Forestry Direct Pay Agreements
Quick Guide & Implementation Checklist

- 25 CFR Part 163 / BIA Forestry
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Executive Summary

Provide the implementation framework, including escrow/depository setup, verification steps, deduction processing, and TAAMS/Bureau of Trust Fund Administration (BTFA) (used to be OTFM) considerations.

What 25 CFR §163.22 Says

- Direct pay is permissible when requested by the Tribe.
- Payments may be made as advanced deposits or direct deposits of gross proceeds.
- Permitted account formats include:
- "(1) Escrow accounts… (2) Tribal depository accounts… The format must permit the Secretary to maintain trust responsibility."

Implementation Checklist

- Determine account type: escrow or tribal depository.
- Insert direct-pay clause into timber sale/contracts.
- Verify TAAMS codes and payment workflows.
- Ensure forest management deduction procedures.
- Maintain verification and proof-of-payment logs.
- Complete internal BIA/tribal approvals.

Model Contract Clauses

- Payment of Gross Proceeds; Direct Pay
  - Purchaser shall make advanced deposits and direct payments of gross proceeds (less forest management deductions) (90%) into the Tribe's designated account in compliance with 25 CFR §163.22.
- Escrow Account Administration & Proof-of-Payment
  - Purchaser must provide written evidence of deposits/disbursements. Escrow accounts must permit the Secretary to verify all transactions.

Verification & Audit Trail Requirements

- Copies of deposit receipts.
- TAAMS transaction logs.
- Forest management deduction calculations.
- Escrow/depository monthly statements.

BIA Manual / Handbook Implementation Guidance

- 25 CFR §163.22 – Payment for Forest Products
- 53 IAM 3-H – Harvest of Forest Products Handbook (2024)
- 53 IAM 3 – Forestry Policy Chapter
- Forestry Collections & Distribution Handbook
- 25 CFR Part 115 Subpart G – Tribal Trust Funds
- 25 U.S.C. §3107 – Direct Payment of Forest Products Proceeds

Glossary

- Escrow Account: A financial account used for deposits and controlled disbursements.
- Tribal Depository Account: Tribal financial account used for direct tribal receipt.
- Advanced Deposits: Initial payments made prior to timber harvest.
- Forest Management Deductions: Authorized deductions to fund forestry program work.

Memorandum of Agreement (MOA): Direct Payment of Trust Forest Revenues

- Parties: Bureau of Indian Affairs and [Tribe Name]
- Purpose: direct payment into tribally designated escrow and depository accounts

Purpose (Section I)

- Establish procedures for depositing **revenues from trust forest lands** into **tribal escrow/depository accounts**
- Maintain **Secretary's trust responsibility** via verification of deposits/disbursements
- Aligns with **P.L. 93-638** (Contract/Compact of Self Governance) and recognizes **tribal laws**

Authorities & Guidance (Section II)

- **National Indian Forest Resources Management Act (NIFRMA, P.L. 101-630)**
- **25 CFR Part 163** (General Forestry Regulations)
- Forest Management Plan (Tribe)

Disposition of Funds (Section III)

- **Escrow Accounts**: Bid Deposits (BD), **Advance Deposits (AD)** (operating balance)
- **Depository Accounts**: **Advance Payments (AP)**, **Installment Payments (IP)**, Tribal Enterprise payments, transfers from escrow

Agreement Highlights (Section IV) — Accounts

- Tribe establishes account(s) at **designated bank**; BIA notified of changes
- Applies procedures for **deposit, disbursement, and verification** (contract/permit related)

Escrow Procedures (BD/AD/PB)

- **Bid Deposits**: retain high bidder BD; return others; retained BD → **tribal escrow** within 24 hrs (or as practical)
- **Advance Deposits**: Tribe bills purchaser; payments go to **sale-specific escrow**; **interest** follows principal
- **Performance Bonds**: separate escrow; bond backed by Agreement/POA naming approving officer (reference to **25 CFR §163.21**)

Depository Procedures (AP/IP, ROTC, Stumpage)

- **AP/IP** paid directly to Tribe → **tribal depository**
- Tribe receives **certificates of scale**; computes value at contract rates; prepares **TAAMS** (system of record) **Report of Timber Cut (ROTC)**
- Upon approval, **stumpage receipts** transferred from sale escrow → **tribal depository**; **interest** follows principal

FMD Scenarios (choose one per MOA)

- **Scenario (i)**: No waiver; FMD **to BIA lockbox trust account** (e.g., 90/10 split—example only)
- **Scenario (ii)**: No waiver; **authority granted** to deposit **FMD directly** to **tribal account** (e.g., 90/10—example)
- **Scenario (iii)**: **Waiver granted**; **100%** stumpage to **tribal account(s)**
- Note: **Percentages are configurable** per Tribe and approval status.
- Context slide you can add: FMD are authorized under **25 U.S.C. §3105** and implemented in **25 CFR §163.25** (with waiver provision), and direct payments to tribal accounts are consistent with **§163.22**.

FMD Reporting & Audit (Section IV.B.3)

- **Approved expenditure plan** governs FMD spending
- **Annual FMD report** to Regional Director/Line Officer within **120 days** after FY close: beginning balance; deposits; expenditures; ending balance
- **Final report** aligned to plan; **supporting financial documentation**; FMD account subject to **audit**

TAAMS & Verification (Section IV)

- Tribe/BIA provides **scaling and documents** for **TAAMS encoding monthly** during active sale
- Follow Region **TAAMS Business Rules**; Tribe may adopt internal procedures consistent with national/regional rules
- BIA access to **records/accounts** to validate compliance (deposits, disbursements, stumpage computation, sale closure)
- Additional compliance point (context for Q&A): If revenue is **direct-paid** to tribal accounts, BTFA **won't account** for those funds in the Department's trust system; OTFM only accounts for funds **deposited** into the trust funds management system (25 CFR **115.804–.805**).

Duration & Modification (Section V)

- Agreement remains **valid until replaced/terminated**
- **30-day written notice** for termination; loss of compliance → **direct pay authority rescinded**; payments must go through **BIA lockbox**

Signatures (Section VI) / Next Steps

- Tribal Resolution No. ___
- **Chairman** (Tribe) / **Regional Director** (BIA) — execution
- Next steps: finalize percentages, confirm FMD path, set TAAMS responsibilities, choose escrow/depository bank, draft billing + verification workflow