Regional Product Accountability Audit and Timber Program Review

Malheur National Forest

May 8-12, 2017

INTRODUCTION:

From May 8-12, 2017, the Team conducted an unannounced Regional Forest Products Accountability Audit and Timber Program Review on the Malheur National Forest. The Team consisted of Michael Daugherty, Team Leader and Regional Program Lead for Sale Preparation, Contracts, and Product Valuation, and one of three Regional Stewardship Coordinators; Wayne Reynolds, Regional Area Measurements Specialist; Ken Kittrell, Regional Operations and Maintenance Engineer; Dana Croll, Regional TIM Coordinator; Andrew Hill, Resource Specialist Rogue River-Siskiyou NF; Nancy Richardson, Regional TSA Lead; Danielle Cochran, Resource Specialist Deschutes NF; Justin Burkey, Sale Admin Lead for the Region; Jana Carlson, Claims Forester for the Region.

AUDIT OBJECTIVE:

The objective of the audit was to assess the Forest stewardship contracts stewardship, and Forest product programs, identify strengths and weaknesses, and recommend needed corrections. A review was made of the Timber Program, Special Forest Products permit process, TIM implementation, and specific projects to sufficiently determine if the preparation and administration of contracts are adequate to ensure proper accountability and consistency with national and regional policy, and direction related to the management of Forest resources. By providing observations and feedback to the Forest and Districts, consistent working knowledge of accountability and vegetative program objectives and requirements can be achieved and maintained.

PROCEDURE AND PROCESS:

The Team reviewed and assessed the following programs and projects:

1. Timber Program and Forest's role in preparation and administration of contracts and agreements, including NEPA coordination and compliance
2. Tracer paint use and accountability
3. Timber designation, utilization, and accountability of Forest products
4. Special Forest Products program
5. TIM implementation and utilization
6. Fiscal and Financial aspects of timber and products programs
7. Engineering
8. Program Management

Unit visits were made to the Malheur Supervisor's Office, Blue Mountain Ranger District, Emigrant Creek Ranger District, and Prairie City Ranger District. The Team reviewed timber sale and stewardship contracts for documented activities and financial reports at office locations. The Team made field visits to the following contract areas: Task Order (TO) 2 on the Malheur 10 Year IRSC Stewardship Contract, and Gibb DxPre and C Salvage Timber Sale areas.

<u>Malheur NF Regional Audit and Review Report</u> (continued)

GENERAL COMMENTS:

The Team met with forest personnel from Sale Administration, Sale Preparation, Small Sales, and Engineer, Financial Management, Special Forest Products, Forest Officers, and line and staff officers. Forest and District personnel provided detailed information to inquiries and were enthusiastic in sharing insights and opinions.

The following are definitions for this report; <u>Findings</u> – deficiencies in program management and/or implementation that require line officer involvement and management direction to correct. A Required Action containing corrective measures is defined for each Finding. The forest produces an Action Plan which is sent to the Regional Forester and includes specific actions to be taken by the forest to implement each Required Action. <u>Observations</u> – opportunities to improve current practices. Some observations identify areas of potential vulnerability. At the present time and under present circumstances, observations may not represent an immediate threat to Forest management implementation and accountability. However, if current circumstances change, there may be a need to re-evaluate these areas in order to mitigate potential losses.

COMMENDATIONS:

1. Sale admin sends out an email notifying employees when hauling is to start in a sale. Haul roads are identified along with hours and whether weekend hauling is taking place.

2. An overtime authorization is available for sale administrators to complete after hours truck checks.

3. The Team visited frontliners at the Supervisor's Office, Blue Mountain Ranger District, Emigrant Creek Ranger District, and Prairie City Ranger District. All Frontliners visited are doing an excellent job selling special forest products. Everyone was welcoming and open to discussing their procedures and policy. Thank you everyone for the hospitality and great discussions.

4. We would like to thank Lucie Immoos, Tee Voigt, and Shawna Clark for their involvement with providing information on permit processes on the Forest and for the great work they are doing for the Malheur timber department. They are further commended for the organization and record keeping associated with product accountability. The tracking of scale, ticket book accountability and load tracking system that they have in place is superior.

5. Thanks to Pete LaDuke and Mark Moseley for the efforts in providing the documentation requested by the Team, accompanying the Team on the field visits, and answering the numerous questions asked during the review.

6. The Team audited paint storage lockers at the Blue Mountain, Emigrant Creek and Prairie City Ranger Districts for tracer paint inventory, use records, and paint storage security. All paint lot inventory logs were checked at each paint locker and all were correct. Overall, the security of each paint storage facility was found to be adequate, each was well-lit, and has adequate climate controls.

7. Letters of designations for Paint Custodians and Paint Managers are current and on file.

8. Yearly inventory audits have been completed at all locations and properly recorded. Monthly audits were also present, but were done on a more or less bi-monthly basis.

9. All districts are using the proper Issue and Inventory Record for Tracer Paint Inventory Form 2400-65. Forms were complete and audits have been completed at all sites.
10. Paint was checked for tracer element as it was checked-out for use and results are filed in the appropriate presale folders.

11. The Forest is using validated stem profile equations for determining volume on all contracts reviewed as per regional direction.

12. The Team would like to commend the forest for staying current on all contract closures and not having sales appear on the 90 day past term quarterly report. Great work.

