



UNITED STATES
DEPARTMENT OF THE INTERIOR BUREAU OF LAND
MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release
5-164

Date
05/17/2022

Office Code
HQ-200

Subject: Timber Sale Contract Administration H-5460-1 (Public)

FOIA Designation P
Letter:

1. Updates, supersedes, or rescinds:

H-5460-1 Sale Administration 6/18/1992, Release 5-151

2. Explanation of Materials Transmitted:

This handbook updates and expands on timber sale administration policies and procedures that have changed since the previous handbook that was released in 1992.

3. Reports Required:

Rel. 5-164 will now be (05/17/2022) H-5460-1 Sales Administration.
Rel. 5-152 (05/17/2022) is H-5460-1 Sales Administration but will now be unused. Refer to Rel. 5-164. None

4. Delegations of Authority Updated:

None

5. Filing Instructions: File as directed below.

REMOVE

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All of H-5460-1 (Rel. 5-151) (Total: 55
Pages)

INSERT

All of H-5460-1 (Rel. 5-164)
(Total: 39 Pages)

Assistant Director,
Resources and Planning

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I. INTRODUCTION.

This handbook sets forth policy and procedural guidelines for the administration of contracts used in forest product sales. All forms referenced in this handbook are available electronically on the BLM [eforms](#) library.

II. CONTRACT INSPECTION.

Contract inspection covers all phases of inspection of the contract area beginning with the initial contact with the Purchaser and any subcontractors and ending with the last inspection prior to contract termination. Employees assigned to contract administration (Contract Administrators) must have adequate training and experience in the fundamentals of contract administration and have thorough knowledge of the forest product sale contract requirements. It is also essential that Contract Administrators know the extent and limitation of authority delegated to them by the Contracting Officer for carrying out their responsibilities.

A. Designated Representative.

As a general practice, the Contracting Officer may designate a Contract Administrator to carry out all the details required for proper administration of a forest product sale contract. The Contracting Officer may designate one or more Contract Administrators to oversee various portions of the contract. The Contract Administrator must be identified in writing to the Purchaser. The written designations are typically included in the contract approval (second) letter.

1. Authority Limitation of the Contract Administrator.

The exercise of the rights or duties of the Contracting Officer by the Contract Administrator is limited to those functions delegated to them by the Contracting Officer.

- a. Contract Administrators enforce the contract; only the Contracting Officer can change the contract.
- b. The signing authority of the Contracting Officer may not be delegated; the Contracting Officer must sign all major actions under the contract.
- c. Examples of major actions that must be authorized by the Contracting Officer are temporary or permanent waivers of contract requirements such as seasonal restrictions, contract modifications, suspension notices, demands for damages, approval of assignments, contract extensions, formal acceptance of road construction, etc.

2. Contract Suspensions.

Only the Contracting Officer may formally suspend operations in writing. The Contract Administrator can call for the immediate suspension of operations in the field if necessary in cases of payment violations, unsafe practices endangering the public or BLM employees, or situations causing serious environmental degradation inconsistent with the terms of the contract. However, this shutdown action is a de facto suspension and timely communication with the Contracting Officer is essential if such a shutdown is to be made a formal written suspension, and thereby validated.

Contract suspension is a step that deserves full consideration by the Contracting Officer before any action is taken. Clear directives must be given to all Contract

Administrators as to the limits of their authority in the field and their required communication with the Contracting Officer prior to any shutdown of operations in the field. Contract Administrators should not use the threat of suspension to expedite Purchaser compliance with contract provisions. Examples of serious contract violations may include willful trespass, negligence, or suspected fraud. The circumstances around a contract suspension must be well documented and the Contracting Officer should consider consulting with the state office to determine if further debarment actions should be pursued (refer to H-5480-1, CONTRACT VIOLATION – SUSPENSION – CANCELLATION – DEBARMENT; SETTLEMENT OF UNCOMPLETED CONTRACT, for more information).

B. Duties of the Government.

It is incumbent on the Government to give the Purchaser a reasonable opportunity to perform before taking remedial actions. Taking such actions against a Purchaser may result in the Purchaser filing a contract claim against the Government.

A “reasonable opportunity to perform” includes providing appropriate information in the sale notice; thorough discussion of all contract requirements and documentation of same at a pre-work conference, providing as much advance notification of impending requirements as possible and documentation of same; documenting warnings of the performance issues leading to remedial actions, suspension, or cancellation. If a claim is filed against the Government, taking all of these steps places the Government in a more defensible position should such claims be brought before an administrative law judge or claims court.

C. Pre-work Conference and Logging Plan.

To facilitate satisfactory Purchaser performance, the BLM should offer a pre-work conference with the Purchaser’s representative, and representatives from any subcontractors that will be conducting the actual harvest operations. Prior to beginning operations, the Purchaser must identify representative(s) and sub-contractor information that will fulfill Section 24 of the contract. The pre-work conference can serve to build positive relationships and effective communication as well as to review the requirements of the contract, including what constitutes trespass. When the Contracting Officer determines that written operations, fire control, and/or logging plans are necessary prior to operating, a special provision should be added to the contract requiring such plans. For low complexity contracts, plans may be verbal and discussed as needed. Refer to [Illustration 1](#) for a sample Operation, Fire Control, and Logging Plan. An Operation, Fire Control, and Logging Plan only restates, clarifies, or interprets a contract; a contract modification is necessary to change or add to a contract. In the event there are contract violations, enforcement by the BLM is more effective when the Purchaser is well aware of those requirements prior to the commencement of operations.

D. Frequency of Inspection.

The Contract Administrator should discuss the contract and its provisions with the Purchaser and any designated representatives prior to any operations. Once operations begin, the actual number and frequency of inspections in a given period of time is dependent on the rapidity of cutting and/or removal of forest products from the contract area; the intensity of contractual activity (e.g., road construction, stream clearance, slash disposal); and/or the potential for resource damage. Contract Administrators are most effective when their inspections do not become a routine schedule such that the operator can predict when inspections will occur. This is especially true with scale for payment contracts presenting product accountability issues.

E. Contract Interpretation.

The Contract Administrator is expected to reasonably interpret the contract stipulations. The Contract Administrator should be aware that instructions given, or actions taken, which deviate from the contract's requirements or require the Purchaser to do something not specified in the contract, could be cause for a claim for a contract modification or a claim for damages under the Contract Disputes Act (refer to section 38 of the contract). There are several general rules in interpreting contracts that should be observed.

1. When there is an inconsistency between a general statement and a specific statement, the latter qualifies the meaning of the former.
2. Where there is a conflict between specifications and drawings, the specifications govern.
3. Where a requirement is stated in either the specifications or the drawings, but not in both, it is construed as being in both.
4. The Government has a right to receive exactly what the contract requires even though something slightly less may be adequate.
5. Where the contract is written in general terms such as "to the satisfaction of the Contracting Officer," the Contracting Officer must recognize that such general statements are subject to interpretation.

