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SENATE

{ REPORT
{ 113-179

STEWARDSHIP CONTRACTING REAUTHORIZATION AND IMPROVEMENT

JUNE 2, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1300]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1300) to amend the Healthy Forests Restoration Act of 2003 to provide for the conduct of stewardship end result contracting projects, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 13, strike “Until September 30, 2023, the” and insert “The”.

2. On page 7, line 2, insert “and section 2(a)(1) of the Act of July 31, 1947 (commonly known as the ‘Materials Act of 1947’) (30 U.S.C. 602(a)(1))” after “472a”.

3. On page 7, line 2, insert “and the Director” after “Chief”.

4. On page 11, strike lines 11 through 14 and insert the following:

(c) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105-277) is repealed.

(2) EFFECT OF REPEAL.—Notwithstanding the amendment made by paragraph (1), nothing in this Act or an amendment made by this Act invalidates or otherwise affects any stewardship contract entered into by the Chief of the Forest Service or the Director of the Bureau of Land Management that is in effect on the date of enactment of this Act.

PURPOSE

The purpose of S. 1300 is to amend the Healthy Forests Restoration Act of 2003 to provide for the conduct of stewardship end result contracting projects.

BACKGROUND AND NEED

Stewardship end result contracting is a flexible set of contracting tools designed to help federal land management agencies and their partners restore public lands and provide local community benefits. Congress created a pilot stewardship contracting program for the Forest Service in the late 1990s. In the Consolidated Resolution, 2003 (section 323 of Public Law 108-7), Congress significantly expanded stewardship contracting. Congress extended the authority to both the Forest Service and Bureau of Land Management (BLM) and lifted the limit on the number of contracts the agencies could enter into over a 10-year period until September 30, 2013.

Stewardship contracting allows the BLM and the Forest Service to address the total ecological needs of an area using any combination of timber sale contracts, agreements, integrated resource contracts and service contracts. The agencies can enter into multi-year contracts for up to ten years and work with communities to design and implement the project with an added benefit of bringing jobs into the local community. Furthermore, the agencies can use the value of any products removed by the restoration or maintenance work to offset the costs of the work. Stewardship contracting has become an increasingly important means for the Forest Service and BLM to undertake complex, long-term projects that seek to restore ecosystems, reduce fire hazards, strengthen or develop the infrastructure to utilize restoration byproducts, and create local economic benefits. S. 1300 would permanently reauthorize the program for the entire United States, with a few modifications to the existing program as discussed below.

S. 1300 would permanently reauthorize stewardship contracting authority for the Forest Service and Bureau of Land Management. S. 1300 would make two principal modifications to the existing stewardship contracting program. First, the legislation would allow excess receipts from the stewardship contract to be used to pay any agency balances on cancellation ceilings, which would also be authorized to be paid in stages that are economically or programmaticaly viable rather than upfront as is currently required. This change would be consistent with how the Department of Defense handles cancellation ceilings for multiyear acquisition contracts. Second, the bill would modify the fire liability requirements for stewardship service contracts to match those currently in place for timber contracts. Timber contracts currently are able to cap the fire liability assumed by the contractor for fires caused by operations, assuming no gross negligence, but no such authority exists for service contracts, which many bidders say may make contracts uneconomical. S. 1300 also includes a provision that requires the Chief of the Forest Service and Director of the Bureau of Land Management to offset any direct spending using any amounts that may be available for the applicable fiscal year.

LEGISLATIVE HISTORY

S. 1300 was introduced by Senator Flake, McCain, Crapo, Risch, and Heller on July 16, 2013. Senators Baucus, Barrasso, Heinrich, Enzi, Tester, and Udall of New Mexico were subsequently added as cosponsors. A hearing was held by the Subcommittee on Public Lands, Forests, and Mining on July 30, 2013 (S. Hrg. 113–85). At its business meeting on December 19, 2013, the measure was reported favorably with amendments.