13. The Contracting Officer Representative (COR) is doing an excellent job monitoring non-payment of non-compliant tickets associated with Item 9.1 on D-14 T.O. 2, keeping multiple rates straight as well as whether or not tickets were acceptable.

14. Resource Specialists are doing a great job monitoring and maintaining a current Payment Bond on the D-14 Task Order 2 as it expires annually rather than the full length of the contract.

15. On all contracts reviewed, the Forest is meeting or exceeding the percentage of log truck checks as required by the Regional Product Accountability Action Plan.

16. The Contracting Officers Representatives and Sale Administrators (SA) work closely together with engineering staff to monitor haul routes and determine when conditions are suitable for log haul. This coordination is critical to ensure that resource damage doesn't occur.

17. The Forest set up a grid system utilizing GIS to establish plots to inspect implementation of Designation by Prescription on the Gibb DxPre Timber Sale. This system ensures that inspection by the Forest is not arbitrary and the plots can be revisited by both the Forest and Purchaser in the event of a dispute.

18. The CORs on Task Order 2 have clean, concise, and informative daily diaries. Follow up documentation on concerns or issues from previous inspections was excellent.

19. Communication between the presale and sale administration is excellent. The two departments work well together to ensure that both departments are able to accomplish their program of work under difficult pressures.

20. The timber sale administration staff should be commended for working to improve and increase the staffing, training, and mentoring of that staff.

I. Timber Information Manager (TIM)

Observations

1. When using a manual permit that has several products, the Forest Officer is to put a line through the products that the permittee is not purchasing. This improves accountability by eliminating the possibility of a permittee adding product to their permit that was not purchased.

2. If part of the vehicle information is missing for a permit, do not input any information into this field. It is not a mandatory field
3. Original signatures are needed on both copies of the permit. This includes permits issued directly in TIM and manual permits.

4. Manual permits are not being completed properly. All required fields must be completed when using manuals.

5. Forest Officers should print their permits duplex. The official file must contain a complete permit, which includes the terms and conditions on page 2. This ensures that the permittee cannot remove or misplace the terms and conditions of the permit.

6. Several 10-day mushroom permits were being sold with a termination date that allowed for more than 10-days of picking.

7. Make sure all accountable property transfers are done on an AD-107 form and not as a hand written note.
8. Do not sign manual permits in advance of issuance.

9. All product plans need to be reviewed and updated to follow current policy and direction.

10. Forest Frontliners should review and correct customer information in TIM during the issuance of Special Forest Product Permits.

11. Filing of permits would be more organized if each Forest Officer maintained separate permit files.

12. Retain voided permits with an explanation of why the permit was voided. If a replacement permit was issued, the voided permit is to be attached to the back of the file copy.

Findings

1. Permits are being issued by mail. It is impossible to verify the permittee's ID as required. The districts are not requiring the permittee to return a signed copy of the permit for district files.

   Required Action: Refer to FSH 2409.18, 54.12 – Completion of Permit for national and regional policy and direction on issuing permits. The use of Vendors to sell permits is a viable method to remain complaint with permit issuing requirements and can be used in small towns and isolated locations.

2. Third party forms were found that allow people to remove firewood on permits issued to another person. This form is not approved by OMB and is in violation of the Paperwork Reduction Act.

   Required Action: Discontinue the use of the "Firewood Permit Waiver Form". If the forest elects to allow removal of firewood by a third party, they are to create a "Firewood Assistance" Product Plan. The Product Plan allows a third party individual to cut and remove firewood for a permittee who is unable to travel to the cutting area, FSH 1309.14, Chapter 40, 41.1.

3. Several firewood load tags were not accounted for.

   Required Action: Audit the Firewood sales and document discrepancies that are found, and report to the District Ranger for resolution, FSH 6509.14, Chapter 10, 14.7.

4. Pen and ink changes were found on the name and address, identification number, load ticket numbers, and product designation. Modifications to the permit requirements are not allowed.

   Required Action: Do not make changes to the name, address, identification number, termination date or product designation on the permit, FSH 2409.18, 53-Exhibit 01 Contract/Permit Use Matrix and FSH 2409.18, 54.14 – Modification.

5. Names of multiple people are being entered into the permittee field.

   Required Action: Issue permits only to one person, FSH 2409.18, Chapter 50, 54.1.

6. All Delegation of Authority for Forest Officer are not in compliance with FSM.

   Required Action: Delegation of Authority for Forest Officer letters for each Ranger District shall be addressed to each delegated person and signed by the District Ranger. The subject line needs to state "Delegation of Authority for Forest Officer", FSM 2400, Chapter – Zero Code, 2404.17 and 2404.25a.

7. Forest is using a homemade tag for forest products.

   Required Action: Regional Office provides SFP tags that are required to be used. The Forest is to cease using homemade tag, RO, FSH 1309.14, Chapter 40, 41.1.

II. Tracer Paint Storage/Marking

Observations

1. No tracer paint test results were found for new paint lots at Blue Mountain and Prairie City. It is recommended that tracer tests be made on all paint lots in these two lockers in the near future and the results keep on file at the appropriate site.

Findings - None

III. Cruising

Observations

1. All sales that were checked had most of the required pre-sale documentation available either paper or electronically. However, it was found that the filing system on the O drive was not logically organized or followed. The similar documents for the different sales were found in different folders and/or sub folders, i.e. check cruises for three different sales were found in three different file locations, cruise plans were found under different locations even though a folder named 'cruise plans' existed. While it did contain some plans, many others had been filed in other locations.