Contracting Officers must ensure that project implementation personnel have the necessary knowledge regarding land-use plan standards and guidelines and land-use allocations, and appropriate sensitivity regarding proper project implementation. This would include knowledge of the project's context within the larger land-management goals and the level of the discretion (as defined by NEPA, consultation, and/or decision documents) that layout and contract administration personnel have to make adjustments in the field without further analysis. Potential methods to accomplish this are:

- a. Inclusion of project implementation personnel on Interdisciplinary (ID) teams and/or in IDT meetings.
- b. IDT production of a summary document or checklist that summarizes project design features and mitigation and explains the intent behind them. These should be included as part of the NEPA documentation.

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- c. A full description of the decision (including decision rationale, design feature, and mitigation) in the decision document, which is provided to project implementation personnel.

F. Inspection Report.

The Contract Administrator must generate an inspection report following all inspections using the [Timber Sale Inspection Report form 5460-4](#) or other custom form capturing the same data from form 5460-4 including safety observations related to logging operations and any potential hazards posed to BLM employees and the public. This would include traffic control flagging and warning signs for tree felling near roads and trails. This report is used to document findings in the sale area including a summary of any instructions given, questions asked, or interpretations given to the Purchaser or the Purchaser's representative. In addition to the 5460-4, photographs with a date and time stamp can be used to document observations described in inspection reports and ideally attached to the inspection report. All communication with the purchaser and subcontractors should be documented and included in the official contract file.

G. Instructions to Purchaser.

During the course of contract operations, it may be necessary to give written instructions to the Purchaser. Routine instructions are generally handled verbally. However, there may be instances where the Contract Administrator issues instructions in writing, such as to document certain instructions or an interpretation of a contract provision or to convey complex instructions through a figure or diagram to help ensure and document a common understanding of the instructions. Written instructions can be issued on BLM letterhead as a memorandum. Prepare the memorandum in duplicate, with the original going to the Purchaser and the copy retained for the official contract file. Any oral instruction or contract interpretation given to the Purchaser or purchaser representative during field inspections should be documented in inspection reports. Email communication with the Purchaser should follow the field office records retention procedures and needs to be organized such that it is readily associated and retrievable with the contract file.

H. Remedy Notices.

A remedy notice is a written notice issued by the Contracting Officer that is used to document and provide notice to the Purchaser to remedy reoccurring issues that could lead to a contract violation or a single issue that is a contract violation but does not yet necessitate a contract suspension. Use form 5460-18, Instruction to Purchaser and indicate that it is a Remedy Notice to provide written notice to the Purchaser or purchaser representative. The remedy notice requires signature to acknowledge receipt and a copy retained in the contract file. Not all communication to ask a Purchaser to remedy a situation constitutes a remedy notice. A remedy notice may contain a summary of previous instructions. The issuance of a remedy notice depends on the issue being addressed, the frequency of the issue occurring, prior communication surrounding the issue, and the seriousness of the potential or actual contract violation. Remedy notices are an important preliminary step to provide notice to a Purchaser of performance issues and

depending on the circumstances may be issued before suspending a timber sale contract and/or beginning a process to have the Department of the Interior debarment official intervene with a notice letter, and if serious enough, suspension and/or debarment action.

I. Non-jurisdictional Enforcement.

Several sections of contract forms [5450-3](#) and [5450-4](#) require compliance with non-federal laws and regulations for which there may be another entity with enforcement expertise and responsibility. An example is the state safety requirements that apply to logging operations and are enforced by state safety inspectors. It is not within the authority of BLM Contracting Officers and Contract Administrators to enforce state law. Nonetheless, said compliance is required by the contract. If violations are suspected, the Purchaser and the responsible State agency should be informed. The inspector's determination of a violation of state law, and the Purchaser's continued unsafe practices, may warrant a suspension of the contract. It is imperative that the Contracting Officer and Contract Administrators know which enforcement entities are responsible for applicable non-federal laws and regulations and the contact information for these entities so they can be notified in applicable situations.

J. Inspection to Enforce the Export Prohibition.

The export or acquisition by an unqualified buyer of unprocessed federal timber is prohibited under 16 USC 620 *Forest Resources Conservation and Shortage Relief Act of 1990 et seq* (Form 5450-17 *Export Determination* is used to certify that a buyer is qualified). The Contracting Officer should assess the risk of export or resale to an unqualified buyer for each sale to determine the appropriate level of monitoring needed, if any. Risk factors include proximity to exporting facilities such as harbors, ship ports, navigable rivers, log sorting facilities, or rail yards. If there is a risk of export, the Contracting Officer should ensure painting and branding specifications are adequate to monitor federal timber custody and institute monitoring of potential export facilities and transportation routes. Painting and branding specification should be included in the Special Provisions portion of the contract. If the export of federal timber is suspected, the observer will document the potential export and notify the Contracting Officer. The Contracting Officer will work with BLM law enforcement, the Solicitor's Office, and possibly Customs and Border Protection, to further investigate potential violations and collect evidence for a potential hearing if needed. Potential violators are entitled an opportunity for a hearing related to potential violations as described in 16 USC 620d(c). Potential civil penalties include monetary damages and debarment.

K. Field Files.

Contract Administrators may take into the field an abbreviated copy of the official contract file, selecting only those documents necessary for effective administration. The official (and original) documents contained in the official contract file should not be removed from the BLM Office.

III. CONTRACT PAYMENT METHODS.

This section describes the various payment options applied to lump sum and scale for payment contracts on forms 5450-3 and 5450-4. In all cases, the first installment must be paid before the Contracting Officer approves the contract. One-half of this first installment may be applied as payment when: (1) no less than 60 percent of the total purchase price (lump sum contract) or total estimated purchase price (scale for payment contract), not including the first installment, has been paid; or (2) the value of completed and accepted road construction (based on the appraisal allowances) combined with payments made, not including the first installment, is equal to or greater than 60 percent of the total purchase price. The other one-half of the first installment is held to satisfy the final payment under the contract. “Road construction” includes all construction associated with roads required under the contract including improvement and renovation. Third parties may not make payment on behalf of the Purchaser.

Proper accounting procedures must be followed in the collection and deposit of forest product sale proceeds, bonds, charges for road fees, optional contributions and associated charges for road maintenance, etc. Consult the Collection Reference Guide for the Collections and Billings System (CBS). All Bills are generated by the Timber Sale Information System (TSIS) interfaced with CBS including Accounts Receivable Bill for Collection, Courtesy Statements, and Advance Bills.

