* 1. **Purpose.** To establish Regional policy for direct collection by Tribes of monies associated with the contract sale and permit sale of forest products.
  2. **Scope.** This policy applies to all Tribal Forest Management Programs within the Midwest Region that desire the direct collection of payments from the sale of forest products.
  3. **Policy.** Tribes seeking direct payments from purchasers of forest products must submit their request in writing to the responsible line officer. The request shall contain a resolution approved by the Tribe requesting direct payment authority, and a statement indicating that the Tribe agrees with the procedures for Direct Payment/Collection (Section 1.7). The Tribe may request direct payments for Tribal forest products sales or for both Tribal and Allotment forest product sales.\*

Once the request is approved, all new timber-sale contract funds will be collected directly by the Tribe. Existing timber sale contracts which have accounts within the Trust Fund Accounting System (TFAS) will continue to be maintained until satisfactory completion of the contract.

**1.4 Authority.**

1. **Statutes and Regulations.**
2. 25 U.S.C. §3107, [Title of Act]
3. 25 CFR 163, [Title]
4. P.L. 108-374 §2212, American Indian Probate Reform Act of 2004
5. and memorandum dated February 24, 2003, from the acting Deputy Commissioner regarding Forest Management Deductions – Direct Collection by Tribes.
6. **Guidance.**
7. 53 IAM 1, Forestry Policy, Authorities and Responsibilities
8. 53 IAM 3, Contract Sales of Forest Products

\*Note: The American Indian Probate Reform Act of 2004 (§2212) requires that all income from allotment tracts which have Land Consolidation Program Liens must be paid to the Secretary.

1. **Handbooks.**
2. 53 IAM 3-H, Contract Sales of Forest Products
   1. **Responsibilities.**
3. **Regional Line Officers** in the Midwest Region are responsible for ensuring that all collections for the contract and permit sale of forest products are either collected directly by the Bureau, or to approve requests from Tribes under their jurisdiction (25 CFR 163.22(b)) that agree to adhere to this policy.

**1.6 Procedure for Direct Payment/Collection.**

This procedure covers direct payment/collection of Bid Deposits, Performance Bonds, Advance Deposits, Advance Payments, and Installment Payments.

1) All Timber Sale contracts will have a special provision stating that payments and deposits shall be drawn payable to the “requesting Indian Tribe” (modifies Part B4.1 of the standard provisions).

2) The Tribe retains the Timber Sale Bid Deposit of the apparent high bidder, and of all others who submit a written request to have their bids retained until the contract is awarded and approved (up to 30 days). All other Bid Deposits will be immediately returned by Certified mail, Return-Receipt.

(a) Retained Deposits-with-Bid will be placed in a tribally controlled account in the name of the bidder(s) within 24 hours.

(b) Upon award and approval of the contract, any Bid Deposits still retained will be returned immediately by Certified Return-Receipt postage to unsuccessful bidders. If the unsuccessful bidders (who submitted written requests to have their bids retained until contract award) are present for the bid opening, they may recover their deposits-with-bid immediately by signing the back of the bid proposal form.

3) Performance Bonds will be required in connection with all sales of forest products (25 CFR 163.21). The Tribe will collect all or part of the bond according to the terms of the timber sale document. The preferred form of performance bond is cash, or irrevocable letter of credit (LOC).

(a) Deposit of Cash – The deposit will be placed in a tribally controlled escrow account designated by a contractor identifier. Cash deposited as a performance bond should be supported by an “Agreement and Power of Attorney” naming the Tribe as the attorney-in-fact. At the completion of the contract, the Bond will be returned to the contractor minus any funds retained to remedy contract deficiencies.

(b) Irrevocable Letter of Credit (LOC) – If an irrevocable LOC is used to secure performance bonds, the Tribe will be designated as the Beneficiary. The LOC should be secured in a fireproof safe at the office of jurisdiction, and a copy must be in the contract file. The expiration date of the LOC must exceed the timber contract expiration date by a minimum of 180 days. At the completion of the contract, if there are no drafts against the LOC, it will be returned directly to the issuing bank. If a draft has been drawn, the LOC will be retained.

**Approval**

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Signature of Final Approving Authority Date

Title