



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Oregon State Office

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Instruction Memorandum No. OR-2006-055

Expires: 9/30/2007

To: District Managers: Coos Bay, Eugene, Lakeview, Medford, Roseburg, and Salem

From: State Director, Oregon/Washington

Subject: Revised Operating Procedures for Conducting the Five-Year Recomputation of Small Business Share Percentages

Program Area: Timber Sales, Small Business Administration Set-Aside Program Management

Purpose: This Instruction Memorandum (IM) replaces a portion of the Bureau of Land Management (BLM) and Small Business Administration (SBA) Operating Procedures in order to facilitate the scheduled Five-Year Recomputation of Small Business Share Percentages.

Policy/Action: On March 10, 1959, the U.S. Department of the Interior and the SBA established a Memorandum of Understanding (MOU) with respect to sales to small business concerns of timber and related forest products from federal lands under the jurisdiction of the BLM. The MOU directed that BLM and SBA jointly develop the details of operational procedures designed to support the sale of a percentage of timber sales to small businesses through the SBA Set-Aside Program. The BLM and SBA periodically review the operational procedures guiding the Program to ensure that the declared policy of Congress, as expressed in Section 15 of the Small Business Act, is carried out.

The *Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program, effective October 1, 1990*, provide administrative direction on program management. In order to conduct the five-year recomputation of small business share percentages, the BLM and SBA will amend some of the current recomputation procedures to address conditions that have changed since the *Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program* were revised 15 years ago. Other procedures in effect since 1990 regarding operation of the regular set-aside program but not affecting share recomputations may be reviewed for possible amendment at a future date.

Data Period for Recomputation of Small Business Share Percentages

In the 1990 Revised Operating Procedures, shares are based upon a rolling ten-year average of small business purchase history. The data period for calculating the small business shares begins in the middle of the fiscal year (April 1) and ends ten years later at the middle of the fiscal year

(March 31). In the future the shares will be based on five years of purchase data instead of ten years in order to provide a more relevant depiction of current market conditions.

For the 2005 recomputation, the small business share percentages will be based on timber sale data for five full fiscal years, beginning October 1, 2000, and ending September 30, 2005. New shares will be effective April 1, 2006.

For future recomputations, the data period for analysis will cover five full years beginning and ending at fiscal half-years. New shares will be effective on the first day of the following fiscal year. For example, for the 2010 recomputation, the small business share percentages will be based on the analysis period April 1, 2005, through March 31, 2010. New shares would be effective on October 1, 2010.

Calculating the Indicated Market Share

Under 1990 procedures, the BLM Indicated Market Share is a simple average of annual small business purchase percentages. It is calculated as the sum of the annual small business purchases for each year expressed as a percent of total purchases during the year, divided by the number of years. Indicated Share can also be calculated as a cumulative percentage. With this approach, the Indicated Share (cumulative percentage) is calculated by dividing total small business sawtimber purchases over the data analysis period by the total sawtimber volume sold over the analysis period. Adopting the cumulative percentage for calculating the Indicated Market Share will simplify the recomputation process and provide timber purchasers a common understanding of how Indicated Shares are calculated.

Limits on Market Shares and Share Change

In the future, the existing limits on market shares and share change would remain in effect. The four procedures listed below are restated (with condensation of information and changes to sentence structure in item four, to improve comprehension) from those listed in the *Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program, effective October 1, 1990*. There is no proposal to change the current limits or procedures under which the Indicated Market Share is adopted.

1. If the current share is 50 percent or less, the change in share shall be limited to ten share percentage points.
2. If the current share is over 50 percent, the change in share shall be limited to ten percent of the current share.
3. Provided, however, that in no case shall the small business share exceed 80 percent or be less than one-half the Original Base Share established in 1972.
4. Provided further, that in each market area where the Indicated Share would have changed more than ten percentage points without the limits in paragraphs 1 or 2 above, the BLM in consultation with SBA may conduct a review of the market area to determine the suitability of the limited share and the impacts of the limit. Such review shall include opportunity for comment from the affected industry. The review shall consider changes in the structure of the industry, capacity of firms active in the area, timber supply, probable effects on communities where manufacturing facilities are located, effects of carryover volumes, and other items deemed appropriate. If, based on the analysis and comments from the affected industry, there are strong reasons that the change in share should exceed the ten share percentage points limit, an alternative share **may** be proposed and established.

Accounting for Deficits and Surpluses

The current recomputation procedures carry forward volume deficits or surpluses from the previous five-year period if the change in share for a market area is less than five share points. Volume deficits and surpluses are not carried forward if the change in share for a market area is five points or more, or if the new share is 80 percent. For all future recomputations, no volume will be carried forward. All deficits and surpluses will be dropped on the effective date of the new shares.

Effective Date of New Shares and Use in Determination of Triggers and Set-Asides

In order to be consistent with the revised five-year recomputation periods, the following clarifications are needed regarding triggers for set-asides.

