must be due 30 calendar days after the reporting period ends. Further, a final performance report should be submitted within 90 days of expiration of the grant or cooperative agreement. If a justified request is submitted by a recipient, the Program Manager may extend the due date for any performance report.

In certain situations, under a partnership agreement, the performance report may be completed by the Forest Service Program Manager. For example, the Program Manager may complete the performance report under a Wyden Participating Agreement for weed control or hazardous fuel reduction. This is never allowed for Federal Financial Assistance awards. The Program Manager shall attach performance report(s) to NRM and complete monitoring tab administration in NRM.

15.61a - Incoming Funds

If the Forest Service is the performing agency, ensure all required performance reports are completed by the responsible Program Manager and sent to the requesting agency. The reports should be submitted promptly to avoid misunderstandings between the parties, potential delays in project completion and payment, or withholding of future contributions. The Program Manager shall provide original reports to the cooperator and copies to the G&A Specialist for inclusion in the official file and NRM. If Special Billing Requirements call for performance reports tied to individual billings, then the Program Manager shall provide the required report to the cooperator within a reasonable time after receiving a copy of the Bill for Collection from Albuquerque Service Center (ASC), Reimbursable and Advance Collection Agreements, (RACA).

15.61b - Outgoing Funds

The Program Manager should ensure that all required performance reports are received from the performing entity. If the recipient/cooperator fails to provide a performance report, or provides an inadequately documented report, then the Program Manager may be required to take additional action on the part of the Forest Service, such as taking steps to obtain additional

information, suspend the instrument, or withhold payments until the required reports are obtained. A copy of the recipient/cooperator's report(s) must be filed in the official file and NRM.

A review of a performance report may reveal serious delays in performance or other problems that may require action on the part of Forest Service personnel, such as obtaining additional information, withholding payments, or suspending the agreement.

15.62 - Financial Reports

Standard Form SF-425 must be used for Federal financial assistance financial reporting and may be used for partnership agreements. Alternatively, any financial reporting form may be used for partnership agreement reporting, but the format must include, at a minimum:

1. Recipient/cooperator's name.
2. Federal Identifier Number.
3. Employer Identification Number (EIN).
4. Funding period (that is, duration/dates of agreement).
5. Financial reporting period (for example monthly, quarterly, and so forth).
6. History of the financial transaction payments (which, at a minimum, includes: the previously reported period, the current reporting period, and a cumulative total).
7. History on recipient/cooperator's contributing share (which, at a minimum, includes: the previously reported period, the current reporting period, and a cumulative total).
8. Amount of Unliquidated Obligation, if any.

The submission of an interim SF-425 must be on a quarterly, semi-annual, or annual basis, as directed by the Forest Service. A final SF-425 must be submitted at the completion of the award. The following reporting period end dates will be used for interim reports: 3/31, 6/30, 9/30, or 12/31. For final SF-425s, the reporting period end date must be the end date of the project or grant period.

Quarterly and semi-annual interim reports must be submitted no later than 30 days after the end of each reporting period. Annual reports must be submitted no later than 90 days after the end of each reporting period. Final reports will be submitted no later than 90 days after the project or grant period end date.

There may be unusual circumstances where more frequent than quarterly reporting is deemed necessary. For example, projects or activities may necessitate more frequent reporting for the effective monitoring of the award or could significantly affect program outcomes. Any

additional reporting should be in coordination with performance reporting and should be implemented sparingly. The Program Manager shall attach report(s) to NRM and complete monitoring tab administration in NRM.

15.7 - Forest Service Initiated Audits and Financial Reviews

15.71 - Forest Service Initiated Audits

Forest Service initiated audits may be performed whenever, although not mandatory:

1. It is suspected that unallowable or inappropriate costs are being billed, such as equipment purchases which were not approved under the agreement financial plan;
2. There is reason to believe or suspect that the recipient/cooperator has not contributed their match as agreed; or
3. Any other questionable circumstances that arise justifying an audit. Encourage annual audits where numerous and/or continuous agreements are executed with the same recipient/cooperator. When annual audits are performed either by Forest Service or outside audit groups, all Forest Service agreements executed with the recipient/cooperator for the period being reviewed should be audited, regardless of which Forest Service unit(s) issued the agreement.

15.72 - Forest Service Initiated Financial Reviews

The Forest Service or the cognizant agency (see number 3 below) may review the financial records of a cooperator/recipient. Documentation of the review should be placed in the official file and attached to NRM.

1. Reimbursement requests are a good monitoring tool and constitute the most basic level of financial review. Since expenditures generally reflect activities performed during the term of a grant or agreement, they serve as a good milestone for determining accomplishment and accountability. If financial problems related to the instrument are identified, then technical assistance from the G&A Specialist or other technical specialists at the Albuquerque Service Center should be sought. Program Managers may also reject payment requests and/or identify the recipient/cooperator for a future on-site review.
2. If the Program Manager or G&A Specialist have concerns, or as part of their regular program of work, the Albuquerque Service Center, Audit & Assurance Branch (A&A) of the Forest Services will perform financial review of recipients or cooperators. These are not considered audits, but rather a service-visit to ensure that the recipient/cooperator has the financial management capability to accept, manage and expend Federal funds.

3. The Single Audit Act created in 1984 and amended in 1996 (31 U.S.C. 75), established uniform guidelines for State and local governments receiving Federal financial assistance. OMB Circular A-133, Audits of States, Local Governments, and non-Profit Organizations, provides additional guidelines on Single Audit Act requirements. This Act requires each non-Federal entity that expends a total amount of Federal awards equal to or exceeding \$750,000 in a fiscal year, to undergo an audit for that fiscal year. This audit is an examination of the entity's financial statements and Federal awards by public accountants or Federal, State, or local government audit organizations, and the results are made available to government Program Managers. OMB appoints a cognizant Federal agency for each entity for the purpose of monitoring its Single Audit compliance and communication with other Federal agencies regarding the financial status of the entity. See section 14.22b (3) of this handbook.

Single audits may contain findings that relate to a Forest Service award. In such cases, it is the responsibility of the Forest Service to work with the recipient to resolve findings and to document the resolution in writing. Albuquerque Service Center's Audit & Assurance Branch will forward any Single Audits containing Forest Service specific findings to the applicable G&A Specialist and Program Manager for action. A copy of the written resolution should be scanned into NRM for auditor inspection during the annual financial and compliance audits.

15.8 - Modifications to Instruments

Except for provisions necessary for legal compliance, all elements of an instrument are subject to negotiation and modification. Negotiate, resolve, and document differences in cost and/or proposed work in writing. Any party may terminate discussions at any time. None of the parties should perform work outside the scope of the existing instrument or in excess of the funding prior to the execution of a modification.

1. Mutual Consent. Grants and agreements may be modified in writing at any time with the mutual consent of the parties prior to the performance of any revised or new work. However, agreements may not be modified if the basic agreement is a detriment to the Forest Service, that is, by decreasing the amount of work without a corresponding decrease in Forest Service funding.

2. Change in Contacts. A modification must be initiated when a program or principal contact changes during the course of the agreement to ensure proper administration of the agreement, including payment of invoices and close-out activities.

3. Timing and Scope. Such modifications must be entered into prior to performance of any new work or change in project methodology. G&A Specialists shall ensure that the proposed activities fall within the scope of activities described in the original agreement. If the activities are outside the scope of work of the original agreement, and the proposal otherwise qualifies as a grant or agreement, then the additional activities

should not be added through modification, but rather require a new instrument should be created to carry out the new activities.

4. FSH 1509.11, chapter 70, Partnership Agreements. If the Forest Service increases the percentage of its contribution (and, therefore, a decrease in the percentage of contribution by the cooperator), then a determination must be made that the forecasted benefits to the project from the modification are commensurate with the level of effort or funding provided by the Forest Service. In no case shall the cooperator provide an aggregate contribution that, as a percentage of the total project contribution, is less than the matching percentage required by FSH 1509.11, chapter 70 of this handbook. Support any increase or decrease in funding by making changes in the scope of work that falls within the operating plan of the basic agreement.

5. For all outgoing funds. When the Forest Service increases funds through a modification, then the funds must be from appropriations current at the time of the modification. G&A Specialists and Program Managers will review cost elements on the SF 424a or Financial Plan, depending on the instrument type, to ensure that the cost elements are allowable, allocable, and reasonable. The cost elements may be reviewed against the cost principles, as applicable to Federal financial assistance only, and to historical contract prices, local Department of Labor wage rate determinations, Government rates for similar work (may be obtained from personnel in procurement, fiscal, or personnel), and other resources as deemed relevant and necessary to determine cost reasonableness.

