

**B02. Tackling Land Trust
Accreditation Requirements through
the 2018 Requirements Manual**

Friday, October 12 | 1:30 p.m. - 3 p.m.

Room 306

*Session Faculty:
Melissa Kalvestrand*

Rally 2018: The National Land Conservation Conference
Pittsburgh, PA





LAND TRUST 
ACCREDITATION
COMMISSION

An independent program of the Land Trust Alliance

Accreditation Requirements Manual

Excerpt

Full copy available at:

<http://www.landtrustaccreditation.org/help-and-resources/requirements-manual>



Sound Finances
Ethical Conduct
Responsible Governance
Lasting Stewardship

Governance

Indicator Elements

- | | |
|---|---|
| <p>1B2. Establish strategic goals for implementing the mission, and then review and update them, as needed, at least once every five years</p> | <p>3C2. The board meets a minimum of three times per year and maintains adopted minutes of each meeting</p> |
| <p>2B1. Incorporate or organize according to the requirements of state law and maintain legal status</p> | <p>3C3. Provide board members with sufficient and timely informational materials prior to each meeting to make informed decisions</p> |
| <p>2B2. Operate in accordance with established bylaws</p> | <p>4A1. Adopt a written conflict of interest policy that addresses, for all insiders, how conflicts are identified and avoided or managed</p> |
| <p>2C1(b). Do not knowingly engage in prohibited activities, such as private inurement or impermissible private benefit</p> | <p>4A2. Document the disclosure and management of actual and potential conflicts</p> |
| <p>3A3. The board hires, oversees and evaluates, at least annually, the performance of any executive director (or chief staff person)</p> | <p>9G1. Adopt a written records policy that governs how and when organization and transaction records are created, collected, retained, stored and destroyed</p> |
| <p>3B1. Have a board of sufficient size, skills, backgrounds and experience to conduct its work effectively</p> | |
| <p>3B3. Have a board development process that includes procedures for recruiting and training board members</p> | |

Requirements

Organizational Documents ^{2B1, 2B2}

- Land trust:**
 - In existence for at least two years
 - In good standing
- Bylaws include significant operational provisions.

Board Structure and Operations ^{2B2, 3A3, 3B1, 3B3, (also 3A2 in Finance)}

- Board recruitment procedures exist.** Starting in 2019
- New board members trained.**
- Board of sufficient size, skills, backgrounds and experience to conduct its work effectively.
- Land trust generally operates in accordance with its bylaws.
- Board provides sufficient oversight over operations.
- If your land trust has staff, board sufficiently oversees and evaluates performance of the chief staff person.

Board Meetings ^{3C2, 3C3}

- Board meets at least three times per year.**
- Board members provided with sufficient informational materials several days before each meeting to make informed decisions.
- Board meeting minutes sufficiently document board discussion and action.
- Board adopts its meeting minutes. Starting in 2019

Strategic Goals ^{1B2}








- Strategic goals (or plan) established by board.** Starting in 2019
- Strategic goals (or plan) reviewed by board within past five years. Starting in 2019

Conflicts of Interest and Other Policies ^{2C1(b), 4A1, 4A2, 9G1}

- Records policy covers organization, transaction and stewardship** (Starting in 2019) **records?**
(?Related records are also addressed in "Transactions: Recordkeeping" and "Stewardship: Conservation Easement Stewardship Records.")
- Conflict of interest policy:**
 - Applies to all insiders?**
(?Board members; staff (if any); substantial contributors; parties related to board members, staff and substantial contributors; those who have ability to influence the decisions of the land trust; those with access to information not available to the general public.)
 - Addresses how conflicts are identified and avoided or managed**
- Meeting minutes or other records document conflicted party absent for the vote.
- Transactions with insiders appropriately managed so they do not result in private inurement.

Documents

The accreditation application includes pre-application materials, application questions and documentation from land and easement projects, together with the application documents listed below for the Governance group. The Commission uses these documents to verify your land trust meets the requirements above.

