

Local and Micro-Business Contracting for Fuel Reduction Treatments Briefing Paper

Rural communities, businesses, and workers are vital to the implementation of the National Fire Plan and other efforts to reduce fire hazard and restore fire-adapted ecosystems. The National Fire Plan has four central goals:

- Improve fire suppression and prevention
- Reduce hazardous fuels
- Restore fire adapted ecosystems
- Promote community assistance

Fire hazard reduction, ecological restoration, and fire suppression all need well-trained workforces and healthy businesses located near national forests to succeed. Although not all contracting should be, or can be, exclusively with local or micro businesses companies, increasing the access and capacity of rural and micro businesses can facilitate the National Fire Plan to reduce fire hazard and restore ecosystems and create economic opportunity for rural communities. Fostering small and micro-business involvement in the hazardous fuels reduction and by-product utilization will:

Improve fire suppression and prevention: Local contractors and workers who reduce fire hazard can respond quickly to fire suppression emergencies. Local contracting capacity can reduce fire suppression costs and damage to homes and lives in the early hours of a fire.

Reduce hazardous fuels and restore fire-adopted ecosystems: Most local contractors and workers believe in land stewardship and want to contribute to the restoration of the ecosystem in which they live and work.

Promote community assistance: Contracting with local and micro contractors can directly and indirectly assist rural communities. For example, fuel reduction contracts can create much-needed economic opportunities for forest-dependent communities. Creating and maintaining local and micro contracting capacity through public lands fuel hazard reduction and restoration will also facilitate private land hazardous fuels reduction efforts. Contractors and workers are needed to successfully perform private lands hazard reduction work. Local, well-trained workers and contractors can provide high quality work for an affordable price, particularly important on private lands, where there are fewer safeguards to ensure high quality restoration work.

CHALLENGES FOR LOCAL AND MICRO CONTRACTING

For local and micro businesses to sustain themselves, create economic opportunity for their communities, and help achieve the goals of the National Fire Plan and other hazard reduction initiatives, we need to ensure that:

- Contracts are accessible to small, micro, and local businesses
- Contractors and workers have the capacity to implement the work
- Consistent work is offered to provide employment throughout the field season

The emphasis on rapidly increasing the amount of work contracted is making it difficult for the agency and their community partners to build and maintain the ability of local and micro businesses to access hazardous fuels reduction projects. The Departments of Interior and Agriculture recently decided to try contracting at least 50 percent of hazardous fuel reduction activities to achieve the goals of the President's Healthy Forests Initiative, the 10-Year Comprehensive Strategy, and the National Fire Plan. However, the increasing use of large, indefinite quantity, indefinite delivery (IDIQ) contracts is placing much of the hazard reduction work out of the reach of rural and other micro businesses. The practice of awarding contracts below the government estimate is, in some areas, creating an unfair advantage for large companies.

We believe, however, that there are several simple, positive steps that the Forest Service and other land management agencies could take to increase local and micro business access and capacity. In the spirit of collaboration, this paper offers specific actions that the Forest Service and other land management agencies might take to increase access and capacity of local and micro businesses, which in turn will help achieve the goals of reducing fire hazard, restoring ecosystems, improving fire suppression, and promoting community assistance.

When first funding the National Fire Plan, Congress augmented the federal land management agencies' authority and direction to provide rural community benefit as they implement the National Fire Plan. The appendix identifies some of this authority and direction. With these authorities in hand, the key challenge is to provide tools and direction to facilitate implementation of this objective.

CREATING ACCESS

In this section, we offer suggestions to increase local and micro-business access to hazardous fuels contracts. Fuels reduction work can occur using service contracts, timber sale and hybrid contracting mechanisms, as well as by using in-house staff.

Suggestions related to service contracting

1. Create a percentage target for local and micro-businesses to capture hazardous fuels reduction contract dollars.

We suggest that each agency set a target for local and micro capture of hazardous fuels service contracts. We suggest that the agency target a set percentage of hazardous fuel reduction contract dollars awarded be to micro or local businesses or other entities that will hire and train local workers. Micro businesses should be defined as having fewer than 25 employees, as per the Small Business Administration of a "micro business." The definition of local might be left to definition at the Forest or BLM district level in collaboration with community partners. In addition to creating the target, we recommend that the agencies develop a monitoring program in collaboration with community partners to determine the effectiveness of this approach.

2. Direct service contracting officers not to award contracts at prices below the government estimate.

Refusing to award contracts to contractors that bid well below the government estimate can level the playing field for all contracting businesses. In some instances, suppression contractors are bidding hazard reduction contracts below cost, in order to find work for their suppression crews between fires. In other instances, contractors complain that competitors are paying wages below the Service Contract Act minimums to cut costs. These below cost-awards effectively shut out businesses that cannot subsidize their forest work with suppression activities or payment of substandard wages. This is particularly hard small on rural businesses, most of which do not operate suppression crews and are unable to reduce wage rates.

3. Provide clear direction to all agencies and regions to use the local benefit criteria, as is directed in the National Fire Plan appropriations language.

Early monitoring efforts suggest that the Title IV local benefit language can, in fact, increase local capture of service contracts. However, areas and agencies are not making use of this authority. The Forest Service Region 6 use of this is one good example that other Forest Service regions and other agencies should implement.

4. Provide direction to contracting officers and other field staff to use best value contracting when awarding all hazard reduction work.