6. For all incoming funds. The Forest Service must provide a detailed cost breakdown for total project costs by separate cost elements.

For additional grant and cooperative agreement modification details, see FSH 1509.11, chapter 20 of this handbook.

15.81 - Form and Components of a Modification

For formalizing any grant or agreement modification, utilize the agreement modification form FS-1500-19. All modifications must include the following:

1. Revised scope of work that clearly defines the new and/or changed work, as applicable. The proposed work must be negotiated and accepted by all parties involved and within the scope of the original agreement;
2. Revised period of performance, when applicable;
3. Revised financial plan, providing a detailed break-down of the additional work covered under the modified scope of work, consistent with the original agreement, when applicable;

4. The agreement number with the appropriate modification number;
5. A statement incorporating the terms and conditions of the original agreement and the total amount of funds obligated or deobligated under the modification, if necessary;
6. The following statement should be included in the Modification: "Except as set forth above, all other terms and conditions of the agreement must remain the same, unchanged and in full force and effect." This statement is included on the FS-1500-19 and does not need to be repeated on the form. If using a cooperator's form, it should be included.
7. An adequate number of signature blocks for all parties. Authorized representatives from all parties to the original agreement shall sign the modification; and
8. A G&A statement and signature block, as described in FSM 1580.41f, Grants & Agreements Specialists.

15.82 - Steps for Finalizing Modifications

When the modification is in final form, the following steps must be taken:

1. Consider Legal Issues. If a G&A Specialist has concerns regarding a legal issue(s) with a contemplated agreement, then the G&A Specialist may seek Office of General Counsel (OGC) advice, in accordance with regional protocols, if any;
2. G&A Review and Clearance. All modifications must have a G&A Specialist review and signature. If the instrument meets Federal requirements and Forest Service directives, then the G&A Specialist shall verify that the agreement number and the sequential modification number is indicated on the document and sign the signature block with the statement indicating that the document has been reviewed;
3. Cooperator Execution. Obtain other party signatures on the agreement;
4. Note Reach of Agreement. Review the signed document when returned to identify whether or not agreement has been reached between the parties. If any party made changes, then perform a proper analysis to ensure the proposed changes are enforceable and acceptable to the Forest Service. If not enforceable or acceptable, then the action may require additional negotiation;
5. Forest Service Execution. Recipient/cooperator and Forest Service must sign and date the modification document prior to execution in NRM.
6. Distribution of Modifications. Distribute the executed modification after all necessary signatures are obtained; and,

7. Execute in NRM. Ensure that one copy of the modification is placed in the official file, attach an electronic version in NRM attachments, and execute the modification in NRM. Execution in NRM by the G&A Specialist initiates the obligation of Forest Service funds. If collecting funds from the cooperator, the G&A Specialist coordinates with Albuquerque Service Center (ASC), Reimbursable and Advance Collection Agreements (RACA).

15.9 - Ratifications

With the exception of interagency agreements, collection agreements, Federal financial assistance, and memorandum of understanding, ratifications must be used when appropriate to correct an improper action.

The Forest Service may not pay a cooperator until the unauthorized commitment is ratified. Circumstances requiring ratification actions are discouraged, and appropriate corrective action should be taken, which may be based on a finding of a violation of USDA's employee conduct regulations at Title 5, Code of Federal Regulations, Part 2635-Standards of Ethical Conduct for Employees of the Executive Branch.

15.91 - Ratification Scenarios

Typically, ratification scenarios form under the following circumstance:

1. Agency personnel, who, without authority, enter into a commitment for supplies/services (or partnership) placing themselves in position to represent the Agency as if they had actual agency signatory official authority; and
2. The cooperator believes and relies on the belief that:
 - a. The Agency personnel has the authority to enter into an agreement, and
 - b. Both parties have entered into an agreement; and
3. The cooperator performs and expects to be reimbursed funds that they expended on the project.

However, for prescription fire activities and exigent circumstances, where an agreement was not executed and funds were not obligated prior to commencing work, a ratification may not be necessary if an approved agreement is executed and funds obligated in NRM within 30-calendar days of the start of work. Anytime thereafter, the ratification process must be followed.

15.92 - Ratification Requirements

In order to ratify, the following circumstances must exist:

1. No appropriate, executed Forest Service agreement, as prescribed in this section, has been executed. In that event, the obligation must be ratified by a signatory official one level higher than where the obligation would have been approved. For example, if the Forest Supervisor had signatory authority for what would have been the original obligation, then the next higher level is the Regional Forester.
2. The signatory official may have executed an instrument when the obligation was created and currently has that authority.
3. The resulting arrangement would otherwise be proper. The action to be ratified must meet the statutory and policy requirements of this section, including mutual interest and same qualitative benefits, when applicable to FSH 1509.11, chapter 70, Partnership Agreements.
4. The signatory official determines that the benefits derived by the Forest Service are acceptable and the contributions are fair and reasonable.
5. Funds are available and were available at the time the obligation was initially created. The Program Manager shall consult with the local Budget Specialist and/or the ASC-Budget staff.

15.93 - Ratification Process

Once a ratification situation is identified, the G&A Specialist shall provide the Program Manager with advice and guidance on the ratification process. The steps within this process are as follows:

1. The Program Manager, or other party, shall provide a written statement of facts and provide all relevant documents. The written statement of facts must contain, at a minimum, the following:
 - a. Name, title, office location, and telephone number of employees who made the unauthorized commitment;
 - b. Description of commitment including name of the cooperator and total dollar value of commitment;
 - c. Narrative description explaining what occurred, why the unauthorized commitment was made, and when it occurred; and

- d. Whether the funds were available for work at the time of the unauthorized commitment.
2. The Program Manager, or other party, who created the unauthorized commitment, shall provide the signatory official with the written statement of facts and all relevant documents;
3. The signatory official makes a written determination supporting or refuting the ratification request;
4. The signatory official then forwards the determination to the next level of authority for ratification, that is, the ratifying official;
5. The ratifying official shall coordinate with a G&A Specialist, who shall review the statement of facts and relevant documentation, and shall coordinate with the ratifying official, assisting with a determination of whether or not a procurement is better suited;
6. The ratifying official, after consultation with the G&A Specialist, shall make a written determination supporting or refuting the ratification;
7. If the ratifying official approves the ratification, the G&A Specialist shall either inform procurement of the decision to use a contract or prepare an agreement or modification in coordination with the Program Manager. The G&A Specialist shall ensure that the instrument contains the following statement: "This agreement ratifies a previously unauthorized commitment for performance of the project described below and the financial plan incorporated herein." If the ratifying official does not approve the ratification, either the cooperator may not be reimbursed for work performed or the Program Manager may be held financially liable.
8. The ratifying official (or signatory official, who has a written delegation of authority for the ratification) executes the appropriate agreement; and
9. The G&A Specialist retains all ratification related documents in the official file and provides copies to the signatory official and Program Manager.

16 - Procedures for De-obligation and/or Close-out of Instruments

16.1 - Collection Agreements

The close-out of a collection agreement begins when all required work, reporting, and billing is complete. The financial close-out process begins 60 days after the expiration date of the collection agreement. The process may begin earlier if the Program Manager notifies Albuquerque Service Center (ASC), Reimbursable and Advance Collection Agreements (RACA), that all work under the agreement is completed.

16.11 - Reporting Requirements

The Program Manager shall ensure that any required financial and performance reports are completed, signed, and sent to the cooperator. The Program Manager shall provide a copy of each report to the G&A Specialist for the official file.

16.12 - Refund/De-obligation of Funds

After the Program Manager has ensured that all costs are accurately captured, a closeout request will be submitted via NRM and include a FS-6500-243 form. Albuquerque Service Center (ASC) Reimbursable and Advance Collection Agreements (RACA) will verify all financial conditions are met and will closeout a Close-out Notification via FS-6500-243 form. Upon verification of financial closeout, the Program Manager or G&A Specialist may provide the cooperator with written notification that they either may be receiving a refund (from advance deposits) or may de-obligate any excess funds (reimbursement).

16.13 - Close-out

All reimbursable and advance collection agreements must follow the financial close-out procedures in the ASC, RACA, and Field Instructions. These procedures are found at: <http://fsweb.asc.fs.fed.us/bfm/programs/financial-operations/reimbursables/>. The Program Manager is responsible for initiating this process, and may request assistance from G&A.