Findings - None

IV. Timber Sale Contract Preparation and Layout

Observations

1. On C Salvage Timber Sale, several items were of note during the review:

    a. The conversion factors and volumes on the 2400-17 appraisal summary do not match the volumes and conversion factors shown on the synopsis in TSA.

    b. In the Notes on the Sale Area Map (SAM), it says 'Forwarder use is required on the entire sale area and is defined in in CT6.74#'. There is no mention of forwarder use in CT6.74#.

    c. AT2 should have one species having 'and Other Coniferous Species' as part of the species name in the contract.

    d. Net Scale in % of Gross Scale in AT2, under Timber Subject to Agreement for Grn Bio Cv product, should be 'N/A' and not '40'. Grn Bio Cv is sold on a gross basis.

    e. AT6 Maximum Stump Height should read, '12 inches, or 1/3 stump diameter, whichever is greater.' This change can be made in site configuration in TIM for auto display in TIM.

    f. In CT6.6# erosion control, the statement regarding the co-op deposit for seed was not in the provision. However, the deposit is being collected in TSA. The general section of the Prospectus notified Purchasers of this deposit.

2. T-Specifications are to be an attachment to the contract and not part of the main body of the contract.

3. Pages with tables and requirements inserted into TIM generated contracts are not consistent with regional Instructions and formats. The regional designs and formats saves time for entering data into contracts and provides a consistent approach by all forests.

4. Designation by Prescription specifications for trees to cut or leave are based upon DBH in the provision. DxP based upon DBH cannot be administered when all that remains is a stump. Diameter Stump Height should be used in the provision when describing trees to be cut or left.

5. Provision C2.355# Designation by Prescription on Gibb DxPre Timber Sale calls for '…average basal area of 60ft2 in units…' and '…average basal area of 30ft2 in units…'. These requirements cannot be administered as they are nearly impossible to obtain. A range of acceptable basal areas is to be used on future contracts with DxPre.

6. Slash disposal specifications dated (7/93) are included in C6.74# in Task Order 2. These should be updated or not used to avoid needed follow-up statements in the provision that void sections of the (7/93) specifications.

7. Contracts and task orders call for the use of low ground pressure equipment. C Salvage Timber Sale in C6.42# says 'Log transport shall be with low ground pressure forwarders, Only 8.5 psi or less when off skid trails, Forwarders shall have a maximum of 12.0 psi. Documentation was not available showing inspection of equipment and verification of tire pressure. The Forest should consider removing the specifications from C6.42# or complete and document verifications of tire pressure.

8. The Team was informed there is not a hand-off process for moving a project from the ID Team to Sale Prep and from Sale Prep to Sale Admin. In the past 3-4 years, several forests in the region have had timber sales containing units that have not been analyzed in the NEPA document and/or were inconsistent with the preferred NEPA decision. Three common factors between these sales were: the lack of frequent and open communications as the project moved from design to implementation, no review of the contract or task order package prior to advertisement or award, and little involvement by line officers. The Team recommends the Forest develop an integrated review process with line officer involvement when Sale Prep receives the project from the ID Team. A thorough review of the contract package or task order by Sale Administration will identify and resolve issues and problems without needing Purchaser or Contractor approval thus avoiding the need for a modification or change, and a possible claim.

9. Forest is following established regional and national appraisal procedures in determining appraised rates of national forest products. However, the forest is making one appraisal adjustment in an amount that is larger than needed. This adjustment is part of established appraisal procedures. The result of this larger adjustment is a lower appraised rate which undervalues national forest products, is not reflective of fair market value, and is in noncompliance with NFMA and resulting regulation 36 CFR 223.60 which states the objective of timber appraisals is to determine fair market value for national forest products. See following CFR on appraising national forest products.

   §223.60 Determining fair market value.

   The objective of Forest Service timber appraisals is to determine fair market value. Fair market value is estimated by such methods as are authorized by the Chief, Forest Service, through issuance of agency directives (36 CFR 200.4). Valid methods to determine fair market value include, but are not limited to, transaction evidence appraisals, analytical appraisals, comparison appraisals, and independent estimates based on average investments. Pertinent factors affecting market value also considered include, but are not limited to, prices paid and valuations established for comparable timber, selling value of products produced, estimated operating costs, operating difficulties, and quality of timber. Considerations and valuations may recognize and adjust for factors which are not normal market influences.

[61 FR 5685, Feb. 14, 1996]

Link to 36 CFR 223.60:

https://www.ecfr.gov/cgi-bin/text-idx?SID=8ae4ee3c36bea30c133eb308a44f25c3&mc=true&node=pt36.2.223&rgn=div5#se36.2.223_160

Findings

1. Hazard tree mitigation along Forest Service roads was a pay item in Task Orders 4a and 4b under the Malheur 10 Year IRSC. Task Orders 4a and 4b also included soil stabilization and road maintenance service activities. The hazard trees were used for soil stabilization service activities. The purpose and need of stewardship authority is to…'perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.' The stewardship law provides seven examples of appropriate uses of stewardship authority. While not all-encompassing, all do focus on resource restoration and improvement and increasing resiliency to significant changes. It is not appropriate to include mitigation of hazard or danger trees along forest roads in any stewardship contract or agreement as a pay item or requirement.

