Land Management Stewardship Contracts: 
Background and Legislative History

by

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From Webster's Ninth New Collegiate Dictionary
Stewardship - the individual's responsibility to manage his life and property with proper regard to the rights of others

Stewardship is a word that is increasingly becoming part of everyday speech in the land management arena. However, exactly what stewardship entails is still a matter of much discussion. On the National Forest System, the concept and practice of stewardship contracting and stewardship services continues to evolve from its legislative beginnings in the early 1990's. This working paper provides a brief background of the legislative history of these types of contracts and the projects that have arisen from them. This paper is a work in progress and comments are always welcome.

Stewardship contracting on the national forests originated with “land management services contracts” (LMSCs), which were first authorized as part of a pilot program on several national forests in 1992. LMSCs have been defined as “contract proposals which provide for an array of land service activities to be implemented on national forest land, often utilizing the value of timber to directly pay for these services” (Dixie National Forest, 1994). There has been a wide range in terminology associated with these types of contracts, based on the project objectives, personnel involved, and contract activities. Terms such as end-results contract\(^1\), stewardship contract\(^2\), and goods for services contract\(^3\) are common.

Early forms of land management services contracting (first utilized on national forests during the 1980's) were primarily a response to shrinking federal budgets, reduced personnel and demands for a broader range of outputs from public lands. The contracts were meant to create significant savings of public funds and improved efficiency in contract administration by allowing the consolidation of multiple stand improvement contracts and improved productivity because the contractor was responsible for the end-result. Finally, the flexibility of the contracts allowed for the execution of unique, site-specific prescriptions.

Although initially developed as a means of facilitating traditional timber management activities (such as timber sale layout, site preparation, reforestation, timber stand improvement, and tree marking) these contracts evolved into more comprehensive approaches to ecosystem management with the inclusion of such objectives as wildlife habitat improvement, developed

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\(^1\) Any contract which specifies the desired final condition to be achieved on the ground. This might include parameters such as forest stand density, wildlife habitat improvements, recreational improvements, and riparian area conditions. Generally, the contractor is given the discretion as to how the end-result will be achieved, as long as his/her methods fall within established regulations.

\(^2\) Service contracts that are aimed primarily at achieving non-timber objectives. See remaining discussion for additional basic differences between services and stewardship contracts.

\(^3\) Contracts in which the contractor is given all or a portion of the goods that are removed from the site during the course of the service contract in exchange for all or a portion of the services provided. To date, authorization for the Forest Service to implement these types of contracts has been provided on a project-specific basis through Congressional action.
and dispersed recreation facilities, soil and water conservation practices, and visual management improvement. These later contracting approaches, which involve both timber and non-timber objectives, are more commonly referred to as land management stewardship contracts.

In the early 1990's, the land management stewardship concept evolved to include local small business participation, alternative commodity sales strategies, and site specific planning by local stewardship councils as key components. The following is a brief history of the development of federal legislation to effectively implement land management stewardship contracting on public forest lands.

1984 - 1991

During this period, a number of land management services contract formats were tested on national forests in the western United States. These included Multi-Year Procurement contracts and End Results contracts. Both of these formats generally consolidated a number of reforestation and timber stand improvement (TSI) contracts, were end-results oriented, and extended the contract period to as long as five years\(^4\). These contracts were applied in areas which would have been deficit timber sales under normal timber sale contracting processes, with the idea that use of "bundled" contracts would reduce the costs of administration. Furthermore, it was seen that the end-result emphasis would provide an incentive for the contractor to self-regulate, thereby reducing costs of compliance monitoring.

1992

Prior to 1992, land management services contracts had been discussed in Congressional hearings, but had not been included in any appropriations bills. In FY92, two significant changes occurred. First, the previously discussed services contracts were renamed "stewardship end results contracts" and pilot projects on two forests (Kaibab NF in Arizona, and Dixie NF in Utah) were authorized in that year's appropriations bill (Public Law 102-154). Secondly, the notion of exchanging timber for services was introduced for the first time. The appropriations authorized the application of all or part of the revenues received for timber removed under stewardship end-result contracts as an offset against the cost of stewardship services. The identified services included site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements.

