



USFS Acquisition Mechanisms and Potential for Increased Local Contracting

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Executive Summary

An increasing number of United States Forest Service (USFS) initiatives involve improving local¹ and rural socioeconomic wellbeing, including efforts to contract with local vendors.

Two relatively new USFS programs, the Collaborative Forest Landscape Restoration (CFLR) program and the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy) specifically aim to improve local socioeconomic conditions. The lack of clear direction associated with USFS local contracting and implementation, however, represents a challenge to successfully advance such objectives. This document offers (1) a synthesis of USFS acquisition mechanisms that have potential to increase local contracting and associated local well-being; (2) examples of local preference acquisitions by other federal and state programs that can inform this work; and (3) recommendations for implementing increased local preference for “local” contractors in the context of USFS Collaborative contracts.

Overall, we recommend that USFS Contracting Officers overseeing acquisitions related to triple-bottom-line (environmental, economic, and community) initiatives apply Best Value Contracting to whatever form of Service Contract best suits the scope of work. Additionally, we recommend that Best Value include, but not be limited to, evaluation criteria relating to “local” and that these criteria be scored based on the tiers outlined in this report’s supplement, *Defining Local*. The Sierra Institute recommends vendor outreach and assessment and the supplemental use of agreements to mitigate concerns that may be associated with this work.

Acknowledgments

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¹ To date, “local” in the context of USFS Collaboratives is defined by USFS personnel, primarily Line Officers and Contracting Officers. Sierra Institute makes its own recommendations for what areas it recommends should be considered “local” in its *Defining Local* report.

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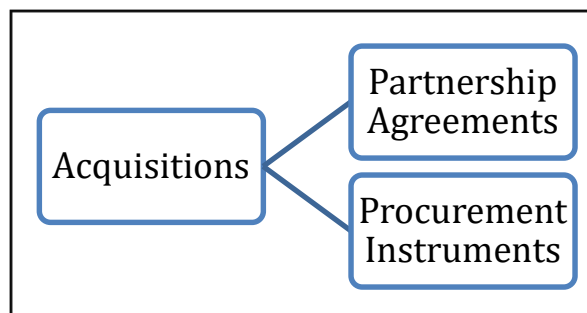
Part 1: Federal Acquisition Mechanisms

There are several different acquisition mechanisms that the federal government, including the United States Forest Service, can use to obtain supplies and services. These mechanisms fit into two broad acquisitions categories: Partnership Agreements and Procurement Instruments (Figure 1: Types of Acquisitions).

- Partnership Agreements are voluntary collaborative arrangements, in which both participants (the USFS and the cooperator) agree to work together to achieve a common purpose. Both participants share risks, responsibilities, resources, competencies, as well as benefits. Partnership Agreements are applied when there is an identified mutual benefit between the USFS and cooperator(s) that will lead to accomplishing mutually agreed-upon objective(s). Collaborative agreements are generally with tribes, non-profits, or other entities that are not primarily engaged in selling goods and services.
- Procurement Instruments are contract arrangements through which the USFS purchases or leases supplies and/or services. The steps involved in implementing a procurement instrument are as follows: the USFS identifies a need, describes the requirements to satisfy the need in a “Scope of Work,” solicits the supply or service, evaluates proposals, awards the contract, and administers the contract. Nested within this process are three main decision making points: what contract type to use, what contract method to employ, and what evaluation process to use. The various options at a Contracting Officer (CO)’s disposal throughout this process are outlined in the *Service Contracts* section of this paper.

Both categories operate under independent federal acquisition authorities and involve their own set of rules, mechanisms, and procedures which are described below.

Figure 1: Types of Acquisitions



1. PARTNERSHIP AGREEMENTS

Partnership Agreements, hereafter referred to as Agreements, are used when there is a *Mutual Interest* or a *Mutual Interest and Mutual Benefit*² between the USFS and a cooperator, such as a tribe, a non-profit organization, or an individual. These are not open for competition and instead are a product of a negotiation. Identifying mutual interests and building a relationship are the cornerstones of an Agreement. An Agreement formalizes the relationship between parties and documents any agreed upon financial arrangements.

There are multiple kinds of agreements; those with the inherent potential to preference local are defined below. An Agreement can be structured as a Master Agreement that establishes general terms and conditions with corresponding supplementary agreements used for individual jobs, or as a One-Time Service Agreement. The types of agreements listed below can be administered as either a Master or a One-Time Service Agreement.

a. Participating Agreements can be used for (1) cooperative manpower, job training, and development programs; (2) the development of environmental education programs and forest history materials; and (3) forestry protection.

Wyden Agreements are a type of Participating Agreement that pertain to natural or cultural resources and/or the reduction of the risk of natural disaster. Wyden agreements must provide benefits to USFS land within the watershed, but the work doesn't necessarily have to be performed on USFS land.

b. Challenge Cost-Share Agreements are used "when the USFS cooperatively develops, plans and implements projects with other parties that are mutually beneficial to both parties and that enhance Forest Service activities" (USFS, 2009). Challenge Cost-Share Agreements require a minimum of a 20% match on the part of the cooperator.

c. Stewardship Agreements are used to achieve land management goals that also meet local and rural community needs.

2. SERVICE CONTRACTS

The USFS also procures supplies and services through Supply and Service contracts; however, this paper focuses on *Service Contracts*. USFS Region 5 (Region 5) spends the majority of its procurement dollars on service contracts. Rules governing federal contracts are found in the Federal Acquisition Regulation (FAR) and are applicable to almost all executive agencies, including the USFS. Except for micropurchases³, all service procurements must use one of the types of contracts listed in Section 2(c) *Service Contract Type* and be signed by a federal Contracting Officer (CO) (USFS Contract Specialist,

² *Mutual interest* is defined as instances in which the USFS and the cooperator have the same mission (i.e healthy forests) but potentially different qualitative benefits. *Mutual Interest and Mutual Benefit* is when the USFS and cooperator have same mission and same qualitative benefits through leveraged resources (Forest Service Handbook 2009).

³ Micropurchases are purchases made for less than or equal to \$3,500 for supplies, \$2,500 for services and \$2,000 for construction in accordance with the Service Contract Act and the Davis Bacon Act.

2015). The process of designing and implementing Federal Service Contracts can be divided into four steps: Program & Project Planning, Acquisition Planning, (which includes choosing a Service Contract Type, selecting a Contract Tool, and determining an Evaluation Process) Implementation, and Adaptive Program/ Project Planning. Each of these steps are described in further detail below.

a. Program and Project Planning

The first step in the federal acquisitions process is Program & Project Planning. This stage involves developing the project's program of work, definitions, requirements, etc. As this research paper was primarily developed for USFS Collaboratives working towards landscape-scale forest restoration, it is worth noting that the Program & Project Planning phase is the primary opportunity for collaborative, non USFS, input into the contracting process. For example, this would be the point in the process for the Collaborative to provide input regarding techniques and outcomes desired. Secondly, during this phase, both the Contracting Officer and Collaboratives can identify opportunities for multi-purpose projects, during which two or more outcomes are sought. For example, it is during the Program & Project Planning phase that a Collaborative Forest Landscape Restoration Project could most effectively articulate definitions and requirements for an interwoven fuels reduction and stream restoration project.

b. Acquisition Planning

There are several sub-components to Acquisition Planning. The first is the “hand-off,” or the transition, from Program Management to Contracting. Once a project is in the hands of the Contracting Officer, he/she must first ask critical questions, such as: “Is a set-aside required?” and “Does this work fall within a Declared Emergency (see page 7)?” Depending on past procurement history or project specific information the CO may perform additional market research.

i. Set-Asides

Set-asides are procurements reserved for specific socioeconomic groups and/or categories of businesses. COs are required to comply with policies described in FAR (part 19) regarding the conditions when set-asides are required or may be considered. The USFS establishes agency-wide goals in each small business achievement area.⁴ A total small business set-aside is required for all open market procurements with an expected value of less than \$150,000. For other procurements, the CO must consider market research in determining the most appropriate set aside.

