

**Forest Service Handbook  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Handbook 6509.11k – Service-Wide Finance and Accounting Handbook  
Chapter 80 - Bonding Administration**

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**Approved by:** Hank Kashdan, Acting Associate Deputy Chief, B&F

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**Responsible Staff:**

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**Superseded Document(s):** 6509.11k,80 Contents, Amendment 6509.11k-91-2, September 3, 1991; 6509.11k, 80-83, Amendment 6509.11k-91-2, September 3, 1991; 6509.11k, 84, Amendment 6509.11k-91-2, September 3, 1991

**Digest:** Following is an explanation of the changes throughout the directive by section.

**80:** Revises chapter title from "Bond Administration, Security, and Requirements" to "Bonding Administration." Provides updated direction for bond administration and requirements in the Forest Service. Throughout the chapter, revises the term "Bill for Collection" to invoice, bill, or billing document.

**80.5:** Adds definition for the terms book-entry, mineral extraction authorization, and project or bonded activity, and removes the term consent of surety.

**81.7:** Revises caption from "Claims Against Sureties on Defaulted Contracts, Permits, Licenses, or Special-Use Authorizations" to "Claims Against Sureties."

**82.31:** Revises caption from "United States Treasury Bills, Notes, Bonds, or Other Obligations" to "United States Treasury Bills, Notes, Bonds, or Other Government Obligations" and revises direction on deposits of securities.

**82.32:** Revises direction for cash deposits.

**82.34:** Combines direction for assignment of savings account and assignment of certificates of deposit.

**82.35:** Removes direction for assignment of certificates and establishes policy on death of a principal.

**82.36:** Establishes policy for drawing on bonds.

**82.37:** Establishes policy for bankruptcy.

**84:** Updates exhibits 1-16 and adds Exhibit 17 - First Demand Letter to Surety, Exhibit 18 - First Demand Letter to Principal, Exhibit 19 - Second Demand Letter to Surety/Principal, Exhibit 20 - Third Demand Letter to Surety/Principal, and Exhibit 21 - Bond Authenticity Inquiry.

**Table of Contents**

80.5 - Definitions .....	4
81 - Bond Administration.....	4
81.1 - Bond Forms.....	4
81.2 - Blanket Bonds .....	6
81.3 - Furnishing Information to Sureties .....	6
81.4 - Periodic Examination.....	6
81.5 - Bond Filing and Retention .....	7
81.6 - Liability of and Notices to Sureties.....	7
81.7 - Claims Against Sureties .....	7
81.8 - Processing Treasury Circular 570 Revocation Requests.....	8
81.9 - Closure Clause.....	9
82 - Obtaining and Administering Bond Security .....	10
82.1 - Corporate Surety.....	10
82.2 - Individual Surety .....	11
82.3 - Options in Lieu of Sureties.....	11
82.31 - United States Treasury Bills, Notes, Bonds, or Other Government Obligations...	11
82.32 - Cash Deposits .....	13
82.33 - Irrevocable Letter of Credit .....	15
82.34 - Assignment of Savings Account or Certificate of Deposit .....	17
82.35 - Death of a Principal .....	20
82.36 - Drawing on Bonds.....	20
82.37- Bankruptcy .....	22
83 - Bond Requirements .....	23
83.1 - Construction Contract Bonds.....	23
83.2 - Procurement Contract Bonds.....	23
83.3 - Timber Sale Bonds.....	23
83.4 - Reclamation Bonds .....	26
83.5 - Licensee Bonds.....	28
83.6 - Special-use Authorization Bonds .....	28
84 - Exhibits.....	29

This chapter contains procedural direction for bond-approving officers and fiscal officers to use when obtaining and administering bonds to protect the Government against financial damages resulting from defaulted or terminated contracts, mineral extraction authorizations, licenses, special-use authorizations, and collection agreements.

## 80.5 - Definitions

See FSM 6560, for additional definitions.

Bond-Approving Officer. An individual who:

- a. Executes a contract, permit, license, special-use authorization or comparable document on behalf of the United States,
- b. Obtains a bond or bonds in the required penal sum,
- c. Approves and periodically reviews bonds for sufficiency of security, and
- d. Administers bond terms and all Region, Station, Area, Institute, or Forest-wide blanket bonds.

The titles of bond-approving, authorizing, and contracting officer are generally synonymous.

Book-entry. Government securities issued and maintained as an accounting entry or electronic record.

Fiscal Officer. The Washington Office Director, Financial Policy and Analysis; Regional Director, Financial Resources; Assistant Director for Research; Forest Administrative Officer.

Mineral Extraction authorization. General term to include permits, contracts, plan of operations, and operating plans related to mineral activities.

Principal. The bidder, contractor, mineral operator, permittee, licensee, special-use authorization holder or comparable individual or entity primarily liable for an obligation as distinguished from a surety.

Project or Bonded Activity. All activities that must or can be bonded either through law or regulation. This includes contracts, mineral extraction authorizations, permits, licenses, and special-use authorizations, as opposed to project in a generic sense.

## 81 - Bond Administration

### 81.1 - Bond Forms

Use the following forms for bid bonds (guarantee), payment, and performance bonds, and sureties. A form must be prepared whenever a bond is required. The terms of bonds executed on these forms, without material change, are legally sufficient. The Office of the General Counsel must approve any material changes to the provisions on bond forms.

1. Form SF-24, Bid Bond.
2. Form SF-25, Performance Bond.
3. Form SF-25A, Payment Bond.
4. Form FS-6500-7, Reclamation Performance Bond.
5. Form FS-6500-12, Payment Bond (Timber Sale Contract).
6. Form FS-6500-12a, Blanket Payment Bond (Timber Sale Contract).
7. Form FS-6500-13, Timber Sale Bid Bond.
8. Form FS-6500-13a, Annual Timber Sale Bid Bond.
9. Form FS-6500-14, Performance/Payment Bond for Woodsy Owl License.
10. Form FS-6500-15, Performance/Payment Bond for Smokey Bear License.
11. Form FS-6500-16, Performance/Payment Bond for Forest Service Insignia License.
12. Form FS-6500-17, Payment Bond (Special-Use Authorization).
13. Form FS-6500-17a, Blanket Payment Bond (Special-Use Authorization).

To avoid conflicts between the bond-form provisions and the letter of credit, assignment of savings account or certificate of deposit, bond-approving officers must insert the following statement on the bond form in the block titled Surety(ies). This is in addition to the ‘In lieu’ statement required by the above instruments as well:

**The terms of the letter of credit, assignment of savings account or certificate of deposit take precedence over the terms of the bonding agreement regarding payments, termination, and duration.**

Adhere to these key points when processing the bond forms: Use the same legal names and addresses for all parties consistently on all documents, including contract, mineral extraction authorization, permit, license, special-use authorization, or collection agreement. The person(s) executing the form must have the authority to do so and must present certified documentation, such as a power of attorney or certificate of incumbency or comparable, to prove authority. All signatures must be notarized.

To ensure bond coverage, the bond and the contract, authorization, permit, license, or comparable document must be for the same company and in the same legal name.

## 81.2 - Blanket Bonds

Blanket bonds covering some or all of a principal's operations on the same national forest, contracting zone, or region are acceptable. See section 83 for the specific activities covered by and instructions for use of blanket bonds.

Secure each blanket bond separately. The penal sum of the blanket bond must equal the sum of the individual penal amounts for all operations covered by the bond. Because individual operations under a blanket bond may be added or deleted, it is difficult to correctly anticipate the total future penal amount. Therefore, bond-approving officers must consult with the principal to determine the penal sum of the blanket bond that best serves the needs of the Forest Service and the principal.

## 81.3 - Furnishing Information to Sureties

1. Consent of Sureties. The standard bond forms provide a waiver of notice to the surety for project (bonded activity) extensions or modifications. Bond-approving officers must obtain written consent of the surety for such extensions or modifications if:

- a. Terms of the project (bonded activity) make the waiver inapplicable.
- b. There is doubt as to whether an amendment, modification, or supplemental agreement would release the surety from liability.

2. Information on Project (bonded activity) Progress. Upon receipt of written request of the surety, the bond-approving officer must inform the surety about the progress of the work, payments, and the estimated percentage of the project (bonded activity) completion.

## 81.4 - Periodic Examination

The bond-approving officer must periodically examine all bonds in accordance with the following timeframes:

1. Annually.

a. Corporate Sureties. Check bonds against the latest Department of Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies. If the surety is no longer on the list or the underwriting limitation of the surety is inadequate, action could be required to protect the interests of the Government. This could include securing new bonds from acceptable sureties.

b. Irrevocable Letters of Credit. If there is an expiration date for presentation of drafts for payment, verify that the expiration date exceeds the term necessary for the penal sum bonded. Establish controls to ensure review of each letter of credit before expiration. Attempt to avoid expiration dates by inserting a renewable clause in the document.

c. Assignment Agreements. Verify with financial institutions that assignments remain in effect and have not been altered or cancelled without the consent of the Forest Service. Confirm that matured certificates of deposit have been rolled over into new certificates of deposit until the assignment is no longer required by the Forest Service.

2. Semiannually. Review all individual sureties to ensure they are still acceptable and that the interests of the Government are protected. Request additional affidavits (Form SF-28, Affidavit of Individual Surety) or financial statements, as necessary. If the periodic examination reveals that the surety or security is unsatisfactory, the bond-approving officer must require that the principal furnish acceptable surety or security immediately, unless the contract is near completion and all the material terms are complete.

### **81.5 - Bond Filing and Retention**

Bond-approving officers may file bonds with the applicable project documents. File negotiable instruments such as letters of credit in a fire-proof, locked safe. A copy clearly marked as “Copy” may be filed with the applicable contract, mineral extraction authorization, permit, license, or special-use authorization.

Blanket or annual bonds may be filed separately, but they must cross-reference the related files. Do not return surety bonds after completion or termination of the bonded activity. File them with the official record. If the principal replaces one surety bond with another, the replaced bond may be returned to the surety upon request.

### **81.6 - Liability of and Notices to Sureties**

The surety's liability for damages resulting from a principal's violation of the terms of the secured bonded activity is limited to the penal sum of the bond. The penal sum is a limit only as to liability incurred on behalf of the principal. The penal sum limit does not include the surety's liability for late payment interest, penalty, and administrative costs resulting from the surety's delay in payment.

The bond-approving officer must immediately notify the surety when a principal defaults on a bonded activity, or in advance of any anticipated default. Such notification documents that the surety has been informed and strengthens subsequent Forest Service claims on the surety for interest payment if default occurs. In the event of default, provide the surety with a copy of the default letter by certified mail.

### **81.7 - Claims Against Sureties**

Upon determination of default, the Forest Service has an independent cause of action against the surety and is entitled to actively seek payment of bond obligations. Therefore, if default occurs and the principal refuses to pay billed damages, the bond-approving officer, in cooperation with the fiscal officer, must bill the surety for damages up to the penal sum of the bond and request payment within 30 calendar days or within the time specified in the bond instrument. Make at least two progressively stronger written demands to the surety, issued at intervals of 30 days or

less. A third demand letter is appropriate only if the surety has not responded or indicated a course of action.

The first demand letter (sec. 84, ex. 18) should inform the surety of:

1. The basis of the claim,
2. The standards for assessing interest, penalties, and administrative costs, and
3. The date by which the surety must make payment.