-  Signed and dated Board Resolution for accreditation
-  Articles of incorporation (or similar document such as articles of trust, corporate charter)
-  Current bylaws
-  List of board members and board member biographies
-  Statement describing the procedures for a) recruiting board members and b) training new board members
-  For the most recent board meeting, a) dated meeting materials (such as a meeting agenda, minutes of the previous meeting, informational materials for decision items on the agenda) and b) corresponding board-adopted minutes
-  Strategic goals or strategic plan

- ☞ Statement describing a) how the board establishes the strategic goals or strategic plan and b) the date the board last reviewed them
- ☞ Records Policy
- ☞ Conflict of Interest Policy
- ☞ *If the land trust has staff:* Statement describing a) the board’s process for evaluating the performance of the chief staff person and b) the date of the most recent evaluation
- ☞ *If additional documents are requested by the Commission about financial conflicts disclosed in the pre-application:* Evidence that shows how your land trust determined there was no private inurement (such as data supporting the rate of compensation paid [comparable data of hourly or flat rates paid for similar services, competitive bids received in response to a solicitation for services, other market analysis of the going rate for the scope of services provided]; minutes from the board meeting documenting discussion of how the rate was determined; a memo to file documenting that rate research and analysis was conducted)
- ☞ *If additional documents are requested by the Commission about transaction conflicts disclosed in the pre-application:* Evidence that shows how your land trust determined there was no private inurement (such as documenting your land trust followed all its standard transaction policies and procedures, obtaining an independent appraisal for purchases, recording the insider was absent for the vote)
- ☞ *If your land trust has an isolated or rare instance when it was not able to show compliance with the requirements (over accredited term at renewal or most recent at first-time):* Statement and/or related documentation explaining a) that the circumstance was clearly isolated or rare, b) how your land trust typically complies with the requirement and c) the alternative steps your land trust took to mitigate risks associated with the non-compliance

Finance

Indicator Elements

- | | |
|--|---|
| <p>2C1(a). File a complete and accurate annual information return (Form 990 or equivalent) with the Internal Revenue Service</p> | |
| <p>3A2. The board provides oversight of the land trust’s finances and operations by: (a) Reviewing and approving an annual budget, (b) Working to ensure that sufficient financial resources are available, (c) Receiving and reviewing financial reports and statements in a form and with a frequency appropriate for the scale of the land trust's financial activity,</p> | <p>(d) Reviewing the externally prepared financial audit, review or compilation</p> |
| <p>5B2.</p> | <p>Provide timely written acknowledgment of all gifts, including land and conservation easements, in keeping with IRS charitable contribution substantiation requirements</p> |
| <p>5B3.</p> | <p>Maintain financial and other systems to document and comply with any donor restrictions on gifts</p> |
| <p>6A2.</p> | <p>Develop and implement a strategy to address any deficit-spending trends</p> |

- | | |
|--|--|
| <p>6A3. Assess the nature and variability of revenue and seek to diversify funding sources</p> <p>6A4. Build and maintain sufficient operating reserves to sustain operations</p> <p>6A5. Build and maintain dedicated or restricted funds sufficient to cover the long-term costs of stewarding and defending the land trust's land and conservation easements; (a) If funds are insufficient, adopt a plan to secure these funds and a policy committing the funds to this purpose</p> <p>6C1. Obtain an annual financial audit, review or compilation by an independent</p> | <p>certified public accountant or a qualified accounting professional, in a manner appropriate for the scale of the land trust</p> <p>6D1. Establish written internal controls and accounting procedures, including segregation of duties, in a form appropriate for the scale of the land trust, to prevent the misuse or loss of funds</p> <p>6E2. Carry general liability, directors and officers liability, property and other insurance, all as appropriate to the land trust's risk exposure or as required by law</p> |
|--|--|

