ECOSYSTEM WORKFORCE

BRIEFING PAPERS

Innovative Contracting: Tips for Rural Communities and Agency Partners

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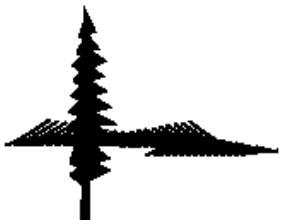
Cassandra Moseley
Ecosystem Workforce Program
University of Oregon



The Ecosystem Workforce Program
Institute for a Sustainable Environment, University of Oregon

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The *Ecosystem Workforce Program Briefing Papers* series offers short papers designed to give an easy-to-digest introduction to key issues, innovations, and lessons associated with the effort to build quality jobs in ecosystem management. The target audience includes public land management agency staff, community organizations, and local community officials as well as the broader community forestry constituency.

Briefing Paper #3, *Innovative Contracting: Tips for Rural Communities and Agency Partners*, offers communities and agencies suggestions for working together on contract innovation, including tips for avoiding some common problems.

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BUILDING A SUSTAINABLE, HIGH-SKILL / HIGH-WAGE ECOSYSTEM MANAGEMENT INDUSTRY

Institute for a Sustainable Environment • 5247 University of Oregon, Eugene, OR 97403-5247
541-346-0676 • Fax 541-346-2040
http://darkwing.uoregon.edu/~ewp

Introduction

Over the past several years, the Forest Service and its partners have begun to shift how the agency procures services and sells timber. These contracting innovations are part of a larger effort to move the Forest Service from production-based management to ecosystem management. In some instances, these innovations have involved the pilot authority of the National Stewardship Pilot Program. In many more instances, national forests and their partners have used existing authorities in new ways to implement ecosystem management. Regardless of whether these innovations have involved new or existing authorities, the national forests and their partners have faces some of the same challenges.

This briefing paper builds on the lessons of recent contracting innovations in the Pacific Northwest to offer communities and federal land management agencies information about some of the problems that innovators have encountered and some solutions that they developed to solve them. Clearly, not every effort at innovation will encounter all of the problems described here, nor will all of the solutions work. But, it is hoped, that this paper can spark ideas for creative solutions.

This information about challenges and solutions comes from a larger study of innovative contracting in the Pacific Northwest and northern California conducted during 2000 and 2001. The results of the study will be published by the Pacific Northwest Research Station in 2002 as *A Survey of Innovative Contracting for Quality Jobs and Ecosystem Management*.

Innovative contracting involves using new and old contracting mechanisms in new ways. An innovative contract might include combining several types of work into a single project to provide long-term work for a contractor and his or her workers or to reduce the ecological impact of multiple entries. Another project might combine traditional procurement contract with a timber sale, two very different contracts—one for acquiring goods or services and the other for selling federal property. Still another project might make use of the new authorities to reduce contract solicitation time and administrative costs.

The challenges to creating innovative contracts can emerge at every phase from developing contracts to obtaining bids and awarding contracts. This briefing paper examines these challenges and others related to providing local economic opportunity.

Tips for Innovative Contracting

Developing the Project

Stakeholders disagree about content, or trust is low among partners

Tip: Create an open, transparent process with meaningful opportunities for participation.

Innovative projects can create concern among stakeholders inside and outside of the agencies. Collaborative processes that include a wide variety of people in meaningful discussion can help create agreement or at least understanding of how and why a project is being undertaken. In early discussions, agency planning staff, procurement staff, biologists, as well as environmentalists, community forestry advocates, community residents, forest contractors and workers might be included.

Tip: Hold field trips to develop land management objectives.

Field trips that involve all interested parties can lead to agreements about how the land will be managed. Field trips can allow people to move beyond abstract concerns to concrete solutions that reflect a particular patch of ground. Field trips can be made more valuable if someone is assigned to take notes of suggestions made and agreements reached.

Developing the Contract

Conflict between contracting officers and project planners

Tip: Involve contracting officers early in planning project.

Historically, project development involved a planning staff that handed an already-designed project to contracting officers who then wrote a contract. When undertaking new work, this approach frequently slows progress because there may be a mismatch between the vision of project planners and traditional procurement methods. Planners often have limited knowledge of contracting requirements unless they double as contracting officer representatives. To ensure that contracting officers know the goals of agency planners and their partners, the contracting officers should be involved in the project well before project development is complete. Early involvement of contracting officers enables them to develop contracts to meet project goals.

It is vital to have the support of project planners and administrators, but contracting officers risk their careers every time they sign a contract. They must be assured that the contract forms and clauses are legal and within their authority.

Preparing the contract takes longer than expected

Tip: Allow 6 months for contract preparation and award.

A complex contract can take months to develop. In addition to normal contract preparation, it may be necessary to research and write new clauses and approaches. Contract preparation time and stress on the contracting officers increases during the fire season, when staff may be reduced, and at the end of the fiscal year, when there is a lot of work to accomplish.