⁴ As of Oct 2015, USFS set-aside categories and goals for use are as follows:

- Small Business (FAR subpart 19.5; 72%)
- 8(a) – Small Business Administration (FAR subpart 19.8; 12%)
- HubZone (FAR subpart 19.13; 10%)
- Service-Disabled Veteran Owned Small Business (FAR subpart 19.14; 4%)
- Women Owned Small Business Program (FAR subpart 19.15; 9%)

ii. Local Area Preference Set-Asides in the Instance of Emergencies

Local preference can be applied during a major disaster or an emergency, as declared by the President of the United States.⁵ In these instances, a CO, working with the Forest Service office requesting the service, determines the specific geographic area that is eligible to compete for the set aside as well as whether or not further restrictions, such as the contract only being open to small businesses, will apply.

c. Service Contract Type

The service contracting pathway then moves to the next phase: selecting a service contract type. There are several subcategories of service contracts that are based on the type of work performed. Subcategories include Construction (primarily for roads and buildings), Architect & Engineer Services, Utility Services, Information Technology Services, and Research and Development. For USFS, there is an additional category of service work called “Stewardship Contracting.” Public law Section 8205 of Public Law 113-79 authorizes the USFS to use Stewardship Contracts for the sale of forest products within an approved stewardship project if the sale achieves land management as well as local, rural community needs. Stewardship Contracts must use “Best-Value Contracting,” an evaluation process that involves evaluative elements other than price. Other variables can include being headquartered “locally,”⁶ employing “locals,” and supplying “locally.” Best Value Contracting is discussed further in the *Evaluation Processes* section of this paper.

d. Tools

Below are some of the common contract arrangements, or “tools” available to COs. Any of the tools below may be applied to any of the types of Service Contracts described above.

Tool 1: Open Market Stand-Alone Contracts. This tool is used for work that a CO solicits in the open market. Projects with an estimated value expected to exceed \$25,000 are published on [Federal Business Opportunities](#) (FBO), a single website on which all federal agencies solicit their needs. Solicitations for projects are posted on this website and potential vendors can respond in accordance with the instructions in the solicitation. Depending on the type of work and the estimated value of the procurement, the CO determines the appropriate solicitation method. Methods include: Request for Quotes (FAR part 13), Invitation for Bid (FAR part 14), or Request for Proposals (FAR part 15). Invitation for Bid (IFB) methodology only uses price related factors. Therefore, non-price evaluation factors are not permitted in IFB bid evaluations. Region 5 rarely uses the IFB process and it is primarily used for Construction Projects. A great number of Region 5 service contracts are solicited as commercial services under simplified acquisition procedures and will often include evaluation factors in addition to price as a source selection method; see *Section 2e: Screening and Evaluation Processes* for more information. Services that are determined to be “commercial” in nature may be solicited under special rules that allow for simplified procedures to be followed if the acquisition value is less than \$7 million.

⁵ The Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121](#), et seq.) authorizes the President of the United States to declare major disasters and emergencies; contracts associated with these situations are authorized to use local preference.

⁶ Currently, the delineation of the “local” area is up to the CO’s, and at times the Forest Line Officer’s discretion, see Tool 3: Best Value Contracting for more information.

Tool 2: Indefinite Delivery, Indefinite Quantity (IDIQs). IDIQs are established when the USFS expects to have a repeated need for similar types of services. IDIQs establish a pool of vendors with whom the USFS will solicit specific tasks for covered services. The opportunities for IDIQ contracts are solicited in the open market in the same manner as the Stand-Alone Contracts and follow similar procedures to award resulting contracts. In most cases, multiple contractors are awarded IDIQ contracts and are eligible to compete for future Task Orders (see below for additional information). Information about the maximum values, ordering periods, potential tasks and selection methods are determined by the Contracting Officer for the initiating agency and included in the solicitation.

Task Orders under IDIQs. Individual task orders will be placed for project work that is within the scope of the IDIQ contract. For IDIQ tasks, a CO solicits quotes only from IDIQ awarded contract holders. Task Order awards are often based primarily on price, but other variables may be included in the evaluation process. See *Section 2e: Screening and Evaluation Processes* for more information.

Tool 3: Task Orders under Federal Supply Schedules (FSS). Within the federal government, the General Services Administration (GSA) solicits and awards IDIQ contracts for a variety of goods and services. FAR regulations require that a CO consider the FSS in their Acquisition Strategy. If a needed service is available under the FSS and a CO's market research indicates adequate competition, then he/she is encouraged to solicit the project under the schedule in accordance with the procedures in FAR part 8.4. In this case, COs are prohibited from obtaining competition from both the open market and the FSS at the same time. Notices are not published on Federal Business Opportunities if the CO determines the purchase will be made through the FSS.

Tool 4: Blanket Purchase Agreements (BPA). Blanket Purchase Agreements are pre-priced arrangements that only become a contract once a call for service is placed and accepted between the contractor and the government. BPAs do not obligate fund; instead, they establish terms, conditions, and contract clauses for anticipated future contracts. Contracts or "calls" may be developed for specific services, and contractor(s) holding a BPA are eligible to then be considered. Open market BPAs are generally defined as simplified acquisitions for commercial services. Though BPAs are between the USFS and a single contractor, the government can have multiple BPA holders compete among one another for a "call." The most common example of a BPA within the Forest Service is the "iBPA"; a term used to signify a pre-priced agreement for fire suppression support solicited through the Forest Service Virtual Incident Procurement process. See the [Virtual Incident Procurement Forest Service](#) (VIPR) website for more information on iBPAs.

e. Screening and Evaluation Processes

After selecting the contract type and tool, COs must consider the following processes to solicit a potential contract.

Best-Value Contracting

Best Value Contracting involves a decision-making procedure that considers factors other than price in source selection. For example, when performance requirements are clear and the risk of unsuccessful contract performance is minimal, COs may consider price to be the most important factor. However, if

risk of performance failure is high,⁷ a CO may consider additional factors such as the utilization of local employees, technical and/or past performance considerations of a contractor, etc. Similarly, if there is interest in generating triple bottom line outcomes⁸, factors other than price may play a more important role in selection of a vendor. The two processes are often used within Best Value Contracting are (1) *Lowest Priced, Technically Acceptable* and (2) *Trade-offs*.

- a. The *Lowest Priced, Technically Acceptable* evaluation method is used when the “best value” is expected to result from the selection of a technically acceptable proposal with the lowest evaluated price. In this process, the evaluator(s) first rates each offer against the evaluation factors in the solicitation to determine if the technical proposal passes against the evaluation factors. Those that pass are deemed to be “acceptable proposals.” The acceptable proposal with the lowest price is then selected.
- b. A tradeoff process is applied when the CO considers awarding the contract to a contractor based on other factors in addition to price and acceptability. In this process, evaluator(s) rate each offer against evaluation factors⁹ and then rank the offers by technical rating. Lastly, price is introduced to the evaluation and the CO and the technical evaluators compares the price and evaluated attributes of each proposal to determine which proposal presents the overall best value to the USFS.

