United States Government Accountability Office
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Congressional Committees

Subject: *Update on the Status of the Merchantable Timber Contracting Pilot Program*

Counties containing federal lands have historically received a percentage of the receipts generated by the sale or use of natural resources on the federal lands. A steep decline in federal timber sales during the 1990s, however, resulted in a significant decrease in federal payments to counties that previously depended on timber receipts. The Secure Rural Schools and Community Self-Determination Act of 2000,[1] reauthorized in 2008,[2] was enacted, in part, to address this decline by stabilizing payments to counties that depended on revenues from timber sales on Forest Service and certain Bureau of Land Management (BLM) lands.[3] Under the act, each county may continue to receive a portion of the revenues generated from the sale or use of resources from these lands or may choose instead to receive annual payments based in part on historical revenue payments to the county.

Among other things, the act provides for the Forest Service and BLM to implement certain land management projects, known as Title II projects, using a portion of these funds. The act mandates that a certain percentage of Title II projects involving the sale of merchantable timber be carried out under a pilot program in which the agencies are to use separate contracts for harvesting timber and selling it, rather than using a single contract for both activities, as is typical for most timber sales. The percentage requirement in the act varies by fiscal year: for projects using fiscal year 2008 funds, not less than 35 percent of eligible projects must be carried out within the pilot program; for fiscal year 2009 funds, not less than 45 percent; and thereafter, not less than 50 percent.[4] The reauthorization also mandates that we assess this

[1]Pub. L. No. 106-393 (2000). This act covered the period from fiscal year 2001 through fiscal year 2006. Pub. L. No. 110-28, Title V, § 5401(c) (2007) reauthorized the act for fiscal year 2007.

[2]Pub. L. No. 110-343, Div. C, Title VI, § 601 (2008). This act covers the period from fiscal year 2008 through fiscal year 2011.

[3]The act covers all National Forest System lands, as well as certain BLM lands in western Oregon.

[4]Under the 2000 act and its 1-year reauthorization, the percentages were as follows: in fiscal year 2001, 15 percent of eligible Title II projects were to be conducted under the pilot program; in fiscal years 2002 and 2003, 25 percent of projects; and in fiscal years 2004 through 2007, 50 percent.

contracting pilot program and report on our assessment by September 30, 2010.[5] In response to this mandate, we (1) identified the number of projects the Forest Service and BLM have implemented under the law, including the number expected to generate merchantable timber, the number in the pilot program, and the extent to which the percentage requirements of the law have been met; and (2) collected information on the agencies' experiences in using the pilot program.

To identify the number of Title II projects implemented, including the number of projects expected to generate merchantable timber and the number to be carried out through the pilot program, we analyzed data on Title II projects provided by the Forest Service and BLM. We supplemented this analysis with interviews of agency officials, at various levels, regarding individual Title II projects identified in the data as including the sale of merchantable timber. On the basis of our analysis, we concluded that the data were sufficient to support our conclusions about the extent of the agencies' use of the pilot program. To collect information on the agencies' experiences with the pilot program, we interviewed the Forest Service's and BLM's national Title II coordinators, officials in Forest Service regional and national forest offices, and officials in BLM state and district offices. In total, we met with officials at one Forest Service region, one BLM state office, one national forest, and two BLM district offices, and we interviewed officials by telephone at an additional 11 national forests in four Forest Service regions. To obtain additional, nonagency perspectives, we met with a representative of the Association of O&C Counties[6] and reviewed information collected about the program by the Wilderness Society.

We briefed your offices on our findings on December 8, 2009, and reached agreement that additional study of the pilot program was not warranted, given the level of program activity to date. As agreed with your offices, we are providing this report summarizing program activity to date in fulfillment of our responsibilities under the mandate.

We conducted this performance audit from August 2009 through February 2010, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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[5]The mandates for both the pilot program and our assessment of it were also contained in the original Secure Rural Schools and Community Self-Determination Act, enacted in October 2000. For our response to the reporting mandate contained in that act, see GAO, *Natural Resources: Status of Merchantable Material Contracting Pilot Program Authorized by the Secure Rural Schools and Community Self-Determination Act of 2000*, GAO-03-596R (Washington, D.C.: May 9, 2003). The 2000 act used the term "merchantable materials," whereas the 2008 act uses "merchantable timber." In this report, we use "merchantable timber" in discussing both versions of the act.

[6]The Association of O&C Counties represents the 18 western Oregon counties within which lie the Oregon and California Revested Grantlands, which are now managed by BLM. These are the BLM lands covered by the act.