The second and third demand letters (sec. 84, ex. 20 and 21) must include the appropriate interest, penalty, and administrative costs. If the surety makes full payment after demand, the bond-approving officer shall provide the surety with a Release and Claims Cancellation letter (sec. 84, ex. 01). If the surety refuses to make full payment, follow the procedures in section 81.8. If the surety contests liability based on disputes of the principal or on the surety agreement, the surety must support its claim with precise facts, legal authority, and relevant case law. The bond-approving officer must ask the surety for this data, in writing, if the surety does not provide it in response to the billing.

### **81.8 - Processing Treasury Circular 570 Revocation Requests**

In accordance with the terms of the bond and Treasury regulations, a surety must promptly honor its bond obligation. If a surety refuses to do so, the Forest Service may request the Secretary of the Treasury to revoke the certificate of authority for the surety to underwrite Government bonds (31 CFR 223.17).

1. When to Request Revocation. The bond-approving officer should initiate the revocation request when the surety's response to the first or second demand letter indicates that a further demand would be futile and a review of the situation establishes that the default is clear and the surety's refusal to pay is not based on legitimate grounds. The bond-approving officer must request revocation when:

- a. The Contract Disputes Act appeal period has expired without the principal filing an appeal (41 U.S.C. 605). Before processing the revocation request, the bond-approving officer, in cooperation with the fiscal officer, must reassert demand on surety.
- b. No legitimate grounds for disagreement as to liability exists. For example, the refusal of a principal to conduct a timber sale because of the commercial impracticability based on market changes is not considered a legitimate reason for the surety to refuse to honor its bond obligation. Likewise, the contention of the principal that the Forest Service improperly computed timber sale contract damages is not considered a legitimate reason for the surety to refuse to honor its bond obligation. The bond-approving officer may pursue revocation in these cases even though the Contract Disputes Act appeal period has not expired (41 U.S.C. 605).

c. The principal is bankrupt and the surety refuses to honor its bond obligations after a bankruptcy court has confirmed dissolution of the principal.

2. When Not to Request Revocation. The Office of the General Counsel advises the agency not to request revocation when a surety contests liability based on the principal's claim that the Forest Service, on a timber resale, significantly changed the physical characteristics of the sale. Revocation requests withheld based on this claim should be reviewed by the local Office of the General Counsel to ensure that the principal's claim is valid.

3. Revocation Request Case File. The bond-approving officer must prepare a case file, which should be used as the basis of the revocation request. The case file must include the following:

- a. A copy of the bond,
- b. A summary of the basis of the claim against the principal and surety,
- c. A chronological resume of efforts to obtain payment, including a copy of all correspondence to and from the principal and/or surety,
- d. A statement of the surety's reason(s) for nonpayment,
- e. A statement of the Region's, Station's, Institute's, or Area's position and a response to each of the surety's reasons for nonpayment,
- f. A copy of relevant contract, permit, authorization or comparable provisions, and
- g. A copy of each memorandum of telephone conversations with the surety.

4. Processing Revocation Case File. The bond-approving officer must forward the case file to the appropriate Region or Station staff. The staff must coordinate processing of the revocation request with the appropriate fiscal office, then forward three copies of the case file to the Washington Office, Director of Financial Policy and Analysis under a 6570 file designation. The Revocation Case File must ultimately be submitted to the Secretary of the Treasury.

### 81.9 - Closure Clause

When a bond is no longer necessary, the bond-approving officer must notify the principal in writing, with a copy to the surety, using the following or a similar statement:

**Operations under (Contract, Mineral Plan of Operation, Permit, License, or Special-Use Authorization, and so forth), No. \_\_\_\_\_, executed on (Date) by (Principal's Name) and the Forest Service in which a surety bond was issued in the amount of \$ \_\_\_\_\_ by (Surety) on (Date), have been completed and the file has been closed. The bond can now be cancelled at your convenience.**

The notification must not make any comment about release of the surety from liability nor should the Forest Service sign any Release of Liability waivers from the surety.

## 82 - Obtaining and Administering Bond Security

The bond-approving officer must inform the principal that the bond-approving or fiscal officer must be informed immediately of mailing address changes, or a principal's death or declaration of bankruptcy. This would affect the Forest Service's ability to return cash bonds, draw on bonds or protect the government's interest by meeting required deadlines.

See section 83.35 for procedures to follow in the event of a principal's death. See section 82.36 for procedures to follow in the event of bankruptcy.

### 82.1 - Corporate Surety

1. Any corporate surety offered for a bond furnished to the Government must appear in the Department of the Treasury Circular 570, which is revised annually as of July 1. Copies of this circular and interim supplements may be obtained from the Internet (World Wide Web) at [www.fms.treas.gov/c570](http://www.fms.treas.gov/c570). Interim supplements are published in the Federal Register and on the Internet as they occur. Fiscal officers must review the current Federal Register and notify bond-approving officers of any changes.

2. Before accepting a corporate surety as bond security, the bond-approving officer must take all of the following actions:

a. Verify from Treasury Circular 570 that:

(1) The surety is licensed to transact a fidelity and surety business in the State or area (District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands), where it or its agent executes the bond.

(2) The surety has sufficient underwriting limitation to cover the penal sum of the bond or has obtained coinsurance or reinsurance from a Treasury certified reinsurer. A list of certified reinsurers is found in Treasury Circular 570.

b. Verify that the agent executing the bond on behalf of the surety is authorized to do so by the surety. A certified copy of the authorizing document, such as a power of attorney, is sufficient.

c. Authenticate the bond (sec. 84, ex. 22) with the surety office shown in the Treasury Circular 570; do not verify by contacting the agent. If there is doubt about the acceptability of the bond or the authority of the agent acting on behalf of the surety or there is suspicion that the bond may be counterfeit, immediately notify the fiscal officer and/or the local Office of the General Counsel.

d. Verify that the principal and surety have executed the bond on the correct form (sec. 81.1). If the bond is in order, the bond-approving officer shall mark "Approved" on the bond form and sign and date the approval.

3. Upon receiving notification of termination of a surety's certification, the bond-approving officer must review all outstanding bonds and take action to protect the Government. The termination notice should inform bond-approving officers as to what action they should take concerning any outstanding bonds from the surety. This may include securing new bonds with other acceptable sureties.

## 82.2 - Individual Surety

Individual surety is acceptable bond security only on negotiated or advertised contracts for supplies and services for Miller Act construction contracts. For additional information concerning the requirements for use of individual surety, see part 28 of the Federal Acquisition Regulations (48 CFR 28).

## 82.3 - Options in Lieu of Sureties

### 82.31 - United States Treasury Bills, Notes, Bonds, or Other Government Obligations

1. Governing Regulations. The Department of the Treasury's regulations (31 CFR 225) detail the requirements for accepting and depositing securities in lieu of sureties. Fiscal officers and bond-approving officers must collaborate to ensure adherence to the regulations.

2. Limitation of Handling and Processing Securities. The responsibility for handling and processing securities is limited to Region, Station, and Area bond-approving officers and fiscal officers unless specifically delegated to a lower organizational level by the appropriate line officer.

3. Acceptable Securities. Negotiable United States Treasury bills, notes, bonds, and other public debt obligations whose principal and interest is unconditionally guaranteed by the United States Government are acceptable as security for bonds (31 CFR 380). To avoid the frequent substitution of securities, bond-approving officers must not accept securities that mature within 30 days of deposit. Bond-approving officers may reject securities that mature or are redeemable within 1 year of the deposit date.

4. Amount of Securities Required. The securities at their par value (the stated dollar or denominational amount appearing on the face of the security) must equal the penal sum of the bond.

5. Penal Bond Format. The bond-approving officer must execute the bond using the applicable bond form listed in section 81.1. Enter the following statement on the bond in the block titled "Surety (ies)".

**The securities described in the attached document are hereby pledged as security for (performance, payment, or bid bond) and fulfillment of the foregoing undertaking in accordance with 31 U.S.C. 9303 and 31 CFR 225.**

Only the principal's (known as "assignor") signature is necessary on the bond form.

6. Power of Attorney. For all bonds secured by deposited securities, the principal must provide the bond-approving officer with an irrevocable Power of Attorney and Agreement (section 84, ex. 02) that authorizes the Regional Forester or Station Director to collect, sell, assign, or transfer deposited securities and any interest retained in satisfaction for any damages, demands, or deficiencies arising from the principal's default.

7. Ownership and Registration. The principal who deposits the securities must be the owner of the securities which must be registered in principal's name. The securities may not be assigned to the bond-approving officer.

8. Accepting the Securities. In accepting deposited securities, fiscal officers must:

- a. Ensure that the Power of Attorney and Agreement have been properly completed and signed, and that the authority of the signer is supported with certified documentation,
- b. Ensure that the securities conform with the Department of the Treasury regulations and procedures,
- c. Provide the depository with clear and concise deposit instructions, and
- d. Provide the principal with written instructions to direct deposit the securities with the Federal Reserve Bank or other depository.

9. Direct Deposit of Securities by Principal. Securities must be deposited with a Federal Reserve Bank or other depository designated by the Secretary of the Treasury. Upon the securities transfer, the depository should issue an activity statement to the fiscal officer and the principal. Fiscal officers must provide the principal with an original receipt (sec. 84, ex. 04) acknowledging acceptance of the deposited securities, with a copy to the bond-approving officer. Once deposited, securities may be withdrawn only by written order of the fiscal officer.

10. Payment of Accrued Interest on Deposited Securities. In the absence of any default, the principal is entitled to receive the accrued interest on deposited securities. The Federal Reserve Bank or depository having custody of the deposited securities must pay the interest to the registered owner.

In the event of default, the fiscal officer must direct the depository to retain accrued interest. Unless prohibited by law, accrued interest is available to satisfy costs related to the default.

11. Book-Entry Treasury Securities. Treasury bonds, notes, bills, or other public debt obligations deposited with a Federal Reserve Bank should be a book-entry rather than hard copy or definitive form. Before the maturity date, the depository should notify the principal so that substitution securities in lieu of the matured securities can be deposited. If this substitution is not accomplished before the maturity date, the matured securities should be converted to cash proceeds. The cash proceeds should be held by the depository for a limited time, however, until substitute collateral is received, unless the fiscal officer directs that they be released.

12. Substitutions or Partial Withdrawal of Securities.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

- a. Substitution. Before substitution may be made, the principal must contact the fiscal officer to get instructions. After consulting with the depository, the fiscal officer should work with the principal. The principal must return the original receipt (sec. 84, ex. 04) and a Request for Substitution of Securities (sec. 84, ex. 06) to the fiscal officer. In this case, the fiscal officer must issue a new receipt (sec. 84, ex. 04).
- b. Partial Release. As the principal's liability under the bond is reduced, partial release of deposited securities is allowable. The principal must make written application to the fiscal officer for the release of securities.

13. Return of Securities to Principal Upon Completion of Bond Obligation. Securities that have not matured should be returned to the principal by the depository upon a written order by the fiscal officer in accordance with written instructions from the principal. Securities of the same par value, interest rate, and maturity date as those originally deposited should be transferred to the principal's designated depository and account. If the securities have matured, they may be returned as cash.

The principal must execute a receipt (sec. 84, ex. 07) upon the complete or partial return of securities. Upon the return of all the securities to the principal, the principal must return the original receipt (sec. 84, ex. 04) to the fiscal officer.

### 82.32 - Cash Deposits

Any principal required to furnish a bond has the option of furnishing a certified, official, or cashier's check, bank draft, U.S. Postal Service money order, or currency in an amount equal to the penal sum of the bond.

Checks should be drawn as payable to "USDA Forest Service". They should be forwarded with the bill for collection in accordance with directions on the bill unless directed otherwise. Fiscal officers must deposit cash amounts received as directed in FSH 6509.11k, chapter 30.