   Required Action: Mitigation of hazard trees along forest roads is a Forest Service responsibility to provide a safe working environment for our employees, publics, commercial road users, Purchasers, and Contractors. Other options are available to line officers to provide a safe transit environment.

V. Timber Sale Accounting

Observations

1. On C Salvage Timber Sale, it was noted that of 5 payment units released only 3 of these had written Purchaser requests for release of the unit when every payment unit released is to have a written request received from the purchaser prior to unit release.

2. On C Salvage Timber Sale, TIM Gate Certificates indicated salvage volume is inconsistent with the amount of salvage volume shown on the SSF plan. These should be reviewed to ensure that the correct percentage of salvage is used consistently throughout the contract.

3. On C Salvage Timber Sale and D-14 T.O. 2, it was noted that the requirement for 100% tick marks on the original synopsis was not performed. Many items were not ticked and the Team found that the wrong rate for seed collection was used and road maintenance rate was not present. Notes were not made on the synopsis, but corrections were made in the following month. The Forest needs to ensure that they are 100% verifying the original synopsis and noting any changes for missing or incorrect data found on the original synopsis.

4. On C Salvage Timber Sale, the Gate 4 certification was printed on 07/13/16 and signed by the District Ranger on 07/21/16. The bid opening occurred on 07/20/16. No Advertisement or Bid can occur prior to the TIM Gate 4 signature date which is the required signature needed to authorize the advertisement of the contract.

5. In 2015 on D-14 T.O. 2, a letter from the Contracting Officer to the Resource Specialist requested that billing deferral be set for the contract. The billing deferral was not set in TSA until 2017. The Contractor had sufficient earned stewardship credits to make billing deferral unnecessary, but requests should be processed timely in TSA. The requirements for bonding and/or credit balances can be found at FSH 2409.19, 65.12b.

6. On D-14 T.O. 2, the PRSC/PRSP spreadsheets shall be signed and dated by the Acquisition CO. Several were not dated and/or signed.

7. On D-14 T.O. 2, A.2 Utilization Standards excludes 10" DBH PP from the contract and this size class is being removed as documented on several Daily Diaries. A.2 needs to be amended to include this size class as either Sawtimber or Green Biomass Convertible, otherwise it is not considered Included Timber.

8. On D-14 T.O. 2, Mod 2 modifies the Utilization Standards, but states it does not modify the volume. The total volume adds up to 321,373 Tons while the Contracting Officer's award of D-14 T.O. 2 specifies a total of 321,378 Tons.

9. The Supervisor's Office Contract folder for D-14 T.O.2 did not include Appendix A, B, or C, 2400-17, appraisal package or cruise. These items are to be in the contract folder.

10. On D-14 T.O. 2, products are being removed to an Alternate Scale Site at Parma Post and Pole. The Forest Service is manually processing this scale and inputting the volumes into the accounting system. There should be an agreement and fee ($15/load) associated with this additional work. There is no signed Alternate Scale Agreement on file. A copy of this agreement was requested from the Acquisition CO, but a signed agreement was not provided.

11. On D-14 T.O. 2, several months of TSA and PRSP/PRSC reporting show small discrepancies between invoices and what was recorded in TSA. This appears to be due to rounding differences associated with the Contractors invoicing for Item 9.1 based upon how the Tons per invoice are calculated. Both parties are to agree to use the volume as reported.

12. On D-14 T.O.2 there is volume that goes to a facility not supported by a scaling bureau so this volume must be manually input by the Resource Specialist. This volume should be tracked for input into the Financial System using the 2400-66b form. Unfortunately, this form is being used to track operational tree additional volume for target attainment purposes in compliance with the 2013 Regional Forester's letter allowing Forests to begin reporting these trees on scaled sales towards attainment. We suggest that the Forest continue to follow this letter, but add "For Target Attainment Tracking Only," to differentiate from the volume that should be reported on this form to input in the Financial system.

13. In D-14 T.O. 2, there are only two Notice to Proceed in the contract folder. However, the Contractor has Invoiced and been paid for 20 Items. Notices to Proceed for all paid items could not be located.

14. Product Removal Permit books being returned to the forest with tickets remaining are not being recorded as destroyed on an AD-112.

15. On Gibb DxPRE Timber Sale, initial volume input to the contract reflects 4 SPU combinations. Prior to timber removal, the Resource Specialist had adjusted the species to reflect 1 additional species. There is no source document or authority to add a species to the contract without written direction from the Contracting Officer. Furthermore, the volumes are being adjusted between species by the Resource Specialist without a source document. For upward and external reporting, the Forest should determine the percentage by species and adjust volume removed by those percentages at least prior to the end of each Quarter in which volume is removed.

16. On D-14 T.O. 2, operational trees are being added as Included Timber. The Team was unable to find an agreement signed by the Contractor to use the volume table being used. It was also noted that the tally worksheet is not the newest version which uses calculations from the cruise specific to each contract which is the most accurate.