Results in Brief

Since the 2008 reauthorization of the act, according to agency data, almost 1,100 Title II projects have been approved or implemented by the Forest Service and BLM, with 10 of these expected to involve the sale of merchantable timber. None of these 10 projects have been completed; it is, therefore, too early to determine the extent to which the agencies will meet the act's percentage requirements for the pilot program. Under the 2000 act (covering the period from fiscal years 2001 through 2007), approximately 5,400 Title II projects were approved, according to agency data, with 40 projects involving the sale of merchantable timber. Of these 40 projects, 6 (15 percent) were carried out under the pilot program. This number (which represents the agencies' cumulative total for fiscal years 2001 through 2007) fell short of the 2000 act's percentage requirements, which ranged from 15 percent of projects in fiscal year 2001 to 50 percent of projects in fiscal years 2004 through 2007.

In describing their experiences, agency officials provided a variety of explanations for the small number of projects carried out under the pilot program. These explanations included the relative scarcity of projects involving the sale of merchantable timber and the availability of other, more effective contracting mechanisms for carrying out projects that did include merchantable timber.

Background

Since the early twentieth century, counties containing federal lands have received a percentage of the receipts generated by the sale or use of natural resources—such as timber or mineral sales, recreation fees, or grazing permits—on the federal lands. Localities are generally required to use these monies to fund roads and schools. A steep decline in federal timber sales during the 1990s, however, resulted in a significant decrease in federal payments to counties that historically depended on timber receipts.

Under the Secure Rural Schools and Community Self-Determination Act of 2000, reauthorized in 2008, each county may continue to receive a portion of the revenues generated from the sale or use of resources from these lands or can choose instead to receive annual payments based on historical revenue payments to the county. These payments are calculated by considering the amount of federal land within an eligible county and the average of the three highest annual revenue payments to that county from fiscal year 1986 through fiscal year 1999 and adjusting this calculation according to the per capita income within each eligible county.[7] Counties electing the second option must use 80 to 85 percent of the payments on certain county services, such as

[7]The 2000 act calculated the annual payments solely on the basis of the average of the three highest annual revenue payments to the eligible county from fiscal year 1986 through fiscal year 1999.

maintaining roads and schools.[8] The remainder can be (1) reserved by the county for special projects that benefit resources on federal lands, known as Title II projects; (2) reserved by the county for county projects related to federal lands (such as search-and-rescue work on federal lands), known as Title III projects; or (3) returned to the Treasury.

Under the act, Title II projects are to improve maintenance of existing infrastructure, enhance forest ecosystems, and restore and improve land health and water quality. Title II projects are proposed by local citizens, community groups, participating counties, or the agencies and are subsequently considered by local resource advisory committees. These committees are to contain 15 members representing diverse interests, with 5 members representing timber, grazing, energy, fishing, or other commercial interests, as well as developed recreation, off-highway vehicle use, or recreational fishing;[9] 5 members representing environmental, dispersed recreation, wildlife, archaeological, or other similar interests; and 5 members representing state, county, and tribal governments or other public interests. Projects that a resource advisory committee recommends for funding and implementation are then forwarded for consideration and approval by the Forest Service or BLM. If the agency approves the recommended projects, the projects are then carried out by the agencies—using agency personnel, contracts, or agreements with other entities—with the reserved Title II funds. In some cases, Title II funds cover a portion of a larger project, with additional funds provided by the agencies or other sources. The authority to initiate Title II projects under the act expires September 30, 2011.

The act states that a certain percentage of Title II projects nationwide that involve the sale of merchantable timber shall be implemented under a pilot program, which requires the use of separate contracts for (1) harvesting or collecting the timber and (2) selling it. Typically, Forest Service and BLM projects involving the sale of timber are carried out under a single contract covering both activities. In addition, since the late 1990s, the Forest Service and BLM have used stewardship contracting to carry out some projects involving merchantable timber. Prominent among the stewardship contracting authorities is the ability to trade goods for contract services—that is, to use the value of forest products, such as timber, to offset the cost of the service portion of a contract, which may include activities such as forest thinning or clearing.[10]

[8]Counties receiving less than $100,000 annually from National Forest System lands may spend up to 100 percent of the payment on these county services.

[9]These five members can also include representatives of nonindustrial private forest land owners within the area for which the committee is organized.

[10]For more information on stewardship contracting, see GAO, *Federal Land Management: Use of Stewardship Contracting Is Increasing, but Agencies Could Benefit from Better Data and Contracting Strategies*, GAO-09-23 (Washington, D.C.: Nov. 13, 2008).