Once all reporting and financial closeout is complete, the G&A Specialist will close out the official file and the NRM record.

16.2 - Agreements Using Health and Human Services Payment Management System (PMS) - NA and NRS only

Forest Service funded instruments that process payments using Health and Human Services, Payment Management System (HHS, PMS) must follow the described process when the Forest Service determines that all applicable administrative actions and all required work are complete.

16.21 - Reporting Requirements

The Program Manager shall ensure that all required financial and performance reports are received from the recipient/cooperator and meet the agreed upon requirements. The Program Manager shall provide a copy of each report to the G&A Specialist for the official file, attach the report in NRM attachments, and complete NRM monitoring tab administration.

16.22 - De-obligation of Funds

Complete the Albuquerque Service Center, Grants & Agreements, HHS transmittal form and send via email to ASC_GA_HHS@fs.fed.us. In addition, the transmittal form and supporting

documentation, including the final SF-425 must be scanned and attached to the record in NRM; otherwise, ASC may not complete the de-obligation request.

De-obligation may take place, without close-out, when the recipient/cooperator is continuing their work under the agreement, but they do not need all the funds that were awarded.

16.23 - Close-out

Once the funds are confirmed as being de-obligated in NRM, close-out the award in NRM following NRM procedures. Attach the final reports, the close-out letter, if any, and the final SF-425 to NRM. A transmittal is not required for ASC G&A HHS staff.

The ASC, G&A HHS staff captures all HHS, PMS transactions/documents in NRM to support the file.

16.3 - All Other Forest Service Funded Instruments

16.31 - Financial and Project Progress Reports

Program Managers shall ensure final financial and project reports, as applicable, are received and reviewed prior to initiating close-out procedures for instruments that establish financial obligations. The Program Manager is responsible for accepting and approving the final close-out documentation.

Financial and project progress reporting requirements for grants and agreements under Federal Financial Assistance are determined by OMB Circulars and by the specific terms and conditions found in either the grant or cooperative agreement. Program Managers shall ensure that reports are kept in the official file and properly recorded under the NRM monitoring tab and attached to NRM attachments.

Any financial and project progress reporting requirements for other agreements must follow the content and timing requirements identified in the agreement provisions.

16.32 - De-obligation of Funds and Close-out

1. Initiating De-obligation Only, De-obligation and Close-out or Close-out Only, and Bill for Collection.

- a. De-obligation Only. Complete form FS-1500-19, Modification, and submit to their G&A Specialist for review. Program Managers should include supporting substantive documentation, if applicable. De-obligation only must be in concurrence with the cooperator. A revised budget or scope of work may be attached to reflect the change in program activity.

b. De-obligation and Closeout or Close-out Only. Complete FS-6500-235, De-Obligation and Close-out Request Form, and attach the supporting substantive documentation, if applicable.

Note: A master agreement cannot be closed prior to the close-out of all related supplemental project agreements, which may require an NRM review to determine whether the last supplemental project agreement is closed. Next, the Program Manager shall forward the FS-6500-235 form (and substantial documentation, if any) to their G&A Specialist for review.

c. Bill for Collection. If the Forest Service advanced payments and excess funds remain on the agreement, then the recipient/cooperator shall refund any excess funding to the Forest Service, prior to closeout.

If reimbursement to the recipient/cooperator from the Forest Service exceed the amount that the recipient/cooperator was due (that is, overpayment), then prompt action must be taken to recover such overpayments.

The G&A Specialist will use the Expenditure Refunds function located under NRM Payments Tab and contact ASC to develop the bill. The payment must be received by the Forest Service within 30 days. Interest may be assessed in accordance with Title 7, Code of Federal Regulations, section 3019.73, on any payment due the Forest Service that is not made by the due date.

2. Review of De-obligation and Close-out, or Close-out Only Documentation.

a. The G&A Specialist shall review for sufficiency all de-obligation and closeout related transactions, including the FS-6500-235, De-Obligation and Close-out Request Form and ensure any required supporting substantive documentation is attached. After review and approval, the G&A Specialist shall assign an agreement modification number if the document is for de-obligation and closeout. If the FS-6500-235 is for closeout only, no modification number is necessary. All documentation must be scanned and attached to the NRM record.

3. Signatures and Release of Liability.

a. The FS-1500-19, Modification Form. Bilateral signatures are required for a modification to de-obligate funds. The dual signatures signify that all parties are in agreement with the reduction in funding.

b. The FS-6500-235, De-Obligation and Close-out Request Form. The signatory official, and cooperator representative, shall sign FS-6500-235, whenever substantial documentation is not provided with the form. By signing the form, the recipient/cooperator releases the Forest Service from any and all liabilities.

If substantive documentation is attached, only the Forest Service Program Manager and G&A Specialist must sign the form.

For interagency agreements, if substantive documentation is not attached the cooperator representative with knowledge of the financial activities of the organization must sign the FS-6500-235 acknowledging closeout of the agreement. The Forest Service signatory official is not required to sign, as the cooperator acknowledgement would be considered substantive documentation.

4. Restoration of Funds.

If funds associated with a given agreement are de-obligated improperly or prematurely, then the G&A Specialist and Program Manager shall work with ASC Budget Execution to restore the funding, and, if necessary, re-open the agreement.

16.34 - Examples of Acceptable, Substantive, De-obligation Documentation

Examples include:

1. For interagency agreements only, substantive documentation must include a signed statement or email from the cooperator's responsible fiscal representative that shows the aggregate amount invoiced, through the applicable Federal billing system, the amount of the total Forest Service obligation (including all modifications), any outstanding unliquidated obligations (ULO) amount, if available, and a statement that the final invoice has been paid through the applicable Federal billing system. Additionally, the documentation must state that all work has been performed.
2. Correspondence letter that documents final invoice submission and/or final payment has been made.
3. The receipt of an invoice and or final financial report marked "final".
4. Billing history from recipient/cooperator to confirm remaining obligation and payments made agree with data shown in NRM.

16.35 - Examples of Acceptable, Substantive, Close-out Documentation

Examples include:

1. For interagency agreements only, substantive documentation must include a signed statement or email from the cooperator's responsible fiscal representative that shows the aggregate amount invoiced, through the applicable Federal billing system, the amount of the total Forest Service obligation (including all modifications), any outstanding ULO amount, if available, and a statement that the final invoice has been sent to the Forest Service (if applicable) and final payment has been received through the applicable Federal billing system. Additionally, the documentation must state that all work has been performed.

2. Correspondence letter that documents final invoice submission and/or final payment has been made.
3. The receipt of an invoice, financial, and/or project progress report marked final.

16.4 - Managing Unliquidated Obligations

Program Managers shall validate unliquidated obligations (ULO) as directed in FSH 6509.11k, chapter 50. The designated Forest Service Program Manager shall monitor the agreement financial activities to ensure the accuracy of the ULO. In order to validate a ULO, the Program Manager shall follow procedures set out in FSH 6509.11k, section 52.6.

16.5 - Official File-Closed

The G&A Specialist reviews the official file, which includes all documents related to the agreement, to ensure that it is complete. They will further ensure that the file contains all pre- and post-award correspondence, if any, the executed document, modifications, performance and financial reports, and close-out documentation. The official file will be marked for retention, and the associated record closed in NRM.

17 - Remedies for Noncompliance

17.1 - Performance Issues

The G&A Specialist and Program Manager have responsibility for protecting the Forest Service's interest in projects funded by the Agency as well as projects receiving no agency funding (for example, MOUs). Similarly, the Program Manager has responsibility for encouraging a non-Federal entity's high performance and ensuring that the non-Federal entity achieves successful outcomes.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of the award or agreement, the Forest Service may impose additional conditions, as described in section 17.2 of this handbook. Any special conditions imposed must be promptly removed once the conditions that prompted them have been corrected.

If the Forest Service identifies that the noncompliance cannot be remedied by imposing additional conditions, the Program Manager, with assistance from the G&A Specialist, may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

3. Wholly or partly suspend or terminate the Federal award.
4. Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
5. Withhold future Federal awards to the non-Federal entity.
6. Take other remedies that may be legally available.