Deposit cash bonds using job code 862001xx (xx is the fiscal year). This translates to "Cash in-lieu of Surety" and is SDNG funds. The bill should create an individualized entry on the "Status of Suspense and Deposit Funds Report (FFIS 55-1)" with the vendor name and amount. It is important that a billing log be kept to identify specific individual deposits.

Cash deposited as security for performance of a bonded activity may not be applied against obligations of other projects.

1. Bond Format. The bond-approving officer must execute the bond using the applicable bond form listed in section 81.1. Insert the following statement on the bond form in the block titled "Surety (ies):"

**In lieu of surety (ies) hereon, I/We the undersigned principal(s) hereby deposit the penal amount of this bond in the sum of \$ \_\_\_\_\_ cash. Said deposit is pledged as security for (Performance, payment,**

**or bid bond) and fulfillment of the foregoing undertaking designated hereon.**

Only the principal's signature is necessary on the bond form.

2. Disposition of Cash Deposit. In cooperation with fiscal officers, bond-approving officers must return deposited cash to the principal when the bond obligation is completed unless such cash is applied as follows:

a. To perform work required of the principal when:

(1) The work is authorized by one of the cooperative work acts.

(2) The principal requests the Forest Service to do the work.

(3) The principal authorizes transfer of the cash to the cooperative work fund. Prepare a written agreement for the transfer (FSM 1584).

b. The Internal Revenue Service (IRS) makes a levy against the principal for delinquent Federal taxes. Federal agencies holding property or money, including cash securing a bond obligation that belongs to the principal may be served with the levy. Withhold the levy amount from bond refunds due and payable to the principal if there has not been a default. If the principal has defaulted, the amount paid to IRS from the cash deposit must be reduced by any damages incurred by the Forest Service. Refer levies by the IRS against all other forms of bond security to the local Office of the General Counsel for review and disposition.

c. To offset against any other debt owed to the Government by the principal, if the cash was advanced on the contract price. For instance, a bid deposit applied on the total payment or a partial payment made before or during performance of the contract. When cash is required in lieu of a security bond or is intended to secure one or more contract obligations, the cash may not be retained for offset after full performance of the secured obligation. (See Comptroller General Decision B-157957, dated February 16, 1966 (Comp. Gen. B-157957).)

3. Unclaimed cash bonds.

a. Contact the Principal. If a refund check is returned as undeliverable, the Forest Service must make a diligent effort to contact the principal, the principal's heirs, or legal representative. All of these attempts must be documented to show that "good faith" efforts were expended to return the bond. Examples of attempting to contact the principal include:

(1) Mailing certified letters.

(2) Contacting the Secretary of State of incorporation to see if updated information is available if it is for a business.

(3) Searching the Internet.

Make three documented attempts to locate the Principal.

b. Deposit Funds. After making time, deposit the funds into “Unclaimed Monies” job code 803999xx if it meets these criteria:

(1) Amount is \$25 or more.

(2) A refund, upon claim, would be absolutely justified, but the individual’s whereabouts are not known.

(3) There is no doubt as to legal ownership of the funds.

(4) A named individual, business or other entity can be identified with the item.

If it does not meet these criteria, the funds can be deposited into “Forfeitures and Unclaimed Monies” job code 899001, also. These funds can subsequently be refunded if a valid claim is made by the principal, the principal’s heirs, or legal representative.

### 82.33 - Irrevocable Letter of Credit

A letter of credit is a contract between the Forest Service and an issuing bank or other financial institution based on a third party agreement between the principal and the institution. The Forest Service is not a party to this third party agreement. Letters of credit are similar to cash deposits in that the Forest Service may draw cash from the issuing institution up to the amount stated in the letter of credit.

1. Bond Format. Bond-approving officers must execute the bond using the applicable bond form listed in section 81.1. Insert the following statement on the bond form in the block titled "Surety(ies):"

**In lieu of surety(ies) hereon, I/We the undersigned principal(s) hereby offer irrevocable Letter of credit No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Said letter of credit is pledged as security for (performance, payment, or bid bond) and fulfillment of the foregoing undertaking designated hereon.**

Only the principal’s signature is necessary on the bond form.

2. Eligible Issuing Institutions. Bond-approving officers must only accept a letter of credit that is issued by a federally insured financial institution such as a Production Credit Association or insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLI) or National Credit Union Association (NCUA).

3. Letter of Credit Contents. A letter of credit must include all of the following:

a. Letter of credit number (assigned by the issuer).

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

- b. A statement that the letter of credit is irrevocable.
- c. Name and address of issuing institution unless included in the letterhead.
- d. The legal name of the principal which must be identical to the name on the contract, mineral extraction authorization, permit, license, special-use authorization, or collection agreement.
- e. The maximum credit limit, which must equal or exceed the penal sum of the bond.
- f. A statement that the letter of credit secures the performance, payment, or bid on a contract, mineral plan of operation, permit, license, special-use authorization, or collection agreement with the number and name of the same.
- g. An authorization to draw sight drafts on the issuing institution in favor of the USDA Forest Service. To avoid difficulties when presenting sight drafts, the letter of credit should specify an example of an acceptable sight draft if other than the example set forth in section 84, exhibit 08.

It may be possible to receive monies through wire transfer in lieu of a physical demand. If so, this must be stated in the letter of credit.

h. Location(s) where the Forest Service may present sight drafts and a statement that the letter of credit number appearing on the sight draft is sufficient identification to honor the letter of credit.

i. An unqualified expiration date for presentation of sight drafts for payment that is equal to the term of the bonded activity plus sufficient time to meet the following requirements:

(1) Timber Sale Contract. Sufficient time to close out the contract after cutting is complete. This should be at least 1-year after the contract expiration date. Letters of credit issued for individual timber sale bid bonds may contain an expiration date for a term less than a year. Such bonds cover only the period of time from bid opening to execution of a contract and receipt of the required cash deposit usually 60 days.

(2) Other Bonded Activities. Sufficient time to complete the specific performance required and to determine any damages and receipt of any funds due the Government.

j. A corporate seal.

k. The following statement: “The deposits of (Name of financial institution) are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Association.”

l. Signature line for person authorized to sign on behalf of the issuing institution and that person’s title.

Section 84, exhibit 08 is an example of an acceptable letter of credit containing each of the required elements listed in paragraphs a-l.

4. Acceptance. Issuing institutions may use letter of credit forms different from the example. Because there is no standard letter of credit format, printed or inserted qualifications require critical scrutiny to protect the Forest Service's ability to draw. If there are additions to the required contents, the bond-approving officer must work closely with the fiscal officer and/or the Office of the General Counsel to determine whether the letter of credit is acceptable.

5. Disposition. Bond-approving officers must dispose of a letter of credit as follows:

a. Do not return a letter of credit to the issuing institution if the Forest Service has drawn a draft against it. Issue a Cancellation of Letter of Credit (sec. 84, ex. 09) if the issuing institution requests cancellation.

b. Return letters of credit, against which the Forest Service has not drawn a draft, directly to the issuing institution via certified mail. Use exhibit 10, section 84, as an example for the transmittal letter.

6. Sight Drafts. A sight draft is a written demand upon the letter of collection (sec. 84, ex. 08). Instructions for preparing and processing sight drafts against a letter of credit are in FSH 6509.11k, chapter 30. Bond-approving and fiscal officers must collaborate to ensure adherence to these instructions. Bond-approving and fiscal officers must also work with local bank officials to ensure adherence to the requirements of the Uniform Commercial Code and/or the Uniform Customs and Practice for Documentary Credits (12 CFR 7.7016).

On a timber sale bid bond, retain the letter of credit until the purchaser makes the required cash deposit. If the successful bidder fails to furnish the required cash deposit or the effective purchaser credit or fails to return the executed contract and performance bond, the Forest Service may draw a sight draft against the letter of credit.

On a letter of credit guaranteeing obligations of a bonded activity other than a contract, bond-approving officers must present the sight draft as soon as they determine the amount of damages due the Government.

### **82.34 - Assignment of Savings Account or Certificate of Deposit**

An assignment is an irrevocable agreement between a principal and the Forest Service that assigns all rights, title, and interest in the principal's savings account or certificate of deposit to the Forest Service. The principal's financial institution is an indirect party to the agreement and allows the Forest Service to exercise any rights to the principal's savings account or certificate of deposit. Assignment relationships differ legally from that of letters of credit or sureties. This can result in reduced security for the Government's interest. Therefore, assignment agreements must be carefully drafted to ensure that the Government is protected.

An assignment of a savings account is similar to cash deposit in that the Forest Service may draw funds from the savings account up to the amount stated in the agreement.

A certificate of deposit is a formal instrument issued by a financial institution acknowledging a deposit of cash subject to withdrawal by the depositor or by some other person at the depositor's order under the specific terms of the instrument. Certificates of deposit may be payable on demand or at a fixed or determinable future date. Certificates of deposit are not uniform in their names or terms. Therefore, the proposal by a principal to assign a certificate of deposit as bond security must be carefully evaluated.

These assignments are acceptable security for bond obligations for all activities except procurement and construction contracts.

1. Bond Format. Bond-approving officers must execute the bond using the applicable bond form listed in section 81.1. Insert the following statement on the bond form in the block titled "Surety(ies):"

**In lieu of surety(ies) hereon, I/We the undersigned principal(s) hereby offer savings account/certificate of deposit No. \_\_\_\_\_ in the amount of \$\_\_\_\_\_. Said savings account/certificate of deposit is pledged as security for (performance, payment, or bid bond) and fulfillment of the foregoing undertaking designated hereon.**

Only the principal's signature is necessary on the bond form.

2. Eligible Financial Institutions. Bond-approving officers must only accept an assignment from a principal whose savings account or certificate of deposit is federally insured by FDIC, FSLI, or NCUA.

3. Assignment Agreement Contents. An assignment agreement must include:

- a. An agreement number (this is assigned by the unit; units can determine their own numbering convention).
- b. The name and address of the principal's (known as the 'assignor') financial institution.
- c. The assigned savings account or certificate of deposit number.
- d. The amount assigned, which must equal or exceed the penal sum of the bond.
- e. The contract, mineral extraction authorization, permit, license, or special-use authorization number covered by the assignment.
- f. A statement that the assignment can be terminated and the account or certificate of deposit released only if the Forest Service terminates it. Do not use automatic expiration dates particularly for performance bonds as damages may not be detected for some time.
- g. A statement that the principal authorizes and directs the financial institution to make payment as directed by the Forest Service.

- h. A statement that the financial institution is entitled and directed to rely only on the instructions of the Forest Service without any requirement that the financial institution determine whether the principal has received notice of the payment demand.
- i. A reference to the specific purpose of the assignment and acceptance by the financial institution stating that requests to offset debts or liens of the principal against the assigned account would not be recognized.
- j. The address of the financial institution where the passbook or certificate of deposit is held, if in hardcopy, and where the Forest Service may present sight drafts.
- k. The following statement “The deposits of (Name of financial institution) are insured by the FDIC or FSLI or NCUA.”
- l. A statement that the financial institution and the principal agree that if the financial institution closes or is placed in receivership, Federal insurance proceeds received for the benefit of the principal on any account maintained with the financial institution must be applied to the Forest Service assignment first.
- m. The agreement is signed by the principal, financial institution representative, and Forest Service bond-approving officer and fiscal officer.

Section 84, exhibits 11 and 17 illustrate an acceptable assignment of savings account and certificate of deposit agreement containing the above elements. Other forms, used by financial institutions, may be acceptable provided they contain the required elements and are signed by an officer of the financial institution.