Few Title II Projects Have Contained Merchantable Timber or Have Been Conducted under the Pilot Program

The number of Title II projects containing merchantable timber and the number of projects carried out through the contracting pilot program have been very low under both the current and the original versions of the act. Under the 2008 act, according to data provided by the Forest Service and BLM, as of December 2009 a total of 1,083 Title II projects had been approved by the agencies for implementation using fiscal year 2008 or 2009 Title II funding. Of these, 10 Forest Service projects were expected to involve the sale of merchantable timber, while no BLM projects were expected to do so. None of the 10 Forest Service projects have been completed. Projects involving the sale of merchantable timber accounted for less than 2 percent of fiscal year 2008 and fiscal year 2009 Title II dollars approved by the agencies (see table 1).

Table 1: Number and Value of Title II Projects Approved Using Fiscal Year 2008 and Fiscal Year 2009 Dollars

(Dollars in millions)

Agency	Number of Title II projects approved	Funding approved for Title II projects	Number of approved projects with merchantable timber	Funding approved for projects with merchantable timber	Number of projects in the pilot program
Forest Service	762	$32.8	10	$0.7	0
BLM	321	14.7	0	0	0
Total	**1,083**	**$47.5**	**10**	**$0.7**	**0**

Source: GAO analysis of Forest Service and BLM data.

Note: Data in table as of December 2009.

The numbers provided by the agencies are largely based on projections about whether individual projects will generate merchantable timber, and some officials stated that it is not possible to determine how much, if any, merchantable timber will result from a project until it is carried out. As a result, some projects identified as involving the sale of merchantable timber may not do so when they are carried out, while other projects identified as not generating merchantable timber may in fact do so when they are carried out—in part because the merchantability of timber depends heavily on timber market conditions, which can fluctuate over time. Because of this uncertainty, and because none of the Forest Service's 10 identified projects with merchantable timber have been completed, it is too early to determine whether the agency will meet the act's percentage requirements for use of the pilot program.

Under the 2000 act, covering Title II funding available for fiscal years 2001 through 2007, the agencies approved 5,441 Title II projects, according to agency data. Of these, 40 projects (23 Forest Service projects and 17 BLM projects) involved the sale of merchantable timber. Only six projects—three by each agency, for a total of 15 percent—were carried out in the pilot program before the act expired in 2007,[11] with all six projects carried out during fiscal years 2002 through 2005. This total was substantially below the percentage requirements of the act, which, as noted, ranged from 15 percent in fiscal year 2001 to 50 percent in fiscal years 2004 through 2007. During fiscal years 2001 through 2007, the Title II projects with merchantable timber accounted for about 1 percent of Title II dollars spent by the agencies (see table 2).

Table 2: Number and Value of Title II Projects Funded with Fiscal Year 2001 through Fiscal Year 2007 Dollars

(Dollars in millions)

Agency	Number of Title II projects	Funding spent on Title II projects	Number of projects with merchantable timber	Funding spent on Title II projects with merchantable timber	Number of projects in the pilot program
Forest Service	4,494	$187.2	23	$1.3	3
BLM	947	60.9	17	1.8	3
Total	**5,441**	**$248.1**	**40**	**$3.2**	**6**

Source: GAO analysis of Forest Service and BLM data.

Note: Totals may not add because of rounding.

In addition to the projects identified by the agencies as involving the sale of merchantable timber, we found 18 additional Forest Service Title II projects that, agency officials told us, do not involve the sale of merchantable timber but that nevertheless include activities associated with timber sales. (Of these projects, 11 were approved under the 2000 act and the remaining 7 were approved under the 2008 reauthorization.) Timber sales generally involve multiple steps on the part of the agency, which may include environmental analysis, marking the boundaries of the sale area and the trees to be cut or left, building and maintaining access roads, and overseeing timber-harvesting activities. In the 18 cases we found, the Title II projects were intended to implement early steps in the timber sale process, including environmental analysis, road survey or reconstruction, and tree marking. Forest Service officials told us that these Title II projects were considered separate from the selling and harvesting portions of the overall timber sale projects and therefore should not be counted among the Title II projects expected to generate merchantable timber or be considered for inclusion in the pilot program—even though they are planned as part of larger efforts that are anticipated to generate merchantable timber.[12]

[11]The 2000 act expired in 2006 but was extended 1 year by Pub. L. No. 110-28, Title V, § 5401(c) (2007).

[12]According to our review of project information, the stated goals of all 18 projects were consistent with the allowable purposes of Title II.

