



**FOREST SERVICE HANDBOOK  
NATIONAL HEADQUARTERS (WO)  
WASHINGTON, DC**

**FSH 2409.19 - RENEWABLE RESOURCES HANDBOOK**

**CHAPTER 60 - STEWARDSHIP CONTRACTING**

**Interim Directive No.:** 2409.19-2005-2

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**Approved:** FREDERICK NORBURY  
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**Date Approved:** 11/29/2005

**Posting Instructions:** Interim directives are numbered consecutively by Handbook number and calendar year. Post by document at the end of the chapter. Retain this transmittal as the first page(s) of this document. The last interim directive was 2409.19-2005-1 to chapter 60.

<b>New Document</b>	id_2409.19-2005-2	9 Pages
<b>Superseded Document(s) (Interim Directive Number and Effective Date)</b>	None	

**Digest:**

This interim directive (ID) provides guidance in FSH 2409.19 for evaluating proposals to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects on National Forest system lands to protect Indian forest land, rangeland or tribal communities from fire, disease or other threats stemming from Forest Service administered lands.

60.3 - Adds new policy direction for preliminary collaboration and evaluations for a potential TFPA project.

60.4 - Updates responsibilities of the Regional Foresters, Forest Supervisors, District Rangers, Director of Forest Management, and Director of Office of Tribal Relations.

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**Digest--Continued:**

60.5 - Adds definitions for Bordering on and Adjacent to, Indian Forest Land and Rangeland, Indian Tribe, National Forest System Lands, Public Lands and Tribal Community.

61.11 - Revises direction to include the denial of an appeal.

61.17 - Adds new section for projection selection criteria under the Tribal Forest Protection Act.

61.18 - Adds new section for handling responses to tribal requests made under the Tribal Forest Protection Act.

61.19 - Adds new section for handling responses to tribes in Alaska.

61.7 - Adds new section for notice of denial for projects submitted under the Tribal Forest Protection Act.

62.14 - Adds new section for determining contract type for the Tribal Forest Protection Act.

62.4 - Adds new section for proposal evaluation and determination factors for federally recognized Indian tribes under the Tribal Forest Protection Act.

69.1 - Adds direction for submitting a report to Congress that describes the Indian tribal requests received and agreements or contracts that have been entered into under the Tribal Forest Protection Act.

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## **60.1 - Authority**

## **60.3 - Policy**

10. Forest Service officials may provide advice and information to Indian tribes in advance of tribes' submitting proposals for stewardship contracts or other contracts or agreements to assist Indian tribes in developing proposals that are consistent with the selection criteria set forth in the act.

## **60.4 - Responsibility**

### **60.41 - Washington Office**

#### **60.41f - Director of Forest Management, Washington Office**

9. Submit annually, to the Director, Office of Tribal Relations (OTR), a table containing tribal projects done through stewardship contracting pursuant to the Tribal Forest Protection Act, which shall include acres, agreement or contract number, type, and such other information as the Director of OTR determines necessary.

#### **60.41i - Director of Office of Tribal Relations, Washington Office**

It is the responsibility of the Director of the Office of Tribal Relations to produce the required report to Congress on contracts and agreements entered into under the Tribal Forest Protection Act of 2004 by July 21, 2008, as required by the Act.

## **60.42 - Field Units**

### **60.42a - Regional Foresters**

13. Approve or deny any tribal request made under the Tribal Forest Protection Act of 2004 through current level of delegated authority appropriate to the type of contract or agreement authority used.

#### **60.42b - Forest Supervisors**

9. Prepare proposal response and recommendation for Regional Forester decision for tribal requests made under the Tribal Forest Protection Act of 2004. The recommendation of what borders on or is adjacent to Indian forest land, rangelands, or a tribal community shall be made by the District or Forest line officer after consultation with the Indian tribe and consideration of the threat potential and geographic location.