4. Acceptance. The proposal by an individual to assign a savings account or certificate of deposit to secure bonds must be carefully evaluated. In the event of the principal's bankruptcy, the Forest Service's right to collect may be challenged in legal proceedings. It is important that a secure agreement is drafted and that the financial responsibility of the prospective principal is evaluated.

The bond-approving and fiscal officers must collaborate to ensure that the assignment agreement protects the interests of the Government. Either officer can prepare the document. The bond-approving officer must determine the penal sum and sign the assignment agreement for the Forest Service. If the fiscal officer does not prepare the assignment agreement, the fiscal officer needs to certify that the proposed agreement meets the requirements of section 82.34.3. In addition, the fiscal officer must certify the financial responsibility of the prospective principal.

5. Release. After the principal's obligations are completed and the assignment is no longer needed, the bond-approving officer completes the release. The agreement is forwarded to the principal and the financial institution for acknowledgment and signature. A copy of the signed agreement is kept in the applicable project folder.

6. Sight Drafts. Instructions for preparing and processing sight drafts (sec. 84, ex. 08) against an assignment agreement are in FSH 6509.11k, chapter 30. Bond-approving officers and

fiscal officers must collaborate to ensure adherence to these instructions. Bond-approving and fiscal officers must collaborate with local bank officials to ensure adherence to the requirements of the Uniform Commercial Code and/or the Uniform Customs and Practice for Documentary Credits (12 CFR 7.7016).

The assignment agreement gives the Forest Service authority to present the assignment to the financial institution for payment in satisfaction for any damages, demands, or deficiencies arising from the principal's default. The fiscal officer, following consultation with the bond-approving officer, must make a demand as soon as the amount of damages has been determined.

### **82.35 - Death of a Principal**

Upon the principal's death, the bond-approving or fiscal officer should immediately contact the estate's executor if known. It may be possible to obtain such information from the Probate Court located in the principal's home area.

At this time, both the bond and any government obligation pass to the estate. It is important that the executor be contacted as soon as possible as there is a timeframe in which all claims against the estate must be settled. Typically, this can be 4 to 6 months. If the bond is no longer needed, release it. In the case of cash or an assignment, it would most likely need to be returned to the executor; dispose of sureties and letters of credit as directed under their respective sections.

If the bond cannot be returned as the project obligations have not been completed, the Forest Service must file a claim against the estate to complete the work. The claim must be filed in the timeframe mentioned in the previous paragraph. The estate must discharge the obligation by either completing the work or declaring default. If the executor is notified of this obligation but does not resolve the issue, the executor can be held personally liable.

### **82.36 - Drawing on Bonds**

Breach, default, or non-compliance must be established in accordance with procedures outlined in the applicable resource regulations. Typically:

1. The principal has received verbal as well as written notification of what is in breach/non-compliance, what action needs to be taken, and the timeframe the action must occur by. During this process, inform fiscal so they can take action as needed.

2. The Forest Service follows up after the deadline and indicates that the bond would be taken if compliance action is not taken.

3. Copies of the notification letters are forwarded to appropriate third parties such as the surety or a letter of credit issuer. This helps strengthen the Forest Service's position for drawing on the bond later. Either the surety or financial institution may decide to perform the work in lieu of payment. This is permissible but the work must be done according to Forest Service standards before any claim to the bond would be dropped.

4. Official written notice of breach/default/non-compliance is issued to the principal with a copy to the surety.

When official breach/default/non-compliance has been given, demand should be made on the bond instruments. When accepting letters of credit or assignments, bond-approving officers should discuss what the procedures would be in the event of a draw on the bond with the issuing financial institutions. This should be documented in the project folder for later reference.

a. Claims on Sureties. (Sec. 81.7).

b. Claims on United States Treasury Bills, Notes, Bonds, or Other Government Obligations. Contact the Region, Station, and Area bond-approving officers and fiscal officers when it appears that breach, default, or non-compliance may occur. Upon default, the Depository should be contacted to retain accrued interest as well as sell the securities in satisfaction of the damages.

c. Claims on Cash Deposits. As cash deposits already are under Forest Service control, caution must be exercised to ensure that all legal requirements have been met before action is taken to use the funds. Use a balanced voucher to move the funds from Suspense (SDNG) to Restoration (RIRI) or Timber Sale (TDTD).

d. Claims on Letter of Credit. Present an acceptable sight draft to the issuing institution in accordance with the terms listed in the letter of credit. Instructions on how to prepare a sight draft can be found in FSH 6509.11k, chapter 30.

If there is an expiration date involved, draw on the instrument 7-10 business days before the date. This should provide enough time should there be problems encountered in making the demand. A collection officer should make the demand and collect the funds.

If this is only a partial demand, do not surrender the letter of credit. If it is for the full penal amount, it can be surrendered if the financial institution requests. A copy, marked as such, should be retained in the project file as a record.

e. Claims on Assigned Savings Account or Certificate of Deposit. If the Forest Service has physical custody of a passbook or a certificate of deposit, take it and the assignment agreement to the bank to make the demand. A sight draft may be required as well; see instructions in FSH 6509.11k, chapter 30. Complete the release portion only if the entire bond amount is taken. Retain a copy in the project file.

f. Bond Proceeds. Deposit timber sale proceeds into the Timber Sale Deposit Fund (TDTD) to the specific timber sale contract account. It should reside in the cash account until the bond-approving officer finalizes the damage appraisal and distributes the funds to the appropriate accounts by priority.

Deposit all other non-Timber proceeds to Restoration of Forest Service Lands and Improvements (RIRI) using a unique RIXXXXxx job code. Budget authority (apportionment), to expend RIRI funds must be received from the regional budget officer before expenditures can be made. Funds must be available before obligations can be incurred. After completion, transfer deposits in excess of doing the work to Miscellaneous Receipts.

Funds collected for restoration after the work has already been performed by the Forest Service may be used to reimburse the appropriation which performed the work (Section 7, Forest Service Administration Act of June 20, 1958).

### **82.37- Bankruptcy**

Typically, the two types of bankruptcy encountered by the Forest Service are Chapter 7 and Chapter 11. Chapter 7 is a liquidation process in which the assets of the principal are sold and the creditors paid from the proceeds. A trustee is always appointed and is responsible for conducting the business of the estate pending liquidation. Chapter 11 anticipates that the principal would continue to exist and operate after the bankruptcy concludes. This allows for a restructuring of the debts of the principal. Some return is provided to the creditors while protecting others for the company. A trustee may or may not be appointed; if not, the principal continues to conduct the business. Contractual action can take place under Chapter 11 protection. Any new actions must be approved and signed by the trustee (if one) otherwise this is the principal.

Upon filing of the bankruptcy petition, an automatic stay becomes effective. The stay prevents the beginning or continuation of a judicial, administrative, or other action or proceeding against the principal that had or could have begun before the filing of the bankruptcy. This stay is applicable against all entities including federal agencies. However, certain actions are exempt from the automatic stay. An example of an exception is the exercise of power to protect the public's health, safety, and welfare. The stay remains in effect until a discharge is granted or denied, the case is dismissed, or the case is closed.

The automatic stay does not apply where a governmental agency is suing or otherwise proceeding against a principal to prevent or stop violation of fraud, environmental protection, safety, or similar policy or regulatory laws, or attempting to fix damages for violations of such a law.

The bankruptcy court prohibits a governmental unit from denying, revoking, or suspending a license, permit, or charter to a person that is or has been a debtor under the bankruptcy court. In other words, do not take any discriminatory actions.

Upon notification or anticipation of a principal's bankruptcy, bond-approving officers must review all files related to that principal and identify outstanding costs that the Forest Service would incur if the principal fails to fulfill the principal's obligations to the Government.

The bond-approving officer should contact the Office of the General Counsel immediately and inform them of the bankruptcy. The OGC would contact and work with the Justice Department to ensure Forest Service representation as a creditor of the principal. It is important to take prompt action when notification is received. If filing deadlines are missed, the Forest Service's rights may be compromised or lost. The bond-approving officer must maintain complete documented records.

Actions that the Forest Service and OGC may take are:

1. Request a relief from stay,
2. Raise objections to transfer of assets particularly if need to maintain on-going operations,
3. Present a motion to void transfer of assets,
4. Present a motion to have the principal perform contractual obligations, and/or
5. Make a claim for administrative expenses or costs over and above bond amount.

## **83 - Bond Requirements**

### **83.1 - Construction Contract Bonds**

The bonding requirements for construction contracts are in Part 28 of the Federal Acquisition Regulations (48 CFR 28).

### **83.2 - Procurement Contract Bonds**

The bonding requirements for advertised and negotiated procurement contracts are in Part 28 of the Federal Acquisition Regulations (48 CFR 28).

### **83.3 - Timber Sale Bonds**

#### 1. Bid Bonds.

a. General Provisions. Bidders on National Forest timber sales may elect to use bid bonds as an acceptable form of bid guarantee (FSM 2431.56). Bid bonds cover the period from the bid date until a contract is executed and the required cash deposits received.

Individual or annual bid bonds are acceptable. Bond-approving officers must execute bonds using Form FS-6500-13, Timber Sale Bid Bond, for a bid covering a single sale bid guarantee, and Form FS-6500-13a, Annual Timber Sale Bid Bond, for a annual bid guarantee covering some or all of a principal's bidding during a fiscal year.

Secure bid bonds with corporate surety, deposited securities, cash, irrevocable letter of credit, assignment of savings account or certificate of deposit. The penal sum of a bid bond must equal the minimum bid guarantee specified in the published sale advertisement (FSM 2431.56). Return surety bid bond(s) to the unsuccessful bidder(s) or when the successful bidder executes the contract.

b. Control Over Annual Bid Bond Information. Because annual bid bond information is confidential, internal controls to ensure accountability and confidentiality must specify that:

- (1) Only bond-approving officers have access to annual bid bond information,
- (2) Blanket bid bonds are maintained at a central location; for example, the Forest Supervisor's Office or Regional Office, or contracting-zone.
- (3) Principals send their allocation requests to the Forest Service by certified mail in an envelope with the words "Timber Bid Bond Allocation Request" on the front. Mail clerks deliver these envelopes unopened directly to bond-approving officers, and
- (4) The record of bid bond allocations is kept by the bond-approving officer on the back of Form FS-6500-13a, Annual Timber Sale Bid Bond, with continuation sheets added as necessary.

c. Allocation of Annual Bid Bonds. Bond-approving officers must allocate annual bid bond amounts to sale offerings upon written request of the principal. Conditional blanket bid bond allocations are not acceptable. For a principal's bid to be responsive, it must include a Certification of Annual Bid Bond Allocation (sec. 84, ex. 12). The bidder must obtain the certification. Failure of the Forest Service to issue the certification by a designated time does not relieve the bidder of this responsibility. Therefore, immediately after approving a principal's annual bid bond, the bond-approving officer must send a letter to the principal explaining the requirements for bid bond allocation (sec. 84, ex. 13), with a Annual Bid Bond Allocation Request (sec. 84, ex. 14).

Upon receipt of an Annual Bid Bond Allocation Request, the bond-approving officer must determine whether:

- (1) The person who signed the request is an authorized representative of the principal, and
- (2) The unallocated balance on the annual bid bond is adequate to cover the request. If the balance is adequate, the bond-approving officer issues a Certification of Annual Bid Bond Allocation (sec. 84, ex. 12). If the principal mailed the request to the Forest Service, return the certification to the principal by certified mail, return receipt requested. If an allocation request exceeds the unallocated balance available on the annual bond, the bond-approving officer must notify the bidder's representative, first

by telephone, followed by written confirmation, that it is not possible to make the allocation.

