



March 3, 2003

The Honorable Ann Veneman
Secretary of Agriculture
Department of Agriculture
1400 Independence Ave, SW
Washington, DC 20250

The Honorable Gale Norton
Secretary of Interior
Department of Interior
1849 C St., NW
Washington, DC 20240

Dear Secretary Veneman and Secretary Norton:

As we promised in our letter of February 14, we are writing to provide specific ideas on how the Departments of Agriculture and Interior might engage in an open process with organizations, communities, and individuals involved in the current stewardship contracting demonstration program as you develop guidance for how the Forest Service and Bureau of Land Management will implement the stewardship contracting authorities recently passed by Congress in the FY 2003 Omnibus Appropriations bill.

We have developed an outline incorporating ideas from a number of community-based forestry partners (attached). The ideas present a starting point for discussion with the federal agencies as the process of developing guidance moves forward. We understand that the Forest Service and Bureau of Land Management are moving rapidly to prepare this guidance, and we are trying to be responsive to the timeframe. We, too, believe it is important to have guidance ready as soon as possible so that the agencies will be able to work with communities in developing and implementing stewardship projects addressing forest restoration and community needs. We also believe, however, that public involvement in developing the national guidance is critical. The Departments will be well served to open up the process, to gather information from organizations, communities, and individuals with stewardship contracting knowledge and experience, and to take sufficient time in preparing guidance that addresses issues and captures the spirit of stewardship contracting.

Our ideas are intended to be helpful and constructive to your efforts in preparing guidance for these new stewardship contracting authorities. We would appreciate the opportunity to discuss the ideas with appropriate officials in your departments. We and the partner organizations who contributed to and cosigned this letter stand ready to assist you in the process of developing guidance. American Forests is serving as the central contact point for the signatories, so please call me or Gerry Gray, our Vice President for Policy, if you have any questions or desire further information.

American Forests
March 3, 2003, Letter to Secretary Veneman and Secretary Norton

Sincerely,

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Executive Vice President
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Attachment: Ideas for Implementing Stewardship Contracting Authorities in the FY
2003 Omnibus Appropriations Bill

**Ideas for Implementing Stewardship Contracting Authorities
in the FY 2003 Omnibus Appropriations Bill**

March 3, 2003

Prepared by American Forests and community-based forestry partners
who cosigned the attached letter.

National level process—these suggestions reflect the need to demonstrate how the agencies will work with diverse, external groups through an open meaningful process at the national level to develop guidance for implementing the new authorities. They respond to the need to maintain trust with organizations and individuals involved in the current demonstration program, to address “process” concerns raised by the passage of the appropriations rider, and to recognize the open, collaborative spirit of stewardship contracting.

1. ***USDA (FS) and USDO (BLM) should develop guidance through a coordinated process***
 - a. It is important for both agencies to benefit from the current FS demonstration program.
 - b. It will be easier for organizations outside of government to collaborate on stewardship projects if the FS and BLM implement projects with the same guidance.

2. ***USDA (FS) and DOI (BLM) should develop national level guidance through an open process that engages organizations and individuals involved in the current FS stewardship contracting demonstration program, as well as other diverse interests.***
 - a. It would be preferable for non-governmental organization(s) (e.g., nonprofit groups) to facilitate the process of gathering information, discussing public comment, and developing suggestions for the guidance. The process would involve federal officials as participants, but external organization(s) would develop a report for the agencies to use in preparing guidance.
 - i. A national forum facilitated by community-forestry partners might be convened to engage a broad range of people with knowledge and experience on stewardship contracting. This would be done in the next month or so to respond to time considerations.
 - b. Federal Advisory Committee Act (FACA) concerns need to be addressed at the national level, as well as at regional and local levels. We believe that collaborative/stakeholder participation in the planning, implementation and monitoring of stewardship contracting projects should not run into legal problems with FACA if the processes are open, transparent, and accessible. The processes should not foreclose anyone from providing information or advice directly to the federal agencies. It is important for the guidance to encourage the agencies to involve communities/stakeholders in future stewardship projects and to articulate

how this type of open collaboration is clearly legal, so that FACA is not seen as a barrier or used as an excuse for not being open and collaborative.