Disagreement about authorities

Tip: Find written information and learn about authorities.

Agency staff may become frustrated with suggestions that tell them to "just fix it." It can be important for partners to understand basic sideboards and processes. There is an increasing amount of information about contracting regulations, both in print and on the Internet. Practitioner groups and other seeking to encourage agency change may benefit from learning about the details of federal procurement processes. Because procurement regulations are undergoing rapid reform across the federal government, it is important to ensure that it is current. Resources include:

1. The Pacific Northwest Region of the Forest Service, which has published an excellent guide to existing authorities for stewardship and ecosystem management. *Tool Kit: Promoting Health and Sustainability, A Stewardship Approach to Ecosystem Management*. USDA Forest Service: Pacific Northwest Region. July 10, 2001. Available at <http://darkwing.uoregon.edu/~ewp>

2. Contracts from National Forests that have done similar work.

3. Blue Mountain Demonstration Area web pages, which include contracting and authorities information related the demonstration area's innovations. Information available at <http://www.fs.fed.us/bluemountains>.

4. The Forest Service guide to timber sales embedded in service contracts, available at <http://fsweb.wo.fs.fed.us/fm/stewardship/contractguide> and may be accessed only by a Forest Service computer.

5. A booklet by the Pinchot Institute, a good resource for contracting basics, although somewhat dated. Paul C. Ringgold. 1998. *Land Stewardship Contracting in the National Forests: A Community Guide to Existing Authorities*. Washington, D.C.: Pinchot Institute for Conservation.

6. The Federal Acquisition Regulations governing procurement as related to the Department of Agriculture. Available at <http://www.arnet.gov/far>.

7. The Code of Federal Regulations that governs national forest management <http://www.access.gpo.gov/nara/cfr/index.html> (more easily searched at <http://www.gpo.ucop.edu/search/cfr.html>)

8. The United States Code containing the laws from which regulations are created can be found at <http://www4.law.cornell.edu/uscode/>.

9. Information about Small Business Administration regulations including a discussion of HUB Zone set asides (available at <http://www.sba.gov/>).

10. Occupational Safety and Health regulations, found at <http://www.osha.gov>.

Tip: Allow time for contracting officers to get comfortable with change.

As suggested above, contracting officers should be brought in to projects early to learn about and help shape the goals of the project. They also need time to research solutions to procurement problems. Last minute contract innovation may be met with resistance.

Procurement and timber contracting officers do not understand each other

Tip: Bring them together early.

Some of the early innovations occurred when timber sale and service contracting officers knew each other socially—husband and wife, best friends. In these instances, people spent considerable time talking with each other about their work and the challenges they faced. Suggestions from one person led to a breakthrough by the other. Clearly, the Forest Service cannot count on these relationships, but it does point out the importance of project planners, timber staff, and service contracting officers spending time with each other learning about the opportunities and limits of the other's authorities. Bringing timber and procurement staff together early can reduce conflict and involve people in solving problems. This is better than putting them into the position of having to tell people that the approach that they have chosen will not work.

Tip: Outside partners learn about both realms.

Although it is tempting to leave contract development to the specialists, partners would do well to learn the basics of both timber sale and procurement contracting. This will not create partners who are experts but, with some knowledge, they may be able to build bridges between procurement and timber staff.

Obtaining Quality Bids

No bids

Tip: Assess capacity before you start.

When undertaking contract innovations, it is possible that a national forest may put a contract out to bid and receive no offers. In other instances, innovators may fear that they will receive no bids. These problems can occur when project partners do not assess the potential bidder pool—they do not know if any firms could implement the work. Information about the capacity of the bidder pool can help shape the contract structure while maintaining ecological goals. In addition to assessing contractor skills and equipment prior to creating the contract structure, planning staff and contracting officers can hold early meetings with contractors to discuss particular issues, such as subcontracting and identify interested contractors. Examples of contractor and worker assessments are available at <http://darkwing.uoregon.edu/~ewp/publications.html>

Contractors do not know how to respond to a request for proposal

Tip: Hold training sessions.

Innovative contracting frequently involves nontraditional bidder pools. For example, logging firms seem interested in timber sales imbedded in a service contracts. But writing proposals is markedly different than bidding on timber sales. The projects that hold training sessions in which the Forest Service presents in considerable detail what is expected seem to receive quality proposals.

Contractors do not understand the solicitation

Tip: Hold pre-bid meetings and field trips to explain expectations

Pre-bid meetings and field trips are particularly important for contracts that include new kinds of work, work structured in new ways, or complex work. Contractors are unlikely to bid on work they do not understand or to offer high prices. Pre-bid meetings and field trips in which contractors learn about the details of the contracts and expectations can help improve bid quality and reduce price.