17. On D-14 T.O. 2, there is no way to track through documentation the percent completeness of work items that are being Invoiced and paid out. The Team suggests using block 18. % complete or keeping a running total for each Item in block 28. Narrative. This would be of great assistance when assessing and approving Invoices. There was correspondence to indicate the COR was not necessarily in agreement or comfortable with the % claimed on Invoices that were being paid. An example is on 3.3 Tin Roads where 30% was Invoiced and paid out. This implies all Pre-Haul maintenance was complete. However, the COR was not comfortable with that and Pre-Haul maintenance was still being done the following year. The Contractor should not be paid for work not yet completed and accepted.

Findings

1. Of the two SSF plans reviewed, neither contains a narrative statement nor have attached narrative documentation to back up the required statement and documentation.

   Required Action: Review all SSF plans on the Forest and include the narrative statement and narrative documentation per FSM 2435, 73.23 and FSH 2409.19, 70, 73.22 a., Narrative Statement.

2. In the Gibb DxPRE Timber Sale contract, Gate 4 Certificate contains no eligible or funded KV amounts. The original KV plan on file contains zero funded work. However, there is a KV plan, revision 1, on file that shows it is being funded. For KV to be collected on a contract, the KV work needs to be included in the Gate 4 cert as part of the advertisement. It is against handbook direction to add a KV plan to a timber sale when the required reforestation has not been established prior to advertisement and included as such in Gate 4.

   Required Action: Review FSH 2409.19.11-Development of SAI Plan and FSH 2432.4-Gate 4, Advertise a Timber Sale or Stewardship Contract. This activity includes the preparation of the appraisal report, advertisement, bid form, prospective bidder letter, prospectus, **Sale Area Improvement Plan**, Brush Disposal Treatment Plan, Salvage Sale Fund Plan, and sample contract. In the future, the forest shall ensure that funded work is identified in Gate 4 based on advertised rates for all contracts that is intended to collect KV.

   Note to the Forest: A webinar series of trainings in the use of various silviculture related tools is available on the Regional website at the following link http://fsweb.r6.fs.fed.us/natural-resources/silviculture/kv-webinar-training.shtml

Also, to receive training specific to Knutson-Vandenberg Act authority and its use and applicability, please contact Robin Darbyshire in the Regional Office.

3. The Contracting Officer's award of D-14 T.O. 2 awards specific Items and Sub-items listing quantity, amount and the method of payment, shorthand code for appropriated dollars or Timber receipts. Method of payment was not accurately reflected on the PRSP or PRSC spreadsheets based on the award letter. Some Items were to be paid for by appropriated dollars in the award letter that were actually posted to the PRSC spreadsheet to be paid for using Timber Receipts. Some were paid for with shorthand codes that did not match the initial award. No documentation was evident for why these changes were made.

   Required Action: FSH 2409.19, 66 speaks to the importance of funding, especially highlighting that during actual project implementation any service work item costs that are not offset by forest products should be funded by the primary purpose of the work activity. The Forest is to assume the responsibility for completing the PRSC and PRSP spreadsheets. The Forest has the most up-to-date information of what is being accomplished on the ground and what is eligible for payment.

4. On D-14 T.O. 2, on July 2, 2015, the Contractor requested LPP 4.0-6.9" DBH from unit 214 pursuant to K-C.1.1# Timber Subject to Agreement. The Contractor estimated the volume to be 3,672 Tons. The Contractor stated there would be no way to track the AQM CO's request to not pay Item 9.1 rates for this material. In an email dated July 15, 2015, the CO chose "All Coniferous Species, excluding Ponderosa Pine" under K-C.1.1#. In the same email, the Contracting Officer goes on to write that the Contractor estimates 750 Tons of material and the Contracting Officer discusses reducing volumes in other units to "…justify the increase in unit 214." Mod 3 came out of this discussion and added 300 Tons of Lodgepole Biomass at current contract rates. The "consideration" accepted from the Contractor waives payment of $13.75/Ton as stated in 9.1. The Team could not find any documentation that this is being tracked. The government could be paying $4,125.00 for services provided associated with 9.1. Without the government estimate, the government could be paying up to $50,490.00 on this modification.

   Required Action: Forest is to reconcile the volume estimate for this modification and modify the contract if necessary.

5. On D-14 T.O. 2, the COR has added operational trees throughout the contract beginning in 2014. The Contracting Officer has not completed a modification to date to include this material which equates to approximately 7,500 Tons of sawtimber.

   Required Action: The AQM Contracting Officer shall execute a modification to include the added operational trees. Operational trees shall be added to the contract as Add-on Vol at least quarterly. The CO must assure payment is available to cover additional volume. FAR 1.602-2 states in pertinent part "(The COR) …Has no authority to make commitments or changes that affect price, quality, quantity, delivery, or other terms…" it goes on to state that the COR shall be designated in writing specifying the extent of the COR's authority to act on behalf of the contracting officer. When you look at the COR designation in the contract authority to change the quantity (Add timber) has not been identified. In the bottom section #2 states: "Only the CO has the authority to make any commitments or changes that affects price, quality, quantity, delivery or other terms and conditions of the contract." Further guidance on this matter is given in the R6 Stewardship Contracting User Guide. Item Z speaks to receiving attainment credit for the volume once the CO has approved changes in the contract.

6. The Contracting Officer's award of D-14 T.O. 2 specifies a \$1.01/Ton Road Maintenance charge. Throughout the rest of the contract, it states \$.81/Ton for Road Maintenance, which is the rate the Contractor is currently being charged. The Contracting Officer needs to specify the correct rate and advise the Resource Specialist to charge accordingly. This may require a modification of parts of the existing contract. This results in a \$33,756.76 difference between what has been collected and potentially what should have been collected into road maintenance (CWF2).