3. ***Consider the creation of a broad-based, national advisory/oversight/learning group to focus on collaboration (i.e., meaningful public involvement) and the implementation of the program.*** (This might be an extension of the multiparty monitoring process associated with the current stewardship contracting demonstration program.)
 - a. ***Public education and communication—a focused outreach effort to concerned publics would be helpful to build understanding of the full intent and extent of stewardship contracting.*** (This might be a cooperative effort involving the federal agencies and private, nonprofit organizations.)
4. ***Guidance rather than rules***—To enable it to fulfill its potential, stewardship contracting needs to be kept in a learning mode as long as possible. Implementation guidelines rather than rules would be preferable. Safeguards (e.g., policy principles and clear guidelines) and process mechanisms (e.g., multiparty monitoring) will need to be in place to maintain trust and learning.

Implementation—these suggestions reflect issues and lessons that have been learned through efforts to implement the existing stewardship demonstration program and through related efforts at developing collaborative, community-based forestry projects. We believe open and broad-based collaboration in the planning, implementation, and monitoring of these stewardship contracting projects will be critical to their success.

1. ***Project selection and approval—stewardship contracting projects should be focused on the restoration of public lands while strengthening community capacity and providing community benefits.***
 - a. Section 323 of the FY 2003 Omnibus Appropriations bill (amending Section 347) calls for “stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for national forests and the public lands that meet local and rural community needs.” We believe a collaborative process is needed to determine these local and rural community needs.
 - i. ***Projects should be selected (e.g., acres to be identified for restoration treatment) through a community-based, collaborative process, such as a Resource Advisory Committee (RAC) process, an existing watershed council or community-based group process, or a community-based strategic fire planning process.***
 - b. Section 323 also recognizes seven land management goals which reflect a need for restoration. The guidance should call attention to these goals and recognize two immediate concerns:
 - i. ***Pace of expansion***—short-term implementation of the authorities should neither place too much emphasis on hazardous fuels

reduction nor take too many projects “off the shelf.” We recognize the need to achieve results on the ground; however, we also would like to see stewardship contracting remain true to the intent of building trust through open, collaborative process. Many “on-the-shelf” projects do not incorporate the use of innovative or low-impact machinery, or anticipate value-added utilization of possible products, such as small-diameter trees. Therefore, the broad goal of benefits to communities would not be met.

- ii. ***Overly extensive use***—the agencies should be careful not to employ the authorities so broadly that virtually every type of project is implemented under a stewardship contracting umbrella. Guidance and assistance should be provided to clarify appropriate uses of the authorities—as a supplement to existing restoration/land management tools, not as a replacement for them.
 - c. Possible mechanisms to help address the concerns above might be to:
 - i. Develop criteria for project approval ensuring that projects are focused on restoration (i.e., among the seven goals);
 - ii. Develop criteria for project approval ensuring that projects have been developed and selected through a collaborative process;
 - iii. Establish a project approval process that requires project planners to clearly consider all special authorities and to explain why they chose the ones they did.
 - iv. Consider keeping project approval at the Regional level to ensure that the expansion of stewardship contracting is appropriately focused and paced.
2. ***Multiparty monitoring—Commitment by the agencies to effective multiparty monitoring is a key to defusing criticism of the expansion of the use of stewardship contracting and to building public confidence in the program.*** We believe important elements are to:
- a. ***Ensure that multiparty monitoring is done at a project level to facilitate learning, adaptive management, and trust building.*** To address concerns about cost and continuity, one possibility would be to create multiparty monitoring teams at a national forest level, BLM area, or some other county-regional level.
 - b. ***Maintain support for the current multiparty monitoring of the Forest Service’s 84 pilot projects.*** These efforts were put in place to identify elements of the stewardship program that need to be addressed or fixed before the program moved into wider implementation. Continuing to closely track and evaluate these projects, many of which are now well advanced, will enable the agencies to learn valuable lessons that can 1) help future projects anticipate and avoid problems that pilots have encountered and 2) make start-up and implementation of new projects more efficient. In addition:

- i. There are some innovative pilot efforts being developed. It is important to continue to learn from these efforts as they move to implementation and break new ground.
 - ii. It is also important to honor the commitments made to the many communities, organizational representatives, and local volunteers engaged in stewardship projects and multiparty monitoring across the country.
 - c. There is a need to provide specific financial and technical resources for multiparty monitoring, but the process is not necessarily high cost. Organizations and individuals involved in the current demonstration program may suggest ways to address cost concerns.
- 3. **Agency training**—We have found that there is still limited awareness among Forest Service personnel regarding the special authorities embedded in stewardship contracting. Most people are aware of two authorities, goods-for-services and multiyear contracting, but are not aware that stewardship contracting **requires** contracts to be awarded on a best-value basis. Nor do people know much about designation by description, retention of receipts, or other authorities.
 - a. ***There needs to be an immediate effort to inform and train relevant Forest Service and BLM personnel (including those in contracting and accounting) about the full extent and import of stewardship contracting.***
 - i. In principle, forest/management units should not be able to enter into a stewardship contracting project until personnel who will be involved in it have received information and training to enable them to understand and be able to use creatively and appropriately the very innovative, flexible—and highly controversial—management tool they have been handed.
- 4. **Best-value contracting**—***Due to the limited awareness that the stewardship contracting legislation mandates the use of best-value contracting, we believe it is important for national program guidance to both clarify this point and to explain what best-value contracting is.*** The legislation states that “a source of performance of an agreement or contract under subsection (a) **shall** be selected on a best-value basis . . .” (emphasis added). We suggest the following factors should be taken into account by agency personnel when selecting entities to perform stewardship contracting projects:
 - a. The contractor’s understanding of the technical demands and complexity of the work to be done and the sensitivity of the resources being treated.
 - b. The ability of the contractor to meet the desired ecological objectives of the project.
 - c. The qualifications of the contractor and past performance in similar types of work, including the use of low-impact equipment and/or techniques.
 - d. The commitment of the contractor to training workers for high wage and high skill jobs.
 - e. The commitment of the contractor to hiring highly qualified workers.
 - f. The potential for benefit to local small and micro-enterprises.

5. ***Eligible entities—We believe it is important for the national guidance to draw attention to the legislative provision that “private persons or other public or private entities” are eligible to compete for contracts or agreements used to implement stewardship contracting projects.*** It is important to heighten awareness of the opportunity for a broad range of non-profits groups and for-profit enterprises to implement stewardship contracting projects through agreements and contracts. We suggest that opportunities for agencies to work with the following entities be addressed:
 - a. natural-resources related small or micro-enterprises;
 - b. Youth Conservation Corps crews or related partnerships with State, local and other non- Federal conservation corps;
 - c. **any** entity that will hire and train local people to complete the service or timber sale contract;
 - d. **any** entity that will re-train non-local traditional forest workers to complete the service or timber sale contract.

6. ***Clarification of worker and small business protections—***
 - a. The transition to the new authorities might make it appear that compliance with laws to protect workers and small businesses who normally perform work under a service contract would not necessarily apply. ***It should be made clear that the worker and small business protections that currently are in place in the service contract environment remain in place for all of these contracts.*** Specifically, section (3) of the rider authority needs to be clarified so that Davis-Bacon, the Service Contract Act, and the acts that require small business, 8(a), and HUB Zone set asides do apply to all contracts, whether they are signed by a timber sale or a service contracting officer.