Best value contracting, with criteria for specialized skills, past experience, and ability to provide local employment opportunities, in addition to price, enable rural businesses to compete more effectively. Contracting officers can use best value in nearly all their procurement decisions. The Region 6 Toolkit provides considerable direction on how an agency may include "rural community benefit" as an evaluation criterion using existing contracting authorities.

5. Match contracting structures to the local contracting capacity

Encourage local contracting officers to work with community partners to structure contracts to match local capacity. Ecological objectives should remain the primary objective, but, within those limits, contracts

could be structured to be more amenable to micro and local businesses. For example, a thinning contract could be structured to last a crew of five workers two months, instead of one month for a crew of ten workers, making the contract more accessible to smaller operators. Community partners can assist contracting officers by undertaking workforce and contractor assessments.

Suggestions related to timber sale mechanisms

6. Create a small business fuel reduction set aside program

We suggest the development of a set-aside program in which 25% of hazardous fuel reduction treatments performed via timber sales would be set aside for micro-businesses. Businesses would qualify for the Special Hazardous Fuel Reduction Program set-asides if they: (1) had fewer than 25 employees; or (2) were headquarters located within 75 air miles of the national forest boundary. This program would be modeled after the Special Salvage Timber Sale Program (SSTS), which provided a set aside for small logging companies for timber sales that were developed using salvage funds. The SSTS allows micro-businesses with 25 or fewer employees to capture some of the contracts administered with salvage funds. The program has several eligibility requirements, which include short duration (up to one year), minor road construction (less than \$10,000 worth), and location in areas that have not suffered significant, catastrophic fire damage. Any application adaptation of the SSTS model for hazardous fuel treatments would need to be independent of past funding and provide incentives for widespread use.

BUILDING CAPACITY

7. Direct managers and contracting officers to use agreements authority to build worker and contractor capacity.

Agency heads should reinforce the message that Congress provided these special authorities for National Fire Plan projects, and is watching to see that they are used, through memos, directives, and follow-through with contracting officers and other key agency staff. After two years of National Fire Plan implementation, most non-profit organizations have been unable to convince the federal land management agencies to use cooperative agreements.

The National Fire Plan hazardous fuels dollars can be used to create agreements with a variety of entities, including non-profit organizations that will "hire or train local workers" by implementing projects on federal lands. The use of these authorities can build worker and contractor capacity to implement hazardous fuels treatment and, once the agreements are in place, they can be an efficient way to implement treatments because they do not require solicitation or bidding processes.

APPENDIX: AUTHORITIES AND DIRECTIVES THAT CONSIDER RURAL COMMUNITY BENEFIT

National Fire Plan Appropriations Language (Title IV, Public Law 106-291)

The Appropriations language associated with the National Fire Plan explicitly allows the Forest Service and the Department of Interior to consider rural community benefit when awarding contracts.

"Notwithstanding Federal procurement and contracting laws, the Secretaries may conduct fuels treatments using grants and cooperative agreements."

"Notwithstanding Federal procurement and contracting laws, in order to provide employment and training opportunities in rural communities, the Secretaries may award contracts, including contracts for monitoring activities, (A) local, private, non-profit, or cooperative entities; (B) Youth Conservation Corps crews or related partnerships with State, local and non-profit youth groups; (C) small or micro-businesses; or (D) other entities that will hire or train a significant percentage of local people to complete such contracts."

In addition, in the conference report,

"The managers expect that as much of this work [hazardous fuel reduction] as possible will be completed with the use of local contractors."

“...provide the Secretaries with the flexibility to provide employment and training opportunities to people in rural communities. The managers direct the Secretaries to give preference to local workers and youth groups in developing projects under this section to the maximum extent feasible consistent with funding limitations.”

Stewardship Contracting Authorities (P.L. 108-XXX, Section 323)

The Stewardship Contracting authority considers rural community benefit:

“The Forest Service and the Bureau of Land Management, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.”

“A source for performance of an agreement or contract under subsection (a) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.”

Quality Jobs Letter to Region 6 Forest Supervisors, Oregon BLM District Managers, and Oregon Natural Resource Agencies (June 1, 1998),

This Memorandum of Understanding commits the Forest Service, BLM, and the Oregon’s natural resource agencies work together to:

“promote the creation of high quality natural resource jobs for local workers. . . We request that all line officers in both Oregon and Washington support the proposed goal that by the year 2002 all procurement and management actions will incorporate local social and economic needs...”
(Reference FS, R6 2500, 2/5/1999 as quotes in *Toolkit*)

Toolkit: A Stewardship Approach to Ecosystem Management

The *Toolkit* documents the fact that providing rural community benefit is a goal of the Forest Service and provides specific authorities and regulations that allow the agency to implement this goal. It also provides specific reference in the Federal Acquisition regulations that argue that contracting officers do have the authority to consider "rural community benefit" as an evaluation criterion in best value contracting, because creating rural community benefit is a goal of the Forest Service. (The *Toolkit* is available at <http://ewp.uoregon.edu> to facilitate public and agency access.)

For further information, contact:

Laura McCarthy
The Forest Trust
PO Box 519
Santa Fe, NM 87504
505-983-8992 x 14
laura@theforestrust.org

George Ramirez
Las Humanas
PO Box 320
Torreon, New Mexico 87061
505.847.0736
woodmanzone@aol.com