

USDA Forest Service

Contracting with Partners



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Chapter 6 DRAFT

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6. Contracting with Partners

How does contracting fit into the realm of partnerships?

Contracts help improve the Forest Service's involvement in local economies and communities, and they can offer unique opportunities to build skills and capacity across a range of organizations while accomplishing important conservation work on the ground. While contracts are often an appropriate tool to facilitate work with nonprofits, community-based organizations, and Tribal entities, in some cases, agreements or grants are the most appropriate instrument. In order to help determine if a partnership should include contracts, grants, or agreements, local Forest Service acquisition management personnel should always be involved prior to making commitments.

6.1 Contracts—an Overview

Many Forest Service contracts are awarded to nonprofits and Tribes, which may be uniquely suited to provide goods and/or services the Forest Service needs. However, the Forest Service often must first determine that goods or services cannot be supplied by any small business, including Tribal small businesses, before working with Tribes or nonprofits. This is the reason a significant number of contracts are awarded to officially-sanctioned small businesses.

According to the U.S. Small Business Administration (SBA), to be eligible for Federal government procurement programs designed to help small businesses, your business must both satisfy SBA's definition of a small business concern and comply with the size standards for small businesses, as determined by industry type. SBA defines a business concern as one that is: (1) organized for profit; (2) has a place of business in the U.S.; (3) operates primarily within the U.S. or makes a significant contribution to the U.S. economy through payment of taxes or use of American products,

materials or labor; (4) is independently owned and operated; and (5) is not dominant in its field on a national basis. The business may be a sole proprietorship, partnership, corporation or any other legal form. In addition, SBA has established [size standards for all for-profit industries](#), including for forestry and agricultural businesses. Size standards represent the largest size that a business may be to remain classified as a small business concern.

Note that, even if it is determined that a small business cannot provide the goods and services in question, the Forest Service cannot enter into contracts with organizations that are loosely formed or have no official structure or legal status. Nonprofits and community-based organizations must have an official sanction, usually a 501 (c)(3) status, to be eligible for contracts.

6.2 Getting Started as a Contractor

While certified small businesses receive consideration for goods and services contracts before other organizations, there remain enormous contracting opportunities for nonprofits, Tribes, and others. When considering opportunities for working with the Forest Service, coordination with an agency contracting officer is essential to understand both the opportunities and limitations of contracts versus partnership arrangements. [Forest Service contract and acquisitions staff](#) may be found locally or regionally as well as at the Forest Service national office in Washington, DC.

[A contracting brochure](#) may help interested people get started. In addition, prospective contractors might visit the [Procurement Technical Assistance Center Web site](#). Centers are located in every state to help businesses or organizations understand how to prepare bids and proposals for Forest Service and other government contracts. To find the appropriate center on the Web site, online visitors should click on **Find a PTAC** located on the top left side just below the **Home** button.

6.3 Conducting Business with the Federal Government (Forest Service)

Conducting business with the Federal government, including the Forest Service, can be complicated. Nonprofit organizations, Tribal businesses, other small business entities that are

incorporated (or can become so) and any other organizations that are interested in becoming a contractor with the Forest Service need to: (section 6.3.1) be formed in a business-like way; (section 6.3.2) register their organization in the System for Award Management; and (6.3.3) complete an online representations and certifications application.



← **6.3.1 Be formed in a business-like way**

To successfully bid and perform Federal government contracts, a business or organization is

expected to follow applicable Federal, state, and local laws. From a business perspective, this includes being appropriately registered as a business or organization under state and local rules; carrying adequate insurance, including workers compensation (if an employer); and in the case of construction contracts, having the ability to adequately bond projects under the Federal government's surety bonding requirements. These bonding requirements are different than the state license bonding requirements required of some businesses. A computer or computer access is also needed along with a valid email address, as contracting in the Federal government is dependent in many cases within on-line applications processes and related databases.

Most Federal government product and service listings and procurements are identified by codes, either North American Industry Classification System or Federal Supply Class or Service. It is important to know the codes for the products or services the business or organization will provide.

- Federal Supply Class or Service codes. The [TurboGSA Web site](#) can help.
- North American Industry Classification System codes can be found on the [United States Census Bureau Web site](#).