Requirements

Financial Records and Financial Health ^{2C1(a), 3A2(b), 6A2, 6A3, 6A4, 6C1}

- Annual audited, reviewed or compiled financial statements, obtained at the following level based on total annual support and revenue², include footnotes and disclosures and show unrestricted, board-designated and restricted net assets.**
(²Excludes value of donated properties/easements but includes moneys from grants, from special fundraising, and for the purchase of land and easements.)
 - >\$750,000: Audit by independent CPA
 - \$100,000 - \$750,000: Review by independent CPA
 - <\$100,000: Compilation by CPA; if not using a CPA, the compilation must be prepared by an independent qualified accountant
- Audit does not have "Going Concern" statement.
- Appropriate action taken to address any recommendations for significant changes to financial procedures listed in the management letter or correspondence that accompanied the most recent audit, review or compilation.
- Form 990 substantially complete and accurate.** (Such as financial statements generally reconcile with audit, review or compilation; fundraising, management and general and program service expenses segregated; insider transactions and/or family or business relationships between board members appropriately reported; relevant schedules completed.)
- Public support test met**, unless a quasi-governmental entity.
- Operating surplus² exists at the end of last fiscal year, unless statement from board officer sufficiently explains reason for deficit.**
(²Unrestricted net assets, excluding land, property and equipment, show an increase at end of fiscal year.)
- Substantial spending deficits not a trend.
- A concentrated or sole source of funding not overly relied on.

- Operating reserves⁷ at the end of last fiscal year sufficiently cover three months of operating expenses, unless there is a specific board evaluation of operating reserve needs and a feasible plan to address the needs.** Starting in 2019

(⁷Unrestricted net assets at end of fiscal year, excluding land, property and equipment but including any restricted net assets or board-designated funds specified for an operating reserve.)

- Debt or lease payment obligations generally can be met.

Board Oversight ^{3A2}

- Board approves annual budget.** Starting in 2019
- Board reviews annual audit, review or compilation.**
- Board reviews periodic financial reports that include the following:**
 - Unrestricted, board-designated and restricted net assets** Starting in 2019
 - Actual unrestricted and restricted revenue and expenses for the reporting period as compared to budget** Starting in 2019
- Board works to ensure sufficient financial resources are available.

Gift Acknowledgement and Donor Restrictions ^{5B2, 5B3}

- Gift acknowledgement letter for any gift⁷ greater than \$250 provided contemporaneous to the gift.**
(⁷Cash, land or conservation easements, even if donor indicates deduction may not be taken.)
- Gift acknowledgement letters include the following:**
 - Description of the gift
 - Statement that no goods or services were provided and/or a good faith estimate of the value of any goods and services provided
- Business process system exists for determining restrictions on gifts/grants and for tracking receipt, use and acknowledgement of restricted gifts/grants.**
- Gifts/grants solicited using the term “endowment” or solicited for other specific purposes are donor restricted in accordance with the solicitation materials.**
- Donor-restricted moneys are appropriately tracked and used.

Internal Controls ^{6D1}

- Internal control questions and supporting documentation complete.** Starting in 2019
- Internal control certification complete.** Starting in 2019
- Internal controls address risk of misuse, loss or misstatement of funds.
- Action taken to address significant internal control concerns.

Stewardship and Defense Funding ^{6A5}

- Has at least \$3,500 per conservation easement in board-designated or restricted stewardship funding.** If a first-time applicant does not have the full amount, a feasible plan with specific funding targets and timelines exists so that the land trust will have the full amount before its first renewal.
- Has sufficient financial resources to cover conservation property stewardship.

- ❑ **Has amount specified by the [Legal Defense Reserves Calculator](#) in board-designated or restricted defense funding?** If an applicant does not have the full amount, it has at least half of the required funds, and a feasible plan with specific funding targets and timelines exists so that the land trust will have the full amount before its next renewal.
(?Stewardship and defense moneys can be co-mingled, but the total required is the sum of the stewardship and defense amounts.)

Insurance ^{6E2}

- ❑ **Board or delegated entity evaluates insurance needs at least every five years to determine risk exposure and needs for the following:** Starting in 2019
 - **Directors and officers liability insurance**
 - **Property insurance**
 - **Insurance required by law** (Such as workers' compensation insurance.)
- ❑ **General liability insurance policy exists.** Starting in 2019
- ❑ **General liability insurance covers significant risks.** Starting in 2019

Documents

The accreditation application includes pre-application materials, application questions and documentation from land and easement projects, together with the application documents listed below for the Finance group. The Commission uses these documents to verify your land trust meets the requirements above.

