

Forestry Development Authority
Regulation No. 111-10
Procedures to Access and Manage Funds on Behalf of Affected Communities
by Community Forestry Development Committees

WHEREAS, the National Forestry Reform Law of 2006 (NFRL) establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic;

WHEREAS, the National Forestry Reform Law of 2006 (NFRL) allocates to counties and local communities a percentage of land rental fees collected from commercial forestry operations contributes to the sustainable management of the Republic's forest estate and helps to ensure that the people most affected by timber extraction also share in its benefits;

WHEREAS, procedures for allocating and distributing financial benefits to counties and local communities must be fully transparent and accountable;

WHEREAS, Chapter 14, Section 14.2(e) and (f) of the NFRL and the National Forest Policy specify that the Forest Development Authority shall allocate and disburse fees to Affected Communities.

WHEREAS, Part Three, Section 32 of Authority Regulation 106-07 requires that thirty percent (30%) of all land rental fees is disbursed through a National Benefit Sharing Trust (Trust) in coordination with the Central Bank and the Ministry of Finance to ensure the people who are affected by concessions in Liberia's forests benefit from those concessions. At its inception, the Trust shall hold in trust, manage, and disburse to Community Forestry Development Committees thirty percent (30%) of the land rental fee earmarked for Affected Communities pursuant to Section 31 of Authority Regulation 106-07.

NOW, THEREFORE, the Forest Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS, PURPOSE

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

Affected Community: a community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be affected by operations carried out under a Forest Resources License. "Interests" for purposes of this definition may be of an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature.

Authority: Forestry Development Authority

Beneficiary: person or persons within the Affected Community who are entitled to benefit from the Benefit Sharing Trust.

Benefit: for purposes of the National Benefit Sharing Trust, a share of the proceeds from land rental fees collected as provided for under the National Forestry Reform Law of 2006.

Cubic Meter Fee: a type of annual financial benefit provided by the Holder under a social agreement. Such fee must equal or exceed US \$1 per cubic meter of Logs harvested annually under the Forest Resources License.

Donor: partner to the Trust Board that funds or delivers development and technical assistance to the Trust.

Forest Resources License: any legal instrument under which the Authority allows a person, subject to specific conditions, to extract Forest Resources or make other productive and sustainable use of Forest Land. FMCs, TSCs and PUPs are types of Forest Resources Licenses.

Holder: any person who holds a valid Forest Resources License under which commercial logging activities are authorized.

Monitoring and Evaluation: the collection of information for use in decision-making and project management. Contemporary monitoring and evaluation (M&E) tracks efforts against intended results, and identifies barriers to implementation, as well as false assumptions. Properly applied monitoring and evaluation builds capacity by creating learning opportunities and promotes continuous improvement.

Safeguards: systems for financial and political accountability, including accounting and reporting, monitoring and evaluation

Trust Board: board of directors of the Trust.

Other terms used in this Regulation have the same meaning as established in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation implements the requirements of the National Forestry Reform Law of 2006 that the Authority establishes a fair and transparent procedure for allocating a designated percentage of land rental fees to counties and to communities entitled to benefit sharing under Forest Resources Licenses.

Section 3. Capitalization

The Trust shall be financed by the following:

- (1) Thirty Percent (30%) of land rental fees received for the benefit of Affected Communities; and
- (2) Grants and donations from donor.

PART TWO: GOVERNANCE OF THE TRUST

Section 4. Remuneration

Pursuant to Section 33(c) of Authority Regulation 106-07, Trust Board members shall not receive any compensation for its services on the Trust Board.

Section 5. Trust Board Institutional Structure

The Trust Board shall be composed of thirteen (13) persons as follows:

- (a) Two (2) Paramount Chief;
- (b) One (1) representative of the Forestry Development Authority (FDA);
- (c) One (1) representative of civil society organizations;
- (d) One (1) logging industry representative;
- (e) One (1) representative of the Ministry of Finance;
- (f) One (1) representative of the Ministry of Internal Affairs;
- (g) Six (6) representatives of the Union of Community Forestry Development Committees, one (1) from each of the three (3) regions recognized by the Union of CFDCs;
- (h) The International donor organizations and the international non-governmental organizations shall both have one representative on the Board. However such representatives shall sever as observers to the proceedings of the Board and therefore in this light cannot be permitted to vote and shall not contribute to the quorum even though they may take active part in any proceeding.
- (i) Two (2) appointed *ex officio* members shall be permitted to sit on the Trust Board. Such members shall not be permitted to vote and shall not contribute to the quorum. Nominations shall be proposed at the first sitting of the Trust Board by the Authority and approved by a two-thirds majority.