In all cases, trigger status is determined on the last day of the semiannual period. If a market area is triggered, sales are selected for set-aside in the following six-month period; and the volume objective is based on the current share in effect on the date of the trigger. New shares following recomputation are made effective on the first day of a six-month period and are first used to determine trigger status at the end of that same period. For example, new shares made effective on April 1 are first used to determine a trigger on the following September 30. Shares made effective on October 1 are first used to determine a trigger on the following March 31. If triggered, the volume objective for set-aside in the following six months would be based on the new share which is now in effect.

Crediting Volume for Appealed, Litigated, Defaulted, or Assigned Timber Sales

The previous operating procedures indicated that when a timber sale was protested, appealed, or litigated, the sale volume was credited to the size/class of the successful bidder at the time of contract award. In the case where an open timber sale contract was assigned to a third party having a different size status (small or large), the BLM adjusted large and small business volumes by BLM's estimate of the remaining volume at the time of the assignment except when the contract is assigned to a non-manufacturer. There were no volume adjustments for defaulted or bought-out sales which were returned to the United States and subsequently resold. Purchases by firms that changed size during a recomputation period were tallied to the size/class of the firm at the time of the timber sale purchase.

To simplify the procedure, sawtimber volume will be credited to the size/class of the initial purchaser using the bid date of the timber sale. No adjustments will be made for defaults, assignments to a third party, or change in size/class of a purchaser during a recomputation period. No adjustments will be made for sales unawarded but not terminated. Adjustments to data will be made in only two cases:

- Sales that are abnormally terminated prior to harvest (withdrawn, turned back, or otherwise cancelled) will be removed from the data used for the recomputation.
- For no-bid Set-Aside sales that are subsequently purchased by a large business, the volume is credited to small business in the semiannual analysis but will be credited to large business in recomputations.

Changing Small Business Market Area Boundaries

Currently in western Oregon, there are eight Small Business Market Areas. These areas will not change for the five-year period FY 2006–FY 2010. At this time, there are no procedures for changing them. Current direction in BLM's *Timber Sale Procedure Handbook* (Chapter H-5400-1

– Sales of Forest Products) states that market areas may be no smaller than a BLM Master Unit and no larger than a BLM district. It further states, “The State Director in consultation with the District Manager and SBA, determines appropriate marketing areas.” The Forest Service has established procedures for changing market area boundaries. The BLM will update its *Handbook* Chapter H-5400-1 by adapting the Forest Service approach. For BLM, any adjustment or change to market area boundaries would only be allowed at the time of a scheduled five-year recomputation. The procedure would include analysis of the current market area(s) compared to the proposed change(s). The process would also provide for input from the affected industry concerning any proposal for change. In addition, informational meetings would be held if necessary.

Timeframe: Specific changes to the BLM-SBA Set-Aside Timber Sale Program addressed in this IM regarding procedures for share recomputations will be effective immediately. Other procedures in effect since 1990 regarding operation of the regular set-aside program remain in effect at this time. *Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program* Agreement will be issued at a later date.

Budget Impact: None.

Background: Every five years, the BLM is scheduled to recompute its SBA market shares. The current five-year period ended on September 30, 2005. In 1990, the BLM and SBA established *Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program*. At that time, representatives of small and large business reached a Consensus Agreement regarding the BLM’s Small Business Timber Sale Program. The Consensus Agreement stated: “Small and large business are also in agreement that the program should not be reviewed and revised every five years. It is the intent of the group that the provisions for future recomputation should be followed in 1995 as presented and hopefully in future recomputations. The group would request that this concept be incorporated in the decision notice and future review of the operation procedures be undertaken only where there is a demonstrated compelling reason to do so and the need is mutually agreed to by the agency, SBA, and small and large business representatives.”

Some of the *Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program*, effective October 1, 1990, are being replaced. Procedures for the Five-Year Recomputation of Small Business Share Percentages are being revised due to changes in the last 15 years. The BLM’s sale quantity has been reduced by 80 percent since 1990. Sale programs have become increasingly erratic due to National Environmental Policy Act requirements, protests, litigation, and appeals which also hamper award of timber contracts. During this same period, mill closures, consolidations, retooling of the forest products industry, and changes in size of some firms have occurred. Revising the operating procedures for five-year recomputations will be more responsive to address these changes in the BLM timber supply, forest products markets, and the forest industry.

Manual/Handbook Sections Affected: H-5400-1 – Sales of Forest Products, Appendix 2.

Coordination: This IM was coordinated with the SBA Industrial Specialist (Forestry). Review and comments were also received from representatives of both large and small businesses.

Contact: Questions or comments related to Small Business Set-Aside Timber Sales can be directed to Steve Niles, Forester, at 541-464-3246 until October 30, 2006. After that date contact Bill Hatton, Forester, at 503-808-6015.

Districts with Unions are reminded to notify their unions of this IM and satisfy any bargaining obligations before implementation. Your servicing Human Resources Office or Labor Relations Specialist can provide you assistance in this matter.

Signed by
Elaine M. Brong
State Director

Authenticated by
Mary O'Leary
Management Assistant

1 Attachment

1 - [Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program, effective October 1, 1990](#) (6 pp)

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