Non-Price Evaluation Criteria commonly used in Best Value Contracting include: contractor’s past performance, work quality, capacity, on-time delivery, experience, or technical approach. Specific evaluation criteria and their relative importance are identified in each solicitation and are the result of a joint decision between the requesting Forest and Contracting Officer. Evaluation factors should relate to specific project attributes such as time, risk, and complexity.

If a project is authorized for local evaluation preference, a CO may include this criterion as a source selection factor. When acquiring Stewardship services, Forest Service policy requires the CO to include local preference as an evaluation factor (FAR, Chapter 4G37: Service Contracting). To delineate local, the current USFS Stewardship Contracting handbook states that the local Line Officer (usually District Ranger) uses that evaluation and on-the-ground knowledge to determine what geographic area constitutes local. In these instances, best value “evaluation factors may include, but are not limited to: past performance, work quality, experience, technology, approach for performing the work, and benefits to the local community” (Section 60.5, pg. 16). In the context of Stewardship Contracting, the 2014 USFS Handbook suggests that the “utilization of local workforce,” “capability and past performance” “identification of all subcontractors proposed for used on this contract,” and “technical approach” all be used as evaluation criteria (Section 63.1, page 56). The USFS Stewardship Contracting Handbook also states that “Other criteria specific to the project derived from NEPA or through collaboration may be added for evaluation” (Section 63.1, page 57).

⁷ Risk is identified by the USFS requesting the service and includes things like cultural and natural resource integrity.

⁸ Triple bottom line outcomes refer to initiatives that simultaneously achieve environment, economic, and community benefit.

⁹ Evaluation factors used in the trade-off process must be listed in the contract solicitation.

Stewardship COs from USFS Regions 1, 3, and 10 indicate that they typically weight local preference between 10-20% of an overall proposal (Evatt, 2012-2013).¹⁰ Despite a points system being applied in other Regions, USFS Region 5 does not typically use a points system for its evaluations. Region 5 has moved away from assigning points and instead uses a narrative-based decision making process to document trade-offs (USFS Contract Specialist, 2015). An example of qualitative descriptions along with a set number of points is given in the *Best Value & Stewardship Contracting Guidebook* (p. 22-23), see *Appendix B: Sample Evaluation Criteria from Best Value Stewardship & Contracting Guidebook* for the full reference. The guidebook outlines a strategy of assigning qualitative ranking (i.e. exceeds acceptability, marginally acceptable and unacceptable) along with relevant examples (i.e. does it address 100% of facets for mandatory projects). Aside from stewardship contracts, this study did not identify any examples of local preference being integrated into Best Value Selection and award within USFS R5. However, the lack of findings is not necessarily indicative of a lack of implementation, as the USFS Region 5 does not have a database system to identify instances when this process was used.

USFS Procurement Specialists indicate that because evaluating proposals takes additional time and resources on the part of the agency, if a project is “low risk,” then there is an incentive to use the procedure for the lowest price technically acceptable process rather than to perform a Trade-off analysis (USFS Contract Specialist, 2015).

Other Instances when Local Preference Can be Used

The USFS may also consider including a local preference evaluation factor when this action aligns with a Forest’s annual appropriation language for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration and management contracts. USFS appropriations have recently been integrating continuing resolutions, one of which includes evaluation preference factors for local, see Appendix A: *Internal Letter regarding USFS Consideration of Local Contractors in Evaluating Proposals*.

Debriefing. Contractors can request information regarding how their proposal was rated when Best Value Contracting is applied. Providing this information is commonly known as a debriefing. Each solicitation provides instructions on when and how to request this information. However, debriefing information is limited to information about only the requestor’s proposal and the awardee’s evaluation; information regarding competitors’ proposals and prices is confidential and cannot be released.

f. Implementation

The next phase of this process is implementation, during which the Contracting Officer oversees the solicitation (posting of the contract), potential vendors respond to the solicitation, the Contracting Officer awards the contract using an evaluation process from above, the contractor performs the work, and then their performance is evaluated by the Contracting Officer Representative (the CO’s field representative) and the Contracting Officer.

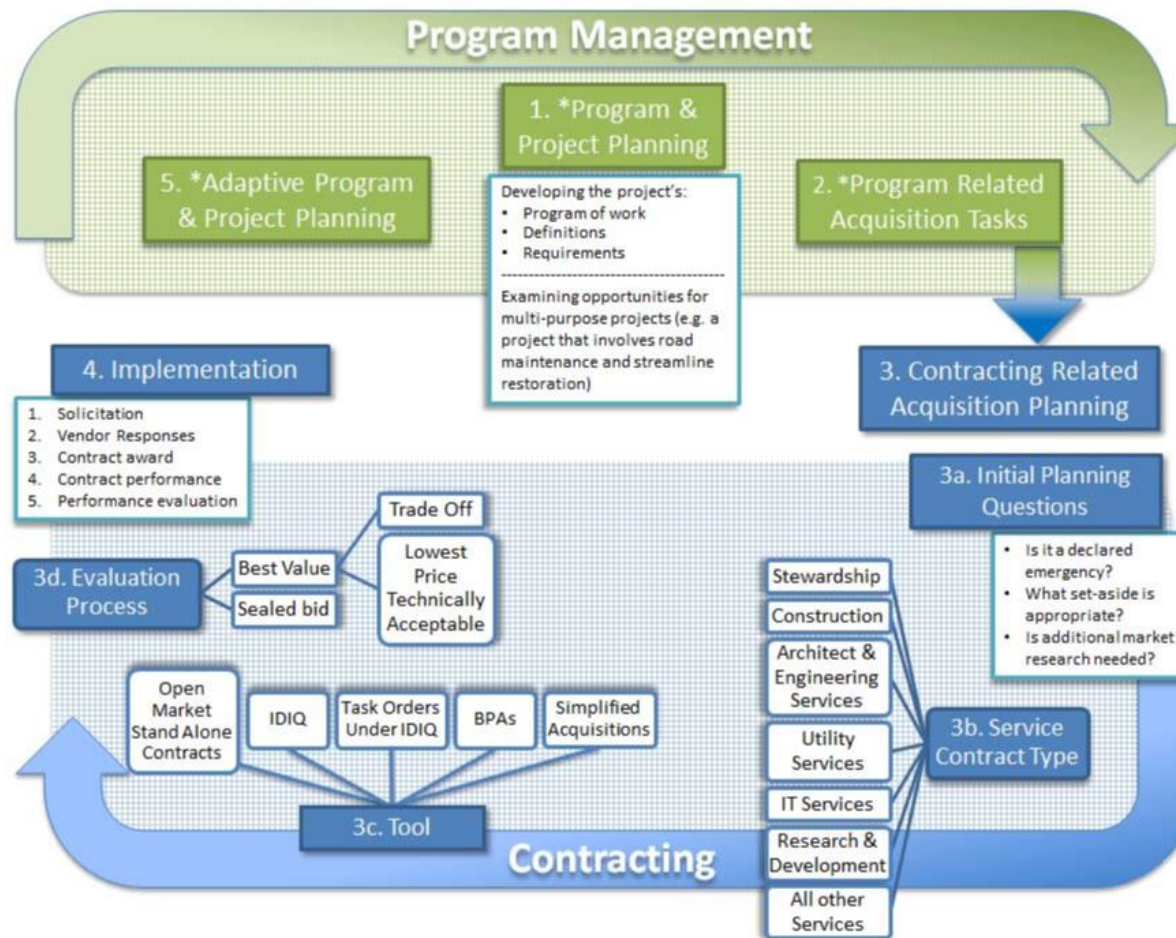
¹⁰ The 4FRI CFLR (R3) weights it 15/10, with technical approach and past performance getting more weight, The Tongass NF (R10) gives a 10-15% weight, and have been trying to offer more “right-size” contracts. The Flathead NF (R1) uses a 20% weight.

g. Adaptive Program & Project Planning

Although vendor bids are confidential and cannot be distributed to the public and/or non USFS Collaborative members, Collaborative members do have the opportunity to engage in the final stage of the Service Contracts cycle: Adaptive Program and Project Planning. Through activities such as monitoring and field trips, USFS Collaboratives can apply lessons learned regarding a past service contract to the Program & Project Planning for future contracts.