17.2 - Imposing Specific Additional Conditions

Based on the review of risk posed by the non-Federal entity, or when an applicant or cooperator has a history of failure to comply with the general or specific terms and conditions of an award or agreement, or failure to meet expected performance goals as described in grant or agreement or information contained in an agreement, or is not otherwise responsible, the Program Manager with assistance by the G&A Specialist may impose additional specific conditions as the authority allows and is needed under the procedure specified in this section. These additional conditions may include items such as the following:

1. Requiring payments as reimbursements rather than advance payments;
2. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
3. Requiring additional, more detailed financial reports;
4. Requiring additional project monitoring;
5. Requiring the recipient or cooperator to obtain technical or management assistance;
or
6. Establishing additional prior approvals.

The Program Manager or G&A Specialist must notify the applicant as to:

- a. The nature of the additional requirements;
- b. The reason why the additional requirements are being imposed;
- c. The nature of the action needed to remove the additional requirement, if applicable;
- e. The time allowed for completing the actions if applicable, and

- f. The method for requesting reconsideration of the additional requirements imposed.

Any special conditions imposed on recipient/cooperator must be promptly removed once the conditions that prompted them have been corrected.

17.3 - Terminate Grant or Agreement

An agreement may be terminated, in whole or part, as follows:

1. By the Forest Service, if the recipient/cooperator fails to comply with the terms and conditions of the grant or agreement. Procedures outline in section 17.2 of this chapter must be considered prior to proceeding with this action;
2. By the Forest Service with the consent of the recipient/cooperator, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

In the case of a partial termination, if the Forest Service determines that the remaining portion of the award or agreement will not accomplish the purposes for which the award or agreement was made, the Forest Service may terminate the award in its entirety.

An example of when this might be necessary is in the case of a severe fire season, and the need to partially or fully terminate open grants or agreements to release funding for fire payments.

3. By the recipient/cooperator upon sending the Forest Service 30-day written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. If the Forest Service determines in the case of partial termination that the reduced or modified portion of the award or agreement will not accomplish the purposes for which the Federal award was made, the award or agreement may be terminated in its entirety.

When an award or agreement is terminated or partially terminated, both the Forest Service and the recipient/cooperator remains responsible for compliance with the requirements in regard to close-out procedures and post- closeout adjustments and continuing responsibilities.

17.31 - Notice of Termination

1. When the Forest Service terminates, the Forest Service must give the recipient/cooperator written notification with an effective date and define the deficiencies, if applicable.

If the award or agreement is terminated because the recipient/cooperator fails to comply with the terms and conditions of the agreement, then the recipient/cooperator shall be given a reasonable amount of time, for example, 30-60 days, to appeal the termination.

If no response is submitted by the recipient within the timeframe established in the notification, then termination may be initiated.

2. Federal Financial Assistance only:

a. If the grant or cooperative agreement is terminated for the recipient's failure to comply with the Federal statutes, regulations, or terms and conditions of the award, the notification must state that the termination decision may be considered in evaluating future applications received from the non-Federal entity.

b. Upon termination of a grant or cooperative agreement, the recipient shall not incur any new obligations after the effective date, and shall cancel as many outstanding obligations as possible, refunding any excess funds to the Forest Service. If payments were made on a cost-reimbursement basis, then the Forest Service should de-obligate the excess funds. The Forest Service may allow full credit to the recipient for their share of the obligations that cannot be cancelled and that were properly incurred prior to termination.

17.32 - Opportunities to Contest Notice of Termination due to Deficiencies or Cause

When the Forest Service terminates and provides the recipient/cooperator written notification of the termination with an effective date and defining the deficiencies, the Forest Service must provide the recipient/cooperator an opportunity to contest the termination decision and provide information and documentation challenging the termination action outlined in the notice of termination. If the recipient/cooperator objects to the notice of termination, the Program Manager shall inform the G&A Specialist who shall form a panel to evaluate the recipient's/cooperator's objections.

The panel shall consist of the G&A Specialist, Program Manager, and the G&A Specialist's Supervisor, the G&A lead or S&PF Director. Other panel members may include but not limited to: Office of the General Counsel, Washington Office AQM, and regional AQM staff. Based upon the information collected, the panel shall decide one of the following:

a. Termination is unwarranted and special provisions will be imposed in accordance section 17.2 of this handbook.

b. Termination is warranted and the grant/agreement be terminated and closed out. When applicable, the panel should also make a determination whether or not debarment and suspension procedures as outlined in section 18 of this handbook are warranted.

17.33 - Effects of Termination

Costs to the non-Federal entity resulting from obligations incurred after termination of a grant or agreement are not allowable unless the Forest Service expressly authorizes them in the notice of termination. However, costs after termination may be allowable if, the costs result from obligations which were properly incurred by the non-Federal entity before the effective date of the termination.

17.4 - Questioned and Disallowed Costs

17.41 - Identifying unallowable/questioned costs

Funds identified as expended on potentially unallowable costs are known as questioned costs. Questioned costs can be identified in a variety of ways. Methods by which questioned costs may be identified include but are not limited to:

1. Cooperators may have an internal review or audit and self-identify questioned costs.
2. Forest Service Program Manager review of invoices or reports may detect questioned costs.
3. A formal review or audit may bring to light questioned costs.
4. A whistleblower or third-party report may identify questioned costs.

Financial and programmatic reviews are typically the most common means by which questioned, and potentially disallowed costs are identified.

17.42 - Resolution of Questionable or Disallowed Costs

Once a questioned cost is confirmed as an unallowable expense, the cost must be disallowed and resolution obtained. Dependent upon how an unallowable cost is identified, the steps towards resolution may vary. For example, should a recipient or cooperator self-identify unallowable costs, they may rectify either through accounting adjustment, journal entries, or other standard accounting practice. If the identified amount exceeds the financial system capability, an adjusted invoice may need to be prepared and submitted to the Forest Service.

If costs are disallowed by the Forest Service (or by the Forest Service via a third party other than the cooperator) specific steps must be taken to notify the cooperator of the disallowed costs and need for resolution. The steps outlined in the following sections ensure maximum program flexibility to reach resolution at the lowest level. Resolution of disallowed costs may vary case by case, depending on the depth, breath and scope of the disallowed costs.

17.43 - Notice of Questioned Costs

If the Forest Service identifies questioned costs charged to a Federal grant or agreement, the Forest Service must issue a Notice of Questioned Costs in writing. Written notification must include:

1. Effective date;
2. Description of the questioned cost(s) (or description of how the recipient/cooperator has otherwise failed to discharge its obligation to account for Federal funds as applicable); and
3. Statement of right to appeal.

Depending upon how the questioned costs are identified, the written mechanism for notification may vary. For example, if a questioned cost is identified by a Program Manager, via review of an invoice, programmatic report or financial report, the Program Manager may choose to notify the cooperator via email. If questioned costs are identified via an on-site or desk review, the Forest Service may notify the cooperator via issuance of a findings report. As such, examples of written notification may include the following:

1. Email or Letter;
2. Findings Report; or
3. Bill of Collection.

17.43a - Issuing an Email or Letter

Depending on the nature of the disallowed costs, how the disallowed costs were identified and the relationship with the cooperator/recipient, it may be appropriate to issue a notice of disallowed costs and final determination via email or letter.

For example, if questioned costs were detected by a Program Manager via an invoice review, and never approved for payment, the Program Manager may choose to communicate via email the costs as disallowed and not approved for payment. If the cooperator/recipient disagrees and no other resolution is obtained, they must be notified of their right to appeal as outlined in section 17.45.

17.43b - Issuing a Report

At times, the identification of questioned costs and subsequent determination of disallowed costs may be issued via findings report resulting from a site review, desk audit or similar circumstance. The findings report may serve as a Notice of Questioned Costs as long as the required elements noted in section 17.43 are included.

17.43c - Issuing a Bill of Collection

In some circumstances, it is possible the Notification of Questioned Costs is provided to the recipient/cooperator via a Bill of Collection. The information required in the Notice of Questioned Costs, noted in section 17.43, remains applicable if no previous Notification of Questioned Costs issuance occurred for the specified costs.

17.44 - Resolution of Disallowed Costs

When costs are deemed disallowed, resolution is required. There are a variety of mechanisms available to assist with the recovery of funds associated with disallowed costs. Such mechanism may be used as a stand-alone or in combination and are best determined on a case by case basis.

Note: The Grants Management Specialist and Program Manager should work together with the recipient/cooperator to rectify disallowed costs commensurate with the manner in which they were identified, whenever possible.

For more complex issues, the Grants Management Specialist and Program Manager may request an informal or formal consultation from the Washington Office, Grants and Agreements Policy and/or the Financial Compliance Oversight Branch (FCOB) (within the Audit and Assurance Directorate under the CFO) for informal consultation. When there is suspected or identified instances of fraud, waste, or abuse, the Grants Management Specialist and Program Manager must notify the respective Branch Chiefs for G&A and FCOB.