A. Cash Payment.

Cash payment means payment of the full amount of the contract purchase price prior to contract approval by the Contracting Officer. Cash payment is mandatory for all contracts under \$500.00 in value. In addition, cash payment is mandatory for all sales of right-of-way timber on O&C lands to a permittee (43 CFR 2812.5-1). When a cash payment in the full amount of the contract is received, the calculated first installment amount must still be identified in TSIS/CBS and one-half the first installment must be held as a final payment, and potential return, in the event the contract is suspended and the Purchaser requests to have funds returned as authorized by section 3(c) of the 5450-3 and 5450-4 contracts.

B. Cash Installment Systems.

1. Payment in Advance of Cutting.

The first full installment is paid prior to contract approval. With payment in advance of cutting, a second full installment must be paid prior to any cutting. Each subsequent full installment is due and payable without advance notice when the value of the material cut or removed equals the sum of all payments, not including the first installment, provided the required anniversary payments are made.

2. Payment after Cutting, in Advance of Skidding, Yarding, or Removal.

- a. The first full installment is paid prior to contract approval. The payment of the second and subsequent full installments may be delayed provided the Purchaser increases the minimum performance bond required under sections

3(e) and 39(b) of the 5450-3 and 5450-4 contracts by an amount equal to one or more full installment payments. [Form 5460-3, Increase or Decrease Rider](#), is used to document the performance bond increase. Cutting in advance of payment will be permitted to an amount equal to the value of the increase in the performance bond. Cutting in advance of payment is not permitted until the Contracting Officer approves, in writing, the increased performance bond.

- b. The second and subsequent full installment payments are due and payable without notice when the value of forest products skidded or yarded to a loading point equals the sum of all payments not including the first installment, provided the required anniversary payments are made.
- c. The Purchaser may elect to use or discontinue use, or resume use, of the increased performance bond procedure at any time during the term of the contract, provided the contract is in good standing.

C. Payment Bond Systems.

1. Payment after Cutting and Removal.

- a. Payment of installments after cutting and removal of forest products will be allowed if the Purchaser secures a payment bond in an amount equal to one or more installment payments as specified in section 3(f) of contract 5450-3 and 3(e) of 5450-4. Payment bonds on forms other than approved BLM forms are not permissible. Single payment bonds cover one contract. Blanket payment bonds can cover multiple contracts held by a purchaser. Cutting and/or removal is permitted up to a value level equal to the value of the payment bond. A good rule of thumb is that the Payment Bond is sufficient to cover 2 months of anticipated cutting and yarding activity. Cutting and/or removal in advance of payment is not permitted until the Contracting Officer approves, in writing, the payment bond. Blanket payment bonds are approved by the Authorized Officer. The following types of payment bonds are acceptable.

- 1) [Form 5450-11, Payment Bond for Single Contract.](#)
- 2) [Form 5450-20, Blanket Payment Bond.](#)
- 3) [Form 5450-21, Cash Payment Bond](#), used for two forms of “cash” payment guarantee.
- 4) Irrevocable Letter of Credit (ILC).
- 5) Assignment of Surety. This is used when the Purchaser elects to bond payment by providing a Certificate of Deposit or Savings Account. This also necessitates an Assignment of Surety for Payment Bond (refer to [illustration 2](#)).

- 6) [Form 5450-15, Deposit of Negotiable Securities of the United States – Payment Bond](#). Refer to H-5450-1, AWARD OF CONTRACT, for an explanation of how to handle negotiable securities.
- b. The Purchaser will be billed monthly for the forest products skidded or yarded to a loading point or removed from the contract area. Payment is due within 15 days of the billing date shown on the billing form. Subsequent payments are due on a monthly basis as forest products are skidded or yarded to a loading point or removed from the contract area, provided the required anniversary payments are made.
 - c. When operations cease for a period of 60 days or more, the Purchaser may request the payment bond be reduced to the value of the cut or gathered forest products for which BLM has not yet received payment. Before operations resume under this option, the bond must be increased to an amount equal to one or more installments. The Purchaser may elect to use or discontinue use of the payment bond procedure at any time during the term of the contract, provided the contract is in good standing.
 - d. The lump sum sale contract (form 5450-3) states that the total purchase price will be paid no later than the expiration of time for cutting and removal (end of the contract term). If the Purchaser completes removal of forest products shortly before the expiration of time for cutting and removal date, a final Bill for Collection (generated as soon as possible) may not be issued or paid until after the expiration date for cutting and removal.
 - e. The scale for payment contracts (forms 5450-4) do not require the total purchase price be paid prior to expiration of time for cutting and removal. A final Bill for Collection will be issued as soon as possible, but due to the potential lag in receiving scaling tickets and determining possible penalty scale, the final volume might not be determined and the final bill might not be issued until after the expiration date.

2. Combination of Methods.

Combinations of installment payments and payment bonds are permitted provided proper bonding has been secured by the Purchaser and approved by the Contracting Officer.

D. Anniversary Payments.

The first installment does not count towards the payment of the first, second, or third anniversary payments. When an anniversary payment is due, the amount is to be based on the applied percentage of the total purchase price, as modified. Prior to issuing an advance bill, communication with the Purchaser may be necessary to clarify the amount due given the complexities of the first installment and credit for any completed and approved road construction.

1. Contract Term 19 Months or Longer.

The Purchaser is required, by the first anniversary date of the contract, to pay no less than 20 percent of the total purchase price. The appraised value of completed road construction required under the contract is combined with contract payments in the 20 percent calculation.

2. Contract Term 27 Months or Longer.

The Purchaser is required, by the second anniversary date of the contract, to pay no less than 40 percent of the total purchase price. The appraised value of completed road construction required under the contract is combined with contract payments in the 40 percent calculation.

3. Contract Term 39 Months or Longer.

The Purchaser is required, by the third anniversary date of the contract, to pay no less than 60 percent of the total purchase price. The appraised value of completed road construction required under the contract is combined with contract payments in the 60 percent calculation.

IV. CONTRACT PAYMENT MONITORING.

The procedure for documenting the volume and value of forest products cut and/or removed is described in detail in this section along with the steps to be taken to ensure that contract payments are paid on time. The specific collections and billing procedures for contracts are contained in the TSIS/CBS user guides available online through the user support pages found on the Forest Resource Information Systems launch pad.

A. Cutting and/or Yarding, or Removal Progress Reporting.

Once the cutting or removal of forest products begins, the Contracting Officer must establish a contract inspection frequency schedule at a level to ensure that cutting and/or removal are consistent with the payments made or bond coverage provided. The Contract Administrator must record the area that has been cut and the area that has been yarded to a loading point.

The estimated volume and value of the forest products cut and/or removed are then computed in the TSIS by way of an activity report. These reports should be computed as needed to properly administer the contract. During active operations, a minimum of one activity report per month is required but may not be sufficient. Frequency depends on the level of activity and the forms of payment and bonding employed. Weekly reports may be necessary to avoid overcutting.