The decision making process surrounding Service Contracts and the various choices within each component of that process are shown in Figure 2: *Pathway to Service Contract Acquisitions*. There are both program management and contracting portions of the pathway, which are designated by green and blue, respectively in the figure. Program management portions of the pathway also correspond with opportunities for non-USFS Collaborative input. The transition from project management to contracting (between steps 2. *Program Related Acquisition Tasks* and 3. *Contracting Related Acquisition Tasks*) is a critical component of this pathway, in terms of accurately translating the project plan's objectives into a solicitation.

Figure 2: Pathway to Service Contract Acquisitions



The above diagram illustrates the pathway to a service contract acquisition. Note that the path is cyclic and contains **program management** steps (highlighted in green) as well as **contracting** components (highlighted in blue). Collaborative input is most effective during the program management portions of the flow path. Also note that while Stewardship Contracts are required to use the tradeoff process nested within Best Value Evaluation, other contracts may use this process as well.

3. WHICH MECHANISM?

Generally, the two processes of Agreements and Procurements are distinct and do not overlap. Agreements are not established for the purpose of acquiring a service but for when a mutual benefit can be cooperatively developed. Agreements are reviewed by Grants Management Specialists and signed by the Forest Supervisor or another designated management official.

When the USFS has a supply or service, a program manager first gives a CO an internal procurement request and a scope of work. Based on the request, a CO determines if the request can be fulfilled with an existing contract/agreement, or if a new contract is required. As previously mentioned, a CO is the signatory official on all contracts.

Within the USFS, acquisitions expected to exceed \$1 million must be approved at a level above the CO (i.e., the CO's supervisor). For very large procurements, this review may require approval at the National Office level.

Part 2: Examples of Local Contracting/Local Hire

This section provides a synthesis of local preferencing mechanisms used by various agencies and organizations. These examples pertain to both instances of hiring as well as contracting.

1. FEDERAL LEVEL LOCAL ACQUISITIONS AND HIRING

The *Federal Acquisitions Regulations* state that:

41 U.S.C 3301¹¹ require that, with certain limited exceptions...that contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts (Federal Acquisitions Regulation, 2014).

Still, innovative mechanisms to award local preference, as well as the authority to implement Best Value Contracting, indicate that this regulation does not prohibit local preference. The following are examples of national-level programs that incorporate a local preference mechanism.

¹¹ (a) In General-Except as provided in sections 3303, 3304(a), and 3305 of this title and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services shall-

(1) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this division and the Federal Acquisition Regulation; and
(2) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement. (41 U.S.C § 3301).

a. US Department of Transportation

The US Department of Transportation (USDOT) recently launched a *Special Experimental Project No.14 – Local Labor Hiring Pilot Program*:

[This project] enables the Federal Highway Administration or Federal Transit Administration grantees, including states and local recipients and subrecipients, to utilize social and/or economic contracting requirements in order to evaluate the impacts to the competitive bidding process. The pilot program will focus on local or other geographic labor hiring preferences, economic-based labor hiring preferences (i.e., low-income workers), and labor hiring preferences for veterans (US Department of Transportation Federal Highway Administration, 2015, p. 1).

The USDOT explains that many local, non-federal agencies have the ability to implement local preference and that the ability to do is “essential to promoting Ladders of Opportunity for the workers in these communities by ensuring that they participate in, and benefit from the economic opportunities projects present” (United States Government, 2015, Federal Register, p. 12092).

USDOT has carefully examined federal acquisitions law¹² and it is administering this program as a means of testing its implications on competition. Specifically, the Federal Office of Legal Council has clarified:

Section 112 does not compel [a Federal Agency] from prohibiting recipients and subrecipients under the Federal-Aid Highway Program from importing contract requirements that do not directly relate to the performance of work. Rather, the OLC [Office of Legal Council] opinion states that the Secretary has discretion to permit such requirements so long as they do not “unduly” limit competition (United States Government, 2015, Federal Register, p. 12093).

USDOT examined additional regulations, such as Executive Order 13132 (Federalism Assessment) and the Paperwork Reduction Act of 1995 (44 US Section Code 3501) and determined that this program does not violate these programs. Still, in order to fully assess how the program affects competition, non-federalist, and non-burdensome paperwork aspects of economics that these laws protect, the program is being implemented as a pilot and is going to be assessed in these areas. (United States Government, Federal Register, 2015).

The process for procurement under this authority is as follows: a local agency develops a scope of work for a project, applies to the Federal Highway Authority (FHWA) for consideration of funding under this pilot program, and then the state-wide DOT agency (Caltrans’ Local Assistance Program, in the instance of California) disperses the funds pending FHWA approval. Caltrans Local Assistance program administrators are therefore not responsible for determining if a local agency meets the requirements of this mechanism and report that only agencies with extremely high capacity (i.e. the city of Los Angeles) can realistically earn the certification from FHWA (Caltrans Local Assistance Field Representative, 2015). Four pilot programs¹³ were approved by the FHWA as of November 2015.

¹² The relevant regulation for this example is 23 U.S.C 112, *Competitive Bidding Requirements Under the Federal-Aid Highway Program*

¹³ The pilot project locations and agencies are: San Bernardino Associated Governments (San Bernardino, CA); District Department of Transportation (Washington D.C); Baltimore City Department of Transportation (Baltimore,

It is important to note that local agencies, not private vendors, may apply for this preference. The list of eligible agencies includes cities, counties, national and state parks, California Department of Parks and Recreation, Community Service Districts, Resource Conservation Districts, and conservancies. The agencies are awarded eligibility to receive contracts under the local preference program by their commitment to contract local laborers (California Department of Transportation, 2015). Applications are evaluated by the FHWA using six criteria:

- 1) Overall project(s) descriptions, including the amount of FHWA funding involved, as well as estimated total project cost;
- 2) The proposed contracting requirement that may be inconsistent with the general requirement for full and open competition;
- 3) How the applicant will evaluate the effects of its contracting requirements on competitive bidding. To articulate this, the applicant must, at a minimum, provide comparisons of bids received for similar¹⁴ projects not utilizing local preference. If a reduction in the pool of bidders is evident, applicants must explain the potential benefits resulting from the use of the preference;
- 4) How, numerically, the proposed contracting requirement will increase the effectiveness and efficiency of Federal funding for the project(s);
- 5) How, qualitative and quantitatively, the proposed experimental contracting technique will protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program; and
- 6) If the proposed contracting requirement has been the subject of litigation or whether litigation surrounding the use of the preference has been threatened (FHWA representative, 2015).