17.44a - Substitution of Costs

Substitution of costs refers to the method of replacing disallowed costs initially charged to the grant/agreement with costs not previously charged to the award in question (or any other Federal award), supports the mission, and is otherwise considered allowable. Typically, substitution of costs occurs at the recipient level and is accomplished through an internal accounting adjustment. Evidence of the adjustment must be provided to the Forest Service to document the resolution of disallowed costs.

17.44b - Offset or Withholding of Costs

Recovering payments for disallowed costs may be accomplished through an administrative offset against an existing award or other requests for reimbursements and/or payments due to the recipient. In addition, withholding advance payments otherwise due to the non-Federal entity or other actions permitted by Federal Statute may be used.

17.44c - Bill of Collection

Payments made to a recipient/cooperator for disallowed costs, either as direct or indirect costs, not otherwise resolved by means outlined above must be refunded (including interest) to the

Forest Service. The refund must be in accordance with the Notice of Questioned Cost issued to the cooperator/recipient detailing the specified disallowed costs. Instructions on how to issue a bill of collection is located in FSH 6509.14.

17.44d - Combination Method for Rectifying Disallowed Costs

As noted above, more than one method for recovering costs may be appropriate and should be determined on a case by case basis.

17.45 - Opportunities to Appeal Notice of Disallowed Cost or Bill for Collection

The cooperator/recipient has the right to contest the Notice of Disallowed Costs and Final Determination. If the cooperator/recipient wishes to appeal the determination, they shall submit their appeal in writing to the Program Manager of record within 30 days of the date of the Notice. Their written appeal must include the following:

1. Itemization of each disallowed cost and corresponding justification statement explaining why the costs should be considered allowable. Note: it is best to provide a justification item by item, rather than a single summary justification, if objecting to more than one disallowed cost;
2. Authorized signature; and
3. Contact information.

The Program Manager shall inform the Grants Management Specialist of record, the G&A Branch Chief, as well as the appropriate Program/Deputy Area leadership of the cooperator/recipient's intent to appeal. At that time, Washington Office, G&A shall convene a panel to evaluate the appeal. The appeals board must issue their final determination within 30 calendar days of receipt of the appeal letter and receipt of additional follow-up information if requested. Note: the 30 calendar days begins once all final information is received from the recipient/cooperator.

The appeals panel should consist of, at a minimum: Program/Deputy Area Director; G&A Branch Chief, G&A Assistant Director, or AQM Director; Supervisor of the Grants Management Specialist of Record; Supervisor of the Program Manager of Record; and Appropriate Subject Matter Experts (SMEs) such as G&A Policy Specialist.

The panel may also include, as needed: Office of the General Counsel (OGC) representation and/or other Regional/National representation as needed. In some instances, representation from the Audit and Assurance Directorate, such as the FCOB or other program area may be requested to provide subject matter expertise, but not serve as a decision-making member of the panel.

Based upon the information collected, the panel shall decide one of the following:

- a. Disallowed cost determination is overturned (not in violation of this handbook, associated OMB cost principle(s), and/or associated laws as applicable).
- b. Disallowed costs determination is maintained.
- c. Portion of the costs remain disallowed; portion of the costs are deemed allowable.

When appropriate, the panel may need to make a determination whether or not debarment and suspension procedures as outlined in Section 18 of this handbook are warranted.

After the Forest Service panel has made their determination, the AQM Director shall issue a formal final determination via letter to the appropriate cooperator/recipient and cc the appeals panel and other appropriate program and G&A contacts as necessary.

18 - Debarment and Suspension

18.1 - Responsibilities

The Deputy Chief, National Forest System and the Associate Deputy Chief, National Forest System have been designated by the Chief, Forest Service as the debarring or suspending official, and as such, may debar pursuant to 7 CFR 3017.800 or suspend pursuant to 7 CFR 3017.700. The G&A Specialist shall coordinate referral of cases for possible debarment or suspension to the debarring and/or suspending official with the Washington Office, G&A policy analyst, consistent with stated policies and procedures, upon being made aware of information concerning the existence of a cause for debarment or suspension listed at 7 CFR §§3017.800 and 3017.700, and the party has been, is, or may reasonably be expected to be a participant in a covered transaction (7 CFR 3017.110).

Forest Service suspensions and debarments under 7 CFR 3017 apply only to grants, cooperative agreements, and other FSM 1580 agreements. Recipients or cooperators who have been suspended, debarred, proposed for debarment under 48 CFR 9.4, declared ineligible, or voluntarily excluded may continue to operate any existing project(s) they have under a grant or agreement unless the G&A Specialist determines the existing grant or agreement should be terminated (7 CFR §3017.415(a)). Existing grants or agreements may only be extended pursuant to the terms of a modified grant or agreement (7 CFR §3017.415(b)).

The G&A Specialist and Program Manager have responsibility for protecting the Forest Service's interest in projects funded or non-funded by the Agency. Similarly, the Program Manager has responsibility for encouraging grantee high performance and ensuring that grantees achieve successful outcomes.

Authorities Governing Suspension and Debarment:

1. Executive Order 12549. States Executive departments and agencies shall participate in a Government-wide system for non-procurement debarment and suspension. Debarments and suspensions are serious administrative actions taken to assure that the Government only conducts business with responsible persons.
2. Title 2, Code of Federal Regulations, section 417. This regulation contains the Common Rules for U.S. Department of Agriculture's (USDA) Government-wide based system covering non-procurement activities. These regulations are used to suspend and/or debar individuals, organizations, or other entities, including awardees and cooperators. This debarment and suspension system covers all Federal financial assistance awards and other FSM 1580 agreements with persons as defined in 2 CFR 417.20. See also 2 CFR 417.222 coverage exceptions. These regulations provide for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulations (FAR). They also provide for the consolidated listing of all persons who are excluded, or disqualified by statute, Executive Order, or other legal authority.
3. Title 7, Code of Federal Regulations, section 301. Contains the Common Rules for USDA's Government-wide based system covering non-procurement activities and is incorporated into 2 CFR, Chapter I, part 180. These regulations are used to suspend and/or debar individuals, organizations, or other entities, including recipients and cooperators. This debarment and suspension system covers all Federal financial assistance awards and other FSM 1580 agreements with persons as defined in 7 CFR 3017.105. See also 7 CFR.3017.110 (a)(ii)(c)(2), coverage exceptions. These regulations provide for reciprocal exclusion of parties that have been excluded under the Federal Acquisition Regulations (FAR). They also provide for the consolidated listing of all parties that are excluded, or disqualified by statute, Executive order, or other legal authority.
4. Executive Order 12689 and the Federal Acquisition Streamlining Act (31 U.S.C. 6101 note). Any debarment, suspension, proposed debarment under 48 CFR 9.4, or other Government-wide exclusion initiated under the Federal Acquisition Regulations must be recognized by and be in effect for Executive Branch agencies and participants in programs administered by those agencies, as an exclusion under 7 CFR part 3017. Similarly, any debarment and suspension or other Government-wide exclusion initiated under 7 CFR part 3017 must be recognized by and be effective for those agencies as a debarment or suspension under the FAR. In other words, debarment and suspension of a participant in a program by one agency has a Government-wide effect (7 CFR 3017.110(c)).

18.2 - Causes for Suspension and Debarment

18.21 - Causes for Debarment

A Federal agency may debar an entity for:

1. Conviction of or civil judgment for:
 - a. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
 - b. Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
 - c. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
 - d. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects entity's present responsibility.
2. Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as:
 - a. A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
 - b. A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
 - c. A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction.
3. Any of the following causes:
 - a. A non-procurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;
 - b. Knowingly doing business with an ineligible person, except as permitted under 2 CFR §180.135;
 - c. Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency

or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

d. Violation of a material provision of a voluntary exclusion agreement entered into under 2 CFR 180.640 or of any settlement of a debarment or suspension action; or

e. Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

4. Any other cause of so serious or compelling a nature that it affects entity's present responsibility.

18.22 - Notice of Proposed Debarment

After consideration of the causes in 2 CFR 417.800, if the debarring official proposes to debar the entity, the official sends the entity a Notice of Proposed Debarment, pursuant to 2 CFR §417.615, advising entity:

1. That the debarring official is considering debarment;
2. Of the reasons for proposing to debar in terms sufficient to put the entity on notice of the conduct or transactions upon which the proposed debarment is based;
3. Of the cause(s) under 2 CFR §417.800 upon which the debarring official relied for proposing debarment;
4. Of the applicable provisions of this subpart and any other agency procedures governing debarment; and
5. Of the Government-wide effect of a debarment from procurement and non-procurement programs and activities.