1. Cash Installment System.

The Purchaser has the responsibility to make timely scheduled installment payments prior to the cutting or removal of forest products. The Contract Administrator should meet with the Purchaser's representative and agree to a schedule and level of installment payment submissions geared to the anticipated rate of operations that will keep payments ahead of cutting or removal. The Contract Administrator should monitor the total value of payments for the purposes of crediting the first installment. If the computation of the value of the forest products cut exceeds the sum of the second and any subsequent installment payments (an overcut situation), a contract violation has occurred. The Contract Administrator will immediately advise the Contracting Officer of any overcut situation and will request the Purchaser to make the necessary additional installment payments within one working day of receiving notification to correct the overcut situation.

a. Payment after Cutting but in Advance of Skidding, Yarding, or Removal.

When forest products previously cut have been sold, the installment payments are geared to the rate at which the volume and value of the forest product is to be yarded to a loading point for removal to avoid overcutting.

b. Payment Bond Systems.

At the written request of the Purchaser, the District may allow a Purchaser to guarantee payment for a contract through use of a single contract payment bond or add a new contract to the Purchaser's existing Blanket Payment Bond.

Approval of the request to use a payment bond must be accomplished prior to any cutting. The Contracting Officer must reach agreement with the Purchaser with respect to a contract billing date. Unless a shorter period of time is agreed to by the Purchaser and Contracting Officer, the Contracting Officer will ensure monthly billing of the Purchaser for forest products skidded or yarded to a loading point or removed from the contract area in accordance with section 3(f) of the 5450-3 and 3(e) of the 5450-4 contracts. Upon inspection, the Authorized Officer completes the portions of the activity report that relates to both cutting and yarding or removal. TSIS will compute the amounts to be billed. When billed, the Purchaser has the responsibility to make timely payment within 15 days of the billing date for the value of the forest products yarded to a loading point or removed from the contract area, including amounts due for associated road maintenance fees.

c. Billing Procedure.

Under the payment bond operation, the timeframes for billing and payment are critical as dictated by the terms of the contract. The Contracting Officer has the responsibility to establish prompt billing procedures.

- 1) The Authorized Officer must complete activity reports at minimum once a month and at least one day in advance of the agreed upon billing date.
- 2) A CBS Bill for Collection must be sent to the Purchaser on or before the billing date for the amount due. Copies of the bill must be filed in the official contract file and the field file.

d. Monitoring Obligations under Payment Bond.

A TSIS Bonding Report is required for each payment bond. This TSIS component, presuming activity reports are completed timely, maintains a record of the total amount obligated under a payment bond so it can be quickly and readily identified. This is especially important for Blanket Payment Bonds covering multiple active contracts.

- 1) Activity reports automatically update the value cut and/or hauled against the bond data in TSIS, and current summary and/or itemized bonding reports can be retrieved when needed to monitor purchaser operations.
- 2) If the value of the forest products cut against the payment bond, as shown on the TSIS Bonding Report, approaches the limit of bond coverage, the Contract Administrator advises the Purchaser to: cease cutting, provide additional payment bond coverage, or submit additional payment to cover the anticipated cutting.
- 3) If the value of the forest products cut against the payment bond, as shown on the TSIS Bonding Report, exceeds the limit of bond coverage, the Purchaser has overcut their bond and cash installments are due and payable on the contracts involved. The Purchaser must immediately remedy the situation by:

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- a) Immediate payment of sufficient full installment payments so that operations may proceed; or
 - b) Submission on form 5460-3, Increase or Decrease Rider, of an increase to the payment bond in an amount acceptable to the Contracting Officer and with an effective date that is prior to the overcutting).
- 4) If the Purchaser fails to remedy the situation, the contract must be suspended until remedy is provided.

2. Scale for Payment Sales on Contract Form 5450-4.

The estimated volume of a scale for payment contract shown on Exhibit B when the tract was sold is revised with the computation of each activity report. TSIS automatically revises the estimated volume and value per acre that is applied to the unyarded (not yet scaled) volume on the contract. TSIS will maintain the original cutting area estimates of volume and value and will compute the actual volume scaled and value removed when a final activity report is computed for each cutting area. A final activity report must be computed for each cutting area once the scale reports are all received for a completed cutting area. This may, out of necessity, be an interim activity report; if otherwise, the final cutting area report would not be run in a timely fashion for a purchaser on a monthly billing and payment schedule (operating with a payment bond). The final activity report for a completed contract establishes the actual total volume and actual total purchase price.

B. Receipt of Payment.

Use collection and documentation procedures set forth in the CBS Collection Reference Guide and Manual Section 1372.

1. Receipt of Payment under Payment Bond.

When a billed payment, or other payment, is received under a payment bond, CBS will update TSIS as to the total amount paid and the obligated amount covered by the payment bond.

2. Receipt of Check with Insufficient Funds.

Whenever a Purchaser's payment fails to clear the bank due to insufficient funds, the contract should be suspended immediately. The Contracting Officer should demand a certified or cashier's check in the amount of the insufficient funds as a condition of lifting the suspension. If the Purchaser is finished with cutting and removing forest products at the time of insufficient funds, and upon demand fails to submit valid payment, immediately initiate breach of contract and follow the appropriate procedures described in Manual Section 1372 (refer to H-5480-1, CONTRACT VIOLATION – SUSPENSION – CANCELLATION – DEBARMENT; SETTLEMENT OF UNCOMPLETED CONTRACT).

3. Refund or Transfer of Contract Payments.

Unless the total payments received on a contract exceed the total purchase price (overpayment), contract payments may not be refunded. Additionally, unless there has been an accounting error, payments deposited and recorded on one contract may not be transferred for use on other contracts. Refunds of less than one dollar cannot be made.

4. Partial Payments.

Partial payments may be accepted subject to the following.

a. Cash Installment Systems.

Payments received that are less than the installment amount specified in the contract may be accepted and applied to the contract. Such partial installment payments do not entitle the Purchaser to cut or remove forest products in a value equal to the money so paid. Cutting or removal of forest products is permitted only against full installments.

b. Payment Bond Systems.

A payment received within the 15-day payment period that is less than the amount billed may be accepted and applied against the contract. The original billing remains outstanding until the balance of the bill is received. If the remaining balance of the amount due is not paid by the end of the 15-day period, the Purchaser is in violation of contract terms.

5. Anniversary Payments.

Tracking of payments and approved road construction credit is conducted in TSIS, which calculates the amount and date due, and issues an automated reminder 30 days in advance of an anniversary date if payment is required. An anniversary bill should be generated in TSIS enough in advance so that the amounts can be verified by the Authorized Officer, and to assure the issuance of the bill with sufficient time to give the Purchaser 15 days to make payment by the anniversary date. Anniversary bills should include a cover letter disclosing the calculations used for determining the bill amount.