The work plan submitted by each project identified what the applicant considers to be local and how hiring local will be incentivized. In the instance of the San Bernardino award, local labor is defined as "an individual whose primary place of residence is the County of San Bernardino" (San Bernardino Associated Governments, 2015). This residency must be verified by a valid California Driver's License with a local address and a utility bill that proves that the employee has lived at that address for a minimum of 100 days (San Bernardino Associated Governments, 2015).

Participating agencies receive funds such that the contractors are offered a financial incentive for participating in this program. For the San Bernardino pilot, the incentive is \$5.00/hour/each local employee, up to a total amount of \$50,000. In order to be eligible, contractors must hire at least 20% "local" labor, according to the definition outlined above, in order to receive the incentive (San Bernardino Associated Governments, 2015).

MD); and the Virginia Department of Transportation (five project sites). [More information on these projects](#) can be found online.

¹⁴ Projects for which comparisons are excepted must be similar in terms of size, scope, and geographic area.

As described in the list of criteria above, applicants must explain how they will both protect the integrity of the competitive bidding process (Criteria 5), as well as how they will assess the impact of the pilot project on competitive bidding (Criteria 3). The pilot program in San Bernardino addresses Criteria 5 by explaining that:

By using an incentive program instead of goals or penalties, SANBAG will not restrict competition, prevent submission of a bid or prohibit consideration of a bid submitted by any responsible contractors which will keep the integrity of the bidding process intact (San Bernardino Associated Governments, 2015, p. 4).

The San Bernardino pilot plans to assess the impact of local preference on competitive processes through interviews with vendors that bid on the project, as well by comparing bid numbers with similar projects.

b. Bureau of Land Management

Another agency that seeks to improve local socioeconomics surrounding its projects is the Bureau of Land Management (BLM). In 1998, the Oregon state government, the USFS Region 6 Forester, as well as the Oregon and Washington BLM offices signed a memorandum to incorporate local, social and economic needs by 2002. In 1999, a pilot program for contracting opportunities that “achieve land management goals for the national forests that meet local and rural community needs” was launched. The 2000 National Fire Plan then authorized USFS and DOI to award contracts that will hire and train a “significant percentage” of local people to do fire hazard reduction contracts. These tools evolved into what is now known as Stewardship Contracting, described in Section 1 of this report (Moseley & Toth, 2004) and is used by both the BLM and the USFS.

Moseley and Toth (2004) find that there can be a conflict of interest between local preference advocates and the Small Business Administration (SBA). For example, when advancing socioeconomic interests, the question can arise, *Is it more impactful to preference the small business contractor located multiple hours away from the project area or the corporate contractor located five minutes away from the site?* This same study finds that local benefit authority has generated some local socioeconomic improvement but not within the context of more remote communities. Moseley and Toth attribute this lack of significant effect largely to local or more remote contracting capacity and recommend that contracts be structured in size and duration at the scale that best resonates with current local capacity (Moseley & Toth, 2004).

A study later done by Moseley tracked USFS and BLM procurement from 1990-2002 and found that contractors in counties affected by the Northwest Forest Plan were not receiving additional contracts and that the decrease in overall USFS procurement spending negated any potential increases in local hire (Moseley, 2006).

The BLM does allow for a local evaluation factor in stewardship contracting, using the same authority as the USFS. The following is offered as guidance for defining local:

The definition of local can vary significantly depending on the unique attributes and scope of each stewardship project. The definition must be considered in relation to the effect it would have on local and rural resource availability, prioritization of treatments,

and the location of work under the stewardship contracts or agreements (Bureau of Land Management, 2015, p. 24).

BLM evaluation documents further explain that benefits to the local economy should be supported by information on (a) the plan for providing employment and training opportunities to people in local rural communities, (b) use and involvement of local American Indian tribes, personnel, and business, (c) significant use of local businesses for product processing and (d) knowledge or local culture and ability to insure that the project is “embraced locally” (BLM State Forester, 2015). The project lead and contracting officer makes the decision about the geographic scope of local informed by the goals of the project. One example rating sheet provided by the BLM gives this local benefit factor a weight of 30%, so a score of 10 in this category would be worth 300 points in the overall evaluation (Bureau of Land Management, Rating Sheet, Exhibit 2, 2015).

This local preference has unsurprisingly been more successful in areas with a pre-existing base of contractors able to complete stewardship projects. However, an increase in the number and capacity of these types of contractors has also been reported. It appears that now that the authority is permanent, there is less resistance from within the BLM (BLM State Forester, 2015).

c. National Park Service

The United States Office of Personnel Management authorizes National Parks to preference local if the park qualifies as a “Remote and Rural” area. The process for how a park qualifies itself as “Remote and Rural” involves on-site documentation of surrounding populations, their demographics particularly in terms of income, surrounding employment opportunities outside of the National Park, and the distances and hardships associated with travel to more populated areas with greater diversity in employment opportunities (National Park Service Human Resources Assistant, 2015). Once qualified as “Remote and Rural,” National Park Hiring Officials can implement one of two local hiring mechanisms, under OPM Schedule A, 213.3112(a) (1):

*(1) Permanent Employment: Contiguous to the Area. This mechanism authorizes the hiring of “technical, maintenance, and clerical positions, only at or below grades GS-7, WG-10, or equivalent grade levels.” Applicants must (1) have permanent, exclusive residency within, or contiguous to, the Park for a minimum of six years and (2) does not have other employment opportunities.*¹⁵

(2) Seasonal/Temporary Employment: Remote/Isolated. This mechanism can be used to hire an individual at any GS or WG level as long as the applicant is (1) certified as: “living in a remote/isolated location,”¹⁶ (2) has permanent, exclusive residency within a 50 mile radius of the park, is not within commuting distance of a larger city,¹⁷ and (3) does not have other employment opportunities (United States Government, 2015, Excepted Service, p. 19369).

¹⁵ Defined by OPM as “Are dependent for one’s livelihood primarily upon employment opportunities available at the park because of high unemployment in the area and long distance from employment sources.” http://www.nps.gov/training/tel/Guides/Hiring_Flex_pg_20070227.pdf

¹⁶ Certification obtained by the completion of OPM *Contiguous to Area Certification Form*.

¹⁷ Defined by OPM as “Outside the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area.” http://www.nps.gov/training/tel/Guides/Hiring_Flex_pg_20070227.pdf

Additional details on these hiring authorities can be found in the [Federal Guide to Processing Personnel Actions](#).

Example in Practice: Denali National Park

NPS.gov hosts a webpage listing all [current Local Hire Authority Openings](#). At the time of this report, the job listed on that page is for a part-time, temporary GS7 Biological Science Technician in Denali National Park. (National Park Service, 2015). The listing specifies the following regarding “Who Can Apply” and is posted as follows:

Any U.S. citizen who has acquired special knowledge or expertise regarding the natural or cultural resources of Denali National Park and Preserve, by reason of having either lived or worked in or near the park. This level of knowledge would be acquired by having lived or worked in or near the park for at least 12 months, to include all four seasons. Short seasonal residency is not qualifying as this would not provide the level of knowledge or expertise that is gained through experiencing the range of climactic conditions and associated impacts on the resources. The area considered “near” Denali National Park only includes: Nenana, Anderson, Clear, Ferry, Healy, Denali Park, Kantishna, McKinley Village, Cantwell, Chulitna, Curry, Petersville, Trapper Creek, Talkeetna, Lake Minchumina, Nikolai, Tanana and Telida.