18.23 - Contesting Debarment

Unlike a suspension, a debarment is not effective until the debarring official issues a decision. The debarring official does not issue a decision until the respondent has had an opportunity to contest the proposed debarment.

If the respondent wishes to contest a proposed debarment, the respondent or representative shall provide the debarring official with information in opposition to the proposed debarment. This may be done orally or in writing, but any information provided orally that is considered important must also be submitted in writing for the official record.

Respondent will either send, or make arrangements to appear and present, the information and argument to the debarring official within 30 days after receipt of the Notice of Proposed Debarment.

18.24 - Decision to Debar

The debarring official shall make a written decision whether to debar within 45 days of closing the official record. The official record closes upon the debarring official's receipt of final submissions, information and findings of fact, if any. The debarring official may extend that period for good cause.

The debarring official sends the respondent written notice, pursuant to 2 CFR §417.615 that the official decided, either:

1. Not to debar; or
2. To debar. In this event, the notice:
 - a. Refers to the Notice of Proposed Debarment;
 - b. Specifies the reasons for debarment;
 - c. States the period of debarment, including the effective dates; and
 - d. Advises respondent that debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR Chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception.

The respondent may ask the debarring official to reconsider the debarment decision or to reduce the time period or scope of the debarment. However, the request must be in writing and supported with appropriate documentation.

The debarring official may reduce or terminate debarment based on:

1. Newly discovered material evidence;
2. A reversal of the conviction or civil judgment upon which debarment was based;
3. A bona fide change in ownership or management;
4. Elimination of other causes for which the debarment was imposed; or
5. Other reasons the debarring official finds appropriate.

18.25 - Length of Debarment

1. If the debarring official decides to debar, the period of debarment is based on the seriousness of the cause(s) for debarment. Generally, debarment should not exceed 3 years. However, if circumstances warrant, the debarring official may impose a longer period of debarment.
2. In determining the period of debarment, the debarring official may consider the factors in 2 CFR 417.860. If a suspension has preceded debarment, the debarring official must consider the time the party was suspended.
3. If the debarment is for a violation of the provisions of the Drug-Free Workplace Act of 1988, the period of debarment may not exceed 5 years.

18.3 - Suspension

18.31 - Causes for Suspension

Suspension is a serious action. The suspending official may impose suspension only when that official determines that:

1. There exists an indictment for, or other adequate evidence to suspect, an offense listed under 2 CFR 417.800(a); or
2. There exists adequate evidence to suspect any other cause for debarment listed under 2 CFR 417.800(b) through (d); and
3. Immediate action is necessary to protect the public interest.

18.32 - Notice of Suspension

A suspension is effective when the suspending official signs the decision to suspend. After deciding to suspend, the suspending official promptly sends the entity a Notice of Suspension advising:

1. That the entity has been suspended;
2. That suspension is based on:
 - a. An indictment;
 - b. A conviction;

- c. Other adequate evidence that the entity has committed irregularities which seriously reflect on the propriety of further Federal Government dealings with the entity; or
 - d. Conduct of another person that has been imputed to the entity, or entity's affiliation with a suspended or debarred person;
3. Of any other irregularities in terms sufficient to put the entity on notice without disclosing the Federal Government's evidence;
 4. Of the cause(s) upon which the suspending official relied under 2 CFR 417.700 for imposing suspension;
 5. That suspension is for a temporary period pending the completion of an investigation or resulting legal or debarment proceedings;
 6. Of the applicable provisions of this subpart and any other agency procedures governing suspension decision-making; and
 7. Of the Government-wide effect of the party's suspension from procurement and non-procurement programs and activities.

18.33 - Contesting Suspension

If the respondent wishes to contest a suspension, the respondent or representative shall provide the suspending official with information in opposition to the suspension. This may be done orally or in writing, but any information provided orally that is considered important must also be submitted in writing for the official record. The respondent or representative shall either send, or make arrangements to appear and present, the information and argument to the suspending official within 30 days after receipt of the Notice of Suspension.

18.34 - Decision to Suspend

The suspending official shall make a written decision whether to continue, modify, or terminate suspension within 45 days of closing the official record. The official record closes upon the suspending official's receipt of final submissions, information and findings of fact, if any. The suspending official may extend that period for good cause.

18.35 - Length of Suspension

1. If legal or debarment proceedings are initiated at the time of, or during the entity's suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed 12 months.
2. The suspending official may extend the 12-month limit under paragraph (a) of this section for an additional 6 months if an office of a U.S. Assistant Attorney General, U.S.

Attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed 18 months without initiating proceedings under paragraph (a) of this section.

3. The suspending official must notify the appropriate officials under paragraph (b) of this section of an impending termination of a suspension at least 30 days before the 12-month period expires to allow the officials an opportunity to request an extension.

18.4 - Notice of Proposed Debarment and/or Suspension

The debarring or suspending official shall determine the best way to protect the interest of the Government, determine a party's present responsibility to do business with the Government, consider the seriousness of the party's acts or omissions, consider any mitigating factors, and decide whether to impose suspension and/or debarment based on the factual information in the official record.

For direction on the opportunity to contest proposed debarment and/or suspension, see section 18.54 of this chapter.

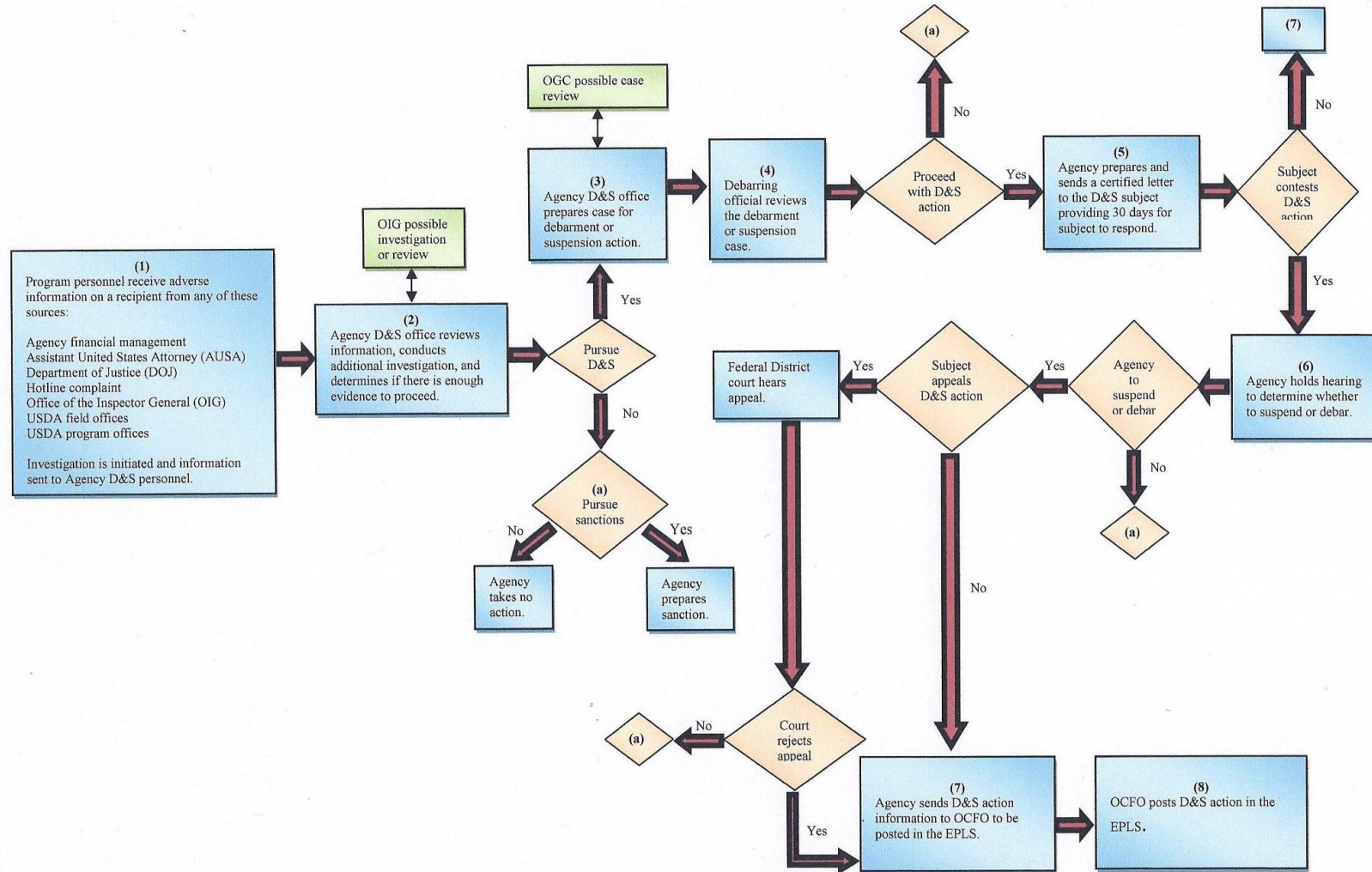
18.5 - Debarment or Suspension Investigation and Referral Process

