

## § 223.102

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

(c) If the prospective purchaser is a small business concern and the Contracting Officer determines that the purchaser does not qualify as a responsible purchaser on an otherwise acceptable bid, the Contracting Officer shall refer the matter to the Small Business Administration which will decide whether or not to issue a Certificate of Competency.

(d) Affiliated concerns, as defined in § 223.49(a)(5) of this subpart are normally considered separate entities in determining whether the concern that is to perform the contract meets the applicable standards for responsibility. However, the Contracting Officer shall consider an affiliate's past performance and integrity when they may adversely affect the prospective purchaser's responsibility.

[53 FR 33132, Aug. 30, 1988]

### § 223.102 Procedures when sale is not awarded to highest bidder.

If the highest bid is not accepted and the sale is still deemed desirable, all bids may be rejected and the timber re-advertised; or, if the highest bidder cannot meet the requirements under which the timber was advertised or the withholding of award to him is based on one or more of paragraphs (c), (d), and (e) of § 223.100, award at the highest price bid may be offered to the next highest qualified bidder or to the other qualified bidders in order of their bids until the award is accepted by one or refused by all of the qualified bidders.

(92 Stat. 1301, Pub. L. 95-465)

[44 FR 73029, Dec. 17, 1979. Redesignated at 49 FR 2761, Jan. 23, 1984, and 53 FR 33132, Aug. 30, 1988]

### § 223.103 Award of small business set-aside sales.

If timber is advertised as set aside for competitive bidding by small business concerns, award will be made to the highest bidder who qualifies as a small business concern and who has not been determined by the Small Business Administration to be ineligible for preferential award of set-aside sales. If there are no qualified small business

## 36 CFR Ch. II (7-1-08 Edition)

bidders any readvertisement shall be without restriction on the size of bidders.

(92 Stat. 1301, Pub. L. 95-465)

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### CONTRACT ADMINISTRATION

#### § 223.110 Delegation to regional forester.

The Chief, Forest Service, after approval of conditions of sale, may authorize Regional Foresters formally to execute timber sale contracts and related papers in sales exceeding the volume which the Regional Forester has been authorized to sell.

#### § 223.111 Administration of contracts in designated disaster areas.

This section is to implement the provisions of section 242 (a), (b), and (c) of the Disaster Relief Act of 1970 (84 Stat. 1956) which relate to contracts for the sale of National Forest timber in connection with areas damaged by major disaster as designated by the President pursuant to the Act.

(a) Where an existing contract for the sale of National Forest timber does not provide relief from major physical change not due to purchaser's negligence prior to approval of construction of any section of specified road or other specified development facility and, as a result of a major disaster in a designated area a major physical change results in additional construction work by the purchaser in connection with such a road or facility, the United States shall bear such increased construction cost if, as determined by the Chief, Forest Service, the estimated cost is—

(1) More than \$1,000 for sales under 1 million board feet, or

(2) More than \$1 per thousand board feet for sales of 1 to 3 million board feet, or

(3) More than \$3,000 for sales over 3 million board feet.

(b) Where the Chief, Forest Service, determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement in paragraph