← 6.3.2 Register the Business in the System for Award Management

Businesses can register with the [System for Award Management \(SAM\)](#). SAM is a Federally-owned and operated website that collects, validates, stores, and disseminates contractor data in support of agency acquisition and award missions. Registrants need basic business information to get started, including the following:

- A Data Universal Number System (DUNS) number. This is a nine-digit number used by the Federal government to uniquely identify businesses by each physical location. If the business does not already have a DUNS number, a registrant may go to the [D-U-N-S Request Service Web site](#).

- Company name. Following state and local business registration requirements is important to doing business with the Federal government.
- A Federal tax identification number (TIN) or social security number (SNN). Explanations are available on the [Internal Revenue Service Web site](#).
- Financial institution details. Bank routing numbers and the registrant's account number are essential.
- Miscellany. Includes information such as the businesses' number of employees, annual receipts, and various Federal codes and classifications for the goods and services being offered. The Web site will help guide a business on how to obtain this information. It is possible to save a partial application and finish later.

Upon successful completion of registering with SAM, registrants will receive a Commercial and Government Entity (CAGE) Code. The CAGE Code is a five-character identification number used extensively within the Federal government, assigned by the Department of Defense's Defense Logistics Agency.



6.3.3 Complete an Online Representations and Certifications Application

When successfully registered in SAM, a business will be instructed to go to [the Online Representations and Certifications Application \(ORCA\) website](#) to complete an annual online representation/certification. SAM will assign the business a code known as an **MPIN** to access ORCA. Following e-Government initiatives, ORCA replaced most of the paper-based Representations and Certifications (Reps and Certs) in formal government solicitations. SAM and ORCA are complementary systems: ORCA reuses data pulled from SAM and pre-populates many of the required Representations and Certifications, then the business completes the remaining Representations and Certifications with the understanding that with each solicitation it is certifying current, accurate, and complete information.

6.4 Locating Contracting Opportunities

Eligibility to bid on contracts depends on a variety of factors, including a person's or group's classification or status (for example, nonprofit, state, county, Tribe, small business, or large company). Some types of contracts are only available to certain kinds of organizations. Examples of products and services for which the Forest Service routinely purchases through contracts include:

- Architectural and engineering services
- Equipment rental, from motor vehicles to trailers, prefabs to scaffolding
- Fire and aviation support services, including supplies and equipment
- Housekeeping, trash collection, and portable sanitation services
- Information technology, including hardware, software, telecommunications
- Natural resource and conservation services, from aerial spraying to tree planting
- Office, warehouse, and other facility rental
- Professional, management, and administrative support services
- Road, bridge, and other real property maintenance, repair, and restoration
- Special studies and environmental analyses, from archaeological to wildlife
- Structure and facility construction, from waste treatment to recreation areas
- Transportation and charter services

Almost all Federal project solicitations are advertised on the [Federal Business Opportunities \(FedBizOpps\) website](#). Potential contractors can get started by going to the website and searching by **Agency** using **Department of Agriculture/Forest Service** to see listed contracts. Reviewing the [Annual Procurement Forecast database](#) is another way to locate opportunities. Website visitors can choose **FS** for Forest Service under the **Sub-Agency** list on the left. In addition to visiting these websites, interested people or groups should make their capabilities known to local Forest Service program and contract/procurement staff.

Forest Service contracts are very important to rural communities by serving to foster goodwill through increased Forest Service involvement in local economies. In particular, some [USDA Rural Development Program contracts](#) are designed to advance the economic prosperity of entire communities by helping Tribal and other rural small businesses build competitive enterprises. Website visitors can go to the **Business** area located in the left-side menu to learn more. Stewardship contracting, also important for some rural communities, is outlined in [section 6.7](#).

Finally, the National Fire Plan legislation makes it easier to contract with local nonprofit entities and other organizations. Although the Forest Service cannot sole source contract (see section 6.5) with nonprofits, contracting opportunities allowed under Title II of the National Fire Plan can be found on the [National Interagency Fire Center Web site](#).