Information concerning the existence of a cause for debarment or suspension from any source must immediately be brought to the attention of either the Program Manager or G&A Specialist. Upon being informed of a possible cause to debar or suspend, the G&A Specialist shall prepare the required report, make referral for investigation, and prepare the necessary paperwork for the debarring or suspending official's (sec. 83.1-83.2) review and consideration (2 CFR 417.930, 2 CFR 180.600). See exhibit 01 below for a flow chart of the debarment and suspension process.

The G&A Specialist, in consultation with the Program Manager and OGC, may decide to utilize agency personnel, that is, law enforcement, the Office of Inspector General (OIG), or other appropriate resources to conduct the investigation and develop the documentation required for the referral.

18.5 - Exhibit 01

D&S Process Flow Chart



18.51 - Referral Record

The G&A Specialist shall assemble the referral record in reverse chronological order, with the most current information first. Include an index of the documents as ordered in the record. A comprehensive referral record is essential for the debarring or suspending official to make a decision. The referral record includes, but is not limited to:

1. The name of the specific respondent(s) against whom the action is being proposed or taken;
2. The reason(s) for proposing the debarment (2 CFR 417.800), and if suspension is recommended, why immediate action is needed to protect the public interest (2 CFR 417.700);
3. The specific cause(s) for debarment as set out in section 82.11 (2 CFR 417.800);
4. A short narrative stating the facts and/or describing other evidence supporting the reason(s) for the need to debar or suspend;
5. The recommended time period for the debarment (2 CFR 417.865) or suspension (2CFR 180.760), including the rationale for the time period recommended;
6. Mitigating and/or aggravating factors that may affect the decisions to debar or suspend, and length of debarment (2 CFR §417.860 and 2 CFR 180.800) and suspension (2 CFR 417.700 and 2 CFR 180.700);
7. Copies of any relevant supporting documentation including but not limited to:
 - a. Detailed evidence of specific cause(s) warranting a debarment or suspension.
 - b. Lists of affiliates and evidence documenting the affiliation including information provided by the respondent.
 - c. Relevant facts showing the person's responsibility with respect to future dealings with the Forest Service.
 - d. G&A performance reports documenting deficient or exemplary performance.
 - e. G&A signature pages from the award, if cause is based on a conviction or civil judgment. Otherwise, include the entire covered transaction.
 - f. Correspondence between Forest Service personnel and the respondent documenting deficient or exemplary performance.

- g. If failure to make payments or to make timely payments is cited as a cause, include copies of unpaid bills, late payments, demand letters, and a summary of the current status of payments including the most recent statement of account and synopsis.
- h. The G&A Specialist's decision on such items as a default on a grant or agreement. Include any claims submitted by the respondent.
- i. Business records of the respondent obtained from the State or cooperator, such as Articles of Incorporation, or Statement of Officers.
- j. Copies of any indictments, court settlements, court convictions, and/or violation notices.
- k. Copies of law enforcement investigative reports (such reports may be redacted, in coordination with the Office of the General Counsel to protect privileged material).
- l. Correspondence showing delegation of authority to an affiliate.
- m. Copies of written declarations by any Forest Service employee or contractor, if applicable.

18.52 - Transmittal Letter

See exhibit 01 below for transmittal letter template for use by the Forest Service debarring or suspension official to officially notify USDA, Office of the Chief Financial Officer of Forest Service actions regarding debarments and suspensions. This template should be modified for transmittal of proposed debarment and/or suspension actions to the debarring and suspension official and be signed, as appropriate and in accordance with specific regional procedures, if any, by the G&A Specialist, regional G&A lead, and regional AQM director and send to the Debarment and Suspension Office attention Washington Office G&A Branch Chief.

The transmittal letter must be prepared by the G&A Specialist in accordance with procedures and must:

1. Recommend an action and the scope of the action.
2. Note relevant facts regarding respondent's responsibility with respect to future dealings with the Forest Service.
3. Detail the specific causes, believed to be supported by the evidence, for debarment or suspension.
4. Not include any remarks indicating intent to punish.

5. Not reference activities unrelated to the specific cause(s) for debarment or suspension.
6. State that the case has been coordinated with Program, the Office of the General Counsel, and law enforcement personnel.
7. Be signed, as appropriate, by the G&A Specialist, area lead, Regional AQM Director, Washington Office, Grants & Agreements Branch Chief, Washington Office, AQM Director, and addressed to the debarring or suspending official.

18.52 - Exhibit 01

D&S Transmittal Template



United States
Department of
Agriculture

Forest
Service

Washington Office

1400 Independence Ave., SW
Washington, DC 20250-0003

TO: Grants Policy
Office of the Chief Financial Officer

FROM: Debarment and Suspension Official
USDA Agency

DATE:

SUBJECT: Debarment (or Suspension) of Entity

Pursuant to 2 CFR 417.520, the following entity is debarred (or suspended). The pertinent information as required by 2 CFR 417.515(a) is as follows:

Classification:	Individual or Firm
DUNS:	Enter a 9-digit DUNS number when the Classification is Firm. Leave blank if unknown.
Name and Address:	Complete name and address of entity
Action Date:	The effective date of the exclusion
Term Date:	The date the action will terminate from the EPLS current list of exclusions and placed in the archived list of past exclusions. If no term date, state "Indefinite."
CT Code:	Cause and Treatment Code – Should be one of the following: A, A1, B, CC, E, J, J1, K, N, N1, O, P, Q, R, RRR, S, T.

If you have any questions regarding this matter, please contact Agency POC at contact information.

Debarment and Suspension Procedures

The procedures below must be followed when taking action to debar or suspend a cooperator.

18.53 - Notice of Proposed Debarment and/or Suspension

1. Suspension. If the decision is to suspend the respondent pending completion of criminal, civil, or debarment proceedings, the suspending official shall send a notice of suspension, a copy of the official record, and a copy of 2 CFR 417 to the respondent and all named affiliates. The suspension is effective when the suspending official signs the decision to suspend (2 CFR §180.710). The notice of suspension must:

- a. Advise the respondent that suspension has been imposed (2 CFR §180.715), and;
- b. State that the suspension is based on an indictment, conviction, or other adequate evidence that the respondent has committed irregularities seriously reflecting on the propriety of further Federal Government dealings with the respondent, or conduct of another person that has been imputed to respondent, or respondents affiliation with a suspended or debarred person (2 CFR §180.715(b)(1)-(4));
- c. Describe any such irregularities in terms sufficient to put the respondent on notice without disclosing the Federal Government's evidence (2 CFR §180.715(c));
- d. List the cause(s) under 2 CFR §180.700 for imposing suspension (2 CFR §180.715(d));
- e. State that the suspension is for a temporary period pending the completion of an investigation or ensuing legal or debarment proceedings (2 CFR §180.715(e)) or Program Fraud Civil Remedies Act;
- f. List the provisions of 2 CFR 417, subparts F and G, and any other USDA procedures, if applicable, governing suspension decision making (2 CFR §180.715(f)); and
- g. Explain the Government-wide effect of the suspension from procurement and non-procurement programs and activities (2 CFR §180.715(g)).

The notice of suspension to the respondent must be signed by the suspending official and is sent to the last known street address, facsimile number, or e-mail address of respondent, respondent's identified counsel, or agent for service process, or any partners, officers, Directors, owners or joint ventures (2 CFR §180.615).

