

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
TIMBER SALE POLICIES AND PROCEDURES

- I. **Policy; Purpose.** The Fond du Lac Reservation Business Committee, herein after referred to as the RBC, recognizes the need to manage the forest lands of the Fond du Lac Reservation by approving a forest management plan. Timber sales are a part of managing the forest. This Policy is to establish the methods used to sell timber on **Band-owned trust land, Band-owned fee lands, allotment lands, and Minnesota Chippewa Tribe lands** within the boundaries of the Reservation (collectively referred to as Indian land).
- II. **Authority.** This Policy is adopted in accordance with 25 C.F.R. Part 163, Fond du Lac Ordinance #5/84, Fond du Lac Ordinance #03/90, Fond du Lac Ordinance #12/94, Secretarial Order # 3215, and the La Pointe treaty of 1854.
- III. **Defining of who is eligible.**

1. Definitions

- A. Eligible Tribal Logger- An individual, or group of individuals, each of whom is an Indian Person as defined in Fond du Lac Ordinance #03/90 and for which eligibility is not revoked by the RBC as described in section III 2.
- B. Eligible Joint Venture- A business or group of individuals consisting of one or multiple Indian Persons, as defined in Fond du Lac Ordinance #03/90, and one or multiple individuals who are not Indian Persons, as defined in Fond du Lac Ordinance #03/90, and for which eligibility is not revoked by the RBC as described in section III 2.
- C. Eligible Non-Tribal Logger- Any individual or group of individuals, none of which are Indians as defined in Fond du Lac Ordinance #03/90, that are a certified logger either through the Logger Education Program (MLEP) or through the Forestry Industry Safety & Training Alliance (FISTA), and for which eligibility is not revoked by the RBC as described in section III 2.

2. Revoking of Eligibility

- A. The RBC reserves the right to revoke and reinstate eligibility to Eligible Tribal Loggers, Eligible Joint Ventures, and Eligible Non-Tribal Loggers. Revocations and reinstatements can occur via resolution or vote, and automatically occur in scenarios outlined in III 2 B, and III 2 C.
- B. Eligibility for an Eligible Tribal Logger or an Eligible Joint Venture is automatically revoked by the Fond du Lac Reservation Business Committee when 2 years pass without the Eligible Band Logger or Eligible Joint Venture being certified through MLEP or FISTA. Eligibility is automatically reinstated by the RBC when either FISTA or MLEP certification is obtained, or can be reinstated directly by the RBC exercising the right described in III 2 A.
- C. Eligibility for any logger is automatically revoked by the Fond du Lac Reservation Business Committee when the logger has arrears on stumpage with any reservation in the Midwest region or

public agency. Eligibility is automatically reinstated by the RBC when the stumpage debt is paid off, or can be reinstated directly by the RBC exercising the right described in III 2 A.

IV. **Procedures.**

1. General

- A. The RBC will approve timber sales through a harvest plan or individually by resolution.
- B. Prior to advertisement, FDL Forestry will complete documentation relating to the timber sale described in C.F.R, including records of consultation within FDL's Resources Management Division, records of ownership consent, meeting the requirements of the National Environmental Policy Act, and lists of Eligible Tribal Loggers, Eligible Joint Ventures, and Eligible Non-Tribal Loggers.
- C. In accordance with CFR, all timber sales with stumpage valued at more than \$25,000 will be subject to a 30 day public comment period.
- D. All loggers must obtain and maintain a business license, following Fond du Lac Ordinance #5/84, prior to and for the duration of operating on any timber sale with commercial value.
- E. Timber sale stumpage appraisals will use the current Fond du Lac base rates, developed by the Fond du Lac Forest Manager, adjusted based on timber sale specifications.
- F. If a logger becomes ineligible during a timber sale contract period, the logger may not operate on the timber sale site until eligibility is restored, and if the contract expires while the logger is ineligible, it is in the discretion of FDL Forestry whether to recommend a contract extension.
- G. In compliance with Fond du Lac Ordinance #12/94, Loggers with a contract where the appraised value is greater than or equal to \$1,000 will follow the requirements of Fond du Lac Ordinance #12/94, including following the compliance plan and coordinating with the Fond du Lac TERO officer, at the discretion of the Fond du Lac TERO officer.