1993

The 1993 appropriations process resulted in the continued authorization for projects on the Kaibab and Dixie NF, and expanded the program to include projects on the Idaho Panhandle NF, the Coconino NF in Arizona, and the Lake Tahoe Basin Management Unit in California. The appropriations language additionally called for a study of how payments to local governments could be included in such a program if it were adopted Forest Service-wide.

\(^4\)Existing restrictions on multi-year funding were avoided by funding the entire project at the outset. As long as all funding commitment is made at the beginning of the process, the funds can be allocated over the extended contract period.
The following is a brief discussion of each of the pilot projects developed out of the FY 92 and 93 appropriations:

**Kaibab National Forest**

The Kaibab NF was authorized to implement 2 projects in FY92 and FY93 using Land Management Stewardship Contracts. On the Tusayan Ranger District, the stated objective was to perform ecosystem restoration work while providing employment for the local community. The successfully completed contract involved thinning, site preparation, growing seedlings, fuel break construction, prescribed burning, and repair and construction of an earthen tank and fence. On the North Kaibab Ranger District, an ecosystem restoration project was implemented that primarily included timber harvesting and thinning, with the desired final condition of the forest stand described in terms of a wildlife prescription for the goshawk. In both cases, field staff found that this contract approach to land management provided greater flexibility and efficiency in achieving the desired end-result. The most significant problem identified was lack of up-front money to initiate the projects. Another problem was that smaller businesses were often unable to successfully compete with larger firms under the existing bonding arrangements.

**Dixie National Forest**

The Dixie NF utilized a non-personal services competitively negotiated contract in 1988 to perform various silvicultural treatments in the Blubber Creek unit. This project, which was completed in 1992, used the value of timber removed to offset the project cost. Reduced overhead costs and greater flexibility were cited as the advantages of the contract approach. The Straight Canyon project was implemented in 1992 for a range of stewardship activities including construction of a recreation trail, trailhead and vista viewpoint, streambank stabilization, road maintenance, pond renovation, planting and timber salvage. This project is still in progress. Two other projects were suspended pending reauthorization. One of these (the Bear Creek wildlife habitat project) was advertised, but no bids were received because contractors did not consider the aspen to be thinned a valuable commodity. Augmentation of appropriations, resolution of issues concerning the required payment of 25% of sale revenue to local governments, and the establishment of a pool of funds for future contracts were the primary recommendations to come out of the pilot program on Dixie NF.

**Idaho Panhandle National Forest**

The Idaho Panhandle NF was authorized to implement three forest restoration projects in FY93 using stewardship contracts. Each involved watershed protection, road obliteration and thinning. However, due to administrative appeals and reversal of a NEPA decision by the regional forester, all three projects were delayed, and were suspended due to omission of authorizing language in the FY94 appropriations bill. The administrative appeals process, conflict with the annual appropriations process, and 25% payments to local governments were identified as significant problems. In another area of
the forest, restoration work has begun under a modified timber sale contract, in which the cost of thinning small trees is being offset by the sale of poles. Initial indications are that the project is successful. Future projects may now be redesigned as conventional timber sales.

Coconino National Forest

In FY94 Coconino NF utilized a stewardship contract for an ecosystem restoration project in response to significant forest health problems. The Kendrick project primarily involves thinning, road construction, reforestation, stand examination, brush disposal and various wildlife projects. As a way to gain acceptance of all public interests, this project was monitored after the planning process and will be monitored again after completion of the project. It is still in progress. Saw timber and pulpwood are the primary products resulting from the work, and the value of these products is expected to offset the cost of the services. The fate of the 25% local payment fund under a contract program and the lack of funds to adequately cover administrative costs in the planning and contract development process were identified as the most significant problems. Creation of a simple, flexible contract that can be used to employ different firms for the various project components was recommended.