C. Total Payment.

The total contract purchase price must be paid prior to the expiration of the contract time for cutting and removal of forest products. When a contract extension is granted, the total contract purchase price becomes due prior to the new expiration of an extended contract, provided however that the Contracting Officer may require payment in full of the unpaid contract balance as a condition of granting the extension.

1. Performance Bond Reduction.

Upon payment of the total purchase price, any increased amount of the performance bond used to cover a cut-but-not-remove operations may be removed, and the bond reduced to the minimum required by the contract. Subject to approval by the Contracting Officer, the Purchaser may submit a written request for performance bond reduction by letter or by submitting a properly executed form [5460-3, Increase or Decrease Rider](#), or by furnishing a new performance bond in the correct penal amount.

As contract requirements are completed to the satisfaction of the Contracting Officer, said official may, at their discretion, reduce the performance bond to 10 percent of the total purchase price if no less than 60 percent of the total purchase price has been paid; or when completed road construction required under the contract, the appraised value of which, when combined with contract payments, is equal to no less than 60 percent of the total purchase price. The performance bond may not be reduced below 10 percent of the total purchase price until the total purchase price has been paid. [Illustration 3](#) provides a sample letter to respond to the Purchaser indicating performance bond reduction to the specified penal sum is acceptable.

2. Payment Bond Reduction.

Upon payment of the total purchase price of a contract, a payment bond may subsequently be reduced or canceled.

c. Blanket Payment Bond – Corporate Surety.

Subject to approval of the Contracting Officer, the Purchaser, by written notice, may reduce the payment bond to a level sufficient to cover the value of remaining cut and/or unpaid yarded value remaining on contracts listed under the bond. Such a reduction may be affected by submitting form 5460-3, Increase or Decrease Rider, or furnishing a new bond on form 5450-20, Blanket Payment Bond, for the revised amount. If the Purchaser has no other contracts listed under the bond, they may request that the bond be canceled. [Illustration 4](#) provides a sample letter to respond to the Purchaser indicating blanket payment bond reduction is acceptable.

d. Payment Bond for Single Contract.

Upon payment of the total purchase price of the contract for which the bond was filed, the Contracting Officer cancels the bond and notifies the Purchaser and surety of this action (refer to [illustration 5](#)).

e. Payment Bond – Deposit of Negotiable Securities of the United States.

A bond executed through a Deposit of Negotiable Securities of the United States – Payment Bond, may not be reduced or transferred to another contract. Upon payment of the total purchase price of the contract for which the bond was filed, the Contracting Officer cancels the bond and notifies the Division of

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Business Services, National Operations Center, of this action. Upon receipt of notice of cancellation of the bond, the Division of Business Services requests that the Federal Reserve Bank return the securities to the Purchaser (refer to [illustration 6](#)).

f. Cash Payment Bond (with Irrevocable Letter of Credit).

Upon payment of the total purchase price of the contract for which the bond was filed, the Contracting Officer will return the ILC to the issuing financial institution (refer to [illustration 7](#)).

D. Delinquent Payments.

Refer to H-5480-1, CONTRACT VIOLATION – SUSPENSION – CANCELLATION – DEBARMENT; SETTLEMENT OF UNCOMPLETED CONTRACT, for procedures relating to delinquent payments. If a Purchaser is consistently late in meeting payment commitments, that Purchaser should be given written warning that operations under the contract may be suspended for future delinquent payments without further notification; the Contracting Officer may require full contract payment as a condition of lifting the suspension.

E. Cancellation of Corporate Payment Bond by Principal or Surety.

Corporate payment bonds provide for cancellation by the principal or surety at any time 90 days after the Government's receipt of written notice of cancellation from the principal or surety; or by the surety following the Government's demand for payment under any payment bond of the same principal and surety 10 days after the Government's receipt of written notice of cancellation from the surety. Upon receipt of a notice of cancellation, the Contracting Officer should take the following action.

1. Send a letter by certified mail to the Purchaser stating that the BLM received the cancellation notice. The letter should state the effective date and the action permitted by the Purchaser as a result of the cancellation notice (refer to [illustration 8](#)). A copy of that letter should also be sent to the surety. Prepare a letter for each contract involved.
2. An inspection of the contract should be made so that there is a report of the volume cut and the volume removed as of the effective cancellation date.
3. In the event that felled or severed forest products covered by the canceled bond remains and the Purchaser provides a new payment bond, the new bond must cover the felled or severed forest products. A contract may not have dual payment bond coverage.
4. A suspension notice should be issued immediately if the Purchaser attempts to cut forest products after the effective date of cancellation unless a payment, acceptable under section 3 of the contract has been made, or a new payment bond has been provided.

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5. A letter should be sent to the surety by certified mail acknowledging receipt of the cancellation notice and asserting the BLM's views of the obligations of the surety and the actions that may be taken in response to the cancellation notice (refer to [illustration 9](#)).

V. EXPIRATION OF TIME FOR CUTTING AND REMOVAL.

The BLM has a general practice of notifying the Purchaser of impending contract expiration dates. This practice puts the Purchaser on notice that limited time remains for harvest and the completion of other contract requirements. The objective of the courtesy notice is to remind the Purchaser of the contract expiration dates for cutting and removal of the forest products, and the date for removal of personal property from the contract area.

F. Ninety-Day Notice.

As a matter of courtesy, the Contracting Officer may alert the Purchaser to the contract expiration date. The courtesy notice is sent approximately 90 days prior to the expiration of the Purchaser's right to cut and remove forest products. [Form 5460-5, Notice of Expiration of Cutting and Removal Rights](#), is used for this purpose. The notice must also cite the contract period during which the Purchaser may remove personal property. Logs are not personal property within the meaning of BLM forest product sale contracts and may not be removed from the contract area after the expiration date of the Purchaser's right to cut and remove forest products. Logging equipment, portable sawmills, and sanitary facilities are examples of personal property.

1. Expiration Date - Forest Products.

Unless an extension is granted, the Purchaser's right to cut and remove forest products remaining in the contract area is terminated on the day after the expiration of the Purchaser's right to cut and remove forest products.

2. Expiration Date - Personal Property.

Unless an extension is granted, per contract section 40, all personal property of the Purchaser remaining on the contract area becomes the property of the Government on the day after the expiration of the Purchaser's right to remove personal property.

3. Possibility of Default.

In the event it appears that the Purchaser might have difficulty completing the cutting and removal by the expiration date, and especially if there is no apparent reason the Purchaser might qualify for an extension, verbal and written communication with the Purchaser should occur to this effect. The Contracting Officer should request the Purchaser to provide a written plan of operations covering how they intend to complete cutting and removal within the remaining time. Any unrealistic expectations in the plan should be discussed with the Purchaser and resolved. The objective is to assist the Purchaser in being successful in order to avoid a default.