2. Advertised Timber Sales

- A. Only Eligible Band Loggers, Eligible Joint Ventures, and Eligible Non-Band Loggers are allowed to operate on advertised timber sales.
- B. Bids must be from an Eligible Band Logger, Eligible Joint Venture, or Eligible Non-Band Logger to be valid.
- C. Advertisement shall take the form of a notification of how to obtain a bid package in a sealed bid auction mailing, or date of initial oral auction at which bid packages will be available.
- D. Bid packages will contain the base prices, approximate locations, estimated product amounts in the

advertised timber sales, and can contain other papers such a Fond du Lac Business License Application as in Fond du Lac Ordinance #5/84, or a compliance plan form that meets the requirements of Fond du Lac Ordinance #12/94.

- E. In accordance with CFR, advertisement periods will be as follows:

Stumpage valued at less than \$50,000	15 days
Stumpage valued at \$50,000 - \$250,000	30 days
Stumpage valued at more than \$250,000	60 days
- F. In accordance with CFR, FDL Forestry reserves the right to reduce the advertisement period to at least 15 days if it is determined by FDL Forestry that there is no advantage to a longer advertisement period, or that there is immediate risk from fire, insects or disease pertinent to the timber sales.
- G. In accordance with CFR, advertisements will be posted in at least one newspaper. Newspapers produced by Fond du Lac will be prioritized.
- H. After the sealed bid auction or initial oral auction, Eligible Joint Ventures will have the option to change their bid any number of times, including the option of matching the highest valid bid, on any individual timber sale for which they submitted a valid bid but were not the highest valid bidder, at a secondary oral auction.
- I. After the secondary oral auction, Eligible Band Loggers will have the option to change their bid any number of times, including the option of matching the highest valid bid, for a timber sale they submitted a valid bid on but were not the highest valid bidder, at a final oral auction.
- J. FDL Forestry reserves the right to reject bids for any reason.
- K. After the final oral auction, the advertised timber sales will be awarded to the highest valid bidder. If multiple valid bids tied for the highest amount, the timber sale will be awarded to one of the tied valid bids from an Eligible Band Logger chosen by FDL Forestry. If none of the tied valid bids were from Eligible Band Loggers, the timber sale will be awarded to one of the tied valid bids from an Eligible Joint Venture chosen by FDL Forestry. If none of the tied valid bids were from either Eligible Band Loggers or Eligible Joint Ventures, the timber sale will be awarded to one of the tied valid bids from an Eligible Non-Band Logger chosen by FDL Forestry.
- L. Once a timber sale is awarded, the bidder will complete the timber sale subject to contract requirements administered by FDL Forestry.
- M. Timber sales that do not receive any valid bids may be re-offered as an advertised timber sale, or re-offered as a negotiated timber sale to Eligible Tribal Loggers, Eligible Joint Ventures, or Eligible Non-Tribal Loggers, following Section 3, with the same or higher base prices in IV 2 D.

3. Negotiated Sales

- A. Negotiated timber sales will be limited to sales that have already been offered as an advertised timber sale, and are being re-offered through following IV 2 M, or small sales with an appraised

stumpage value of less than \$5,000.00, such as personal use firewood, individuals clearing house lots, and special forest products.

- B. In accordance with CFR, negotiated timber sales that follow a paid use permit will not total more than \$5,000 for any individual in any year, and collectively on Fond du Lac Reservation will not total more than \$25,000 in a year.
- C. Negotiated timber sales with commercial value that were never offered as advertised timber sales as described in IV 2, will be operated on, only by Indian Persons as defined in Fond du Lac Ordinance #03/90.

4. Free Use Permits

- A. Indian Persons, as defined in Fond du Lac ordinance #03/90, may harvest up to 10 cords per year per household as free-use from a designated woodlot with a valid permit obtained from FDL Forestry. This does not apply to fuelwood harvested from commercial timber.
- B. Indian Persons, as defined in Fond du Lac ordinance #03/90, may remove dead trees from specified areas after being issued a free-use permits by FDL Forestry to do so.
- C. Indian Persons, as defined in Fond du Lac ordinance #03/90, may obtain free-use permits to gather parts of trees, such as boughs, tepee poles, and other items that Band members and tribal members have the right to collect on ceded lands as outlined in the La Pointe treaty of 1854, on Indian lands within the Fond du Lac Reservation as free-use.
- D. FDL Forestry reserves the right to refuse to issue free-use permits to any individual.

Approved by the Fond du Lac Reservation Business Committee on December 10th, 2019.