Occasionally, a bidder may request an allocation for two or more pending sale offerings on a single request. In these cases, the unallocated balance of the annual bid bond must equal at a minimum the total requested amount. Otherwise, reject the entire request. This applies even if the unallocated amount on the annual bid bond covers one or more of the individual bid requirements or if one of the bid openings is scheduled earlier than the other. In this case, the bond-approving officer must immediately notify bidders by telephone, followed by written confirmation, so that the bidder may submit a valid request.

When a prospective principal is not the high bidder, the bond-approving officer must restore the annual bid bond allocation to the record on Form FS-6500-13a, Annual Timber Sale Bid Bond, immediately after award. Occasionally, an allocation request arrives at approximately the same time the bond-approving officer restores the allocation. To ensure uniformity, restoration occurs when the bond-approving officer makes the decision to release the bid bond amount, even though the restoration has not been posted to the FS-6500-13a.

## 2. Payment Bonds.

a. General Provisions. Timber sale contract provisions permit a principal to defer advance deposits for stumpage and required deposits under security of a payment bond until the principal removes products from the sale area, a statement of account is prepared, and a bill for collection is received. The minimum penal sum for a payment bond must equal the value of the minimum advance payment specified in the contract. The maximum penal sum for a payment bond is based on the greatest volume of timber prudent to permit any principal to cut before the principal makes cash payment.

Individual or blanket payment bonds are acceptable. Bond-approving officers must execute bonds using Form FS-6500-12, Payment Bond (Timber Sale Contract), for individual payment bonds and Form FS-6500-12a, Blanket Payment Bond (Timber Sale Contracts), for blanket payment bonds.

Secure payment bonds with corporate surety, deposited securities, irrevocable letter of credit, or assignment of savings account or certificate of deposit.

Term payment bonds may be accepted subject to a minimum period of one operating year. The termination date must be in the non-operating season.

b. Blanket Payment Bond Provisions. A blanket payment bond may be used to cover more than one sale on a Ranger District, National Forest or contracting zone. Total liability for stumpage and required deposits on all contracts covered under a blanket payment bond is limited to the penal sum of the blanket payment bond.

The bond-approving officer must inform the principal if the value of timber for which payment is being deferred, covered by a blanket payment bond, approaches the amount of the allocation. The principal must either:

- (1) Obtain reallocation under the blanket payment bond for all sales involved,
- (2) Stop cutting, unless the principal makes cash payments, or
- (3) Increase the penal amount of the bond.

The principal must request additions of new timber sale contracts to blanket payment bonds in writing (sec. 84, ex. 15).

3. Performance Bonds. The Forest Service may require principals to provide a performance bond, which guarantees satisfactory fulfillment of contract terms. On sales where the timber is not subject to rapid quality downgrading or physical deterioration, performance bonds may be used as security for timber cut but not removed from the sale area (FSM 2456.13). Calculate the penal sum as directed in FSM 2456.14.

Bond-approving officers must execute Form SF-25, Performance Bond. Secure performance bonds with corporate surety, deposited securities, cash, irrevocable letter of credit, or assignment of savings account or certificate of deposit. Encourage the principal to use cash bonds on small sales because this type of bond is quick and easy to handle. Due to the necessity of referring to the date of the contract in the bond, do not execute bonds before the award date of the contract.

When the duration of a timber sale is 5-years or less, the bond must cover the entire sale period. The bond-approving officer must obtain consent of the surety for each extension or adjustment of more than 1-year, or of a shorter period, if demanded by the surety upon execution of the bond (FSH 2409.15, sec. 33).

### **83.4 - Reclamation Bonds**

Reclamation performance bonds for prospecting, mining, and other mineral operations under mineral extraction authorizations issued by the Forest Service or permits issued by the Bureau of Land Management (BLM) may be required (FSM 2810-2830 and 2850). Secure reclamation bonds with corporate surety, deposited securities, cash, irrevocable letter of credit, or assignment of savings account or certificate of deposit.

1. Bonds Covering Mineral Extraction Authorizations Issued by the Forest Service. These must be covered by a reclamation performance bond equal to the total estimated reclamation cost. Include all direct and indirect costs that would be incurred by the Forest Service to perform or contract the reclamation work such as equipment/structure removal, waste disposal and similar actions (sec. 84, ex. 16). Usually, a principal provides a single bond covering the entire period of the operation. Bond-approving officers may, however, obtain bonds covering reclamation costs of long-term projects for other than the entire period of the operation as follows:

- a. Annually, with the penal sum of the bond increasing or decreasing depending on annual operations, or
- b. By phases of a reclamation project. When reclamation is completed on an identifiable phase of a project, the principal's applicable liability is released.

The bond-approving officer must work closely with the fiscal officer to ensure that the Government's interests are protected. Provisions should be included in all mineral extraction authorizations for periodic review and update of bond amounts.

Bonds can cover one or multiple exploration, prospecting, or mining operations. Blanket bonds may be accepted on a Region- or Forest-wide basis. Use Form FS-6500-7, Reclamation Performance Bond, for all reclamation bonds.

In cooperation with the Regional fiscal officer, regional administrative control of Region-wide blanket bonds will be established by allocating a portion of the total bond amount to the applicable project as requested by the National Forest. In turn, Forest Supervisors must allocate portions of the Forest bond amount to individual contracts, as necessary.

When establishing a Region- or Forest-wide blanket bond, the bond-approving officer must ensure that:

- a. Each permit or operating plan is covered by a specific allocation against the blanket bond,
- b. No exploration or mining begins without proper bond allocation, and
- c. The total penal sum of the blanket bond equals or exceeds the sum of the allocated amounts for all operating plans covered by the bond.

2. Bonds Covering Activities Authorized on Federal Mineral Leases by the BLM. Bonds required by the BLM are performance guarantee on lands administered by the Forest Service. However, the BLM does not always require a bond or the bonds may cover only on-site activities and may be insufficient to cover estimated reclamation costs. The Regional Forester must consult with the BLM about the necessity of obtaining a bond or increasing the amount of an existing BLM bond to cover the estimated reclamation costs associated with surface use damage, cleanup or removal of equipment or structures, or other necessary work that the principal leaves undone.

If the principal fails to perform the required reclamation work, the bond-approving officer must ask the BLM to obtain performance or recovery from the surety. Use money recovered from the surety to complete the work required (FSM 6531).

3. Bonds Covering Off-Lease Road Construction and Other Resource Disturbances. The BLM permit bond does not cover off-lease activities, such as construction of a road across National Forest System land for access to a lease. In these situations, bond-approving officers must obtain a separate reclamation bond and road-use permit from all operators likely to cause disturbance of surface resources. This requirement only applies to leasable mineral activities.

4. State Requirements. State-required bonding for mineral operations, such as coal surface mining operations, may be sufficient to cover activities on National Forest System lands. The Regional Forester must ask the local Office of the General Counsel to determine whether State laws provide sufficient coverage to protect Forest Service needs. The Forest Service must make every effort to relieve the principal of the burden of duplicate bonding. This relief may be granted only if there is a formal agreement between the Forest Service and the State, such as a memorandum of understanding that includes the following elements:

- a. Clearly defined responsibilities for administration of the reclamation work,
- b. Provisions that bonds furnished meet Forest Service bonding requirements, such as acceptable bond instruments,
- c. Agreement that the bond will not be released until the principal has completed the reclamation work in a manner satisfactory to the Forest Service, and
- d. When the State holds the bond: (1) assurance that the penal sum is sufficient to cover the estimated cost of the reclamation work to Forest Service standards, or (2) assurance that in the event of default, the State will perform the reclamation work or have it performed to Forest Service standards, or (3) provision for additional bond coverage for the difference between the State and Forest Service needs, or (4) assurance that the Forest Service is named on the bond instrument.

### **83.5 - Licensee Bonds**

A performance/payment bond may be required to secure fulfillment of a licensee's obligations and to guarantee payment of royalty charges. The bond-approving officer must execute required bonds using:

1. Form FS-6500-14, Performance/Payment Bond for Woodsy Owl License,
2. Form FS-6500-15, Performance/Payment Bond for Smokey Bear License, or
3. Form FS-6500-16, Performance/Payment Bond for Forest Service Insignia License.

Secure licensee bonds with corporate surety, deposited securities, cash, irrevocable letter of credit, or assignment of savings account or certificate of deposit. The penal sum of the bond must equal the total guaranteed royalty.

### **83.6 - Special-use Authorization Bonds**

All uses of Forest Service lands, improvements, and resources, except for those provided for in the regulations governing disposal of timber, minerals, and the grazing of livestock, are designated "special uses" (36 CFR 251). A special-use authorization can be a permit, term permit, lease, or easement which allows occupancy, use, rights, or privileges of Forest Service land.

Performance or payment bonds may be required to secure the obligations imposed by the terms of special-use authorizations or any applicable law, regulation, or order. Do not use bonds to enforce the general terms of the special-use authorization.

The penal sum of the bond must equal the estimated financial loss to the government. An example would be the cost to remove improvements, cleanup, and return the site to an acceptable condition should the special-use authorization holder fail to do so. Form SF 25 would be used for a performance bond.

Secure bonds with corporate surety, deposited securities, cash, irrevocable letter of credit, or assignment of savings account or certificate of deposit.

## 84 - Exhibits

This section contains the following exhibits, which are recommended for use:

1. Exhibit 01 - Release and Claims Cancellation.
2. Exhibit 02 - Power of Attorney and Agreement.
3. Exhibit 03 - Receipt for Securities Deposited Under the Federal Reserve Book-Entry Procedure.
4. Exhibit 04 - Transmittal Letter for Deposited Securities.
5. Exhibit 05 - Request for Substitution of Deposited Securities.
6. Exhibit 06 - Receipt of Principal on Return of Deposited Securities.
7. Exhibit 07 - Letter of Credit (including 07a-Sight Draft).
8. Exhibit 08 - Cancellation of Letter of Credit.
9. Exhibit 09 - Transmittal of Letter of Credit Cancellation.
10. Exhibit 10 - Assignment of Savings Account Agreement.
11. Exhibit 11 - Assignment of Certificate of Deposit Agreement.
12. Exhibit 12 - Certification of Annual Bid Bond Allocation.
13. Exhibit 13 - Letter to Prospective Bidder Who Has Blanket Bid Bond.
14. Exhibit 14 - Annual Bid Bond Allocation Request.
15. Exhibit 15 - Application for Addition of Timber Sale Contracts to Blanket Payment Bond.
16. Exhibit 16 - Reclamation Evaluation Worksheet.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

17. Exhibit 17 - First Demand Letter to Surety.
18. Exhibit 18 - First Demand Letter to Principal.
19. Exhibit 19 - Second Demand Letter to Surety/Principal.
20. Exhibit 20 - Third Demand Letter to Surety/Principal.
21. Exhibit 21 - Bond Authenticity Inquiry.
22. Exhibit 22 - Cash Bond Transfer.

**84 - Exhibit 01**

**Release and Claims Cancellation**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Name of Surety

Address of Surety

Received of \_\_\_\_\_ Name of Surety \_\_\_\_\_, (hereinafter called the "company"), the sum of dollars \$ \_\_\_\_\_, this being the amount which has been determined by Name of Bond-Approving Officer, Bond-approving Officer, Name of Region or other unit, USDA Forest Service, to be the damage which the United States has suffered through failure to List items of damage and the other obligations assumed but not completed by Name of Principal. Contract, permit, mineral operating plan, license, special-use authorization No. \_\_\_\_\_, executed \_\_\_\_\_ Date \_\_\_\_\_, for bid, performance, or payment bond of which the aforesaid company executed its bond No. \_\_\_\_\_.