Submission of a realistic plan, or the Purchaser refusing to provide such a plan, strengthens the Government position in the event a claim is filed on a denied request for an extension. This is true if the Purchaser does not execute the plan and fails to complete cutting and removal by the expiration date.

G. Thirty-Day Notice.

If it appears likely that forest products cannot be removed prior to expiration of time for cutting and removal, the Contracting Officer will send a letter to the Purchaser 30 days prior to the expiration of the Purchaser's right to cut and remove forest products as a reminder of the remaining contract obligations and possible extension of time for cutting and removal (refer to [illustration 10](#)). Send a copy of this letter to the Surety as well. If the total purchase price remains unpaid on the contract's expiration date, a Bill for Collection will be sent for the remaining balance of the total purchase price payable within 15 days of the billing date. If the total payment is not submitted by the due date, the contract is in default.

H. Extension of Time.

The Purchaser may apply, in writing, for an extension if it can be shown that the inability to complete operations was due to causes beyond the Purchaser's control. A written request must be filed with the Contracting Officer prior to the contract expiration date. A request for an extension received after the expiration date is ineligible for consideration. Refer to handbook H-5470-1, CONTRACT MODIFICATION - EXTENSION - ASSIGNMENT, for detailed procedures regarding extension of time for cutting and removal.

VI. CONTRACT DISPUTES.

A. Contract Disputes Act of 1978.

The Contract Disputes Act provides a forum for a Contractor (forest products sale purchaser) to obtain formal review with the Contracting Officer and resolution of disputes on claims arising under a forest products sale contract. This includes claims by both the Purchaser and the BLM. Contracting Officers will notify the state office upon receipt of a contract claim.

B. Purchaser's Submission of a Claim to the Contracting Officer.

Section 38 (Disputes) of the forest products sale contracts (forms 5450-3 and 5450-4) provides that if a dispute arises relating to the contract, the Contractor may submit a claim to the Contracting Officer. A contract is formed when a Purchaser accepts (signs) the awarded contract. Pre-bid costs are not claimable because they were incurred before the contract was formed. They are a cost to all bidders. A claim as defined in section 38 means "a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract". The preceding establishes the existence of a claim, a description of the claim, and a demand for a final decision.

C. Time Limitation for Issuing Contracting Officer's Decision.

A Contracting Officer will issue a decision on any submitted claim of \$100,000 or less within 60 days of receipt of a written request from the Purchaser. A Contracting Officer will, within 60 days of receipt of a submitted certified claim over \$100,000, either: (1) issue a decision; or (2) notify the Purchaser of the time within which a decision will be issued. This specified amount of time should be limited to that necessary to acquire information and conduct analysis necessary to formulate the Contracting Officer's decision. To help ensure the decision is defensible, send all decisions to the state office for review prior to mailing them to the Purchasers.

D. Format for Contracting Officer's Final Decision on a Claim in Dispute.

4. Title, Date, Purchaser, Contract

- a. Title: (Findings of Fact and Decision of Contracting Officer on Claim Under the Contract Disputes Act of 1978.)
- b. Date: (Provide the date when the claim was received.)
- c. Purchaser: (Provide Purchaser's name and address.)
- d. Contract: (Provide the contract number and sale name.)

5. Findings of Fact.

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- a. Provide general information about the nature of the claim including reasons for the claim.
 - b. Discuss pertinent contract provisions.
 - c. Describe the Purchaser's performance or lack of performance.
 - d. Describe the Government's performance (billing or other action).
 - e. Provide information regarding the Purchaser's knowledge of contract provisions.
 - f. Provide information on the Government's needs for work required by contract provisions.
 - g. Any other information pertinent to the claim.
6. Rationale.
- a. Explain how the Purchaser's or the Government's performance or lack of performance does or does not conflict with contract provisions.
 - b. Describe what contract remedies were applied by the Contracting Officer.
 - c. Explain how contract provision(s) in dispute relates to the Government's forest management.
7. Decision of Contracting Officer.
- a. Describe the consequence of the Purchaser's action.
 - b. Provide the Contracting Officer's conclusion.
8. Rights of Appeal.
- a. Insert the following:

“This is the final decision of the Contracting Officer. This decision may be appealed to the Civilian Board of Contract Appeals, 1800 M Street, N.W., Washington, DC 20405. If you decide to make such an appeal, you must mail or otherwise furnish written notice thereof to the Board of Contract Appeals within 90 calendar days from the date you receive this decision. The Civilian Board of Contract Appeals website (www.cbca.gov) describes the methods available to file any documents. The notice of appeal must be in accordance with the Civilian Board of Contract Appeals Rule 2 (Filing Appeals, Petitions, and Applications; Consolidation).”

“In appeals where the requirements of Rule 52 (Small Claims Procedure) are met, you may elect to have the appeal processed under the optional Small

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Claims (expedited) procedure. In appeals where the requirements of Rule 53 (Accelerated Procedure) are met, you may elect to have the appeal processed under an accelerated procedure.”

“In lieu of appealing to the Board of Contract Appeals, you may bring an action directly in the U.S. Court of Federal Claims. Actions in the Court of Federal Claims are governed by the “Rules of the United States Court of Federal Claims” available on the court’s website (uscfc.uscourts.gov).”

- b. Provide the date of the decision and the Contracting Officer's signature.

E. Purchaser's Appeal of the Contracting Officer's Decision.

The Contracting Officer should notify the state office when a Purchaser appeals the Contracting Officer’s decision. A copy of the appeal should be sent to the State Director. The state office will contact the Regional Solicitor who will assign an attorney to represent the Government's interest in the matter. Instructions for responding to receipt of notice of administrative appeal and preparing an appeal file are found at the Civilian Board of Contract Appeals (CBCA) website (<http://www.cbca.gov>).

The Civilian Board of Contract Appeals was established by Section 847 of the National Defense Authorization Act for Fiscal Year 2006 to hear and decide contract disputes between government contractors and executive agencies under the provisions of the Contract Disputes Act of 1978, 41 U.S.C. 7101-7109, and regulations and rules issued under that statute. The Board’s authority extends to the Department of the Interior and the BLM.

The Board uses a variety of techniques intended to shorten and simplify, when appropriate, the formal proceedings normally used to resolve contract disputes. The Board fully supports the use of alternative dispute resolution (ADR) in all appropriate cases; it encourages the prompt, expert, and inexpensive resolution of contract disputes as promoted by the Administrative Dispute Resolution Act. In addition, the Board provides to executive agencies, when jointly requested by an agency and its contractor, alternative dispute resolution services on contract-related matters, whether arising before or after a contract has been awarded.