- 📄 Most recent Form 990 (or Form 990-EZ or Form 990-N)
- 📄 Audited, reviewed or compiled financial statements for last three fiscal years at the level in the requirements
 - a) *If a first-time applicant did not complete an audit, review or compilation for all three years:* A balance sheet that shows unrestricted, board-designated and restricted net assets and statement of activities for each missing year
- 📄 Management letter or correspondence that accompanied the most recent audit, review or compilation
 - a) *If the management letter or correspondence indicates significant changes should be made to your land trust's financial procedures:* Statement describing the actions taken to address the recommended changes
- 📄 Budget for current fiscal year
- 📄 Most recent financial reports provided to the board, showing unrestricted, board designated and restricted net assets (such as a statement of financial position or balance sheet) and showing actual unrestricted and restricted revenue and expenses for the reporting period as compared to budget (such as a statement of activities or budget-to-actual report)
- 📄 Minutes from the following board meetings:
 - a) When the budget submitted above was approved

- b) When the financial reports submitted above were discussed
- c) When the results of the most recent audit, review or compilation were presented
- ☰ Documentation of the business process system your land trust follows when a) soliciting and accepting restricted gifts/grants, b) determining restrictions on gifts/grants, c) documenting donor restrictions and d) tracking receipt of and expenditures from restricted gifts/grants to comply with donor restrictions (such as policies/procedures for determining donor restrictions or whether an expense can be applied against a gift/grant, sections from your land trust's accounting manual)
- ☰ The a) solicitation and b) signed acknowledgement for a recent stewardship or defense gift/grant
- ☰ The a) solicitation and b) signed acknowledgement for a recent restricted gift/grant (such as a property acquisition, special project, capital campaign)
- ☰ Response to the following risk and control questions:
 - a) What are your land trust's greatest risks related to misuse of funds (theft, fraud, misappropriation)?
Attach or describe your corresponding internal controls or accounting procedures that prevent and/or detect misuse of funds
 - b) What are your land trust's greatest risks related to misstatement of funds (errors in reporting or presentation of financial statements)?
Attach or describe your corresponding internal controls or accounting procedures that prevent and/or detect misstatement of funds
 - c) What are your land trust's greatest risks related to making sure board-designated and donor-restricted funds are used appropriately?
Unless submitted above: Attach or describe your corresponding internal controls or accounting procedures that prevent and/or detect diversion or depletion of board-designated or donor-restricted funds for other uses
 - d) How do your land trust's internal controls or accounting procedures manage risks associated with the payment of expenses for individuals who have access to checkbooks, bank accounts or investment accounts?
 - e) *If your land trust has staff:* How does the board manage risks associated with setting compensation for its chief staff person?
- ☰ Completed internal control certification
- ☰ Certificate of general liability insurance or equivalent documentation (such as premium summary, declarations page, other summary page)
- ☰ Dated evaluation of insurance needs by board or delegated entity (such as board or committee meeting minutes, analysis of insurance needs by delegated staff member, recommendations from insurance provider given to the board)
- ☰ *If your land trust expended more than \$750,000 in federal dollars and obtained a "Single Audit" for any of the following fiscal years (over accredited term at renewal, within past three years at first-time):* Schedule of Findings from most recent federal "Single Audit"