Lake Tahoe Basin Management Unit

In FY93, the Lake Tahoe Basin Management Unit (LTBMU) advertised a contract to accomplish recommended forest health and watershed restoration treatments; however, the project was suspended because the only bid received exceeded the appropriated funds. The disparity between the bid received and the Forest Service estimates appears to have resulted because the contractor perceived a much greater complexity to the restoration work, and did not attach any product value to the biomass to be removed. The LTBMU is currently planning to execute the needed restoration work through traditional methods.

1994

Although no appropriations were continued for any of the projects from FY 92 and 93, a number of bills were introduced in an attempt to continue existing pilot projects, create new projects nationwide, as well as authorize a permanent forest stewardship contracting program within the Forest Service. The following is a summary of legislation that was introduced during the 103rd Congress. None of these bills were adopted into law.

The proposed Stewardship End-Result Contracts Demonstration Act (H.R. 3944 - LaRocco/Fazio/English) called for the continued development and implementation of national demonstration projects that use ecosystem-based, end-result oriented management practices for forestry. Specifically, it provided for the continuation of demonstration projects in the three areas that were added during the 1993 Appropriations Bill (see above).

The Senate passed and sent to the House a modified version of the bill (S. 2100 - DeConcini/Craig), which expanded the scope of the demonstration to include the Green
Mountain, White Mountain, Talladega, Tuskegee, Conecuh and William B. Bankhead National Forests. This bill also added soil conservation to the list of applicable services.

The proposed Demonstration Program for the Special Use of Timber Revenues (LaRocca) was the House response to S. 2100 (above). It limited application of the demonstration program to only the Priest Lake Ranger District project on the Idaho Panhandle NF, and deleted soil conservation from the list of services.

The proposed Sustainable Ecosystems and Economies Demonstration Act (S.2385 - DeConcini) called for the development of demonstration projects that would test the feasibility of ecosystem management contracts, improve the health of forest resources, provide for needed flexibility in contracting and revenue distribution, and provide an economic stimulus to communities that are profoundly dependent on federal timber resources. It provided for the same authorizations that were called for in the previous bills; however, it included additional language regarding: 1) the participation by outside (non-federal) entities in the design, monitoring, and evaluation of the demonstration projects; 2) specific priorities for the demonstration projects (which include economic relief for timber dependent communities, maximization of local employment, and reduction of wildfire, insect and disease hazards in wildland interface areas); and 3) establishment of a special program account into which revenues in excess of those required to offset stewardship service costs would be deposited for use in the development, planning and implementation of future demonstration projects. Relative to the encouragement of local employment, the bill also called for preferential treatment of small businesses within the meaning of the Small Business Act, defined as businesses having 500 employees or less.

The proposed National Forest Stewardship Contracting Act of 1994 (H.R. 5007 - LaRocca) called for the establishment and implementation of a Forest Service program to use stewardship contracts on a more widespread basis, and called for the development of a standard stewardship contract for use throughout the National Forest system. It specified that contracts clearly describe the desired future condition for each resource managed under the contract and the evaluation criteria to be used to determine acceptable performance. As opposed to S. 2385, this bill did not identify economic relief as a criterion for selecting contract areas. It stated that the selection would be based on the need to improve forest health, maintain and improve soil and water quality, and improve fisheries and wildlife habitat, and that priority would be given to reduction of wildfire, insect and disease hazards in wildland interface areas. However, it did specify that preferential treatment be given to small businesses per the Small Business Act.

