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# United States Senate

COMMITTEE ON  
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

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October 1, 2015

The Honorable Howard Shelanski  
Administrator, Office of Information and Regulatory Affairs  
White House Office of Management and Budget  
1650 Pennsylvania Avenue NW, Room 262  
Washington, DC 20503

**RE: Small Business Administration Timber Sale Set-Aside Program and the US Forest Service Stewardship End-Result Contracting Program**

Dear Administrator Shelanski:

We write to express our concern with the Administration's long delay in issuing a clear policy directive, consistent with the Small Business Act (SBA) of 1958, governing small business participation in the USDA Forest Service's Stewardship End-Result Contracting Program.

For more than a decade, small business timber purchasers have petitioned the Small Business Administration and the Forest Service to include stewardship contract timber volume in the small business timber set aside program. Although the agencies have on several occasions taken steps toward addressing this issue (see attached timeline) they have yet to complete action to ensure that timber sales executed under the Stewardship End-Result Contracting Program are brought into alignment with SBA guidance.

The Administration's failure to finalize its approach to this issue risks harming small manufacturers and rural communities. Moreover, it is disconcerting that the Forest Service and the Office of Information and Regulatory Affairs have not provided any explanation for failing to move forward on this issue in a timely manner.

In the interest of promoting effective governance, it is incumbent upon the Office of Management and Budget to look into and expeditiously resolve this multi-agency issue. To that end, we request the following:

- A detailed timeline of the steps that will be taken by the Administration to finalize a policy directive or regulation on this issue; and
- A plan from the Forest Service that ensures any directive or regulations on this issue is in place *before* the next five-year re-computation of timber sale set-aside market share takes place at the end of this fiscal year.

Thank you for prioritizing this important issue. We look forward to hearing from you.

Sincerely,



Lisa Murkowski  
United States Senator



Maria Cantwell  
United States Senator

cc: Administrator Maria Contreras-Sweet  
Forest Service Chief Thomas L. Tidwell

## Timeline

### **Re: Small Business Administration Timber Sale Set-Aside Program and the U.S. Forest Service Stewardship End-Result Contracting Program**

- In 2006, the Forest Service published a proposed policy directive that would have established an SBA set-aside program for Stewardship Contracts and established a new formula for triggering small business provisions. Despite repeated promises of action, no action was taken on that proposal until 2014.
- In March 2013, the Forest Service's Director of the Office of Regulatory and Management Services sent the attached letter to the SBA stating unequivocally that a policy directive (similar to that which had been proposed in 2006) was in development and that it would likely be published in 2013. Two years later, the US Forest Service still has not issued that policy directive.
- In 2014, Congress included report language in the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235) which directed the agency to expeditiously prepare and publish draft rulemaking that would establish a small business set-aside program for timber contracts undertaken using stewardship contracting authority.
- In Fall 2014, the Forest Service's proposed directive from 2006 was put back into the Unified Regulatory Agenda, yet we are told that the agency continues to strongly resist taking any further action.
- In March 2015, the SBA issued an Advanced Notice of Proposed Rulemaking (ANPRM) which solicited comment on the types of changes outlined in the 2006 Forest Service proposed directive.
- In March 2015, SBA Administrator Maria Contreras-Sweet sent the attached reply to Senator Cantwell's February 2015 letter which included a timeline for action, mutually agreed to by both the SBA and the Forest Service. However, it is now mid-September, and none of the proposed actions subsequent to the release of the ANPRM and collection of comments have occurred.