Similar legislation was also introduced during the 113th Congress by Senator Reid (section 8204 of S. 10, the Agriculture Reform, Food, and Jobs Act of 2013), Senator Udall of Colorado (S. 816, the Stewardship End Result Contracting Project Act), Senator Bennet (S. 849, the Permanent Stewardship Contracting Authority Act of 2013), and Senator Stabenow (section 8204 of S. 954, the Agriculture Reform, Food, and Jobs Act of 2013), all of which except S. 816 were referred to the Committee on Agriculture, Nutrition, and Forestry. The Committee on Agriculture, Nutrition, and Forestry reported S. 954 on September 4, 2013 (S. Rept. 113–88).

Similar legislation was subsequently enacted as section 8205 of the Agricultural Act of 2014, Public Law 113–79 (H.R. 2642) on February 7, 2014. That legislation did not include the cancellation ceiling modifications to stewardship contracting.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on December 19, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 1300, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 1300, the Committee adopted four amendments. The first strikes the provision terminating the program on September 30, 2023. The second and third clarify that the Director of the Bureau of Land Management, as well as the Chief of the Forest Service, may enter into stewardship contracts. The fourth holds harmless any existing stewardship contracts that remain in effect and were issued pursuant to previous authority.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the “Stewardship Contracting Reauthorization and Improvement Act.”

Section 2 amends Title VI of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591) and inserts a new section, Section 602, “Stewardship End Result Contracting Projects.”

Section 602(a) establishes definitions for the section.

Subsection (b) gives the Chief of the Forest Service and the Director of the Bureau of Land Management the authority to enter into stewardship contracts permanently.

Subsection (c) authorizes certain land management goals of a stewardship contract.

Section 602(d)(1) establishes certain legal perimeters for stewardship contracts, including the awarding of contracts on a best-value basis. Paragraph (2) is a change in existing law which gives the

Secretary of Agriculture discretion to consider stewardship contracts as a contract for the sale of property under such terms as the Secretary may prescribe without regard to any other provision of law. Paragraph (3) sets the terms of stewardship contracts to be no longer than 10 years. Paragraph (4) authorizes the use of goods for services in stewardship contracts and establishes methods of appraising the value of timber of other forest products. Paragraph (5) allows excess receipts from the stewardship contract to be used to pay any agency balances on cancellation ceilings, which would also be authorized to be paid in stages that are economically or programmatically viable rather than upfront as is currently required. Paragraph (6) exempts stewardship contracts from subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a). Paragraph (7) authorizes the Secretary of the Interior or the Secretary of Agriculture to determine the appropriate contracting officer to enter into stewardship contracts, notwithstanding any other provision of law. Paragraph (8) requires the Chief of the Forest Service and the Director of the Bureau of Land Management, within 90 days of enactment, to issue requirements that would modify the fire liability requirements for stewardship contracts to match those currently in place for timber contracts.

Subsection (e) authorizes the Chief of the Forest Service and the Director of the Bureau of Land Management to collect monies from stewardship contracts, but the collection is to be a secondary objective in negotiating a contract.

Subsection (f) authorizes the Chief of the Forest Service to collect deposits from a contractor covering the costs of removal of timber or other forest products, notwithstanding the fact that the contractor did not harvest the timber.

Subsection (g) authorizes the Chief of the Forest Service and the Director of the Bureau of Land Management to require performance and payment bonds.

Subsection (h) requires the Chief of the Forest Service and the Director of the Bureau of Land Management to establish a multiparty monitoring and evaluation process.

Subsection (i) requires the Chief of the Forest Service and the Director of the Bureau of Land Management, within one year of enactment, to submit an annual report to Congress on the status of the stewardship contracting program.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 1300—Stewardship Contracting Reauthorization and Improvement Act

S. 1300 would permanently reauthorize the Forest Service and the Department of the Interior to enter into special contracts known as stewardship contracts. Because similar provisions were enacted in Public Law 113–79, the Agriculture Act of 2014, those provisions of S. 1300 would have no impact on the budget.