Operations under the contract, except as covered by the aforesaid payment, have been completed, and in view of the payment the claim heretofore made against the company under such bond has been cancelled and the case has been closed on the Forest Service records.

By: Signature of Bond-Approving Officer

Title of Bond-Approving Officer

84 - Exhibit 02

**Power of Attorney and Agreement**

Name of Principal

Corporation, and so forth<sup>1</sup>

Contract No: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS,

that \_\_\_\_\_, a corporation duly incorporated under the laws of the State of \_\_\_\_\_, and having its principal place of business in the city/county of \_\_\_\_\_, State of \_\_\_\_\_, pursuant to a resolution of the board of directors of said corporation, passed on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, a duly certified copy of which resolution is hereto attached, does hereby constitute and appoint Name, Title, such as Regional Forester or Station Director, and any successors in office, as attorney for said corporation, for and in the name of said corporation to collect or to sell, assign, and transfer any securities of the United States registered in the name of this corporation or bearer, and deposited by it, in accordance with section 1 of the Act of July 30, 1947 (61 Stat. 646, 650; 31 U.S.C. 9303), and subject to the provisions thereof and of the Treasury Department Circular 154, dated October 31, 1969, as security for the payment to the USDA Forest Service, of the amount set forth in a bond executed by Principal on Date for (performance, payments, under contract, permit, operating plan, etc.)<sup>2</sup> No. \_\_\_\_\_ dated \_\_\_\_\_, and the undersigned agrees that in case of any default in the payment to the Forest Service, USDA, of any amount due under such bond, its attorney shall have full power to collect said securities or any part thereof, or to sell and transfer said securities or any part thereof without notice, at public or private sale, free from any equity of redemption and without appraisal or valuation, notice and right to redeem being waived, and to apply the proceeds of such sale or collection in whole or in part, as well as the accrued interest, to the satisfaction of any damages, demands, or deficiency arising by reason of such default, as its said attorney may deem best; and, the undersigned further agrees that the authority herein granted is irrevocable.

The undersigned further agrees that said securities shall be converted to book-entry Treasury securities pursuant to the provisions of 31 CFR 306, subpart O, and that new securities must be deposited in place of any matured book-entry securities unless otherwise directed by the Bond-Approving Officer and allowed to be converted to a non-inteest bearing cash deposit account.

<sup>1</sup> See Treasury Circular 154 forms C and D for formats applicable to individuals and partnerships.

<sup>2</sup> Select wording applicable to type of bond being furnished.

**84 - Exhibit 02--Continued**

The undersigned agrees that said cash deposits shall be applied in whole or part, to the satisfaction of any damages demands, or deficiency arising by reason of default, and the undersigned agrees that all provisions stated above shall also apply to the cash deposit account. And said corporation hereby for itself, its successors, and assigns, ratifies and confirms whatever its said attorney shall do by virtue of these presents.

IN WITNESS WHEREOF, the \_\_\_\_\_, the corporation hereinabove named, by Name and title of Corporate Officer, duly authorized to act in the premises, has executed this instrument and caused the seal of the corporation to be hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Corporate Seal)      Signature

Title

**84 - Exhibit 02--Continued**

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the city/county of \_\_\_\_\_, in the State of \_\_\_\_\_, duly sworn and acting under a commission expiring \_\_\_\_\_, personally appeared Name and title of Bond-Approving Officer known to me to be of the \_\_\_\_\_, the corporation that executed the above instrument, and known to me to be the person who executed the above statement in behalf of the said corporation, and who acknowledged to me that the said corporation executed the above instrument, as principal, voluntarily, for the uses therein specified.

Witness my hand and official seal the date first in this certificate above written.

Name of Notary

(Notary Seal)

My commission expires \_\_\_\_\_

84 - Exhibit 02--Continued

Resolution of Board of Directors of

Name of Principal

RESOLVED, that this corporation does constitute and appoint Name, title, such as Regional Forester, and any successors in office, as attorney for this corporation to collect or to sell, assign, and transfer any securities of the United States, registered in the name of this corporation, or to bearer, and deposited by it, in accordance with section 1 of the Act of July 30, 1947 (61 Stat. 646, 650; 31 U.S.C. 9303), and subject to the provisions thereof and of Treasury Department Circular 154, dated October 31, 1969, as security for the payments to the Forest Service, USDA, of the amount set forth in a bond executed by Principal on Date for (performance or payments), under (contract, mineral operating plan, permit, license, or special-use authorization) dated \_\_\_\_\_, and the undersigned agrees that in case of any default in the payment to the USDA Forest Service, of any amount due under such bond, its said attorney shall have full power to collect said securities or any part thereof, or to sell, assign, and transfer said securities or any part thereof without notice, at public or private sale, free from any equity or redemption and without appraisal or valuation, notice and right to redeem being waived, and to apply the proceeds of such sale or collection, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default, as its said attorney may deem best; and, this corporation further agrees that the authority herein granted is irrevocable.

RESOLVED FURTHER, that the undersigned agrees that said securities shall be converted to book-entry securities in the accounts of the Federal Reserve Bank and that new securities be deposited to replace any matured book-entry securities unless otherwise directed by the Bond-approving officer and allowed to be converted to a non-interest bearing cash deposit. All provisions of the power of attorney and agreement stated above will also apply to the cash deposit account.

RESOLVED FURTHER, that Name, the Title of this corporation, is hereby authorized to act in the premises.

I, the undersigned, \_\_\_\_\_, of the Company name, do hereby certify that the foregoing is a true and correct copy of a resolution regularly presented to and adopted by the Board of Directors of said corporation at a meeting held in the office of the corporation on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at which all the Directors were present and voted, and that such resolution is duly recorded in the minute book of said corporation.

IN TESTIMONY WHEREOF, I have hereunto affixed my official signature and the corporate seal of said corporation this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature

Title

(Corporate Seal)

84 - Exhibit 03

**Receipt for Securities Deposited Under the Federal Reserve Book-Entry Procedure**

The undersigned hereby acknowledges receipt of the securities hereinafter described, deposited as security in lieu of surety on a certain \_\_\_\_\_<sup>1</sup> bond in the total sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), for the \_\_\_\_\_<sup>2</sup> that contract, permit, mineral operating plan or plan of operation, license, special-use authorization executed by the Forest Service and the \_\_\_\_\_ *Principal* as of \_\_\_\_\_ *Date*, 20 \_\_\_\_, contract No. \_\_\_\_\_. Said securities are described by Treasury book-entry on Pledge Collateral Activity Report dated \_\_\_\_\_ as \_\_\_\_\_ *Security description*, maturing \_\_\_\_\_ *Date*, par value \_\_\_\_\_ dollars (\$\_\_\_\_\_).

New securities should be deposited prior to current ones maturing. Upon maturity of any book-entry security, the Federal Reserve Bank will establish a non-interest bearing cash deposit in lieu of the book-entry security for a limited time.

This receipt is executed in duplicate and the original must be surrendered by the principal before securities or cash deposit in the sum (at par value) stated above will be returned. This receipt is not assignable.

*Fiscal Officer*

The original of this receipt is given to the principal and must be surrendered by the principal upon return of equal value securities.

<sup>1</sup> Enter bid, performance, or payment.

<sup>2</sup> For performance bond enter: "performance of the provisions of." For payment bond enter: "payments to the Forest Service, USDA, as provided in."

84 - Exhibit 04

**Transmittal Letter for Deposited Securities**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Depository Name

Address

Dear Mr./Ms. XXXX:

On date, financial institution name ABA #xxxxxxxxxx will be forwarding a treasury note, bond, bill in the amount of dollars. These are from Principal name, Receiver ABE #xxxxxxxxxx for the USDA Forest Service, Region \_\_\_\_\_, account no. \_\_\_\_\_.

The securities can be identified as follows: CUSPID #xxxxxxxxxxx, U.S. Treasury bond with a maturity date of date. Send the Acknowledgement of Deposit to the above address, attention: name and title.

Sincerely,

Fiscal Officer

84 - Exhibit 05

**Request for Substitution of Securities**

WHEREAS, under the terms of a bond executed on   Date   by the undersigned, certain securities issued by the United States were pledged to guarantee the performance of obligations under one or more contracts specified therein, and

WHEREAS, the undersigned, in accordance with the terms of said bond desires to substitute other securities of the United States for those previously itemized.

NOW THEREFORE, it is requested that the Forest Service arrange for return of the<sup>1</sup> and accept the securities listed below and the Principal agrees that all terms of the bond and power of attorney previously executed shall apply to these substitute securities as if they had been named in the original bond document.

Title of Securities	Total Par Value	Serial Numbers	Interest Dates
---------------------	-----------------	----------------	----------------

In presence of:

WITNESS

INDIVIDUAL PRINCIPAL

1. Name as to \_\_\_\_\_ (Seal)

Address

CORPORATE PRINCIPAL

2. State in which incorporated

Business address

By: Name

(Corporate Seal)

Title

<sup>1</sup> Securities previously submitted or non-interest bearing cash deposit.

**84 - Exhibit 06**

**Receipt of Principal on Return of Deposited Securities**

The undersigned hereby acknowledges receipt of the securities hereinafter described, deposited with Name and Title of Regional Director, title a security in lieu of surety on Description of penal bond filed with the Department of Agriculture, through the Forest Service, for (Description of obligation secured). Said securities<sup>1</sup> are registered in the name of Principal and are assigned State form of assignment, if any.

Title of Securities	Total Par Value	Serial Number Denomination
---------------------	-----------------	----------------------------

This receipt is executed in duplicate.

Signature of Principal

---

<sup>1</sup> This information must be furnished for registered securities.

**84 - Exhibit 07**

**Letter of Credit**

Letterhead of Issuing Financial Institution

Date

Irrevocable letter of credit number

USDA Forest Service (Beneficiary)

Local FS SO Address

Gentlemen:

Name of issuing and paying institution has established an irrevocable letter of credit in your favor at the request of and for the account of Name of principal, to the extent of \_\_\_\_\_ U.S. dollars (\$\_\_\_\_\_)<sup>1</sup> to secure the \_\_\_\_\_<sup>2</sup> on contract, mineral operating plan or plan of operation, , permit, license or special-use authorization No. \_\_\_\_\_.

Said funds are available by presentation of your sight draft(s) which clearly specify the number of this credit and are drawn in favor of USDA Forest Service for the secured obligation cited above.

Draft(s) drawn in conformity with the conditions of this credit will be honored by us if presented at our office (list location(s) if other than one cited in address) on or before Date.<sup>3</sup> This letter of credit will be automatically extended without amendment for periods of one year from the then relevant expiry date unless at least 60 days prior to that relevant expiry date we notify you in writing, by certified mail or courier, that we elect not to extend this Letter of Credit. Upon receipt of such notice, you may immediately draw upon this Letter of Credit by means of your sight draft and referencing our letter of credit number.

<sup>1</sup> Must equal or exceed the penal sum which the letter of credit is pledged to secure.

<sup>2</sup> Enter bid, payment, or performance.

<sup>3</sup> Must exceed the term of the project being bonded.

**84 - Exhibit 07--Continued**

The deposits of Name of financial institution are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or National Credit Union Association.