In Describing Experiences, Agencies Cited Varied Reasons to Explain Why They Have Generally Not Used the Pilot Program

Officials from the Forest Service and BLM cited several reasons for not using the pilot program to date and, in some cases, being unlikely to use it in the future. The primary reason, according to officials at both agencies, is that so few of the proposed Title II projects involve the sale of merchantable timber, and few opportunities therefore exist to use the pilot program. Many officials told us that the review process carried out by the resource advisory committees greatly contributes to this state of affairs and that Title II projects recommended by the committees generally do not result in the sale of merchantable timber for three primary reasons, specifically:

- Projects resulting in substantial timber sales are unlikely to be supported by a sufficient number of resource advisory committee members, particularly given the diverse interests they represent.
- Resource advisory committees generally recommend small projects with outcomes consistent with the requirements of Title II, and such projects tend not to have merchantable timber.
- Resource advisory committee members are generally reluctant to recommend projects they believe are likely to be funded by the agency with appropriated funds, such as timber sale appropriations, because they prefer that the limited Title II funds go toward projects that would not otherwise be funded.

Officials' views on the lack of committee-recommended projects involving the sale of merchantable timber are consistent with a 2003 report by the Advisory Committee on Forest Counties Payments,[13] which reviewed 650 Title II projects recommended by various resource advisory committees and found no indication that the committees were favoring projects that harvest merchantable timber.

Many officials also told us that, although some of the projects generate timber that could potentially be merchantable, the timber market is poor and timber prices are low. As a result, much of the timber is not economically feasible to sell. Under better market conditions, however, more of this timber would be considered merchantable, according to officials. Some field officials also told us that because it is not cost-effective to remove material such as small-diameter trees, insect-damaged trees, limbs, tops, or other woody debris, the typical practice is to pile and burn it, leave it in the forest to decay, or, in some cases, cut it into firewood for sale to local citizens.

Even when projects recommended by the resource advisory committees include the sale of merchantable timber, according to agency officials, using separate contracts for harvesting and selling the timber increases the agencies' related costs and reduces

[13]The Advisory Committee on Forest Counties Payments was established under Pub. L. No. 106-291 § 320 (1990) to develop recommendations, consistent with sustainable forestry, regarding methods to ensure that states and counties in which federal lands are situated receive adequate federal payments to be used for the benefit of public education and other public purposes.

the agencies' related revenues. Costs increase because the agency must prepare two separate contracts (one for harvesting the timber and one for selling it), which requires more staff time than preparing just one contract and may also require staff to spend additional time to solicit potential buyers. Revenue is reduced, according to officials, because buyers generally will not pay full market price for logs that are already cut and piled, since the potential buyers cannot know quality of all the logs when only the outermost logs are visible. As a result, potential buyers incorporate this uncertainty into the purchase price and ultimately offer less than what they would have offered if they had cut the logs themselves and were certain of their quality. In addition, according to some agency officials, different log buyers (such as lumber mills), have different log specifications; for example, one buyer may prefer 20-foot logs, while another prefers 16-foot logs. Without knowing the preferences of potential buyers at the time the logs are cut, the contractor harvesting the material may cut it into lengths unsuitable for some potential buyers, thereby reducing the logs' desirability and potential sale price.

Finally, several agency officials stated, when projects do involve the sale of merchantable timber, they often prefer to use stewardship contracts to carry out the work because they are able to accomplish more work with less money by trading goods for services, as allowed by their stewardship contracting authority. In such situations, rather than pay for harvesting and other services (such as thinning) with appropriated funds and then attempt to sell the resulting timber separately, the agency can simply offset the cost of the services with the value of the timber—thereby freeing appropriated funds for other activities.

Concluding Observations

By any measure, the effect of the merchantable timber contracting pilot program on the Forest Service and BLM appears inconsequential. In the more than 9 years since the act's initial passage, the agencies have implemented only six projects under the pilot program, falling short of the percentage floor for projects called for by the 2000 act. Perhaps more significant, however, is the near-absence of any Title II projects containing merchantable timber in the first place. Fewer than 1 Title II project in 100 involved the sale of merchantable timber, meaning that, even had the agencies complied fully with the act's requirements, they would still have completed only a handful of projects under the pilot program. Further, projects involving the sale of merchantable timber represented only about 1 percent of the total funding for Title II projects. In this light, the impact of the agencies' failure to fulfill the act's requirements—and, more broadly, the overall impact of the pilot program itself—appears limited.

Agency Comments and Our Evaluation

We provided a draft of this report to the Forest Service and BLM for their review and comment. In response, we received oral comments from the Forest Service, which concurred with the information presented in our report; BLM stated that it had no comments. Both agencies provided technical corrections, which we incorporated as appropriate.

We are sending copies of this report to the Chief, Forest Service; the Director, Bureau of Land Management; appropriate congressional committees; and other interested parties. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or mittala@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. In addition to the individual named above, Steve Gaty (Assistant Director), Mark Braza, Ellen W. Chu, Charlotte Gamble, Richard P. Johnson, and Michael Krafve made key contributions to this report.

Anu K. Mittal

Director, Natural Resources and Environment

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