The bill also would allow the Forest Service and the Department of the Interior to determine the amount of appropriated funds they reserve to pay for the costs of canceling certain stewardship contracts. Under the Antideficiency Act, federal agencies cannot spend

funds in excess of amounts specifically made available to the agency. Because, under S. 1300, the agencies might reserve insufficient funds to cover all the costs of canceled contracts, the bill would effectively allow them to obligate sums greater than the appropriations they have available when they enter into the contracts—thus creating direct spending authority. However, based on information provided by the Forest Service regarding the total amount of potential cancellation costs for all stewardship contracts entered into over the 2004–2013 period, CBO estimates that enacting this provision would have at most a negligible impact on direct spending.

S. 1300 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1300.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1300, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1300, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by Forest Service and Bureau of Land Management at the July 30, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 1300 follows:

STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Committee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1300, the “Stewardship Contracting Reauthorization and Improvement Act.” The Forest Service supports reauthorization of stewardship contracting and could support the bill if amended.

Stewardship contracting is a critical tool that allows the Forest Service to more efficiently complete restoration activities. Reauthorizing stewardship contracting authority and expanding the use of this tool are crucial to our ability

to restore landscapes collaboratively. The authority allows the government to carry out restoration work at a reduced cost by offsetting the value of the services received with the value of forest products removed. In fiscal year 2012, approximately 25 percent of all timber volume sold on National Forest System lands was under a stewardship contract. The stewardship contracting authority has proved to be a valuable tool in many locations to implement restoration activities and meet multiple land management objectives including hazardous fuels reduction, wildlife habitat improvement, forest health improvement, and non-native invasive plant species control.

S. 1300 would repeal the existing stewardship contracting authority in section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 and replace it with a provision that would be added to the Healthy Forests Restoration Act of 2003. That provision would reauthorize stewardship contracting for 10 years and provide authority that is substantively the same as the existing authority with a few exceptions. The bill contains new authority that would:

- Clarify the contracting procedure for stewardship contracting by making clear that the various statutes that apply to normal Federal procurement actions do not apply to these activities;
- Modify the requirement to obligate funds to cover any potential cancellation or termination costs to allow the obligation of funds in economically or programmatically viable stages, providing advance notification of Congress and OMB;
- Require the Chief and Director to modify the fire liability provisions for all stewardship contracts and agreements to mirror the fire liability provisions currently contained in the Forest Service Integrated Resource Timber Contract and Forest Service Timber Sale contracts which limit the contractor's liability for non-negligent fire;
- Allow the Chief and the Director to use excess receipts to satisfy outstanding liabilities for cancelled stewardship agreements and contracts; and
- Allow the Chief and Director to offset spending on stewardship contracting using any additional amounts that may be made available to the Chief or the Director for the applicable fiscal year.

Consistent with the purposes of S. 1300, the Forest Service supports efforts to increase the amount of forest restoration work on NFS lands. However, the Forest Service would like to work with the Committee on several aspects of the language related to the offset for stewardship contracts and agreements in this bill as well as to rethink provisions that would waive current acquisition laws and practices and not require potential termination and cancellation costs to be fully funded.

I want to thank the Committee for its interest, leadership, and commitment to stewardship contracting, our na-

tional forests and their surrounding communities. This concludes my prepared statement and I would be pleased to answer any questions you may have.

STATEMENT OF NED FARQUHAR, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 1300, the Stewardship Contracting Reauthorization and Improvement Act. This legislation would provide for the reauthorization of stewardship contracting authority for the Bureau of Land Management and the U.S. Forest Service. The Department supports the reauthorization of stewardship contracting authority, would support this legislation if amended, and would appreciate the opportunity to work with the sponsor to address a few technical concerns.

BACKGROUND

Stewardship contracting authority was established for the BLM in the FY 2003 Omnibus Appropriations Act and expires at the end of FY 2013. The authority allows the BLM to award contracts for forest health and restoration treatments, including hazardous fuels reductions, for a period of up to ten years and to use the value of timber or other forest products removed as an offset against the cost of services received. The BLM has enjoyed many successes in using stewardship contracting authority, thereby achieving goals for forest and woodland restoration and conducting both hazardous fuels reduction and habitat restoration treatments. In addition, stewardship contracts create jobs and revenue growth for local communities and help to protect local communities from wildland fire. From 2003 through 2012, the BLM entered into over 400 stewardship contracts on approximately 108,000 acres of BLM-managed lands. The BLM's future strategy for stewardship projects includes increasing the size and duration of these projects.