- a) *If the findings indicate significant changes should be made to your land trust's financial procedures:* Statement describing actions taken to address the recommended changes
- ☞ *If your land trust did not have an operating surplus at the end of the last fiscal year:* Statement from a board officer explaining the reason for the deficit
 - ☞ *If your land trust did not have operating reserves to cover three months of operating expenses at the end of the last fiscal year:* Report from the board of its evaluation of operating reserve needs and its plan to address the needs (such as a plan that includes specific funding targets and specific strategies with timelines to meet the funding targets, a board report detailing other funds held by or on behalf of your land trust that serve as operating reserves)
 - ☞ *If your land trust does not have the full amount of required stewardship (at first-time only) or defense funds (at renewal or first-time):* Stewardship and/or defense funding plan (such as a plan that includes specific funding targets, specific strategies with timelines to meet the funding targets by the time of renewal and a description of any new policies or procedures that will be implemented to carry out the plan)
 - ☞ *If the board-designated and restricted net asset classifications in the audit, review or compilation do not reconcile with the classifications on the Schedule of Dedicated and Restricted Funds (SDRF):* Annotated balance sheet or written explanation reconciling the SDRF with the financial statements
 - ☞ *If your land trust has an isolated or rare instance when it was not able to show compliance with the requirements (over accredited term at renewal or most recent at first-time):* Statement and/or related documentation explaining a) that the circumstance was clearly isolated or rare, b) how your land trust typically complies with the requirement and c) the alternative steps your land trust took to mitigate risks associated with the non-compliance

Transactions

Indicator Elements

For all conservation land or conservation easement transactions:

- 1A3.** Do not knowingly participate in transactions that are potentially fraudulent or abusive
- 3D1.** The board reviews and approves every land and conservation easement transaction; (a) However, the board may delegate decision-making authority on transactions if: (i) It establishes written policies or has bylaws provisions that define the limits to the authority given to the delegated entity and (ii) The

- delegated entity provides timely notification in writing to the full board of any completed transactions
- 8B2.** Develop and apply written project-selection criteria that are consistent with the land trust's conservation priorities
- 8C1.** Visually inspect properties before buying or accepting donations of conservation land or conservation easements to determine and document whether: (a) There are important conservation values on the property, (b) The project meets the land trust's project-selection criteria

- 9F1.** Prior to closing and preferably early in the process, have a title company or attorney investigate title for each property or conservation easement the land trust intends to acquire
- 9F1(a).** Update the title at or just prior to closing
- 9F2.** Evaluate the title exceptions and document how the land trust addressed mortgages, liens, severed mineral rights and other encumbrances prior to closing so that they will not result in extinguishment of the conservation easement or significantly undermine the property's important conservation values
- 9F3.** Promptly record land and conservation easement transaction documents at the appropriate records office
- 9G2.** Keep originals of all documents essential to the defense of each real property transaction in a secure manner and protected from damage or loss
- 9G3.** Create and keep copies of these documents in a manner such that both

- originals and copies are not destroyed in a single calamity
- 9H1.** When buying land, conservation easements or other real property interests, obtain an independent appraisal by a qualified appraiser in advance of closing to support the purchase price; (a) However, a letter of opinion from a qualified real estate professional may be obtained in the limited circumstances when: (i) A property has a very low economic value, (ii) A full appraisal is not feasible before a public auction, (iii) Or the amount paid is significantly below market value
- 9H2.** In limited circumstances where acquiring land, conservation easements or other real property interests above the appraised value is warranted, contemporaneously document: (a) The justification for the purchase price, (b) That there is no private inurement or impermissible private benefit

In addition, if a tax-deductible transaction:

- 9E2.** Review, on the land trust's own behalf, each potentially tax-deductible conservation easement for consistency with the Treasury Department regulations (U.S.C. §1.170A-14), especially the conservation purposes test of IRC §170(h)
- 10A1.** Inform potential land or conservation easement donors who may claim a federal or state income tax deduction (or state tax credit), in writing and early in project discussions, that: (a) The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements, (b) The donor is responsible for any determination of the value of the donation, (c) The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at

- more than \$5,000, (d) Prior to making the decision to sign the IRS Form 8283, the land trust will request a copy of the completed appraisal, (e) The land trust is not providing individualized legal or tax advice
- 10B2.** Sign the Form 8283 only if the information in Section B, Part I, "Information on Donated Property," is complete and is an accurate representation of the gift; (a) Refuse to sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described
- 10C2.** Evaluate the Form 8283 and any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal
- 10C3.** Discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such

- as: (a) Documenting that the land trust has shared those concerns with the donor, (b) Seeking additional substantiation of value, (c) Withdrawing from the transaction prior to closing, (d) Or refusing to sign the Form 8283
- 10C4.** When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS: (a) Require a copy of the appraisal prior to closing, (b) Decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory

In addition, if a conservation easement:

- 9D2.** If a conservation easement contains restrictions or permitted rights that are specific to certain zones or areas within the property, include the locations of these areas in the easement document so that they can be identified in the field
- 9E1.** For every conservation easement, (a) Individually tailor it to the specific property, (b) Identify the conservation values being protected, (c) Allow only uses and permitted rights that are not inconsistent with the conservation purposes and that will not significantly impair the protected conservation values (d) Avoid restrictions and permitted rights that the land trust cannot monitor and enforce, (e) Include all necessary and appropriate provisions to ensure it is legally enforceable
- 11B1.** For each conservation easement, have a baseline documentation report, with written descriptions, maps and photographs, that documents: (a) The conservation values protected by the easement, (b) The relevant conditions of the property as necessary to monitor and enforce the easement
- 11B2.** Prepare the report prior to closing and have it signed by the landowner and land trust at or prior to closing; (a) In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, the landowner and land trust sign a schedule for finalizing the full report and an acknowledgement of interim data [that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)] at closing

Requirements

Project Due Diligence ^{8B2, 8C1, 9F1, 9F1(a), 9F2, 9F3, 9H1, 9H2}

- Project-selection criteria exist.**
- Approved projects generally consistent with project-selection criteria.
- Visual inspection to document the property's conservation values completed before closing.** Starting in 2019
- Title investigation by title company or attorney identifies ownership and encumbrances[?] for each project.**
([?]Includes mortgages, severed mineral rights, severed water rights, tax liens or judgments, easements, use agreements, covenants or other restrictions. If mineral rights are excluded from the title investigation, then a risk analysis of the potentially severed mineral rights.)
- Title investigation updated by title company or attorney generally within 30 days of closing.

- ❑ Encumbrances or severed mineral rights shown in the title investigation appropriately addressed so they will not result in extinguishment of the conservation easement or significantly undermine the conservation values. (Such as a mortgage subordination recorded before or contemporaneous to the conservation easement; mortgage discharge before closing; mineral remoteness report; water rights due diligence report; memo to file with analysis of how substantial access easements or rights-of-way could impact project.)
- ❑ **Independent appraisal² by qualified appraiser obtained prior to closing for each purchase or bargain-sale purchase.** If the property has a very low economic value, a full appraisal is not feasible before a public auction, or the amount paid is significantly below market value, a letter of opinion from a qualified real estate professional can be obtained instead of an independent appraisal.
(²The following are *not* independent appraisals: landowner's appraisal [unless the land trust is listed as an intended user]; appraisal for an adjacent property; tax assessment; summary of comparable sales by individuals other than qualified appraisers.)
- ❑ If purchased above appraised value, documentation appropriately justifies the purchase price and confirms there was no private inurement or impermissible private benefit.

Project Review and Approval ^{3D1, (also 3C3 in Governance)}

- ❑ **Board or delegated entity reviews each project.**
- ❑ **Board or delegated entity receives sufficient materials describing the project in advance of the decision-making meeting.** (Such as project location, project size, analysis of how the project meets the project-selection criteria, number/type of reserved rights retained.)
- ❑ **Board or delegated entity approves each project.**
- ❑ If project significantly changes after approval, then notice of change provided to board or delegated entity before closing. (Such as significant changes in size, restrictions, number/type of reserved rights.)
- ❑ **If decision-making authority delegated, delegation policy or bylaws provisions define limits given to delegated entity.** (Such as requiring full board approval if a conflicted party is involved, requiring committee review before a final decision is made.)
- ❑ If decision-making authority delegated, timely notification of completed transactions provided to the board.