   Required Action: Forest is to reconcile road maintenance collections on TO 2 to determine the appropriate road maintenance rate. The Contracting Office is to modify the contract if necessary.

VI. Timber Sale Administration

Observations

1. The Forest creates undue stress and pressure when the signing of NEPA projects are allowed to be delayed into the third and fourth quarters of the same Fiscal Year in which they are needed for target accomplishment. This cycle of "sign and sell" within the third and fourth quarters will lead to errors in project preparation and compromise the Forest's ability to meet their internal and external obligations.

2. Individual workloads for SAs/COR's during certain times of the year exceed the direction listed in the R6 supplement FSH 2409.15, 13.21. Some administration personnel oversee in excess of five operating logging sides not including service type work. The Forest currently has one certified SA, and four SA trainees. The above referenced FSH directly pertains to Certified SA's. The forest must ensure proper staffing levels based on annual sale and stewardship program, and national and regional direction for assigning additional personnel when using DxPre.

3. Various Improvements, including but not limited to system roads and fences, are not on the Contract Area Map. These improvements require protection and need to be on the maps.

4. The need and use of a pre-award agreement is to be determined prior to advertisement. This ensures that the appropriate language is in the prospectus. The Gibb DxPre Timber Sale did not have any language in the prospectus and was only announced at bid opening. Regional direction is to only include the liability waiver once the Notice of Intent to Litigate has been filed.

5. The COR on Task Order 2 was informed on August 16, 2016 that there were two mistletoe study plots in the Contract Area where trees should be retained, one in Unit 220 and one in Unit 114. The portion of Unit 220 with the study plot had already been cut in the winter of 2015. The COR was able to designate the retention trees in the study plot in Unit 114.

6. In the table pursuant to CT6.41#-Specific Requirements in C Salvage Timber Sale states the mechanized felling equipment will not be operated on slopes greater than 35%, except for short distances. There is no definition of "short distances" in the contract.

7. Specific courses are required prior to becoming a certified Sale Administrator. Additional courses are needed for further career development and required to progress to Forest Service Representative or Contracting Officer. Employee development is critical to the future of the Forest Service. There is Line officer support to meet employee and organizational needs.

8. The Forest invests significant personnel time and money to cruise and prepare timber sales to meet Tree Measurement standards. The forest has later decided to offer this material under scaled contracts which have a lesser cruising standard. This results in the government incurring unnecessary costs. Although the decision on contract type should not be made during the NEPA phase of project planning, it is cost effective to make this determination as early in the preparation process as possible. The Forest could save significant personnel time and money by meeting the measurement standards required for the specific method and not changing course, if possible.

9. The C Salvage Timber Sale Area was adjacent to Task Order 4A and 4B. C Salvage is a Tree Measurement Sale and Task Order 4A and 4B were scaled sales. These adjacent contracts had the same Contractor/Purchaser and were operating at the same time. These concurrent operations exposed the Forest to a potential risk of timber theft, by providing the chance the Contractor/Purchaser could intermingle logs from the scaled sales (for which the Forest has not received payment) in loads from the Tree Measurement sale (with the Forest has been paid for). To mitigate this risk, sale administration personnel increased the amount of time spent on site to monitor the log loading at landings as well as the frequency of load accountability checks.

Findings:

1. A number of compliance issues with Product Removal Permits occurred on all contracts reviewed. This is noted in various documents pertaining to the 10 year stewardship project. The Administrative Contracting Officer stated in an email dated 11-29-2016 that unreadable printed weights were "barely" acceptable. Also, a number of issues were noted on Gibb DxPre Timber Sale during the first month of hauling operations.

   Required Action: Adhere to contract provisions pertaining to Scaling Lost Products and with the Malheur NF and regional accountability plans.

2. Load of logs in the scaling bay at Malheur Lumber from C Salvage Timber Sale did not meet the Regional guideline or the approved branding and painting waiver. After a truck check on Gibb DxPre Timber Sale, the Branding and Painting waiver on file was discussed. The Team and the Forest reviewed the Gibb waiver and other waivers currently used. It was determined the waivers currently used by the Forest do not comply with the requirements in R6 supplement FSH 2409.15, 27.12.

   Required Action: Follow regional policy and direction related to painting and branding waivers.

3. In Task Order 2 on the Malheur 10 year stewardship contract, volumes listed in the original solicitation and subsequent modifications do not match documented cruise and appraisal volumes. It appears, but is not documented, that negotiations removed parts of units, certain species, and certain products from the contract. Various other issues are directly impacting the Forest's ability to verify the accuracy of volume offered. Due to the lack of documentation available for the Audit Team to review regarding negotiations, the final volume offered in Task Order 2 could not be determined.

   Required Action: Adhere to contract provisions regarding volume estimates. Refer to clause C.4 Volume Estimates in Appendix B of all Malheur 10 year task orders which states volume estimated are not guarantees or limitations of the timber volumes to be designated for cutting under the terms of this contract.