Glossary of Terms

Authorized Officer. Any employee of the Bureau of Land Management with authority to take action in connection with a contract.

Contract extension. An extension of time for cutting and removal of forest products sold under the terms of a forest product sale contract.

Contract modification. A change in the terms of an approved forest product sale contract as documented by the parties in writing.

Contract suspension. Formal notification from the Contracting Officer to a purchaser that suspends all contract operations except those necessary to correct the contract violations.

Contracting Officer. Bureau of Land Management official with authority delegated in the 1203 Manual Section (Delegation of Authority) to execute contracts and delegate authority to take action in connection with the contract.

Contract administration. Inspection, direction, and financial management of a forest product sale contract beginning at the contract approval date and ending at the contract termination date (sometimes referred to as sale administration).

Default. A condition where a Purchaser fails to correct a contract violation after a remedy has been prescribed by the Contracting Officer.

Cutting area. Cutting area is synonymous with harvest unit.

Harvest unit. A specific area delineated on the ground and identified on contract Exhibit A, containing forest products designated for cutting and/or removal. Synonymous with Cutting area.

Remedy notice. Formal notification from the Contracting Officer to a Purchaser that addresses a recurring issue that could lead to a contract violation or a single issue that is a contract violation but does not yet necessitate a contract suspension.

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Illustration 1

Example of Operation, Fire Control, and Logging Plan

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
EUGENE DISTRICT OFFICE
2890 CHAD DRIVE
EUGENE, OREGON 97440**

Contract No.
Purchaser:
Sale Name:

Pre-work Conference For: (check all that apply)

- A. Cutting ____
- B. Yarding ____
- C. R/W Falling & Construction Only ____

OPERATION, FIRE CONTROL, AND LOGGING PLAN

Upon completion and approval this will be your operation, fire control, and logging plan. Proposed changes shall be submitted to this office for the Authorized Officer’s consideration.

I. Operations

Purchaser’s Representative

Name:
Address:
Phone:
Cell Phone:
Fax:

Watchman / Emergency

Name:
Address:
Phone:
Cell Phone:

Logging Operations

Name:
Address:
Phone:
Cell Phone:

Contract Cutter

Name:
Address:
Phone:
Cell Phone:

Other:

Other:

BLM Representatives:
Authorized Officer:
Contract Administrator:
Office Phone:
Cell Phone:
Fax:

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II. Logging Operation

Name of Person to Obtain State Operating Permit and Check Fire Stipulations:

Name of Person Authorized for the Purchase of Additional Timber:

Date Operations will Begin:

Falling

Yarding

No. of Fallers

Anticipated Production Rate _____ mbf / day

Logging Equipment:

Method of Logging (check items that apply)

Tractor _____

Skyline _____

Intermediate Support System _____

Hi-Lead _____

Mobile Yarder _____

III. Contract Requirements

Timber Reserved from Cutting:

Seasonal Limitations:

Branding and Painting of Logs:

Bearing Tree Protection and Treatment:

Logging:

IV. Road Use

BLM Maintenance:

Purchaser Maintenance:

Optional Roads:

Road Easements and R-O-W Agreements

Agreement No.

Grantor / Licensor

Provisions

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V. Environmental Protection

Watershed:

Soil:

Wildlife:

Plants:

Cultural Sites:

Other:

VI. Slash Disposal and Site Prep

VII Additional Items Discussed:

Signature of Purchaser's Representative

Approved Bureau of Land Management

DATE

DATE

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Illustration 2

Assignment of Surety for Payment Bond

ASSIGNMENT OF SURETY FOR PAYMENT BOND

The undersigned Owner, and Co-owner if any, of the herein described Certificate of Time Deposit/Savings Account (“deposit”) hereby assigns their right, title and interest in, to or under said “deposit” to the U.S. Department of the Interior, Bureau of Land Management in the amount of Fifty Thousand Dollars (\$50,000.00).

Such amount shall be for the purpose of securing payment in accordance with the terms and conditions of timber sale contract No. OR00-TS6-122 executed for the sale of timber from United States lands. The Bureau of Land Management, U.S. Department of the Interior shall be authorized to charge against the described “deposit” for failure to make timely payment under the above described contract for timber cut and removed prior to payment pursuant to 43 CFR 5451.4 and any related road maintenance fees.

Any interest earnings shall remain the property of the Owner. It is agreed the issuing institution will hold the “deposit” in trust for the uses and purposes stated above until released by the Bureau of Land Management, U.S. Department of the Interior. Time deposits shall be automatically renewable at maturity date at the rates and terms in effect at the time of renewal.

Type Deposit Certificate of Time Deposit

Number 00-0000000 Effective date: June 1, 2009

Signature Guaranteed: Jones Smith John Doe
 (Owner) (SEAL)

Title: Asst. Vice President & Manager
 (Co-Owner)

Acknowledged & Recorded: June 1, 2009

Institution: North Zone State Bank 1111 N. 2nd St., City, OR , Zip
 (Address)

By: Jones Smith

Title: Asst. Vice President & Manager

RELEASE OF ASSIGNMENT

The Bureau of Land Management, U.S. Department of the Interior hereby releases all right, title and interest in, to and under the form of deposit described in above Assignment.

Dated: _____ Bureau of Land Management
 U.S. Department of the Interior

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By: _____

Name: _____

Title: _____

cc: Owner
 Issuing Institution

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Illustration 3

Example of Letter for Performance Bond Reduction

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

[Purchaser's Name]

[Purchaser's Address]

[Salutation]

You have requested a performance bond reduction on your timber sale contract No. (insert contract number). As the total purchase price on this contract has been paid in full, your performance bond No. (insert performance bond number), with (insert name of surety) in the penal amount of \$(insert amount) may be reduced to a penal amount of \$(insert amount).

Enclosed is form 5460-3, Increase or Decrease Rider. Upon completion of this bond rider by yourself and surety, return to this office for approval. Your approved copy will then be returned to you.

Sincerely,

Contracting Officer

Enclosure:

Increase or Decrease Rider (Form 5460-3)

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Illustration 4

Example of Letter for Reduction in Blanket Payment Bond

CERTIFIED MAIL RETURN RECEIPT REQUESTED

(Purchaser's Name)

(Business Address)

(Salutation)

By letter dated (insert date), you requested to reduce your Blanket Payment Bond No. (insert bond number) dated (insert date of the bond), with (name of surety).

You have indicated that a bonding level of \$(requested amount) will adequately cover the rate of operations planned for the remaining contracts covered under the bond. We are in agreement with this, and you may reduce the penal amount of the bond from \$(current amount) to \$(requested amount).

Please complete and return Form 5460-3 Increase or Decrease Rider and provide your surety with a copy. The form will be reviewed and returned upon approval.