Conservation Easement and Fee Title Deeds ^{9D2, 9E1, 9E2, 9F3}

- ❑ **Conservation easements are perpetual and include the following:**
 - **Name of grantor and grantee**
 - **Legal description**
 - **Identification of protected conservation values**
 - **Locations of specific zones or areas, if restrictions or permitted rights are specific to such areas** (Such as building envelopes, building exclusion zones)
 - **Control over future exercise of significant reserved rights, including designation of when grantee review or approval is required and how review or approval is obtained**
 - **Right of entry that does not unduly limit access to monitor**

- **Right to enforce and to take immediate action**
- **Extinguishment and proceeds provisions**
- **Baseline documentation report reference**
- Tax-deductible conservation easements also include the following consistent with the Treasury Regulations:
 - Identification of conservation purposes
 - Prohibition on surface mining
 - Limitation on assignment
- Permitted rights in conservation easements:
 - Are generally consistent with conservation purposes
 - Do not significantly impair protected conservation values
 - Are not so broad that they negate other conservation easement provisions
- Restrictions and permitted rights generally can be monitored or enforced.
- Conservation easements and fee title deeds submitted for recording generally within a week after the final signature(s). Starting in 2019

Baseline Documentation Reports ^{11B1, 11B2}

- **Every conservation easement has a baseline documentation report (or current conditions report) that includes the following:**
 - **Date of completion**
 - **Written descriptions, maps and photographs that document the following:**
 - **Protected conservation values**
 - **Relevant conditions of the property as necessary to monitor and enforce the conservation easement**
 - **Acknowledgement attesting to the accuracy of the report signed by the following:**
 - **Land trust**
 - **Landowner**, for all easements completed in 2004 or later (or documented attempt to obtain signature)

If a first-time applicant has a baseline documentation report (or current conditions report) for each conservation easement but one or more are missing some of the required content above, a feasible plan with strategies and timelines to upgrade them before its first renewal exists.

- **Baseline documentation reports are complete and signed by the land trust and landowner at or before closing.** If seasonal conditions prevent this, interim data and a schedule for finalizing the full report are signed by the land trust and landowner at or before closing.
- Baseline documentation reports are distinct documents that represent the property's condition at a point in time.

Tax Deduction ^{1A3, 9E2, 10A1, 10B2, 10C2, 10C3, 10C4}

- **Written notification to potential land or conservation easement donors includes the following:**

- **The project must meet the requirements of Internal Revenue Code §170 and the accompanying Treasury Department regulations and any other federal or state requirements**
- **The donor is required to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000**
- **The land trust will request a copy of the completed appraisal**
- ☐ Notification of tax code requirements provided to potential donors before closing.
- ☐ Individualized legal or tax advice not provided.
- ☐ Land trust evaluates the Form 8283 and landowner's appraisal (as detailed below) and documents show the following:
 - Did not knowingly participate in potentially fraudulent or abusive transactions
 - Involved legal counsel as appropriate, especially in potentially fraudulent or abusive transactions
 - Took appropriate action to resolve substantial concerns² with the appraisal, appraised value or other terms of the transaction (Such as documenting concerns were shared with the donor, seeking additional substantiation of value, withdrawing from the transaction prior to closing, refusing to sign the Form 8283.)
(²If the appraised value does not appear defensible in light of the land trust's knowledge of local land values; the appraisal contains unjustified extraordinary assumptions; the appraised value is significantly in excess of the donor's cost or adjusted basis [if recent].)
 - Signed the Form 8283 only when a gift was received
- ☐ Form 8283 includes the following:
 - Name of landowner(s) that matches landowner(s) in title investigation
 - Gift description
 - Fair market value of donation that matches appraised value
 - Amount received in a bargain sale, if any
 - Donor's cost or adjusted basis Starting in 2019
 - Date of gift²
(²For conservation easements, year of gift needs to match year conservation easement recorded.)
- ☐ Landowner's qualified appraisal includes the following:
 - Property description for the gift that was donated
 - Effective date not substantially more than 60 days before the donation
 - Value for the entire contiguous parcel, if clearly applies
 - Consideration of enhancement, if clearly applies
- ☐ If the land trust pays for the landowner's appraisal, payment to landowner appropriately acknowledged. (Such as on the Form 8283, gift acknowledgement letter, other tax forms.)
- ☐ **The land trust follows the then current [Land Trust Alliance Tax Shelter Advisory](#), including the following:**
 - **Comprehensive due diligence and analysis of transactions with pass-through entities of unrelated parties (particularly those offered or assembled by a third-party) conducted before closing to determine if a transaction meets the terms of the Advisory or is otherwise potentially fraudulent or abusive**
 - **Does not participate in a transaction with a pass-through entity of unrelated parties when a) the appraisal indicates an increase in value of more than 2.5 times the basis**



in the property within 36 months of the pass-through entity's acquisition of the property and b) the value of the donation is \$1 million or greater