2. Proposed Debarment. If the decision is to propose debarment without imposing suspension, the debarring official shall send a notice of proposed debarment, a copy of the official record, and a copy of 2 CFR 417 to the respondent and all named affiliates. The notice of proposed debarment must advise the respondent that debarment is being considered (2 CFR §180.615) and include:

- a. The reasons for the proposed debarment in terms sufficient to put the respondent on notice of the conduct or transaction(s) upon which it is based (2 CFR §180.805(b));
- b. The cause(s) under for proposing debarment (2 CFR §180.800(c)(1-5));
- c. The applicable provisions of 2 CFR, subparts F and H, and any other USDA procedures, if applicable, governing debarment decision making (2 CFR 417.800); and
- d. The potential effect of a debarment (2 CFR §180.800(e)).

The notice of proposed debarment to the respondent must be signed by the debarring official and sent to the last known street address, facsimile number, or e-mail address of respondent, respondent's identified counsel, or agent for service process, or any partners, officers, Directors, owners or joint ventures (2 CFR §180.615).

3. Proposed Debarment and Immediate Suspension. If the official record demonstrates cause(s) for debarment and need for immediate suspension to protect the Government's interest, the notice of suspension and notice of proposed debarment are combined into one notice following the procedures described above for each action.

4. Decision Not to Pursue Action. If the debarring or suspending official decides not to pursue administrative action, a decision letter must be sent to the Regional AQM Director providing information and reasons for the decision.

18.54 - Opportunity to Contest Debarment and /or Proposed Suspension

1. Respondent's Opposition. Within 30 days after receipt of the notice of proposed debarment and/or notice of suspension, the respondent or respondent's representative may provide the debarring official with information in opposition to the proposed action(s). This may be done orally or in writing, but any information provided orally that respondent considers important must also be submitted in writing for the official record (2 CFR §180.720, 180.730, 180.815, and 180.820).

2. Additional Proceedings. If the debarring or suspending official finds that the respondent's submission in opposition raises a genuine dispute over facts material to the proposed debarment and/or suspension, the respondent(s) shall be afforded an

opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witness the Agency presents (2 CFR §180.735(b), 180.740, and 2 CFR §180.830(b), 180.835 and 180.840).

A transcribed record of any fact-finding hearing must be prepared and made available at cost to the respondent, upon request, unless the respondent and the Agency, by mutual agreement, waive the requirement for a transcript (2 CFR §180.745(b) and 180.840(b)). In cases where a transcribed record is not requested, notes should be taken and included in the official record.

The debarring or suspending official may refer disputed material facts to another official for findings of fact. The debarring or suspending official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous (2 CFR §180.750(b) and 180.840(c)(3)).

18.55 - Settlement and Voluntary Exclusion

The debarring or suspending official may, at any time, settle a debarment or suspension action when it is in the best interest of the Government (2 CFR §180.635).

Only the debarring or suspending official has the authority to consider and accept, in coordination with OGC Attorneys, settlement offers, which include debarment, suspension, or voluntary exclusion.

18.6 - Taking Action to Exclude a Recipient/Cooperator

In accordance with OMB guidelines, the General Services Administration (GSA) maintains the Excluded Parties List System (EPLS) (2 CFR §180.510) located at System of Award Management (SAM) at www.sam.gov. When the Forest Service takes an action to exclude a recipient/cooperator, or any principals thereof under the non-procurement or procurement debarment and suspension system, such information is furnished by the USDA point of contact to GSA and entered into the Excluded Parties List System (2 CFR §180.520). At a minimum, the list indicates:

1. The full names and addresses of all debarred, suspended, ineligible, and voluntarily excluded parties, in alphabetical order, when available, with cross-references when more than one name is involved in a single action (2 CFR §180.515(a)(1));
2. The type of action (2 CFR §180.515(a)(2));
3. The cause for the action (2 CFR §180.515(a)(3));
4. The scope of the action (2 CFR §180.515(a)(4));
5. Any termination date for each listing (2 CFR §180.515(a)(5)); and

6. The Agency and name and telephone number of the Agency point of contact for the action (2 CFR §180.515(a)(6)).

7. The Dun and Bradstreet Number (DUNS), or other similar code approved by the GSA, of the excluded or disqualified person, if available (2 CFR §180.515(a)(7)).

18.7 - Period of Debarment and Suspension

18.71 - Period of Debarment

Debarment must be for a period commensurate with the seriousness of the cause(s) and generally not exceeding 3 years. If a suspension precedes a debarment, the suspension period must be considered in determining the debarment period. Where circumstances warrant, a longer period of debarment may be imposed (2 CFR §180.865 and 2 CFR §417.865). If the debarment is for a violation of the provisions of the Drug-Free Workplace Act of 1988, the period of debarment may not exceed 5 years.

The Department permanently debars from participation in USDA programs any individual, organization, corporation, or other entity convicted of a felony for knowingly defrauding the United States in connection with any program administered by USDA (2 CFR §417.865(d)).

The debarring official may extend an existing debarment for an additional period, if that official determines that an extension is necessary to protect the public interest. However, a debarment may not be extended solely on the basis of the facts and circumstances upon which the initial debarment action was based (2 CFR §180.885). If debarment for an additional period is determined to be necessary, the procedures of 2 CFR part §180, subparts F and H, must be followed to extend the debarment (2 CFR §180.885).

18.72 - Period of Suspension

1. If legal or debarment proceedings are initiated at the time of, or during the suspension, the suspension may continue until the conclusion of those proceedings. However, if proceedings are not initiated, a suspension may not exceed 12 months (2 CFR §180.755).
2. The suspending official may extend the 12-month limit under paragraph 1 of this section for an additional 6 months if an office of a U.S. Assistant Attorney General, U.S. attorney, or other responsible prosecuting official requests an extension in writing. In no event may a suspension exceed 18 months without initiating proceedings under paragraph 1 of this section (2 CFR §180.760(b)).
3. The suspending official shall notify the appropriate officials under paragraph 2 of this section of an impending termination of a suspension at least 30 days before the 12 month period expires to allow the officials an opportunity to request an extension (2 CFR §180.760(c)).

The suspending official shall notify the Washington Office of the General Counsel, who in turn notifies the Department of Justice of an impending termination of a suspension, at least 30 days before the 12-month period expires, to give that Department an opportunity to request an extension.

18.73 - Scope of Debarment or Suspension

Debarment or suspension of a party or business constitutes debarment or suspension of all its divisions and other organizational elements from all covered transactions, unless the debarment or suspension decision is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements, or to specific types of transactions (2 CFR §180.630).

The debarment or suspension action may include any affiliate of the participant that is specifically named and given notice of the proposed debarment or suspension and an opportunity to respond. For purposes of determining the scope of debarment or suspension, conduct may be imputed as follows:

1. Conduct imputed from an individual to an organization. The fraudulent, criminal, or other improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with an organization may be imputed to that organization when the improper conduct occurred in connection with the individual's performance of duties for or on behalf of that organization, or with the organization's knowledge, approval or acquiescence. The organization's acceptance of the benefits derived from the conduct is evidence of knowledge, approval or acquiescence (2 CFR §180.630(a)).
2. Conduct imputed from an organization to an individual, or between individuals. The fraudulent, criminal, or other improper conduct of any organization may be imputed to an individual, or from one individual to another individual, if the individual to whom the improper conduct is imputed either participated in, had knowledge of, or reason to know of the improper conduct (2 CFR §180.630(b)).
3. Conduct imputed from one organization to another organization. The fraudulent, criminal, or other improper conduct of one organization may be imputed to another organization when the improper conduct occurred in connection with a partnership, joint venture, joint application, association or similar arrangement, or when the organization to whom the improper conduct is imputed has the power to direct, manage, control or influence the activities of the organization responsible for the improper conduct. Acceptance of the benefits derived from the conduct is evidence of knowledge, approval or acquiescence (2 CFR §180.630(c)).

18.8 - Request for Reconsideration and Appeal

The respondent may request that the debarring official reverse the debarment decision or reduce the period or scope of debarment. All requests must be in writing and supported by documentation of the reasons to revise the debarment (2 CFR §180.875). The debarring official may grant such a request for reasons including, but not limited to:

1. Newly discovered material evidence (2 CFR §180.875(a));
2. Reversal of the conviction or civil judgment upon which the debarment or suspension was based (2 CFR §180.875(b));
3. Bona fide change in ownership or management (2 CFR §180.875(c));
4. Elimination of other causes for which the debarment or suspension was imposed (2 CFR §180.875(d)); or
5. Other reasons the debarring or suspending official deems appropriate (2 CFR §180.875(e)).