This example is listed as being in coordination with Alaska Public Law 96-487, Section 1308, which is described further under the State-Level Procurement/Alaska section. Two key principles within this example are that (1) “near” is defined and not left up to interpretation by the Hiring Official and (2) that the definition itself is based on individual communities, not counties or a similarly coarse boundary (State of Alaska, 2015). It is also important to note that National Parks can institute the local hire authorities described above independent of state local hire laws. (National Park Service Human Resources Assistant, 2015).

d. USFS Region 5 Contractor Interviews

In addition to examining USFS acquisition authorities as outlined in Part 1: *Federal Acquisition Mechanisms*, Sierra Institute interviewed USFS Contractors geographically near USFS Collaboratives regarding the concept of Local Preference for this report’s supplement, *Defining Local*. Key interview responses as they relate to local contracting are outlined below.

IDIQs

One contractor shared that being part of an IDIQ ensures contractors a relative amount of security. Other contractors reported being a part of an IDIQ but never receiving work from it. (USFS Contractor Interviews, 2015).

HUBZones

The Historically Underutilized Business, or HUBzone, program designates some contractors¹⁸ within economically disadvantaged areas as eligible for HUBZone set-asides. Informants indicated that HUBZones can geographically exclude communities within a project area because counties are used as the preliminary unit of consideration and many USFS projects exist within two or more counties. Despite local economic conditions, sometimes only one of the counties is deemed to be a HUBZone. USFS personnel and contractor informants indicate that this has led to exclusion of geographically local contractors (USFS Contractor, 2015; USFS Personnel, 2015). It has also led to the relocation of businesses and consequential re-location and/or separation of families (USFS Contractor Interviews, 2015). Contractors also reported that the rigorous documentation process can have the effect of preventing smaller, lower capacity contractors from successfully earning HUBZone status (USFS Contractor Interviews, 2015).

Note that there is a process for areas to request re-examination for HUBZone status and that there are instances when HUBZones are not set at the County level. For more information, contact the [Small Business Administration](#). If a Collaboratives “local” contractors are either located outside of designated HUBZone areas and/or not certified as HUBZone contractors, looking further into both the geographic and economic requirements and opportunities for reconsideration for HUBZone certification may be of interest.

Set-Asides

Interview data collected indicated that some contractors view set-asides as exclusionary and limit competition. On the other hand, some small contractors associate their ability to stay in business with set-asides (USFS Contractor Interviews, 2015).

These data are discussed in the recommendations section of this report.

2. STATE-LEVEL PROCUREMENT

The examples above, as well as Best Value Contracting capabilities, demonstrate that 41 United States Code (USC) 3301 does not prevent federal acquisitions and/or federal hiring from implementing a local preference. Therefore, principles of local preference at the state acquisition level are examined as well for the identification of potentially replicable, applicable tools.

a. General Mechanisms

One study examined how, if at all, each of the 50 states take “local” into account for the procurement of food for correctional facilities, schools, etc. In this study, “local” is defined as in-state, yet these examples do presents mechanism that could be applied to finer definition of local. The relevant mechanisms identified are summarized below (Colorado Department of Public Health and Environment, 2015).

¹⁸ Contractors within HUBZone counties must apply for HUBZone contractor status.

- *Tie Breaker Preference*- This tool authorizes local preference in instances when all other factors are considered to be equal (applied in 8 states).
- *Price “Reasonably Exceeds” Preference*- This policy allows for local preference if all factors, aside from price, as considered to be equal and the price difference is “reasonable” and can be covered by the purchaser’s existing budget. This study was unable to identify a specific definition for “reasonable” as it is used in these policies. This tool is used in three states.
- *Price Percentage Preference*- This tool is similar to the “Reasonably Exceeds Preference,” with the main difference being that it considers in-state prices that are a certain percentage higher than out-of-state prices “equal” to one another in terms of contract evaluation. This tool is implemented in eight states and is pending in two additional states. The percentage difference varies from state to state but ranges from 0.25-10%, with a mode of 10%.
- *Reciprocal Preference*- Some states adopt other state’s Price Percentage Preference policy when they receive a bid from the other state and the home state itself does not have its own Price Percentage Preference.
- *Quotas*- A state requires that a certain percentage of local procurement be met each year.

California has not successfully implemented any of these tools in its state-level food procurement policies, despite a failed attempt to pass Assembly Bill 909, 2011-2012 Leg., Reg. Session (Colorado Department of Public Health and Environment, 2015).

b. Virginia

Each state implementing local preference via one or more of the mechanisms described above has legislation that authorizes local preference. For example, regarding the *Tie Breaker Preference* tool, Virginia State Law 2.2-4329, *Preference for local products and local firms* allows for local governments to apply local preference to tied bids related to contracts for goods, services and construction (Robertson, 2014). Specifically, the legislation states:

A county, city, or town may, in case of a tie bid, give preference to goods, services, and construction produced in its locality or provided by persons, firms, or corporations having principal places of business in its locality. § 2.2-4328(A). This authority is expressly limited to bids received in a competitive sealed bidding (ITB) process. § 2.2-4328(B).

c. Alaska

As mentioned in the Denali National Park example, Alaska has a state law (Public Law 96-487, Section 308) allowing local preference for jobs related to the “designation and conservation of certain public lands in Alaska.” When procuring food, using the *Price Percentage Preference* tool described above, local preference is authorized by [Alaska’s House Bill 205](#). The state of Alaska has a third category of procurement for which it is authorized to preference local: construction legislation authorizing Local Preference. Alaska’s Governor Walker reinstated a suspended rule that allowed up to 90% of state funded construction projects to hire local in July of 2015. This rule applies when Alaska’s unemployment

rate is significantly above national average. In 2015, a 1.3% difference was deemed significant enough to trigger this rule (Alaska Department of Labor, 2015).¹⁹

Part 3: Recommendations

1. GENERAL

Contractor and USFS interviews along with the literature reviewed indicate that USFS efforts to increase local contracting, with the exception of stewardship contracts, have not been effective. A minority of USFS contracts are awarded to the contractors in rural communities adjacent to project areas. This trend is particularly heightened with labor-intensive contracts as compared to contracts that require less labor, but more heavy equipment (Moseley & Shankle, 2001; Moseley & Reyes, 2008). Several informants interviewed for this study also reported that local contractors will only be eligible to bid on projects if contracts (1) match the scale of their current capacity; and (2) offer a contract long enough in duration to allow for investment in needed equipment, particularly important for contracts requiring heavy equipment.²⁰ The Sierra Institute's recommendations for implementation are two-fold:

1. The Sierra Institute recommends that the USFS first apply the principles that it identifies in this report's companion report, *Defining Local*, to delineate scientifically sound local delineations.
2. The Sierra Institute suggests that the USFS apply Best Value Contracting for all of its Service Contracts linked to triple bottom line outcomes rather than limiting this tool to only Stewardship Contracts. In both Service and Stewardship Contracts, pre-screened Best Value Service Contracts (see Evaluation Process below) should be evaluated based on weighted variables regarding (1) whether a contractor's headquarters are located locally, (2) the percent of its and its subcontractors' employees living locally; (3) and other anticipated local socioeconomic benefits. Criteria (3) could include commitments regarding purchasing local supplies, job training, youth engagement, drug rehabilitation services for employees, etc.

