

The Secretary's Regulation S-10 (36 C.F.R. 221.10) governs the award of advertised timber. That regulation provides that advertised timber will be awarded to the highest bidder except under certain specific situations, one of which is as follows:

"The award would result in removing or materially lessening opportunities for gainful employment to local labor; or would be against the interests of local users dependent on national forest timber; or would cause the abandonment or prevent the establishment of a local industry which should furnish a desirable permanent market for national forest products."

Regulation S-10 also provides that if the highest bid is not accepted, all bids must either be rejected or the award at the highest bid price be offered to the next highest qualified bidder and so forth until an award is accepted by a bidder or refused by all.

Your memorandum states:

"It has been urged that Regulation S-10 be used to withhold awards from firms who are known to be in the log exporting business in the Puget Sound area. The Forest Service has advised that the Regulation is not applicable in this sort of circumstance because (1) dependency of any specific mill on any specific timber offering in this area is impossible to establish and (2) the export log industry furnishes employment to loggers, transportation workers, and long-shoremen, and supports port facilities which also have a claim for support from the National Forests."

You have asked us for advice as to whether your position is legally sound (Question 5).

The Congress has legislated the purposes for which the National Forests are established and administered, but it has conferred upon the Secretary the authority to make the rules and regulations for the accomplishment of those purposes. United States v. Grimaud, 220 U.S. 506 (1911).