4. The Designation by Prescription found in Gibb DxPre Timber Sale Contract and Task Order 2 (TIN) have complex prescriptions. Within the prescriptions, there are numerous "levels" to consider including elements common to all stands and a multi-tiered approach. When the provision sites scientific research papers, this is an indicator that the prescription is likely complex. Although the Regional Office approved the DxP in the Gibb DxPre Timber Sale Contract, the complexity makes it difficult to assure a creditable cruise and volume determination. The proper administration to achieve desired end results becomes extremely difficult as well. National and regional direction calls for use of DxP on simple non-complex prescriptions. See letter to Forest Supervisors dated February 9, 2016 which states...'complex prescriptions such as Individual tree designation, Clumps, and Openings (ICO) treatments should be Marked by the Forest Service with either blue or orange tracer paint. Examples used in the Stewardship Handbook, FSH 2409.19, 61.3, 2, are of simple, easily implementable prescriptions requiring few specifications and restrictions and easily attainable end results.

   Required Action: When using DxP complex prescriptions, the forest is to mark leave trees or require the Purchaser or Contractor to Mark leave trees prior to operations.

5. Undesignated trees were cut outside of the unit boundaries in Task Order 2 and C Salvage Timber Sale. During the audit, the Team could not find documentation in the official contract folder indicating that Law Enforcement was notified as required by the Regional Accountability Action Plan. After the team left, documentation was found in the official folder that Law Enforcement was contacted.

   Required Action: The Forest needs to meet Regional Product Accountability Action Plan requirements. CORs and SAs must document when undesignated timber is cut and provide a copy of the documentation to Law Enforcement within 2 days of discovery. However, if the cutting or damage to undesignated timber is willful or negligent, Law Enforcement is to be notified immediately.

6. The award letters for C Salvage Timber Sale and Gibb DxPre Timber Sale do not adhere to the Region 6 Template Award Letter and are missing critical language such as EEO requirements and the Forest Resources Conservation and Shortage Relief Act of 1997.

   Required Action: The Forest shall utilize the Region 6 Template Award Letter as required by FSH 2409.18 (Chapter 70), R6 Interim Directive No. 2409.18-2017-2.

7. On the C Salvage Timber Sale, the Purchaser requested a waiver of the requirement listed in CT6.42#-Yarding/Skidding Requirements that all Tractor based activities occur only during dry or winter conditions. After consulting the Forest Soil Scientist, the Purchaser Representative was informed the waiver would not be granted. He responded that he needed to call the Forest Supervisor because they needed to get the wood out now (however the Forest Supervisor never received a call about this issue). The Sale Administrator appropriately reminded the Purchaser Representative of the bounds of the contract.

   Required Action: All Forest personnel, AQM personnel, and Purchaser/Contractor personnel should review and adhere to written delegations of authority as required by FSH 2409.15 (Chapter 10), R6 Interim Directive No. 2409.15-2015-1, FSM 2404.25.5, and 8 CFR 1.602-2.

8. The Team learned that there have been instances of Forest specialists or researchers visiting Sale Areas and/or Contract Areas with no notification to Sale Administration personnel. In one instance, these individuals were in close proximity to operating logging equipment on an active landing. Although they had no delegated contract authority, they requested that operators shut down their equipment so they could complete the monitoring for their research. While the Team did find notification of the start-up of operations and hauling, notifications were not issued on a consistent basis.

   Required Action: Safety is THE top priority for the Forest Service. The public's safety, safety of employees and our Purchaser's and/or Contractor's safety should supersede monitoring and research projects and obligations. Forest personnel shall contact sale administration personnel to determine where logging operations are occurring prior to visiting Sale Areas and/or Contract Areas.

9. On the Gibb DxPre Timber Sale Contract, the Forest sent a letter to the Purchaser requesting removal of Unit 4 from provision C5.1#-Temporary Road and Landing Construction and Unit 170 from C6.42#-Yarding/Skidding Requirements from the contract as they were inadvertently included and do not exist in the contract. These provisions in the official contract folder do include these units, however, the Team could find no contract modification.

   Required Action: A letter to the Purchaser requesting a pen and ink change to the contract is not sufficient documentation. Any change to a contract provision shall be processed as a contract modification in accordance with B8.3 Contract Modification.

10. Gibb DxPre Timber Sale includes both Sawtimber at a rate of $14.75 per Ton and Grn Bio Cv at a rate of $4.99 per Ton. Upon review of provision A22, it is clear that C6.840 – Accountability is not in the contract. This is a required provision in all contracts with products offered at different rates (split pricing) and utilizing weight as the scale method. Also, use in all contracts that include Timber Subject to Agreement under C2.11#. An inspection report dated June 31, 2017 indicates that Sawtimber material was in a Grn Bio Cv load, regardless of the use of this provision material which will be charged at different rates shall not be mixed.

    Required Action: As stated above, when split pricing is utilized, the Forest shall use C6.840 Accountability in the contract packages. The Forest must ensure they are appropriately staffed to monitor log loading at landings and conduct additional load accountability checks to ensure products/species at different rates are not mixed and hauled together.

11. Throughout all task orders on the Malheur 10 year stewardship contract the authorities and duties delegated to specific individuals is unclear. In a letter dated October 28, 2013, Contracting Officer Carl Ericksen, delegates Gavin Smith as Administrative Contracting Officer (ACO). The subject line of this letter is specific to Task Order 1 of the Malheur N.F. 10 Year Stewardship Project. The Team was unable to locate additional delegation letters for additional task orders. This letter outlines which authorities are reserved from the ACO including but not limited to, decisions in respect to time or price, including modifications, negotiations, and determinations. Upon review of Task Order 2, ACO Smith has signed various modifications including modifications in respect to time or price.