2. EVALUATION PROCESS

Because past performance is usually the most common non-price evaluation factor the Sierra Institute recommends that the USFS develop a process for Collaboratives to submit comments regarding past contractor performance. Because proposals are confidential and the USFS cannot share them with a collaborative, this feedback would have to be based on the collaborative's understanding of individual contractors' past performance.

¹⁹ From [Alaska's Labor Department FAQs](http://labor.alaska.gov/lss/forms/res-hire-notice-2013.pdf): The Employment Preference Act, otherwise known as Alaska's Local Hire law, requires 90% of the hired workers to be Alaskan residents in certain areas. The hiring preference applies on a project-by-project, craft-by-craft or occupational basis and must be met each workweek by each contractor/subcontractor. The hiring preference applies to certain boroughs and census areas (zones) throughout the State and only affects specific work classifications. There are many locations that this 90% hiring preference does not apply to. A list of the zones of underemployment and the work classifications that the preference applies to is generated every two years and is available at: <http://labor.alaska.gov/lss/forms/res-hire-notice-2013.pdf>.

²⁰ Example: One contractor reported that his equipment typically takes 5 years to pay off, so long term contracts give him more security to make those investments.

Sierra Institute presents the following process as a means to apply local preference while still ensuring competitive pricing and contractor capacity to do the work.

1. Evaluate contract proposals based on the non-price technical factors such as technical capacity to do the work²¹ and past performance.
2. We recommend that points be assigned for the following attributes for local:

Variable	Threshold	Points Relative to 1 st Tier	Points Relative to 2 nd Tier	Points Relative to 3 rd Tier
Location	Headquarters are within	3	2	1
Employees, including subcontractors	50%+	3	2	1
Other Socioeconomic Contributions (Local supplies, biobased-fuels, employment training, local philanthropy)_	Narrative	5	3	1

3. Sum each contractor's "local preference" points and translate these numbers into the adjectival ratings system used by the Forest Service.
4. Consider each contractor's "local preference" rating in combination with price and other factors as identified in the solicitation to award a contract.

3. LEGISLATIVE CONSIDERATIONS

USFS appropriations language makes it clear that local preference may be applied to Service Contracts via the *Best Value Evaluation Process*. Sierra Institute recommends that the USFS internally (to USFS Contracting and Program Management personnel) and externally (to Collaborative members) communicate and implement the intent of the appropriations direction.

4. ASSURANCE OF COMPETITIVE PRICING

The Sierra Institute recommends that the USFS adopt a *Price Percentage Preference* approach similar to that which some states are implementing as described in the General Mechanisms section above. This percentage should be consistent across Region 5, communicated to potential cooperators, and used in the numeric evaluation of contract proposals in addition to other Best Value criteria as described above.

²¹ Technical capacity could relate to a variety of factors, including, but not limited to: type of equipment available to do the work, proposed methodology, expertise and experience, etc.

5. SCALE OF CONTRACTS

The Sierra Institute recommends that USFS Collaborative Projects conduct focus groups²² in areas to examine issues related to the scale of contracts. Interested contractors should be invited, with providing distant contractors the option to participate via webinar.

6. AGREEMENTS

Particularly in the instance of Federally Recognized Tribes operating in a Sovereign-to-Sovereign manner with the United States Federal Government, agreements are a more appropriate manner of acquisition than contracts. The Sierra Institute recommends the continued use of agreements in instances of mutual benefit the USFS and a local agency. In these cases, the local agency can be permitted to sub-contract the work with the stipulation that it will use an evaluation process similar to that which is outlined in *Recommendations: 1. Evaluation*, therefore preferencing subcontractors that will most benefit local socioeconomic well-being..

6. MINIMIZING THE BUREAUCRATIC BURDEN

a. SAM Registration

Another benefit of implementing a structured local evaluation preference mechanism is that no additional registration (aside from SAM) is required on the part of the contractor, compared to HUBZone registration, for example. Although they did not represent a random sample of vendors precisely because they had successfully negotiated the SAME system, something other have reported to be a barrier. In fact, USFS informants indicated there are often additional potential vendors within the first and second tiers of “local” that are not registered with SAM, including some American Indian vendors. The Sierra Institute therefore recommends that Collaboratives consider arranging SAM registration workshops for interested, currently unregistered potential cooperators or vendors. This would likely involve coordination with [Procurement Technical Assistance Centers](#) (PTAC); these centers provide support and assistance to businesses interested in contracting with any level of government (state, local, or federal).

b. Verification of Local

Contractors reported concern that the USFS implement methods of verifying local headquarters, local employees, and local supplies in a manner that prevents cheating without creating overly burdensome work on the part of the contractor (ex: avoiding documentation as rigorous as that which is required for HUBZone certification). The Sierra Institute recommends that further exploration of how vendors could most efficiently demonstrate their ability to meet local criteria. This includes, but is not limited to, utility bills, letters or receipts verifying purchase of supplies from local suppliers, etc. The Sierra Institute recommends that the USFS Regional Office support in-person CO staff time spent with contractors to assure the successful documentation of local contractors. Contractors should also be notified of their

²² The Sierra Institute recommends a non-USFS social science party conduct these stakeholder groups.

“local” benefit scores and narratives from the COs to encourage increased local investment, hiring, and involvement.

c. Adaptive Program and Project Planning

As shown in Figure 2: *Pathway to Service Contract Acquisitions*, service contracting is a cyclic process. Sierra Institute recommends that USFS COs, Program Managers, and non-USFS partners collaborate on monitoring the local socioeconomic impact of contracts that receive a local preference. Such monitoring folds nicely into the socioeconomic monitoring already required of Collaborative Forest Landscape Restoration (CFLR) projects. Multi-party monitoring of socioeconomic conditions in the context of local contracting can allow for Collaborative partners to adjust future scopes of work and their associated requirements so that more USFS contracts awards truly benefit local communities.

a. Outreach on the Process

Sierra Institute recommends that the USFS provide general information regarding the adaptive learning process so that contractors and Collaboratives can all be better informed.

Part 4: Conclusions

In order for a federal acquisition to preference local, there must be a scientifically sound delineation regarding who/where is considered to be “local.” See Sierra Institute’s *Defining Local* report regarding how to effectively implement this process. Once a local area is delineated, USFS acquisition authorities already allow for local preference. These authorities require that local preference be considered for Stewardship Contracts but are not limited to that contract type. Prior to this study, how local preference is calculated, and to what degree was unclear and inconsistent across USFS Region 5. Furthermore, the role of non USFS Collaborative partners in local contracting has also been uncertain.

This research, including the review of USFS contracting tools, led to the conclusion that the contract evaluation process is more critical than the contract tool itself. Importantly, it has been established that the role of a Collaborative lies in program management, not contracting. Sierra Institute anticipates that four actions will allow for Collaboratives to influence local contracting opportunities. First, it is critical to include “maximum local socioeconomic benefit” as a project requirement. Secondly, contractors must be registered with the federal government (and as a HUBZONE contractor, if applicable) in order to be eligible USFS vendors. There is room for Collaborative assistance in this regard. Thirdly, deliberate communication between the Collaborative, Contractor, and Program Managers must occur if local preference intentions and local delineations are to transfer into contracts. Lastly, pilot implementation and monitoring is essential in terms of fine-tuning the recommendations made here.