This bill addressed the use of revenues as offsets against service costs in more detail than previous legislation. It specified that, prior to application of sale revenue as an offset to stewardship contract costs, all required deposits would be made to the National Forest Fund, and 25% of the actual value of the timber removed would remain available for payment to the states as required under law. All remaining receipts for goods removed under stewardship contracts would be deposited into a designated account to fund resource activities. At least 80% of the amount in the account would be used for the direct costs of resource activities.
On May 18, Rep. Pat Williams introduced a bill to enact the Forest Ecosystem Stewardship Demonstration Act of 1995 (H.R. 1682 - Williams). A Senate companion bill (S. 1259 - Baucus) was introduced, and both bills are still currently under consideration. The bill expands in many ways on previously introduced legislation, especially in its attempts to address opportunities for local small business involvement in contracting services and local public involvement in all aspects of stewardship project planning, implementation and improvement. While much of the language regarding authorization of the use of stewardship contracts parallels that used in previous legislation, this bill breaks new ground in its approach to how such contracts are to be planned, awarded and monitored. With respect to planning it calls for the development of Local Forest Stewardship Councils which, in cooperation with federal resource managers, would prioritize and select stewardship projects, set operational goals, evaluate contractor performance, and provide recommendations for improvements in the stewardship contracting process. At least 51% of the Council membership would be drawn from the private sector, in a manner which insures representation of a broad range of public interests. In addressing opportunities for local small business involvement, the bill specifies that contracts would be awarded competitively to qualified contractors with no more than 25 employees, a departure from previous language which referred only to Small Business Act standards. This was in response to a concern that the SBA definition of small business did not adequately reflect the extremely small employment base of most rural forest service contractors, and allowed for continued competition from comparatively large contractors from outside the stewardship project region. Finally, with regards to continued monitoring of stewardship contracting programs, the bill calls for the testing of a wide range of approaches to stewardship management and contracting, so as to address questions left unresolved in previous demonstrations. The questions included in the bill are listed in the attached Appendix.

The proposed legislation concerning forest stewardship contracting to be introduced this year was in a Senate amendment (S.AMDT. 3493 - Murray) to a House bill (H.R. 3019) attempting to repeal the Emergency Salvage Timber Sales program. Although the amendment primarily addressed the timber salvage issue, it included language concerning a pilot program to sell stewardship contracts for forest services. A total of ten pilot projects (five on BLM lands and five on national forests) were called for in this legislation, which incorporated many of the same ideas found in S. 1259. Although this legislation explicitly addressed the issue of the separate sales of harvested wood products by contractors other than those performing the services, it did not make any mention of preferential treatment of local small businesses. The amendment was voted down in the Senate.
APPENDIX

Potential questions to be considered in the development of future forest stewardship contracting projects. The following language is from “Demonstration Research Objectives” contained in Sec. 3(c) of H.R. 1682 / S. 1259:

“The Secretary shall insure that in the carrying out of the provisions of this Act enough flexibility is provided to resource managers to enable them to test various approaches to solving questions left unresolved in previous demonstrations of stewardship and end results contracts authorized in fiscal year 1991 and 1992 through the Department of Interior and Related Appropriation Acts. These questions include, but are not limited to:

1) The need for the bonding of stewardship contractors and/or possible alternatives which could reduce the financial burden on small businesses.

2) Preferred methods of marketing timber or other products of the forest removed as a result of stewardship contract activities.

3) The standards to be used in evaluating the quality and acceptability of the work performed by a stewardship contractor.

4) The desirability of multi-year contracts for stewardship projects.

5) The relative merits of using design specifications, performance specifications, or statements of work in offering, awarding, and evaluating stewardship contracts.

6) The costs, benefits, problems, and opportunities resulting from increased community involvement in the design and monitoring of stewardship contracts.

7) The benefits and problems resulting from restricting stewardship contracts to very small (no more than 25 employees) contractors.

8) The extent to which local economic sustainability and rural viability are affected by the use of stewardship contracts.

9) The difference between estimated and actual revenues derived from roadside sales of timber.

10) The level of utilization of timber and other products derived from stewardship contract projects as compared with conventional timber sales.

11) The extent to which stewardship contracting contributes to the achievement of forest ecosystem management plans.
12) The extent to which the revenues from stewardship contracts cover the cost of such contracts or are offset by the costs which could reasonably be expected to result if the contracts are not carried out (e.g., fire suppression costs in areas with heavy fuel loads).

13) The administrative costs or savings involved in the use of stewardship contracts.

14) The benefits and/or disadvantages of using Local Forest Stewardship Councils as part of the stewardship contracting process.

15) The benefits and/or disadvantages of various methods of selecting members, organizing, administering, and conducting business of local Forest Stewardship Councils.”