6.5 Contract Types

General Services Administration (GSA) Consulting Services Schedules. Several GSA schedules exist for consulting services for which nonprofits or community-based organizations might qualify. A specific GSA schedule that may lend itself to these types of organizations is Federal Supply Schedule 874, Management, Organizational, and Business Improvement Services, located on the [GSA Web site](#).

GSA Federal Supply Schedules. Tribally-owned businesses or organizations should note that once awarded a GSA contract, competition can be limited to only those companies having specific qualifications that match Forest Service needs. Because most of the schedules are open, Tribally-owned businesses or organizations can apply at any time. One specific schedule that the Forest Service may use more frequently than others is [Schedule 899, Environmental Services, on the GSA Web site](#). Web site visitors should click on **Products and Services** and then on **Environmental Services**.

Micro-purchasing. Any purchase (otherwise called procurement) less than \$2,500 is not subject to the small business set-aside. These awards can be given directly to any formally organized entity, including for-profit, nonprofit, large business, small business, or Tribes. No competitive bidding is required. However, a project cannot be split into a series of small tasks for the sole purpose of staying below the \$2,500 threshold.

Simplified Acquisitions. All acquisitions between \$3,000 and \$150,000 are automatically set-aside for small businesses unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small businesses that are competitive in terms of market prices, quality, and delivery. For **Simplified Acquisitions of Less than \$25,000**, if a contracting officer can make a case that there are no small businesses that offer the particular good or service needed, three quotes can then be taken from nonprofits and/or

community-based organizations or Tribes. Usually, this competitive bidding can be kept local. It is permissible, and exceedingly appropriate, to request that American Indian firms certified as small businesses be solicited for at least one of these quotes. Also appropriate are bids from Tribal-owned businesses or nonprofits. Awards can be made based on oral quotes if the project is well defined. For **Simplified Acquisition Over \$25,000 but Under \$150,000**, if a determination is made that no small business can offer the particular good or service needed, then competitive bidding is open to everyone, including nonprofits and Tribes. An announcement will be posted on FedBizOpps in such circumstances.

Small Business Set-Asides. The Forest Service sets aside most contracts for certified small businesses. Nonprofits and community-based organizations are typically ineligible for contracts that have been set aside for small businesses. While Tribally-owned small businesses would be eligible for small business set-asides, Tribes are not, nor are Tribal nonprofits.

Sole Source Determination. A sole source determination means that there is no business or organization that has the capacity and qualifications to provide the goods or service in question except for the specific organization identified. If a sole source determination is made, the Forest Service can contract directly with the identified business, nonprofit, or community-based organization, Tribe, or Tribally-owned business. The contracting officer makes this determination based on unique characteristics that an entity brings to a project



that no other organization possesses. If it is determined that a Tribe is uniquely qualified and the only source for the goods or services, then a sole source contract may be negotiated. An example of this situation might be the development and presentation of orientation, educational, and interpretative materials pertaining to a specific Tribe's culture. Any sole source project that may exceed \$25,000 will be posted on FedBizOpps.



6.6 Contracts with Tribes and Tribal Small Businesses

The Forest Service is committed to strengthening its working relationships with Indian Tribes and Alaska Native Corporations (ANCs) and their businesses and contractors. Many contract options are available for both federally-recognized and non-federally recognized Tribes, ANCs, and Alaska Native Villages. The Forest Service enters into contracts with these groups just like it does with other organizations, agencies, or states. The U.S. government and Indian Tribes, however, have a unique government-to-government relationship grounded in the U.S. Constitution and expressed through numerous treaties, statutes, executive directives and court decisions. Based on this relationship, the U.S. government has a legally enforceable fiduciary obligation, or trust responsibility, whereby the United States must protect tribal treaty rights, lands, assets, and resources, as well as carry out Federal law with respect to American Indian and Alaska Native tribes and villages. As executive departments and agencies undertake activities affecting Tribal rights or trust resources, staff should be sensitive to the nature of the unique government-to-government relationship.

Forest Service Tribal relations coordinators are available to discuss Tribal contracting and can be located on the [Forest Service Web site](#).