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### **60.42c - District Rangers**

14. Receive and acknowledge tribal requests made under the Tribal Forest Protection Act of 2004 and make recommendation to Forest Supervisor. The recommendation of what borders on or is adjacent to Indian forest land, rangelands, or a tribal community shall be made by the District or Forest line officer after consultation with the Indian tribe and consideration of the threat potential and geographic location.

### **60.5 - Definitions**

Borders on or Adjacent to. For the purposes of responding to requests from Tribes made under the Tribal Forest Protection Act of 2004, those National Forest System lands in the proximity of Indian forest land, rangelands, or an Indian community which need restoration or which pose a fire, disease, or other threat to the Indian forest land or rangeland under the jurisdiction of the Indian tribe or tribal community.

Indian Forest Land or Rangeland. In accordance with the Tribal Forest Protection Act, land that is held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe; and (a) is Indian forest land (as defined in section 304 of the National Indian Forest Resources Management Act (25 U.S.C. 3103); or (b) has a cover of grasses, brush, or any similar vegetation; or (c) formally had a forest cover or vegetative cover that is capable of restoration.

Indian Tribe. See FSM 1563.05 for a definition of this term.

National Forest System Lands. All National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and utilization projects, and other lands or interest therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system (16 U.S.C. 1609).

Public Lands. Those lands as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

Secretary. The Secretary of Agriculture, with respect to land under the jurisdiction of the Forest Service.

Tribal Community. A community that is part of a federally recognized tribe.

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### **61.11 - Appeals**

2. The denial of a project proposed by tribes under Section (d) of the Tribal Forest Protection Act of 2004 shall not be subject to administrative appeal because such proposals are not Forest Service proposed actions under 36 CFR Part 215.

3. Tribal Forest Protection Act proposals that meet the criteria set forth in section (c), and which are then considered and analyzed by the Forest Service in a decision consistent with NEPA, are subject to applicable agency administrative appeal procedures.

### **61.17 - Project Selection Criteria Under the Tribal Forest Protection Act of 2004**

As stated in section (c) of the act, the Forest Service may consider proposals submitted by an Indian tribe to enter into a contract or agreement to carry out a project to protect Indian forest land or rangeland that meets the following criteria:

1. The Indian forest land or rangeland borders on or is adjacent to land under the jurisdiction of the Forest Service:
2. The Indian forest land or rangeland is under the jurisdiction of an Indian tribe or of a tribal community of a federally recognized Tribe:
3. The National Forest System land either poses a threat to the Indian forest land or rangeland or a tribal community; or the land is in need of land restoration activities:
4. The activities proposed in the project are not already covered by a stewardship contract or other instrument that would present a conflict on the subject land; and
5. The National Forest System land described in the application of the Indian tribe involves a feature or circumstance unique to that Indian tribe, including treaty rights, biological, archaeological, historical, or cultural circumstances.

### **61.18 - Response to Tribal Requests Made Under the Tribal Forest Protection Act of 2004**

Line Officers may accept proposals only from a representative of the governing body of a tribe, such as a Tribal Council or Tribal Chairman. If a tribal member is the owner of an allotment and feels the allotment meets the qualifications for a project under section 61.17, the tribe may submit a proposal on behalf of the allotment holder.

After a request by an Indian tribe to enter into a stewardship contract or agreement, the Regional Forester has 120 days to:

1. Issue a public notice of initiation of any necessary environmental review;

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2. Issue a public notice of the potential of entering into an agreement or contract with an Indian Tribe; or
3. Issue a notice of denial to the Indian tribe.

### **61.19 - Response to Tribal Requests Made Under the Tribal Forest Protection Act of 2004 from Tribes in Alaska**

Lands selected by Alaska native corporations under Alaska National Interest Lands Conservation Act are not held in trust or with a restriction against alienation. Therefore, such lands are outside the scope of the Tribal Forest Protection Act.