S. 1300

S. 1300 extends until 2023 the authorization of stewardship contracting to achieve land management goals. The BLM supports stewardship contracting authority, as it provides the BLM with needed flexibility to work with contractors to achieve the agency's land and forest health goals, and saves taxpayer resources because the value of forest products removed are used to offset the cost of the management action. In addition, changing the requirement to obligate cancellation costs upfront is inconsistent with budgeting principles and would understate the Government's liability under the contract. Finally, the Administration has concerns about broad waivers of long-standing acquisition laws.

CONCLUSION

The Department looks forward to working with the sponsor and the Subcommittee on technical amendments. Thank you again for the opportunity to testify, and I would be glad to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1300 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HEALTHY FORESTS RESTORATION ACT OF 2003

PUBLIC LAW 108–148

AN ACT To improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

* * * * *

TITLE VI—MISCELLANEOUS**SEC. 601. FOREST STANDS INVENTORY AND MONITORING PROGRAM TO IMPROVE DETECTION OF AND RESPONSE TO ENVIRONMENTAL THREATS.**

* * * * *

SEC. 602. STEWARDSHIP END RESULT CONTRACTING PROJECTS.

(a) *DEFINITIONS.*—*In this section:*

(1) *CHIEF.*—*The term “Chief” means the Chief of the Forest Service.*

(2) *DIRECTOR.*—*The term “Director” means the Director of the Bureau of Land Management.*

(b) *PROJECTS.*—*The Chief and the Director, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.*

(c) *LAND MANAGEMENT GOALS.*—*The land management goals of a project under subsection (b) may include—*

(1) *road and trail maintenance or obliteration to restore or maintain water quality;*

(2) *soil productivity, habitat for wildlife and fisheries, or other resource values;*

(3) *setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;*

(4) removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;

(5) watershed restoration and maintenance;

(6) restoration and maintenance of wildlife and fish; or

(7) control of noxious and exotic weeds and reestablishing native plant species.

(d) AGREEMENTS OR CONTRACTS.—

(1) PROCUREMENT PROCEDURE.—A source for performance of an agreement or contract under subsection (b) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

(2) CONTRACT FOR SALE OF PROPERTY.—A contract entered into under this section may, at the discretion of the Secretary of Agriculture, be considered a contract for the sale of property under such terms as the Secretary may prescribe without regard to any other provision of law.

(3) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chief and the Director may enter into a contract under subsection (b) in accordance with section 3903 of title 41, United States Code.

(B) MAXIMUM.—The period of the contract under subsection (b) may exceed 5 years but may not exceed 10 years.

(4) OFFSETS.—

(A) IN GENERAL.—The Chief and the Director may apply the value of timber or other forest products removed as an offset against the cost of services received under the agreement or contract described in subsection (b).

(B) METHODS OF APPRAISAL.—The value of timber or other forest products used as an offset under subparagraph (A)—

(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed; and

(ii) may—

(I) be determined using a unit of measure appropriate to the contracts; and

(II) may include valuing products on a per-acre basis.

(5) CANCELLATION CEILINGS.—

(A) IN GENERAL.—The Chief and the Director may obligate funds to cover any potential cancellation or termination costs for an agreement or contract under subsection (b) in stages that are economically or programmatically viable.

(B) NOTICE.—

(i) SUBMISSION TO CONGRESS.—Not later than 30 days before entering into a multiyear agreement or contract under subsection (b) that includes a cancellation ceiling in excess of \$25,000,000, but does not include proposed funding for the costs of cancelling the agreement or contract up to the cancellation ceiling established in the agreement or contract, the Chief and the Director shall submit to the Committee on Energy and

Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a written notice that includes—

(I)(aa) the cancellation ceiling amounts proposed for each program year in the agreement or contract; and

(bb) the reasons for the cancellation ceiling amounts proposed under item (aa);

(II) the extent to which the costs of contract cancellation are not included in the budget for the agreement or contract; and

(III) a financial risk assessment of not including budgeting for the costs of agreement or contract cancellation.