Section 6. Election of the Trust Board

- (a) The representatives of the three (3) government institutions shall be found through the seconding of a nominee by their respective institution based on a request for said nomination from the FDA to the respective government institution.
- (b) The Paramount Chief's Representatives: The representative of the paramount chief shall be done in consultation with the National Traditional Council of Liberia with the FDA and the Ministry of Internal Affairs supervising the process. Affected communities in each county shall select one Paramount Chief from among themselves, who will gather with their peers to select from among themselves their representatives to the Board. The selected individuals must reside within an Affected Community during their tenure on the Board.
- (c) Civil Society Organizations's Representative: All Civil Society Organizations on the stakeholder registry set up under Section 19 of this Regulation will be invited to submit nominations for election as Trust Board Members.
- (d) The Union of Community Forestry Development Committees' Representatives: The representative of the Union of Community Forestry Development Committees shall be done in consultation with the leadership of the Union with the FDA and the Civil Society Organizations supervising the process. Two (2) persons from each of the three (3) regions recognized by the Union of CFDCs shall be selected to represent the Union on the Board. The selected individuals must reside within an Affected Community during their tenure on the Board.

Elections or selection for each category of Board Member shall be the responsibility organizations/institutions within said category, however non-voting member of the Board may witness the election procedure and results.

Section 7. Term Limit

Board members shall be elected every three (3) years as herein provided. The terms of the Board Members shall be staggered to ensure that turnover is limited. At the first meeting of the Board, initial terms should be established by lottery, with six (6) members having three (3) year terms and seven (7) members having two (2) year terms. At least three (3) of the members having the three (3) year terms must be representative of the Union of CFDC. Board members shall serve not more than two (2) terms and may serve such terms either consecutively or non-consecutively.

Section 8. Officers of the Trust Board

The Trust Board shall nominate a Chairman, Co-Chairman, Secretary, Treasurer, and such other officers as the Board may deem necessary.

Section 9. Meetings

The Trust Board shall meet at least once every calendar quarter, but the Chairman of the Board may call a special meeting at any time he or she deems necessary. Special meetings may also be called upon written request of any four (4) members of the Board.

Section 10. Quorum

Eight (8) elected board members are required to constitute a quorum, of which one (1) must be a representative of the various government institutions and three (3) must be representative of the Union of CFDC. No decision shall be made by the Board without a quorum. Should the number of board members change, the quorum shall be adjusted to approximately sixty percent (60%) of the elected board.

Section 11. Functions of the Trust Board

The Trust Board shall:

- (a) Hold in trust, manage, and supervise the land rental fee funds received for the benefit of Affected Communities.
- (b) Receive and review applications for funds submitted by Community Forestry Development Committees on behalf of Affected Communities.
- (c) Disburse funds to Community Forestry Development Committees for projects/programs approved for the Affected Communities.
- (d) Track the Land Rental Fees paid by Holders to ensure that the Communities receive their benefits.
- (e) Supervise the Cubic Meter Fees received for the benefit of the Affected Communities.
- (f) Commission an annual independent audit as required by Section 33(e) of Authority Regulation 106-07.

(g) Every three (3) months, with the assistance of the Monitoring and Evaluation Committee, provide a report to all Community Forestry Development Committees detailing the financial status of the Fund. The report shall include the Trust's income and expenditures for that respective quarter.

(h) Provide to the public every six (6) months, a report detailing the activities and financial status of the Trust Board. The report shall include Trust Board decisions, complaints levied against the Trust; Trust Board meeting minutes, income and expenditures, and the independent audit report;

(i) At the written request of a Affected Community may supervise the Cubic Meter Fee established under Section 34 of Authority Regulation 105-07. In its supervisory role, the Trust Board may advise CFDC on receipt and collection of the Cubic Meter Fee and act as repository and forum for complaints issued by Affected Communities on any issue related to Cubic Meter Fees. It may also intervene on behalf of an Affected Community on any issue related to Cubic Meter Fees, based on a written request.