Receiving Bids

Bid is too high

Tip: Do good cost estimation from the beginning.

By default, procurement cost estimation is frequently based on instincts about how much the work will cost. This can be efficient for standard work but may be less effective when working with innovative contracting. Naturally, cost estimating is difficult when requirements are new. Nevertheless, when cost estimates are accurate, the process of solicitation and award tends to go smoothly. But costs estimates that are far below bids can create considerable disappointment and lost time if solicitations have to be withdrawn and reworked. People who are unsure of the viability of the project may become even less supportive when the gap between estimate and bid prices is large. Most bidding processes now provide opportunities for negotiation with bidders and reworking so that prices can be adjusted prior to award. However, poor cost estimates nonetheless increase discomfort and inhibit innovation.

Tip: Do not ask the contractor to take unnecessary risks (unless you can afford to pay for them).

When a contractor is asked to take risks, it is generally reflected in a higher price or unwillingness to bid on a project. When the Forest Service and its partners are creating an innovative contract, it is not only new for the Forest Service but also new for the contractors. Bidding on a new type of contract is naturally more risky than a familiar one. Project planners should consider the risks and other costs that may range from bonding to fire liability to unclear contract specifications. They should weigh the risk against the cost to evaluate whether the Forest Service or the contractor should shoulder the risk or, perhaps, whether the risk could be eliminated all together.

Tip: Write a simple, clear contract.

Confusing, poorly articulated contracts may translate into high bid prices because a contractor may have to absorb the costs of requirements that were not spelled out clearly. Unclear contracts may also deter potential bidders who cannot decipher what the project will truly involve.

Team or contracting officers uncomfortable with proposal evaluation

Tip: Clarify, train about solicitation, and award process early.

After bidders have submitted proposals, the Government must decide to whom it should award the contract. For complex contracts, this involves the creation of evaluation teams that include non-procurement staff. Evaluation is new for many staff, and education about the evaluation process and communication in advance can foster a smooth award process. Similarly, clear, well-articulated evaluation criteria can foster efficient evaluation. Finally, it may be useful to not reveal prices to the evaluation team until they have rated the other parts of the proposal so that the price offer does not cloud the more subjective evaluation.

Local benefit

Locals do not win contracts

Tip: Assess the local contracting sector.

If one goal of the project is to provide local economic benefit, partners will need to understand the capacity of local contracting firms and workers. A lot of time can be wasted creating the perfect contract only to find that no local contractor can perform the work in the way that it is structured. Although it would be inappropriate to change the ecological objectives to match the capacity, contract structures, subcontracting opportunities, and equipment options can make contracts more viable for firms located in rural communities.

Tip: Create contracts that are scaled appropriately for the local workforce.

Contracts need to be scaled to the capacity of the local contracting sector. Within ecological limits, contracts should reflect the local equipment capacity, crew size, and bonding capacity. For example, contractors in rural communities are more likely to be able to undertake a contract that requires one backhoe for four months than one that requires four backhoes for one month. Similarly, a contractor in a rural community is more likely to be able to muster a five-person crew for two months than a ten-person crew for one month.

Tip: Involve contractors in early discussions.

Although contractors probably should not participate directly in contract development, they can provide useful insights about how contract structures and work specifications might play out in practice and how expensive they might be. In some instances, discussions with contractors in the early stages can lead to better contracts and a more viable bidder pool.

Tip: Conduct training and hold workshops for contractors to increase their capacity to bid contracts and implement the work.

Because many contracting firms are used to providing sealed bids for service work or open bids for timber sales, it is important to train contractors in how to respond to requests for proposals. In addition, contractors may not be familiar with the particular work specifications and might benefit from training sessions about the work.

Tip: Insert clauses in the solicitation that ask the contractor to specify how he or she will provide benefit to the local community.

Recent procurement changes allow contract solicitations to ask the contractor to provide information about how his or her operation will benefit the local community. This does not direct work to local firms but rather provides credit to those contractors, nearby or distant, who will provide economic benefit to the nearby rural communities.

Local benefit unknown

Tip: Assess and then monitor.

The benefit to rural communities and the environment can be understood by comparing base line conditions to project results. Monitoring is more effective if the monitoring plan is created in advance of project implementation.

Conclusions

These suggestions respond to a wide variety of specific problems. Yet, they suggest several common themes. First, projects that involve all parties–planning staff, procurement staff, supervisors high in the chain of command, environmentalists, community groups, contracting firms, and workers—early in the process seem to suffer fewer setbacks. Thus, it is important to be inclusive from the beginning. Second, community partners and others interested in designing innovative contracts would be well served to learn at least a minimal amount about how timber sale and procurement contracts work. Third, social, economic, and ecological assessment and monitoring can focus innovations and increase the potential for success. Finally, change is difficult, time consuming, and sometimes frustrating, but patience and commitment can lead to successful innovation.