**Frequently Asked Questions (FAQs)**

**Note: Unless specified otherwise, References are to IAM 3-H**

1. **Why do we need a handbook?**

Handbooks provide guidance and document procedures; provide information to all levels of personnel involved in the management of forest resources; provide information to employees in all aspects of the harvest of forest products; promote consistent application of policy and procedures; provide methods for accountability; and provides the procedures to document the harvest program for the beneficial Indian owners and the official record.

1. **Does this handbook supersede previous versions of these handbooks?**

Yes, previous handbooks are no longer current guidance. This handbook combines Volume 3 (Contracts effective 6/10/2004) and Volume 4 (Permits effective 6/15/2005) of 53 IAM into one handbook.

1. **Why are forest products sold?**

To meet the economic and forest management objectives of the beneficial Indian owners as documented in an approved Forest Management Plan (FMP) or Integrated Resources Management Plan.

1. **Why does the BIA have to approve contracts and permits?**

It is required by 25 CFR § 163.20 and 163.26.

1. **How does Free Use Harvesting without a permit work?**

With the consent of the majority interest of the trust beneficial owners and the Secretary, Indians may harvest designated types of forest products from Indian forest land without a permit or contract, and without charge. This is considered free use harvesting without a permit (See Section 7 FPUP for more details). Forest products harvested under this authority will be for personal use and may not be sold or exchanged for other goods and services (25 CFR § 163.27).

1. **Is a permit or contract required to harvest invasive species?**

Yes, if the invasive woody species and product meet the definition of a forest product, harvest must be authorized with an FPUP, permit, or contract.

1. **Is a permit or contract required to harvest forest products if they are not in a forest? (1.2 Scope, 2.4 Contracts and Permits, and 53 IAM 3 –1.2)**

Yes, approved permit or contract forms are required when harvesting forest products from any Indian Trust land.

1. **Must forest product harvests comply with environmental laws? (2.1 General and 2.10 Environmental and Cultural Resources Requirements)**

Yes, forest product harvests must comply with all applicable federal and tribal environmental laws.

1. **In what situations can the AO sign a POA? (2.2 Harvest Area Planning and Field Reconnaissance and 2.3 Ownership Consent)**

The AO has been delegated authority and may sign POAs and approve the harvest of forest products on behalf of the decedent’s estate where ownership has not been determined, and for those persons who cannot be located after a reasonable and diligent search 25 CFR § 163.20. If their legal guardian cannot be located, the AO may also sign for minors and Indian owners who are non-compos mentis.

1. **What form should be used for the sale of non-timber forest products? (2.2 Harvest Area Planning and Field Reconnaissance and 2.4 Contracts and Permits)**

Non-timber forest products are usually handled using the Non-Timber Forest Products Harvest Permit form BIA Form 5-5332 or other form approved by the Secretary.

1. **How are the Indian Trust owners involved with the sale of forest products? (2.2.1 Management Plan Review and 2.3 Ownership Consent)**

Indian trust owners must approve the by either resolution if sale area is tribal trust land, or POA if the sale area is allotted. Sole owners of an allotment can sign the sale document and do not need a POA.  Indian trust owners may also request a timber sale. Tribes and individual allottees or allottee associations can also provide management direction and input to harvest policy by providing feedback during the development of the FMP, IRMP, harvest schedule and FPUP.

1. **Can an individual (beneficial owner or not) harvest forest products on an allotment without approval from the beneficial owners? (2.3 Ownership Consent)**

No, any removal of forest products from an allotment requires the majority interest consent of the trust beneficial owners and the Secretary, except as authorized in 25 CFR § 163.14. This approval requirement also applies to free use harvesting without permit (25 CFR § 163.27).

1. **Is majority trust owner consent needed prior to approval of a contract or permit? (2.3 Ownership Consent)**

Yes, except in emergency situations. A simple majority of the trust beneficial interest (greater than 50%) is required, except in emergency situations when action is necessary to prevent the loss of value from fire, insects, disease, blowdown, or other natural catastrophes. In these instances, after consultation with the owner, the BIA may authorize a sale without owner approval (25 CFR § 163.14).

1. **How is the majority interest determined when securing approval to sell trust forest products? (2.3 Ownership Consent)**

Only the restricted (trust) beneficial interests are considered in determining if a simple majority of the trust interest (greater than 50% of the restricted interest) has been obtained.

1. **How do allottees provide consent for the sale of forest products from their allotment? (2.1 General and 2.3 Ownership Consent)**

Sole allottees may provide sale approval through self-representation by signing the contract or permit. or they may authorize the AO to act as their representative by signing a POA for the Harvest of Allotment Forest Products (BIA Form 5-5315).

If there are multiple allottees for an allotment, each allotee is sent a POA, so they may approve the harvest and provide authorization to the AO to act as their representative

1. **Does a BIA POA for Harvest of Allotment Forest Products form required to secure allottee authorization? (2.3.2 Allotted Tracts)**

Yes, unless allottees sign the contract or permit or another form approved by the Secretary. POA forms are also used to secure owner authorization for free use harvesting of forest products with or without permit.

1. **When are we authorized to sell timber with fee interests or a fee parcel? (2.3.2.4 Unrestricted Fee Interests and 2.3.2.5 Tribally Owned Fee Parcels)**

In mixed fee and trust ownerships, approval must be obtained from a simple majority of the restricted (trust) interest to sell forest products.

If the fee parcel owner is a Tribe, and the fee parcel is contained within or adjacent to a trust sale area, the parcel may be included in a sale with trust parcels This may be done if the Tribe wants the fee parcel included in the sale (25 CFR § 163.20(b)(3)).