The Tribal Forest Protection Act states that “Indian forest land or rangeland” means land that is held in trust by or with a restriction against alienation by the U.S. for an Indian tribe or a member of an Indian tribe. Individual Indian allotments, of which there are some in Alaska, are lands held with a restriction against alienation. Therefore, a tribe to which the individual Indian allottee belongs could submit a request to the Forest Service to enter into an agreement or contract to carry out a project to protect the allottee’s land, which would then be considered according to the criteria in Section 61.17. Similarly, tribal reservations in Alaska, such as the Metlakatla Reservation, would be lands held in trust and thus are eligible under the TFPA.

### **61.7 - Notice of Denial Under the Tribal Forest Protection Act**

1. As stated in Section 2(d) of the act, if the tribe’s proposal for entering into a stewardship contract or agreement with the Forest Service is denied, the Regional Forester may issue a notice of denial to the Indian tribe which:
  - a. Identifies specific factors that caused, and explains the reasons that support, the denial.
  - b. Identifies potential courses of action for overcoming specific issues that led to the denial.
  - c. Proposes a schedule of consultation with the Indian tribe for the purpose of developing a strategy for protecting the Indian forest land or rangeland of the Indian tribe and interests of the Indian tribe in National Forest System land.

### **62.14 - Contract Type Under the Tribal Forest Protection Act**

As stated in Section 2(d) of the Act:

1. Proposals submitted under the Tribal Forest Protection Act, may be eligible for consideration under applicable sole source contracting authorities. Follow the procedural direction for the application, development, execution and administration of contracts and agreements in FSH 1509.11 and FSH 6309.32.

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2. Tribal Forest Protection Act projects may be implemented through stewardship contracts and agreements and other instruments as appropriate (see sec. 62.11(2)(b,c,d)). Forests are encouraged to select the best instrument appropriate to the circumstances.

- a. Stewardship contracts may be used to help meet the intent of the act to reduce the threat to Indian forest land, rangelands and communities, and maximizes the efforts and areas treated when there are goods that can be traded for the services (work to be done to reduce the threat). (For additional information see FSH 1509.11 and FSM 6300).
- b. For stewardship contracts involving goods traded for services, the integrated resource contracts may be used and the service or timber version may be selected in the same manner as any other stewardship contract. For contracts in which there are no goods to be traded for the services to be accomplished, a traditional procurement service contract may be used.
- c. Other agreements may be used when appropriate. Refer to FSM 1580.6 and contact the designated Regional Grants and Agreement Specialist for advice. The use of grants is not authorized under the Tribal Forest Protection Act.
- d. Forests or Districts should consider their ability to meet their short and long term timber sale obligations and/or goals, including community goals. Forest and Districts must comply with regulations governing the sale of timber, including log export restrictions.

**62.4 - Proposal Evaluation and Determination Factors Under the Tribal Forest Protection Act of 2004**

As stated in Section 2(d) of the act, in entering into an agreement or contract in response to a request of an Indian tribe, the authorized officer may:

- a. Use a best-value basis, and
- b. Give specific consideration to tribally-related factors in the proposal, including:
  - (1) The status of the Indian tribe as an Indian tribe;
  - (2) The trust status of the Indian forest land or rangeland of the Indian tribe;
  - (3) The cultural, traditional, and historical affiliation of the Indian tribe with the land subject;
  - (4) The treaty rights or other reserved rights of the Indian tribe relating to the land subject to the proposal;



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- (5) The indigenous knowledge and skills of members of the Indian tribe;
  - (6) The features of the landscape of the land subject to the proposal, including watersheds and vegetation types;
  - (7) The working relationships between the Indian tribe and Federal agencies in coordinating activities affecting the land subject to the proposal; and
  - (8) The access by members of the Indian tribe to the land subject to the proposal.
2. Proposals by Tribes must be authorized in writing by the tribal government.

**69.3 – Tribal Forest Protection Act Reporting**

3. The Chief, through the Secretary shall submit to Congress, no later than July 21, 2008, a report that describes the Indian tribal requests received and agreements or contracts that have been entered into under the Tribal Forest Protection Act.