(ii) TRANSMITTAL TO OMB.—At least 14 days before the date on which the Chief and Director enter into an agreement or contract under subsection (b), the Chief and Director shall transmit to the Director of the Office of Management and Budget a copy of the written notice submitted under clause (i).

(6) RELATION TO OTHER LAWS.—Notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) and section 2(a)(1) of the Act of July 31, 1947 (commonly known as the “Materials Act of 1947”) (30 U.S.C. 602(a)(1)), the Chief and the Director may enter into an agreement or contract under subsection (b).

(7) CONTRACTING OFFICER.—Notwithstanding any other provision of law, the Secretary or the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (b).

(8) FIRE LIABILITY PROVISIONS.—Not later than 90 days after the date of enactment of this section, the Chief and the Director shall issue for use in all contracts and agreements under subsection (b) fire liability provisions that are in substantially the same form as the fire liability provisions contained in—

(A) integrated resource timber contracts, as described in the Forest Service contract numbered 2400–13, part H, section H.4; and

(B) timber sale contracts conducted pursuant to section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(e) RECEIPTS.—

(1) IN GENERAL.—The Chief and the Director may collect monies from an agreement or contract under subsection (b) if the collection is a secondary objective of negotiating the contract that will best achieve the purposes of this section.

(2) USE.—Monies from an agreement or contract under subsection (b)—

(A) may be retained by the Chief and the Director; and

(B) shall be available for expenditure without further appropriation at the project site from which the monies are collected or at another project site.

(3) RELATION TO OTHER LAWS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the value of services received by the Chief or the Direc-

tor under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor, Chief, or Director shall not be considered monies received from the National Forest System or the public lands.

(B) *KNUTSON-VANDERBERG ACT.*—The Act of June 9, 1930 (commonly known as the “Knutson-Vanderberg Act”) (16 U.S.C. 576 et seq.) shall not apply to any agreement or contract under subsection (b).

(f) *COSTS OF REMOVAL.*—Notwithstanding the fact that a contractor did not harvest the timber, the Chief may collect deposits from a contractor covering the costs of removal of timber or other forest products under—

(1) the Act of August 11, 1916 (16 U.S.C. 490); and

(2) the Act of June 30, 1914 (16 U.S.C. 498).

(g) *PERFORMANCE AND PAYMENT GUARANTEES.*—

(1) *IN GENERAL.*—The Chief and the Director may require performance and payment bonds under sections 28.103–2 and 28.103–3 of the Federal Acquisition Regulation, in an amount that the contracting officer considers sufficient to protect the investment in receipts by the Federal Government generated by the contractor from the estimated value of the forest products to be removed under a contract under subsection (b).

(2) *EXCESS OFFSET VALUE.*—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Chief and the Director shall—

(A) use the excess to satisfy any outstanding liabilities for cancelled agreements or contracts; or

(B) if there are no outstanding liabilities under subparagraph (A), apply the excess to other authorized stewardship projects.

(h) *MONITORING AND EVALUATION.*—

(1) *IN GENERAL.*—The Chief and the Director shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects conducted under this section.

(2) *PARTICIPANTS.*—Other than the Chief and Director, participants in the process described in paragraph (1) may include—

(A) any cooperating governmental agencies, including tribal governments; and

(B) any other interested groups or individuals.

(i) *REPORTING.*—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Chief and the Director shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives on—

(1) the status of development, execution, and administration of agreements or contracts under subsection (b);

(2) the specific accomplishments that have resulted; and

(3) the role of local communities in the development of agreements or contract plans.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

PUBLIC LAW 105-277

AN ACT Making omnibus consolidated and emergency appropriations for fiscal year ending September 30, 1999, and for other purposes

* * * * *

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101.

* * * * *

(e) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

* * * * *

TITLE III—GENERAL PROVISIONS

* * * * *

[SEC. 347. STEWARDSHIP END RESULT CONTRACTING DEMONSTRATION PROJECT.

[(a) IN GENERAL.—Until September 30, 2014, the Forest Service and the Bureau of Land Management, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.