(j) The Trust may be vested with the authority, through any subsequent legal instrument, to manage and serve as the distribution mechanism for new revenue sources that may arise from new forms of benefits, including but not limited to, carbon concessions, payment for ecosystem services, and agricultural concessions.

Section 12. Responsibilities of the Board of Trustees

The Trust Board shall:

(a) Establish a Project Technical Review Committee to thoroughly review Community Forestry Development Committee project proposals for financial feasibility, market acceptance, organizational capacity, and past performance on similar projects.

(b) Develop guidelines and templates to determine, among other things, how Community Forestry Development Committee funding requests are evaluated and how the Trust account will be managed.

(c) Based upon the recommendations of the Project Technical Review Committee, review and endorse project proposals submitted by Community Forestry Development Committees.

(d) Transfer funds from the Trust escrow account to the Community Forestry Development Committee accounts for the implementation of approved projects.

(e) Establish a Monitoring and Evaluation Committee to evaluate project successes, Community Forestry Development Committee reporting, and Trust reporting.

(f) Review and act upon progress reports submitted by the Community Forestry Development Committees based upon the recommendations of the Monitoring and Evaluation Committee.

(g) Receive requests from and, to the best of its ability, provide assistance to, Affected Communities and/or Community Forestry Development Committees that cannot resolve disputes between the Affected Community, a Committee, a Holder, and/or the government.

(h) Serve as an advocate for Affected Communities if new policies are being discussed that might affect the revenues of Affected Communities.

Section 13. Secretariat to the Trust Board

(a) The Trust Board shall establish a Secretariat of not more than two (2) persons to assist the Board perform its functions.

(b) The activities of the Secretariat and any administrative costs of the Trust Board shall be funded annually by not more than five percent (5%) of the Trust principle for each respective year.

PART THREE: FUND DISBURSEMENT PROCEDURE

Section 14. Accrual of Funds

(a) It is possible that funds allocated to a Community Forestry Development Committee are not immediately used. Given that the funds are distributed to the Community Forestry Development Committees on a *pro rata* basis consistent with land rental fees paid for a given Forest Resource License, the funds are considered the property of the Affected Community, and are to be held in trust until such time as the Committee requests the funds.

(b) Community Forestry Development Committees shall be entitled to receive thirty percent (30%) of land rental fees where Holders have paid the entire amount of fees due. If a Holder has failed to pay its land rental fee in full, the Committee is entitled to whatever amount the Holder has paid in any given year.

(c) If the Community Forestry Development Committee represents an Affected Community covering the entire concession, then the Community is entitled to thirty percent (30 %) of the entire land rental fee. However, if the Community Forestry Development Committee represents a Community that covers only part of the concession (when a concession is divided into more than one Committee) then the Affected Community is entitled to thirty percent (30 %) of the land rental fee for that proportion of the contract area under its jurisdiction.

(d) Affected Communities shall not receive any land rental fee where the Holder has not paid any land rental fee payment due.

(e) The Trust Board shall not disburse more than seventy-five percent (75%) of the principal in the first two (2) years of the Trust Fund coming into operation; thereafter, the principal and one hundred percent (100%) of the interest accruing may be applied to finance community projects.

Section 15. Distribution of and Accessing the Benefit

(a) The Holder shall pay its land rental fee to the Ministry of Finance annually.

(b) The Ministry of Finance, in collaboration with the Authority and the Central Bank of Liberia, shall establish an escrow account for purposes of the Trust at the Central Bank.

(c) In conformity with Section 32 of Authority Regulation 106-07, the Authority shall transfer thirty percent (30%) of the money within the land rental fee account on a quarterly basis into the Trust account.

(d) A Community Forestry Development Committee may request disbursement of funds only if the Committee satisfies the requirements of Section 62 of Authority Regulation 105-07.

(e) Community Forestry Development Committees shall submit written project proposals to the Trust Board requesting funds for a specified project. These project proposals shall include the following:

- (1) A detailed description of the need for the project and its beneficiaries (including the specific towns or villages to be benefited);
- (2) A detailed description of how the project will be implemented and the timeframe for completion; and
- (3) A budget that includes the total cost of the project, giving a breakdown of the amount for labor, materials, transportation, etc.

(f) Each Community Forestry Development Committee shall open an account in any recognized local commercial bank.