6.6.1 General Tribal Contract Eligibility

The Forest Service has multiple options for working with Tribal entities on projects that help build capacity. Tribes, Tribal governments, Tribally-owned small business, and Tribally-affiliated nonprofits are eligible for all the same contracts as their non-Tribal counterparts, including the following:

- Micro-purchasing
- Sole Source Determination
- Simplified Acquisition up to \$150,000
- Stewardship Contracting

6.6.2 Tribal-Oriented Contracting Opportunities

The contracts below are especially oriented to Tribes, Tribally-owned businesses, and Tribally-affiliated nonprofits:

Economy Act Contract (FAR 17.504). This Act allows Federal agencies to contract with other Federal agencies for goods and services. In this context, a Tribe is considered to be a form of government, and can be awarded contracts. The Forest Service enters into Economy Act contracts with the Bureau of Indian Affairs (BIA) which acts as an intermediary, subcontracting work directly to a Tribe or Tribally-owned businesses or organizations. One disadvantage to this approach is that the Forest Service will not have a signed agreement with the actual party doing the work and therefore cannot formally recognize the arrangement for reporting purposes. In addition, the BIA assesses a charge for their services.

SBA HUB Zone Set-Asides. In this program for small businesses, if the Tribally-owned business or contractor is SBA-certified in a Historically Underutilized Business Zone (HUB

Zone) program, there are opportunities for limiting the competition to smaller geographic areas. All Tribal land or Indian Country (as defined in 18 U.S.C. § 1151) is considered a HUB Zone. More information is available on the [SBA website](#) at or by calling the SBA Answer Desk at (800) U-ASK-SBA.

SBA 8(a). If a Tribally-owned business or contractor is certified as SBA 8(a), then the Forest Service can contract non-competitively with them. Sole-source contracts can be awarded up to the \$3 million threshold. There is no threshold limitation for sole source determination for Tribes. The [SBA website](#) offers more information. People can also call (800) U-ASK-SBA for help.



6.6.3 Tribal Forest Protection Act

The [Tribal Forest Protection Act](#) authorizes Federally-recognized American Indian Tribes to contract on forest health projects on Forest Service lands that border or are adjacent to Tribal lands. These agreements and contracts are for projects that protect Tribal land and communities from fire, disease, or other threats stemming from National Forest System land and for land restoration activities. More specific criteria can be reviewed per project. The national [Forest Service Tribal Relations Web site](#) offers more information on the act. Additional information and specific guidance on the Tribal Forest Protection Act can be found in [FSH 2409.19 and Chapter 60: Stewardship Contracting](#).



6.7 Stewardship Contracting

Stewardship contracts support projects that meet community needs and Forest Service land management objectives, helping build sustainable local economies near national forests and grasslands. Stewardship contracting provides the Forest Service with increased flexibility to contract for treatments that improve forest or rangeland health, restore water quality, improve fish

and wildlife habitat, or reduce hazardous fuels. Successful stewardship contracting is built on good collaboration, involving a diverse group of community members representing community-based groups, interest groups, and public agencies. Partners with stewardship contracts often begin partnering through a Stewardship Agreement. More information can be found on the [Forest Service Web site](#).



6.8 Resources

- [Acquisition Basics: Contracting with the Forest Service brochure](#)
- [Collaborative Forest Landscape Restoration Program website](#)
- [Contracting in Region 8 website](#)
- [Forest Service Acquisition Management website](#)
- [Forest Service Acquisition Management Incident Procurement website](#)
- [Forest Service Handbook 2409.19](#) Renewable Resources Handbook, Chapter 60 Stewardship Contracting provides direction to stewardship contracting, including appropriate use of the authority and development, implementation, and monitoring of stewardship contracting.
- [Forest Service Manual FSM 2400](#) - Timber Management addresses an amendment to the Forest Service Timber Management Manual including updates for Stewardship Contracting.
- [General Services Administration Web site](#)
- [How to Do Business with the Forest Service \(R6\)](#)
- [Online Representations and Certifications Application](#)
- [Procurement Technical Assistance Center Web site](#)
- [Stewardship Contracting Brochure](#) explains the benefits to units concerning basic stewardship contracting concepts: what it is, how they are used, and what is unique about them.
- [Stewardship Contracting Web site](#)
- [USA.gov Tribal Government Web site](#)

- [USDA Office of Procurement and Property Management Central Contractor Registration Web site](#)