[(b) LAND MANAGEMENT GOALS.—The land management goals of a project under subsection (a) may include, among other things—

[(1) road and trail maintenance or obliteration to restore or maintain water quality;

[(2) soil productivity, habitat for wildlife and fisheries, or other resource values;

[(3) setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;

[(4) removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;

[(5) watershed restoration and maintenance;

[(6) restoration and maintenance of wildlife and fish habitat; and

[(7) control of noxious and exotic weeds and reestablishing native plant species.

[(c) AGREEMENTS OR CONTRACTS.—

【(1) PROCUREMENT PROCEDURES.—A source for performance of an agreement or contract under subsection (a) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

【(2) TERM.—A multiyear contract may be entered into under subsection (a) in accordance with section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c), except that the period of the contract may exceed 5 years but may not exceed 10 years.

【(3) OFFSETS.—

【(A) IN GENERAL.—In connection with agreements or contracts under subsection (a), the Forest Service and the Bureau of Land Management may apply the value of timber or other forest products removed as an offset against the cost of services received.

【(B) METHODS OF APPRAISAL.—The value of timber or other forest products used as offsets under subparagraph (A)—

【(i) shall be determined using appropriate methods of appraisal commensurate with the quality of products to be removed;

【(ii) may be determined using a unit of measure appropriate to the contracts; and

【(iii) may include valuing products on a per-acre basis.

【(4) RELATION TO OTHER LAWS.—The Forest Service may enter into contracts under subsection (a), notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 72a).

【(5) CONTRACTING OFFICER.—Notwithstanding any other provision of law, the Secretary of Agriculture and the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (a).

【(d) RECEIPTS.—

【(1) IN GENERAL.—The Forest Service and the Bureau of Land Management may collect monies from an agreement or contract under subsection (a) so long as such collection is a secondary objective of negotiating contracts that will best achieve the purposes of this section.

【(2) USE.—Monies from an agreement or contract under subsection (a) may be retained by the Forest Service and the Bureau of Land Management and shall be available for expenditure without further appropriation at the project site from which the monies are collected or at another project site.

【(3) RELATION TO OTHER LAWS.—The value of services received by the Forest Service or the Bureau of Land Management under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor or the Forest Service or Bureau of Land Management under such a project, shall not be considered to be monies received from the National Forest System or the public lands under any provision of law. The Act of June 9, 1930 (16 U.S.C. 576 et seq.; commonly known as the Knutson-Vanden-

berg Act), shall not apply to stewardship contracts entered into under this section.

[(e) COSTS OF REMOVAL.—The Forest Service may collect deposits from contractors covering the costs of removal of timber or other forest products pursuant to the Act of August 11, 1916 (39 Stat. 462, chapter 313; 16 U.S.C. 490); and the next to the last paragraph under the heading “Forest Service.” under the heading “Department of Agriculture” in the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498); notwithstanding the fact that the timber purchasers did not harvest the timber.

[(f) PERFORMANCE AND PAYMENT GUARANTEES.—

[(1) IN GENERAL.—The Forest Service and the Bureau of Land Management may require performance and payment bonds, in accordance with sections 103–2 and 103–3 of part 28 of the Federal Acquisition Regulation (48 C.F.R. 28.103.2, 28.103–3), in an amount that the contracting officer considers sufficient to protect the Government’s investment in receipts generated by the contractor from the estimated value of the forest products to be removed under contract under subsection (a).

[(2) EXCESS OFFSET VALUE.—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Forest Service and the Bureau of Land Management may—

[(A) collect any residual receipts pursuant to the Act of June 9, 1930 (46 Stat. 527, chapter 416; 16 U.S.C. 576b); and

[(B) apply the excess to other authorized stewardship demonstration projects.

[(g) MONITORING, EVALUATION AND REPORTING.—The Forest Service and the Bureau of Land Management shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects conducted under this section. Besides the Forest Service and the Bureau of Land Management, participants in this process may include any cooperating governmental agencies, including tribal governments, and any interested groups or individuals. The Forest Service and the Bureau of Land Management shall report annually to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate on—

[(1) the status of development, execution, and administration of contracts under subsection (a);

[(2) the specific accomplishments that have resulted; and

[(3) the role of local communities in development of contract plans.]

* * * * *