(g) There shall be three (3) authorized signatories for each Community Forestry Development Committee's bank account:

- (1) First Principal Authorized Signatory;
- (2) Second Principal Authorized Signatory; and
- (3) Third Principal Authorized Signatory.

(h) All withdrawals from the account shall require the authorization of the First and either the Second or the Third Authorized Signatory. A withdrawal authorized by only the Second and Third Authorized Signatories shall not be considered valid, or shall be declared null and void unless the withdrawn was taken with the prior written approval of the Trust Board.

(i) Prior to the award of a project, the Community Forestry Development Committee shall, with input from their Affected Community, draft a Constitution that will ensure transparent and accountable management of funds.

(j) The Community Forestry Development Committee shall submit to the Trust Board a progress report every three (3) months regarding the status and/or completion of the project. The Trust Board, through the Monitoring and Evaluation Committee, may evaluate the progress of and satisfactory completion of a project on an ad-hoc basis.

Section 16. Performance Based Awards

(a) Initial awards shall be based on written project proposals and accompanying budgets. All initial awards are subject to availability of funds for given contract areas.

(b) Any subsequent award to Community Forestry Development Committees shall be performance based and contingent upon satisfactory implementation of any previous award.

(c) In the event that the Trust Board, through an evaluation process undertaken by the Monitoring and Evaluation Committee, identifies inadequate performance of a project, the Trust Board, in consultation with the Community Forestry Development Committee, shall endeavor to solicit training opportunities with a strategic partner to improve the Community Forestry Development Committee's ability to implement its projects. Following receipt of training and upon recommendation of the respective Affected Community and the Monitoring and Evaluation Committee, a Community Forestry Development Committee may submit a new proposal.

Section 17. Debarment

In conformity with Section 33(h) of Authority Regulation 106-07, individuals, companies and other entities debarred from doing business with the Government of Liberia shall not participate in the Trust or its projects. The Trust Board may itself debar individuals, companies or other entities from participation in the Trust or its projects if it can prove failure to avoid malfeasance on the part of the person or entity.

PART FOUR: SAFEGUARDS

Section 18. Transparency and Public Access to Information

(a) The Trust Board, its administration, and related Committees shall operate under an assumption of openness and inclusiveness.

(b) The Trust Board shall make available all proposed regulations, guidelines, and monitoring and evaluation reports for public review and comment. Copies will be available at all district offices and the headquarters of the Authority. Notice of the availability of these documents shall be published in a newspaper of general circulation.

(c) All meetings of the Trust Board shall be open to the public. The Trust Board shall publish announcements of Trust Board meetings in a newspaper or over the radio of general circulation no less than two (2) weeks in advance.

(d) All reports, materials for comment, or notifications of meetings shall be distributed in good time and as cheaply and widely as possible. The Trust Board shall consider the use of an SMS (text) notification system to disseminate relevant information.

Section 19. Registration of Stakeholders

The Trust Board shall maintain a register of stakeholders. The register shall be updated quarterly. Any private or civil society organization in good standing under Liberian law that expresses interest in writing to the Trust Board or its Secretariat shall be inscribed in the register. Registered stakeholders will receive Trust Board mailings.

Section 20. Public Forum

(a) In conjunction with the Authority, the Trust Board shall convene an annual National Forest Forum. This Forum shall be open to the public without restriction, and shall have an open agenda, which shall include, in addition to a formal Board meeting, opportunities for stakeholders to air grievances and share successes and failures. Lessons learned from the monitoring and evaluation process will also be discussed.

(b) Subject to the availability of resources and when possible, the Trust shall support County Forest Forums.

Section 21. Dispute Resolution

The Trust Board will receive requests from and, to the best of its ability, provide assistance to, Affected Communities and/or Community Forestry Development Committees that cannot resolve disputes between the Affected Community, a Community Forestry Development Committee, a Holder, and/or the

government. It will establish binding independent arbitration procedures that it will propose as a regulation in accordance with Section 17.1 of the National Forestry Reform Law of 2006. Such binding procedures will provide a fair and transparent mechanism for the management of disputes within the Trust Fund.

PART FIVE: REPEALS AND EFFECTIVE DATE

Section 22. Repeals

This Regulation repeals no existing regulation.

Section 23. Effective Date

- (a) This regulation is effective on January 10, 2011.
- (b) The Authority shall announce this regulation and make it available to the public and the media.

SIGNED:

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Managing Director
Forest Development Authority