    Required Action: Delegated authority is specific to individuals and contracts. It is the responsibility of the designated individuals to ensure that they operate within their delegated authority. If the Contracting Officer becomes aware of individuals acting outside of their delegation, action must be taken immediately to ensure the protection of the Government's interest.

VIII. Engineering

Observations

1. Road Maintenance Requirements Summary sheets included in Task Order 2 of the Malheur NF 10-Year Stewardship contract lists both 811(A) and 839(A) as required contractor performance on roads 2010 and 2010072. Maintenance specification 811(A) is a road blading specification that would be typically required on higher standard roads; specification 839(A), as written by the Forest, is intended for use on high-clearance roads and would presumably be required on lower standard roads. They should not be required on the same road.

2. A road was identified in the Soda-Bear-2010 EA as not to be used for haul and was not listed in the Road Maintenance Listing in K-F.3.1# in Appendix C for the Sugar IRSC Project in Task Order 2. It was inadvertently opened to a landing and used for haul. This highlights the need to refer to the Road Listing either K(T)-F(T).3.1# or C(T)5.31# as the source document for roads authorized for use on contracts.

3. The standard prework meeting document includes a statement that log skidding is approved on all roads listed in C(T)5.31#. Aside from evidence from contract documentation that purchasers/contractors are still requesting and receiving authorization for such activities in individual circumstances, the existing authorization language in the prework document should be revisited and edited to prevent the potential for skidding on roads by a purchaser/contractor who might take the stated authorization at face value in situations where such use was not desired by the Forest.

4. Item number 3 in Task Order Number 2 contains pay items for Pre/During/Post-Haul Maintenance for the Sugar, UP, Tin, and Cup projects. The Unit of Measure for these items is Lump Sum, which – while a simple way to pay for maintenance – doesn't provide flexibility when work items change, such as changes to number or locations of rock crossings included in Maintenance Specification 839 for Tin and Cup projects. The Forest

should give consideration to including bid items with unit of measure that accurately reflect work being performed in order to better track payments and changes.

5. Access to existing material sources for rock material for treatments or repair of haul routes is limited due to infestations of invasive plants. This results in increased costs because of the need to haul rock farther distances and – in some instances – require the purchase of rock material from distant commercial sources. It was mentioned to the Team that only one source out of numerous requested sources was treated in a recent contract that was subsequent to the completion of invasive plant treatment NEPA last year. The Forest is encouraged to provide strong support for efforts to eradicate invasive plant populations in material sources to the degree to improve availability of rock material at a lesser cost for timber-sale related activities.

6. With retirements and departures of long-time engineering staff, some of the institutional knowledge of how things came to be, such as in the case of cost development for road maintenance appraisals has been lost. The Forest is encouraged to examine its road maintenance appraisal process/costs to assure that those processes and costs are reflective of current real-world costs to perform such work whether through performance or collection of deposits.

Findings

1. Signage observed on timber sale haul routes do not meet standards defined in the Manual on Uniform Traffic Control Devices (MUTCD), EM-7100-15 – Sign and Poster Guidelines for the Forest Service, or contract Traffic Control plans for sign placement (height and location) and retro-reflectivity materials.

   Required Action: All traffic control signs shall meet the requirements of MUTCD as stated in the contract Traffic Control Plan. Refer to Section 2A.07 Retro-reflectivity and Illumination for more information.

2. Maintenance Appraisal cover sheets for reviewed projects display an overhead rate of 25.8% applied to the CWFS deposit collection. The overhead rate for Trust Fund Deposits represents the cost necessary to cover indirect costs related to the administration of such Trust Funds. This overhead rate is established annually by the Albuquerque Service Center Budget staff and has been 8% over the last several years. A deposit rate of 25.8% is well above the established national overhead rate and inappropriately adds to the deposit amount being collected.

   Required Action: Use the nationally-established overhead rate for assessment of indirect costs for CWFS deposits.

3. Reviewed contracts containing Road Maintenance Specifications that - while using specification numbers that are the same as the Regional Road Maintenance Specifications (with the letter "A" added to indicate that they are Forest Supplemental Specifications) and that make moderate to significant changes to the Regional specifications with which they share a specification number. Under "Responsibilities" in FSM 7704.05 – Regional Forester, the Regional Forester is responsible for, among other things, providing direction in all aspects of road maintenance. In addition, both national and R-6 direction in FSH 2409.15 Chapter 50 refer to using regional road maintenance specifications. The Region 6 Specifications For

Maintenance of Roads in Timber Sales, EM-7730-20, states "Supplemental Specifications, which do not change the intent of the parent section, may be approved by the Forest". There is no known evidence that the Forest has discussed its modifications to the road maintenance specifications with Regional Office staff.

Required Action: Timber Sales are to include Regional maintenance specifications, supplemented as necessary by non-substantial Supplemental Specifications to tailor maintenance requirements to local conditions. If the Forest wishes to continue using current locally-developed specifications in timber sales, concurrence shall be reached with Regional Office staff to assure that those local specifications are meeting engineering needs as well as the intent of the timber sale contract.