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Appendix A: Internal Letter regarding USFS Consideration of Local Contractors in Evaluating Proposals.



Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 6300/1580
Route To: (1580), (6300)

Date: July 7, 2014

Subject: Consideration for Local Contractors in Evaluating Proposals

To: AQM Directors

The Forest Service (FS) may consider local contractors when evaluating proposals, increasing the commitment to local business and communities. Annual appropriation indicated the authorization to consider local contractors residing in and providing employment and training to dislocated/displaced workers in an economically disadvantaged rural community when evaluating bids and proposals; this includes historically timber-dependent areas affected by reduced timber harvesting on federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities.

Additionally, the FS may award contracts, grants or cooperative agreements to "local non-profit entities, Youth Conservation Corps, or related partnerships with state, local, non-profit youth groups, or small or micro-business or disadvantaged business."

These contracts, grants or cooperative agreements must be for the forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management.

The terms "rural community" and "economically disadvantaged" shall have the same meanings as Public Law 101-624, section 2374. The definitions are located on page 41 of "The Principal Laws Relating to USDA Forest Service and Private Forestry Programs" handbook:
<http://www.fs.fed.us/spf/coop/library/SPF-CF%20handbook.pdf>.

If the authority is anticipated to be utilized for advertising and awarding contracts to other than the small business, HUBzone, 8(a), or Service-Disabled Veteran-Owned Small Business contractors, specifically address this in the market research and in the AD1205 Small Business Clearance request.

If the authority is anticipated to be utilized for contracting, place an announcement in the pre-solicitation; include specific evaluating criteria and responsiveness determinations.

The current authority is in the Consolidated Appropriations Act, 2014, Section 427 and is effective through FY 2015. Any questions, please contact Shawn O'Donnell at 703-605-4544 or via email at sodonnell@fs.fed.us.

/s/ George A. Sears
GEORGE A. SEARS
Director, Acquisition Management



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Regional Foresters, Station Directors, Area Director, IITF Director and Deputy Chiefs

2

cc: WO AQM APC
pdl wo ops aqm directors
pdl wo ops aqm fessaa
pdl wo ops aqm g&a
pdl wo ops aqm Procurement Analysts

Appendix B: Sample Evaluation Criteria from Best Value Stewarding & Contracting Guidebook

BEST VALUE & STEWARDSHIP CONTRACTING GUIDEBOOK

Samples of Technical Evaluation Team Guidance

Following is an example of technical team guidance on how to determine both factor and sub-factor ratings. Specific weights (as percentages of the total) are assigned to subfactors.

Technical Approach (35%)

1. Understanding of the extent and nature of work to be performed (5%)

Unacceptable	-Addresses < 90% of all aspects -Addresses < 100% of facets for mandatory project -Addresses < 100% of facets for optional proposed projects
Marginally Acceptable	-Addresses all aspects minimally
Acceptable	-Addresses all aspects thoroughly
Exceeds Acceptability	-Addresses all aspects with thorough specifications

2. Organization, Staffing and Management (10%)

Unacceptable	-Does not address organization, staffing and management
Marginally Acceptable	-Addresses at least 90% of necessary organization, staffing and management considerations
Acceptable	-Addresses 100% of necessary organization, staffing and management considerations
Exceeds Acceptability	-Addresses 100% of necessary organization, staffing and management considerations with additional measures for quality assurance.

3. Reasonable use of appropriate equipment/material and supervision as well as the development of a quality control plan (10%)

Unacceptable	-Does not address equipment/material, supervision or quality control plans
Marginally Acceptable	-Generally costs out equipment/material needs -Supervisory plans not specified -Minimal detail to the quality control plan
Acceptable	-Costs out all material/equipment needs -Specific supervisory plans -Detailed quality control plan
Exceeds Acceptability	-Meets acceptable criteria plus shows considerations for improved quality and/or innovation.

4. Work Schedule (5%)

Unacceptable	-Does not provide work schedule
Marginally Acceptable	-Provides a work schedule outline
Acceptable	-Provides a detailed project work schedule showing sufficient detail to demonstrate the complexity of the project
Exceeds Acceptability	-Meets acceptable criteria plus shows considerations for contingencies regarding inevitable delays.

5. Coordination with the Local Collaborative Group (5%).

Unacceptable	-Does not discuss coordination with the Local Collaborative Group
Marginally Acceptable	-Provides for minimal coordination with the Local Collaborative Group
Acceptable	-Provides a detailed plan for sufficiently involving the Local Collaborative Group in project decisions, giving them say into progress on a monthly basis
Exceeds Acceptability	-Provides a detailed plan for fully involving the Local Collaborative Group in project decisions, giving them say into progress on a weekly basis.

Preferential Use of Local Employment Resources (30%)

Unacceptable	-Uses < 90% of project area, County A, and County B resources
Marginally Acceptable	-Uses 50% project area and County A and 50% County B resources
Acceptable	-Uses 75% project area and County A and 25% County B resources
Exceeds Acceptability	-Uses 75% project area and 25% County A resources.

Experience of Key Personnel (20%)

Unacceptable	-No or limited experience in logging or watershed restoration techniques
Marginally Acceptable	-Collective experience in 75% of the work items
Acceptable	-Field representative(s) has experience in all assigned areas of responsibility under the proposal
Exceeds Acceptability	-Field representative(s) has experience in all assigned areas of responsibility under the proposal, plus the workers have similar experience.

Past Performance of Key Personnel (15%)

Unacceptable	-No work history provided
Marginally Acceptable	-Work history of all key personnel provided; 50% of referrals are positive
Acceptable	-Work history of all key personnel provided; 75% of referrals are positive
Exceeds Acceptability	-Work history of all key personnel provided; 100% of referrals are positive.

Sometimes weights are given adjectivally, rather than numerically. For instance, Hungry Horse-West Glacier explained to offerors that the following weighting would be used for its DL/service contract.

1. **Capability (Most Important):** Factors relating to capability that will be evaluated and scored are shown below. The sub-factors are listed in descending order of importance
CAPABILITY Sub-factors:
 - (1) Past performance and quality of work on similar projects.
 - (2) Experience on similar projects.
 - (3) Safety compliance
 - (4) Cooperativeness in contract administration requirements.
 - (5) Dependability (equipment and operators)
 - (6) Compliance with contract time....
2. **Technical Approach (Very Important):** All sub-factors are listed in descending order of importance, with sub-factors (1) and (2) being the most important and equal in value.
TECHNICAL APPROACH Sub-Factors:
 - (1) Quality Control Plan
 - (2) Safety Plan
3. **Cost (Very Important):** Cost is approximately equal to capability, but will be a very important factor in the award decision. See Clause M-2 – BASIS of AWARD, for discussion of cost and how it is evaluated by the Government in making a best value source selection when compared with capability.

(The FAR gives three options: "All technical factors when combined are approximately equal to price, significantly more important than price, or significantly less than price.")

The Hungry Horse-West Glacier DL/sale of delivered logs solicitation necessarily uses a different evaluation methodology:

A "Best Value" criteria will be used to select the purchaser of the products rather than the high bid. Criteria that will be used will include best overall price considering haul distance, mix of products, ease of product manufacture, assurance of ability to pay at least biweekly, flexibility of delivery times, assurances of weight and ticket accountability and timeliness of marking specialty products such as houselogs and power poles.... To obtain the "best value" the Forest may enter into negotiations to clarify and finalize bids....