Sincerely,

Contracting Officer

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Illustration 5

Example of Letter for Cancellation of Blanket Payment Bond

CERTIFIED MAIL RETURN RECEIPT REQUESTED

(Sureties Name)
(Business Address)

(Salutation)

By letter dated (insert date), (insert purchaser's name) advised they wish to cancel Blanket Payment Bond No. (insert bond number) dated (insert date of the bond).

This is to advise you that all timber sale contracts listed under the bond have been paid in full. No contract has been added since the last deletion report sent to you on (insert date). Therefore, at present there is no obligation against the bond, and we have no objection to such a cancellation at this time without waiting the full 90-day period stipulated in the bond.

Please provide this office with a copy of the appropriate cancellation notice for our file.

Sincerely,

Contracting Officer

cc: Purchaser

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Illustration 6

Example of Letter for Cancellation of Negotiable Securities

CERTIFIED MAIL - RETURN RECEIPT REQUESTED _____

(Purchaser's Name)

(Business Address)

(Salutation)

On (insert date), you completed full payment of the total purchase price on timber sale contract No. (insert contract number). Your negotiable security payment bond submitted for this contract is no longer needed and is hereby cancelled.

We have requested that return of your securities from the Federal Reserve Bank. You should receive the securities in about two weeks by registered mail.

We wish to take this opportunity to thank you for the prompt manner in which you made timely payments on this contract.

Sincerely,

Contracting Officer

cc: Division of Business Services, National Operations Center

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Illustration 7

Model Letter for Cancellation and Return of Irrevocable Letter of Credit

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

(Name of Issuing Bank)
(Bank Address)

(Salutation):

The Bureau of Land Management consents to cancellation of the following irrevocable letter of credit effective this date:

Number: _____

Date of Letter:

Credit Amount:

For account of:

The irrevocable letter of credit is returned herewith.

Sincerely,

Contracting Officer

cc: Purchaser

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Illustration 8

Letter Format for Cancelling Payment Bond at Request of Surety

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

[*Purchaser's Name*]

[*Purchaser's Address*]

Please refer to your BLM timber sale contract number (insert number). We have received a notice of cancellation of your blanket payment bond number (insert bond number), issued by (insert name of surety), effective on (insert date).

(INSERT THE FOLLOWING, IF OPERATIONS HAVE BEEN SUSPENDED)

Your operations under the contract were suspended on (insert date), due to (describe violation[s]). The violation must be remedied before operations may resume. After (insert bond cancellation date), you may not cut any timber under bond number (number) _____. In order to cut any timber after (bond cancellation date) ____, you must remedy the violation and either (1) furnish a new payment bond, (2) provide a cut-but-not remove bond, or (3) make installment payments.

(INSERT THE FOLLOWING, IF OPERATIONS ARE NOT SUSPENDED)

After (bond cancellation date) ____, you may not cut any timber under bond number (number) _____. In order to cut any timber after (insert bond cancellation date), you must either: (1) furnish a new bond; (2) provide a cut-but-not remove bond; or (3) make installment payments.

(INSERT THE FOLLOWING IF FELLED TIMBER REMAINS ON THE CONTRACT AREA)

Felled timber remains covered by the bond which otherwise has been cancelled. If you choose to provide a new payment bond, the new bond must cover the value of the felled timber and this coverage must be so noted on the payment bond.

Sincerely,

Contracting Officer

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Illustration 9

Example of Letter to Surety Acknowledging Request to Cancel Bond

CERTIFIED MAIL RETURN RECEIPT REQUESTED[*Surety's Name*][*Surety's Address*]

Salutation:

We have received your notice of cancellation of Blanket Payment Bond for (insert name of Purchaser) effective on (insert effective date). The status of cutting under the contracts covered by this bond as of the date of cancellation will be provided to you at that time.

We wish to take this opportunity to clarify our position regarding the rights and obligations of the purchaser, surety, and Government where there is a cancellation of a payment bond. Under section 2, the bond states that it covers “all timber cut prior to payment” from the effective date of the bond until cancellation. The surety’s obligation to ensure payment continues until the purchaser makes timely payment. Until then, the surety is obligated to make the payment to the government within 60 days after demand whenever the purchaser fails to timely pay for the covered timber. Cancellation of the bond does not void this obligation. The surety is still obligated for timber cut prior to cancellation even if it is removed after the date of cancellation, unless the Purchaser provides a new payment bond which specifically covers the cut timber. As long as the timber being removed is covered by the bond and the purchaser is not behind in payments, there is no breach and the purchaser is permitted by the contract to continue removing the timber. If the purchaser fails to make a timely payment, the Government then has a basis under section 10 of the contract to suspend any further operations until the breach is remedied. Cancellation of the Blanket Payment Bond will, of course, remove the authority of the contractor to cut any additional timber after the effective date of the cancellation without first providing a new payment bond or making cash payments in advance of cutting as required by section 3(b) of the contract.

If you have any questions regarding the status of (insert name of Purchaser) timber sales contracts, please contact (insert name of BLM contact) at (insert telephone number).

Sincerely,

Contracting Officer

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Illustration 10

Example of Letter for 30-Day Notice

Certified Mail Return Receipt Requested

(Bidder's or Purchaser's Name)

(Business Address)

(Salutation)

The time for cutting and removal of timber sold under your timber sale contract No. (insert contract number) will expire on (insert date). The time for removal of personal property from the contract will expire on (insert date). Accordingly, after (insert date) any interest you have in timber and logs left on the contract will terminate and after (insert date) any interest you have in equipment, improvements, or any other property left on the contract area will terminate. Such timber, logs, equipment, improvements or other property will become the property of the Government.

(USE THE FOLLOWING PARAGRAPH IF CONTRACTUAL REQUIREMENTS REMAIN THAT UNDER THE CONTRACT MUST BE COMPLETED BY THE EXPIRATION DATE.)

You have failed to satisfactorily complete all contractual requirements. Unless (list requirements) are completed by (insert expiration date), you will have defaulted your contract. Based on Bureau of Land Management estimates, the Government would sustain \$(insert amount) in damage resulting from the default. Interest on the damages would begin to accrue on (insert date).

(USE THE FOLLOWING PARAGRAPH IF CONTRACT PAYMENTS REMAIN)

The total purchase price of your contract is \$(insert amount), leaving an unpaid balance of \$(insert amount). Payment of the unpaid balance is due on or before (insert expiration date). Interest on the unpaid balance will begin to accrue on (insert date). Failure to pay the total purchase price within the specified time will place you in default of your contract.

There is a conditional provision for an extension of time for cutting and removal of timber in section 9 of the contract. Written application for an extension must be filed with the Authorized Officer prior to the expiration of the time for cutting and removal express in section 4 of the timber sale contract.

Sincerely,

Contracting Officer

CC: Surety