(Corporate Seal)      Sincerely,

Name of financial institution with byline  
for signature of person authorized to sign  
and their title

Notary

**84 - Exhibit 07a**

Facsimile of Form FS-6500-130, Sight Draft

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE		DRAFT NO. (Optional Use)
6500-130 (10/64)		SALES OFFER NO.
SIGHT DRAFT		
NAME OF FOREST	ADDRESS	DATE

AT SIGHT UPON PRESENTATION, PAY TO THE ORDER OF FOREST SERVICE, USDA

\$ \_\_\_\_\_

THE SUM OF \_\_\_\_\_ DOLLARS

DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ OF THE \_\_\_\_\_  
\_\_\_\_\_ OF \_\_\_\_\_,

NAME OF ISSUING OR CORRESPONDING BANK
ADDRESS

SIGNATURE
TITLE

**84 - Exhibit 08**

**Cancellation of Letter of Credit**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Name and Address of Issuing  
Financial Institution

Dear \_\_\_\_\_:

The Forest Service consents to cancellation of the following letter of credit effective this date:

Number: \_\_\_\_\_  
Date of letter of credit: \_\_\_\_\_  
Credit amount: \$ \_\_\_\_\_  
For account of: \_\_\_\_\_

Sincerely,

Name and Title of Bond-Approving Officer

**84 - Exhibit 09**

**Transmittal of Letter of Credit Cancellation**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Name and Address of Issuing

Financial Institution

Dear \_\_\_\_\_:

The Forest Service consents to cancellation of the following letter of credit effective this date:

Number: \_\_\_\_\_

Date of letter of credit: \_\_\_\_\_

Credit amount: \$ \_\_\_\_\_

For account of: \_\_\_\_\_

No draft was drawn against the above-identified letter of credit. It is returned herewith.

Sincerely,

Name and Title of Bond-Approving Officer

84 - Exhibit 10

**Assignment of Savings Account**

*(Forest Service Letterhead)*

Savings Account Assignment Number: \_\_\_\_\_

1. Name of Principal (hereinafter referred to as the "Assignor") has entered into an agreement with the USDA, Forest Service (hereinafter referred to as the "Service"), National Forest. The terms of this agreement are stated in \_\_\_\_\_<sup>1</sup> No.\_\_\_\_\_. In order to fulfill the Service requirements for a \_\_\_\_\_<sup>2</sup> Assignor does hereby assign, transfer, and set over to the Service all right, title, and interest in the Assignor's savings account No.# \_\_\_\_\_ (hereinafter referred to as "Assigned Account") deposited in the Name of financial institution located at Address of financial institution (hereinafter referred to as "Bank"), which is a member of the \_\_\_\_\_<sup>3</sup> in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_)<sup>4</sup>.

2. The Service may at any time after giving written notice to the Assignor, demand payment from the Bank holding the assigned savings account for an amount not to exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_).

3. Any penalty suffered which results from a demand for payment by the Service from the Bank shall be assessed against the Assignor.

4. The Assignor is not entitled to any earnings or interest on the cash proceeds after the Service has withdrawn such proceeds from the Assigned Account.

5. The Assignor authorizes and directs the Bank to pay all or any part of the Assigned Account as instructed by the Service until the Bank receives the Release as described in paragraph 8 of this agreement. The Bank shall not be liable to inquire whether there has been performance or payment or notice given the Assignor or to see the application of monies paid on the instruction of the Service. The Bank may rely upon the instructions of the Service executed over the signature of the person, or a designee, appearing under Acceptance without need to verify the person's authority.

<sup>1</sup> Enter timber sale contract, mineral operating plan, permit, license, or special-use authorization.

<sup>2</sup> Enter bid, performance, or payment bond.

<sup>3</sup> Enter Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Association.

<sup>4</sup> Enter amount of assignment. Amount must equal or exceed the penal sum of the bond.

**84 - Exhibit 10--Continued**

6. The Bank and Assignor agree that in the event the Bank closes or goes into receivership, any \_\_\_\_\_<sup>5</sup> insurance proceeds received shall be applied to cover the assignment first.

7. This assignment remains in effect until the date the Service representative signs the Release outlined in paragraph 13 and forwards the Release to the Assignor for signature.

8. The Forest Service shall refund direct to the Assignor, any funds derived from paragraph 2 above, not needed to satisfy the purpose for which this assignment is made.

9. Signed and dated at City and State where signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Assignor's signature

Assignor's address

Corporate Acknowledgment  
(if applicable)

10. I, Name of corporate official, certify that I am the Title of corporate official of the Name of corporation the corporation named as principal to this assignment, Person who signed assignment who signed this agreement on behalf of the principal was the Title of person who signed agreement, that said agreement was duly signed in behalf of the corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate  
Seal)

Signature and title of person  
signing corporate acknowledgement

<sup>5</sup> Enter Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Association.

**84 - Exhibit 10--Continued**

Acceptance

11. The *Name of financial institution*, as witnessed by the signature of a duly authorized officer, recognizes the assignment of the Assigned Account in the amount of dollars \$ \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Furthermore, the Bank agrees that this assignment has been established to protect the interests of the United States Government per \_\_\_\_\_<sup>6</sup> No. \_\_\_\_\_ and no right to offset the Assignor's debts against the Assigned Account will be recognized, nor will any attempt by the Assignor to offset a claim against the United States be recognized.

Name of bank

Authorized signature

Address of bank

United States Department of Agriculture - Forest Service Acceptance

12. The United States Department of Agriculture, Forest Service, accepts the assignment of the Assigned Account in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Approved by:

Bond-Approving Officer

Certified by:

Fiscal Officer

<sup>6</sup> Enter timber sale contract, mineral operating plan, permit, license, or special-use authorization.

Release

United States Department of Agriculture - Forest Service

13. The assignment of Assigned Account in the amount of \_\_\_\_\_ dollars \$\_\_\_\_\_ is released. The authorized signature shall witness the termination of the Service's interest in this assignment.

Bond-Approving Officer

Date

Assignor's Release

14. I, Principal, Assignor in this agreement recognize by my signature the release of the assignment as carried out in paragraph 13 to this agreement.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Assignor's signature

Corporate Acknowledgment for Release

15. I, Name of corporate official, certify that I am the Title of corporate official of the Name of Corporation the corporation named as principal to the assignment; that Person signing the assignment who signed this agreement on behalf of the principal was the Title of person who signed agreement of the corporation; that the assignment was duly signed on behalf of the corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate  
Seal)

Signature and title of person signing  
corporate acknowledgment for release

84 - Exhibit 11

**Assignment of Certificate of Deposit Agreement**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Assignment Agreement Number: \_\_\_\_\_

1. Name of Principal (hereinafter referred to as the "Assignor") has entered into an agreement with the USDA, Forest Service \_\_\_\_\_ National Forest. The terms of this agreement are stated in \_\_\_\_\_, No. \_\_\_\_\_<sup>1</sup>. In order to fulfill the Forest Service requirements for a \_\_\_\_\_<sup>2</sup>, Assignor does hereby assign, transfer, and set over to the Forest Service all right, title, and interest in the Assignor's Certificate of Deposit No. \_\_\_\_\_ (hereinafter referred to as "Assigned Certificate of Deposit") purchased at Name of Financial Institution located at Address of Financial Institution, which is a member of the \_\_\_\_\_,<sup>3</sup> in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_)<sup>4</sup>.

2. The Forest Service may, at any time after giving written notice to the Assignor, demand payment from the Financial Institution that issued the assigned Certificate of Deposit by presenting the Certificate of Deposit (hard copy form) or, where the Financial Institution holds the certificate of deposit, by presenting this Assignment Agreement. The amount paid will be the face value of the Certificate of Deposit, plus accrued interest, less any penalties for early withdrawal.

3. The Forest Service will refund direct to the Assignor, any funds derived from paragraph 2 above, not needed to satisfy the purpose for which this assignment is made.

4. The Assigned Certificate of Deposit shall be physically held by the Forest Service, Name of Financial Institution located at Address of Financial Institution, which shall not surrender the Certificate of Deposit to the Assignor or any other person.

<sup>1</sup> Enter timber sale contract, mineral operating plan, permit, special-use authorization, or license name and number.

<sup>2</sup> Enter either bid, performance, or payment bond.

<sup>3</sup> Enter either bid, performance, or payment bond.

<sup>4</sup> Enter the value of the certificate of deposit. This amount must be sufficient to equal or exceed the penal sum of the bond and shall not be subject to any early withdrawal penalty.

**84 - Exhibit 11--Continued**

5. The Assignor authorizes and directs the Financial Institution to pay the negotiable value of the Assigned Certificate of Deposit, as instructed by the Forest Service regardless of alleged defenses, until the Financial Institution receives the Release as described in paragraph 7 of this agreement. The Financial Institution is not legally responsible for determining if the Assignor has made payment, performed its obligations or received notice.

6. The Financial Institution and Assignor agree that in the event the Financial Institution closes or is placed in receivership, any \_\_\_\_\_<sup>5</sup> insurance proceeds received for the benefit of the Assignor on any account maintained with the Financial Institution, shall first be applied to cover the Forest Service assignment.

7. This assignment remains in effect until the date the Forest Service representative signs the Release outlined in paragraph 13 and forwards the Release to the Assignor for signature.

8. Signed and dated at City and State where signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Assignor's Signature

Assignor's Address

Corporate Acknowledgement  
(if applicable)

9. I, Name of Corporate Official, certify that I am the Title of Corporate Official of the Name of Corporation, the corporation named as principal to this assignment, that Person who signed agreement who signed this agreement on behalf of the principal was the Title of person who signed agreement, that said agreement was duly signed on behalf of the corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) Signature and Title of Person

Signing Corporate Acknowledgement

<sup>5</sup> Enter Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Administration.

84 - Exhibit 11--Continued

Financial Institution Acceptance

10. *The Name of Financial Institution*, as witnessed by the signature of a duly authorized officer, recognizes the assignment of the Assigned Certificate of Deposit in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The Financial Institution agrees that this assignment has been established to protect the interests of the Forest Service per \_\_\_\_\_<sup>6</sup> No. \_\_\_\_\_ and waives all rights of offset or lien against the Assigned Certificate of Deposit.

The Financial Institution agrees to pay the face value of the Assigned Certificate of Deposit plus accrued interest on the demand of the Forest Service, or as soon as permitted under the terms of the Assigned Certificate of Deposit, without regard to determining whether there has been performance, payment, or notice given to the Assignor.

The Financial Institution agrees to ignore any attempt by the Assignor, or any third party, to offset a claim against the Assigned Certificate of Deposit.

The Financial Institution agrees to rely upon the instructions of the Forest Service, executed over the signature of the person, or designee, appearing under Acceptance, without the need to verify the person's authority.

*Name of Financial Institution*

*Authorized Signature and Title*

*Address of Financial Institution*

11. The United States Department of Agriculture, Forest Service accepts the assignment of Assigned Certificate of Deposit No. \_\_\_\_\_ in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in accordance with the stipulations of this agreement.

Accepted by:

*Signature and Title of Bond-Approving Officer*

Certified by:

*Signature and Title of Fiscal Officer*

<sup>6</sup> Enter timber sale contract, mineral operating plan, permit, special-use authorization, or license name and number.

**84 - Exhibit 11--Continued**

Forest Service Release

12. The assignment of Certificate of Deposit No. \_\_\_\_\_ in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) is released. This authorized signature shall witness the termination of the Forest Service's interest in this assignment.