1. **What are the Part A and Part B of the Contract? (2.4 Contracts and Permits and 3.1 Advertised Sales)**

Part A of the contract contains the sale specific information and requirements of the parties to the contract. Part B contains standard provisions that apply to all contract sales of forest products, unless superseded by special provisions in Part A. Standard Provisions Part B is attached to all contracts.

1. **Is an approved permit or contract required for the removal of any forest products? (2.4 Contracts and Permits)**

Yes, except in the situation of free use harvesting without a permit that is approved in an FPUP.

1. **What are the acceptable types of contract and permit forms? (2.4 Contracts and Permits)**

* Predetermined Volume Contract BIA Form 5-5327
* Estimated Volume Contract BIA Form 5-5324
* Timber Cutting Permit BIA Form 5-5331
* Sole Owner Allotment Harvest Permit BIA Form 5-5328
* Allotment Supplementary Agreement BIA Form 5326
* Non-Timber Forest Products Harvest Permit BIA Form 5-5332
* Part B Standard Provisions BIA Form 5-5323
* Others as approved by the Secretary or their delegate

1. **Can a SOAHP be used to authorize the harvest of timber from an allotment with more than one owner? (2.4.4 Sole Owner Allotment Harvest Permit, Form BIA-5328)**

No, a SOAHP may only be issued to an Indian having sole beneficial interest in an allotment (25 CFR § 163.26(d)).

1. **How are the values of forest products determined? (2.9 Appraisal)**

Forest product values will be determined through an appraisal documented in a FOR. Appraisals are estimates of value by species and product and are obtained through transactional evidence from similar sales, residual value analysis, or other approved methods. A FPUP also may set values for forest products removed under permit authority.

1. **Are advance payments (AP) required on permits? (3.1 Advertised Sales and 4.2 Collections from Purchaser)**

AP on permits are not required by CFR. however, AP may be required in a paid permit if an immediate non-refundable payment to the beneficial owner is desired.

1. **What is an advance deposit (AD) and why is it required? (3.2 Receiving and Accepting Bids and 4.2 Collections from Purchaser)**

AD are sale required deposits in advance of cutting on estimated volume sales that the Purchaser furnishes to maintain an operating balance against which the value of forest products planned for harvest will be charged. Indian tribal forest enterprises may be exempted from the requirement to make AD with the approval of the Secretary.

1. **Are all forest product sales advertised? (3.6 Sales without Advertisement)**

No, sales of forest products may be made without advertisement when the conditions and requirements of 25 CFR § 163.16 are met.

1. **Who approves contracts and permits? (3.7 Permit or Contract Completion and Approval)**

All contracts and permits must be approved by the Secretary or designee as required by 25 CFR § 163.20 and 163.26. This individual is referred to as the AO.

1. **Can non-Federal officials approve contracts or permits for the harvest of forest products on Trust land? (3.7 Permit or Contract Completion and Approval)**

No, only federal officials are delegated to approve contracts or permits for the harvest of forest products on trust land.

1. **Are FMD collection calculations based on individual allotment value or overall contract or permit value? (4.2.3.4)**

FMDs are collected if the overall contract or permit value is greater than or equal to $5,001.00. When individual allotments/tracts with low values are modified into contracts or permits, collection of FMDs are still required if the total cumulative value of the contract or permit is greater than or equal to $5,001.00, The collection of FMDs is not based on the value of each individual tract or Allotment agreement.

1. **What is the relationship between a logging plan and the contract or permit? (5.3.1 Logging Plan)**

A logging plan, if required becomes part of the contract or permit once approved. Under Standard Provision B.8.2, the OIC may require the Purchaser to present seasonal plans of logging operations for approval before operations begin. Logging plans can also be utilized for permits. Logging plans may be approved by the OIC.

1. **How are forest products measured? (6.2 Measurement Methods)**

The basis of volume determination for forest products sold must be the Scribner Decimal C log rules, cubic volume, lineal measurement, piece count, weight, cord, or such other form of measurement the Secretary authorizes (25 CFR § 163.22(a)).

1. **Why have a Forest Products Use Policy (FPUP)? (7.2 FPUP Uses)**

A FPUP documents Tribal and BIA policies on low value and low complexity forest product harvesting and may streamline the approval process for those harvests and for free use harvesting with or without a permit. If an FPUP is in place with the appropriate phrasing, additional approvals by the BIA or the tribe for those low value and low complexity harvests may not be required.

1. **What is an Indian tribal forest enterprise? (8.1 General)**

A tribal business, infrequently, or a tribal program that is initiated and organized by the reservation’s recognized tribal government (25 CFR § 163.13). Indian Tribal Forest Enterprises may be exempted from certain requirements or qualify for exceptions as stated in the federal regulations.

1. **How do we verify that tribal enterprise payments have been made to the tribal government? (8.7 Payment)**

Enterprises pay for forest products using invoices created in TAAMS in the same way as other Purchasers and as outlined in 25 CFR § 163.22, unless special instructions are authorized by the Secretary as described in 25 CFR § 163.13(d). In all cases, the method must be approved by the AO and written verification that all required deposits, payments, and disbursements is required.

1. **Why are Forest Management Deductions (FMD) collected? (9.1 Definitions)**

These funds are collected for the tribe to use in managing and protecting Indian forest land. FMDs are not collected if the total consideration under a contract or permit is less than $5,001 (25 CFR § 163.25(c)).