Signature and Title of Bond-Approving Officer

Date

Assignor's Release

13. I, Principal, Assignor in this agreement, recognize by my signature the release of the assignment as carried out in paragraph 12 of this agreement.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Assignor's Signature and Title

14. I, Name of Corporate Official, certify that I am the Title of Corporate Official of the Name of Corporation, the corporation named as principal to the assignment, that Person who signed the release who signed this release on behalf of the principal was the Title of person who signed release of the corporation; that the assignment was duly signed on behalf of the corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) Name and Title of Person Signing

Corporate Acknowledgement for Release

**84 - Exhibit 12**

**Certification of Annual Bid Bond Allocation**

To: Bidder

This certifies that \_\_\_\_\_ *Bidder's Name* \_\_\_\_\_ of \_\_\_\_\_ *Bidder's Address* \_\_\_\_\_ has allocated \_\_\_\_\_ dollars (\$ \_\_\_\_\_) from the bidder's blanket bid bond for a bid on the \_\_\_\_\_ Timber Sale Offering on the *National Forest, Ranger District*. Bid opening is scheduled for \_\_\_\_\_ *Date* \_\_\_\_\_ at \_\_\_\_\_ *Time and Place*.

*Authorized signature*

(Forest Supervisor, Regional Forester,  
or designated representative)

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

**84 - Exhibit 13**

**Letter to Prospective Bidder Who Has Annual Bid Bond**

*Forest Service Letterhead*

*Date*

File Code: \_\_\_\_\_

We have received your blanket bid bond for \_\_\_\_\_ dollars (\$\_\_\_\_\_) dated \_\_\_\_\_, covering the period from \_\_\_\_\_ to \_\_\_\_\_.

To use your bid for a particular sale offering you must obtain a “Certification of Blanket Bid Bond Allocation” and include it with your bid. Bids not accompanied by a Certification will be rejected regardless of the unallocated balance in your blanket bid bond.

The Certification may be obtained by making a written request to the following address:

*Address of Forest Service office mailing letter*

Your written request should follow the format on the enclosed Blanket Bid Bond Allocation Request. The request should be returned to the Forest Service by certified mail in the enclosed envelope.<sup>1</sup> Please allow sufficient time for mailing and processing of your request. While every effort will be made to get the Certification to you on time, the Forest Service assumes no responsibility for the Certification arriving too late for bid submission.

You may request the Certification in person, provided you present a written request with an authorized signature. However, bid opening times shall not be delayed if your request cannot be processed in time.

If the dollar amount of your request exceeds the amount available on your Blanket Bid Bond, your request shall be returned to you and no Certificate will be issued.

---

<sup>1</sup> Envelopes should have the words “Timber Bid Bond Allocation Request” typed on front, and several copies of both the sample letter and envelope should be enclosed

**84 - Exhibit 13--Continued**

If you wish to bid on two or more sales during a short time period, you may make one request for all sales. If, however, the total amount of your request exceeds the amount available, the entire request will be rejected. The Forest Service will not allocate the amounts for you nor can it accept verbal requests for such allocations.

If you have any questions about these procedures please contact:

Sincerely,

*Forest Supervisor or Regional Forester*

Enclosure

**84 - Exhibit 14**

**Annual Bid Bond Allocation Request**

To: Forest Supervisor or Regional Forester

Please issue me a “Certificate of Blanket Bid Bond Allocation” in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for the \_\_\_\_\_ Timber Sale Offering on the \_\_\_\_\_ Ranger District. Bid opening for this sale will be on     Date     at     Time and Place    .

I certify that I have a blanket bid bond in at least the amount of this request.

Authorized Signature and Title

**84 - Exhibit 15**

**Application for Addition of Timber Sale Contracts to Blanket Payment Bond**

Contract No:

We request that the above-designated timber sale contract signed by \_\_\_\_\_, as purchaser, and the United States of America, as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, be included in the list on the reverse of blanket payment bond issued by the \_\_\_\_\_ as surety in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), on \_\_\_\_\_, 20\_\_, accepted by the Regional Forester on \_\_\_\_\_, 20\_\_, wherein this applicant appears as principal.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Witnesses:

Signature of Purchaser

Approved at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Authorized signature

**84 - Exhibit 16**

**Reclamation Evaluation Worksheet**

(For Use in Determining Penal Amount of Reclamation Performance Bond)

Forest \_\_\_\_\_ District  
Permit

I. Road Closure and Reclamation Estimated Cost

Scarification

Revegetation

Erosion Control

Other

Total

II. Reclamation of Drill Sites

Earth Moving

Erosion Control

Revegetation

Other

Total

III. Abandonment of Shot or Geothermal Gradient Hole

Filling and Plugging

Erosion Control

Revegetation

Other

Total

IV. Removal of Exploration Related Debris

Stakes

Flagging

Spools

Explosive Debris

Other

Total

V. Revegetation and Erosion Control (Primacord, Kinpack,  
Dynamite, and so forth)

Revegetation

Earth Moving

Total

Grand Total

Prepared by: Name Date: \_\_\_\_\_

Title

Approved by: Name Date: \_\_\_\_\_

Title

84 - Exhibit 17

**First Demand Letter to Surety**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Surety Bond Address

Dear Mr./Ms. ZZZ:

On    date   , XYZ Company was declared in default with a copy of the default letter forwarded to you. The Forest Service is now making demand that ZZZ Surety honor bond number 123456 in the amount of \$           in connection with the default of your principal XYZ Company.

Payment is due the Forest Service upon receipt of this letter and enclosed Bill For Collection, but no later than MMDDYY no more than 30 days from date of letter. Make your payment by [official], certified or cashier's check, bank draft, or Postal money order payable to the USDA Forest Service. Mail your payment, along with the white copy of the enclosed Bill for Collection to applicable Forest Service Office, Attention: Unit Collection Officer. A pre-addressed envelope is enclosed for your convenience.

Please contact me immediately if you believe that you are not responsible for these damages; my phone number is XXX-XXX-XXXX. You must support this claim with precise facts, legal authority, and relevant case law.

If this bill is not paid in full by the due date, you will be charged interest at the Department of Treasury rate in effect on the date of the bill's issue or at the prompt payment rate, whichever is higher, calculated from the date of the bill's issue. Additionally, you will be charged an administrative cost amount to cover processing and handling the overdue debt. Finally, if this bill is not paid in full by 90 days after the due date, in addition to the interest and administrative costs, you will be charged a penalty of 6 percent per year on any principle amount overdue 90 days or more, calculated from the bill's due date.

**84 - Exhibit 17--Continued**

The United States intends to take whatever action is necessary to collect this debt. Should it become necessary to file suit against  Surety name  in Federal District Court, the Justice Department has indicated that it will seek an additional surcharge of 10% based on the Federal Debt Collection Procedures Act of 1991, 28 U.S.C. 3011.

Sincerely,

Name of Bond-Approving Officer

Title of Bond-Approving Officer

cc: Defaulting principal

84 - Exhibit 18

**First Demand Letter to Principal**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Principal Bond Name and Address

Dear Mr./Ms. XYZ:

On date, a notice of default was mailed to you. On the basis of that notice, the Forest Service is now making demand in the amount of \$\_\_\_\_\_ for damages.

Payment is due the Forest Service upon receipt of this letter and enclosed Bill for Collection, but no later than MMDDYY no more than 30 days from date of letter. Make your payment by [official], certified or cashier's check, bank draft, Postal money order payable to the USDA Forest Service. Mail your payment, along with the white copy of the enclosed Bill for Collection to applicable Forest Service Office, Attention: Unit Collection Officer. A pre-addressed envelope is enclosed for your convenience.

Please contact me immediately if you believe that you are not responsible for these damages; my phone number is XXX-XXX-XXXX. You must support this claim with precise facts, legal authority, and relevant case law.

If this bill is not paid in full by the due date, you will be charged interest at the Department of Treasury rate in effect on the date of the bill's issue or at the prompt payment rate, whichever is higher, calculated from the date of the bill's issue. Additionally, you will be charged an administrative cost amount to cover processing and handling the overdue debt. Finally, if this bill is not paid in full by 90 days after the due date, in addition to the interest and administrative costs, you will be charged a penalty of 6 percent per year on any principle amount overdue 90 days or more, calculated from the bill's due date.

The United States intends to take whatever action is necessary to collect this debt. Should it become necessary to file suit against Company name in Federal District Court, the Justice Department has indicated that it will seek an additional surcharge of 10% based on the Federal Debt Collection Procedures Act of 1991, 28 U.S.C. 3011.

Sincerely,

Name of Bond-Approving Officer

Title of Bond-Approving Officer

cc: Surety Company

Enclosure

84 - Exhibit 19

**Second Demand Letter to Surety/Principal**

Forest Service Letterhead

Date

File Code: \_\_\_\_\_

Name

Address

Dear Mr./Ms. XYZ:

On date of first letter, you were sent a letter and Bill for Collection requesting payment of \$\_\_\_\_\_ for XYZ project in order to complete reclamation action. Your payment was due upon receipt of the date letter, but no later than 30 days later. This payment is now past due.

Enclosed is a new Bill for Collection which includes the original damages of \$\_\_\_\_\_ plus additional charges for:

1. Late payment interest of \$\_\_\_\_\_ for the 30-day period ending the 30-day due date and
2. An assessment of \$\_\_\_\_\_ for the processing and handling of this debt.

Payment is due upon receipt of this letter and enclosed Bill for Collection but no later than date of letter plus 30 days. Please make your payment by [official], certified or cashier's check, bank draft, postal money order payable to the USDA, Forest Service. Please mail your payment, along with the white copy of the enclosed Bill for Collection to the Unit Collection Officer, ABC National Forest, street, city, State, and zip code.

[Surety] If you do not provide supporting documentation for non-payment as outlined in our first letter, the Forest Service may request the Secretary of Treasury to revoke your certificate of authority to underwrite government bonds.

Sincerely,

Name of Bond-Approving Officer

Title of Bond-Approving Officer

cc: Principal or Surety

Enclosure

**84 - Exhibit 20**

**Third Demand Letter to Surety/Principal**

*Forest Service Letterhead*

*Date*

File Code: \_\_\_\_\_

Name

Address

Dear Mr./Ms XYZ:

On *dates of first and second letters*, you were notified by letter and accompany Bill for Collection of your liability for XYZ project to complete reclamation action. You have not responded with payment or supporting documentation and this debt is now 60 days past due.

Enclosed is a third and final Bill for Collection which includes 60 days accrued interest plus \$\_\_\_\_\_ accrued administrative costs incurred for processing and handling this debt. Payment of this bill is due upon receipt of this letter but in no case, later than 30 days after date of letter.

[Surety]We will request revocation of your certificate of authority from Treasury if payment is not received.

Sincerely,

*Name of Bond-Approving Officer*

*Title of Bond-Approving Officer*

cc: *Principal or Surety*

Enclosure

**84 - Exhibit 21**

**Bond Authenticity Inquiry**

Surety Bond Name and Address

This bond or bonds described below have been presented to us. Please acknowledge that these bonds have been provided by your company.

Bond Number (if any): \_\_\_\_\_

Name and address of Principal on the bond (If Principal is a Joint Venture, include name of all parties):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and Address of Obligee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amount of Performance/Payment Bond: \_\_\_\_\_

Date Bond Executed: \_\_\_\_\_

Name and Title of Person Signing Bond For Surety: \_\_\_\_\_

Brief Description of the Project:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A copy of the bond(s) may be submitted in lieu of providing the above information.

Please send confirmation to: Name and address, phone number

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Validity Confirmed:

Company Name: \_\_\_\_\_

Signed by: \_\_\_\_\_

\_\_\_\_\_  
(Print or Type Name and Title)