Recordkeeping 9G2, 9G3, (also 11F3 in Stewardship)

- Originals of the following records are retained, kept generally secure and protected from damage or loss:
 - Legal agreements, deeds, conservation easements, amendments
 - Critical correspondence, including those related to project goals, tax and legal matters, enforcement, other matters essential to the project
 - Baseline documentation reports
 - Title insurance policies or evidence of title investigation
 - Surveys, if any
 - Appraisals used to substantiate the purchase price or used by the landowner to substantiate the value on the Form 8283
 - Forms 8283
 - Conservation easement monitoring reports
 - Fee property inspection reports
 - Contracts and leases in effect for long-term land management activities
 - Conservation easement stewardship records, including substantive notices, approvals, denials, interpretations, exercise of significant permitted rights Starting in 2019
- Copies retained of the following records:
 - Critical correspondence (see above)
 - Baseline documentation reports
 - Title insurance policies, if any
 - Unrecorded surveys, if any
- Originals and copies are stored in locations that could not be destroyed in a single calamity.
- Copies are replicas of signed originals.

Documents

The accreditation application includes pre-application materials, application questions and documentation from land and easement projects, together with the application documents listed below for the Transactions group. The Commission uses these documents to verify your land trust meets the requirements above.

-  Project selection criteria
-  Statement describing your land trust's recordkeeping practices including:
 - a) How originals (paper or electronic) are kept in a secure manner (such as in a locked cabinet with limited access, archive facility with permission needed for access)
 - b) How originals (paper or electronic) are protected from damage or loss (such as fireproof safe, bank vault, archive facility with sprinklers)

c) How originals and copies are stored in a way so both are not destroyed in a single calamity (such as paper originals and duplicates being stored in separate locations, electronic duplicates being backed up on a remote server or the cloud)

- ☞ *If the full board does not approve each land and conservation easement transaction:* Documentation of transaction approval delegation (such as Delegation of Transaction Approval Policy or bylaws provisions)
- ☞ *If your land trust has purchased land or a conservation easement (over accredited term at renewal or over last five years at first-time):*
 - a) Independent appraisal (or letter of opinion) used to substantiate the purchase price
 - b) Purchase price documentation (such as purchase and sale agreement, engagement letter, closing statement)
- ☞ *If your land trust paid above appraised value for land or an easement (over accredited term at renewal or over last five years at first-time):*
 - a) Evidence justifying the purchase price
 - b) Documentation that there was no private inurement or impermissible private benefit (such as contemporaneous trend data for market appreciation, range of value of similar purchases, market factors not covered in the appraisal)
- ☞ *If your land trust uses a standard conservation easement template:* Conservation easement template
- ☞ *If your land trust completed projects where a landowner took a tax deduction (over accredited term at renewal or over last five years at first-time):* Template for written donor notification of tax code requirements (or most recent example)
- ☞ *If your land trust's baseline documentation reports do not contain the required contents (at first-time only):* Plan for updating baseline documentation reports to meet requirements (such as a plan that includes a summary of which baseline documentation reports need updates, specific timeline for the updates so they are complete by the time of first renewal, description of how your land trust will carry out the plan)
- ☞ *If your land trust does not have the landowner's appraisal to upload with the project documentation requested by the Commission:* Documentation that your land trust requested the appraisal and a statement explaining how your land trust confirmed it did not have concerns about the appraised value when signing the Form 8283
- ☞ *If your land trust has an isolated or rare instance when it was not able to show compliance with the requirements (over accredited term at renewal or most recent at first-time):* Statement and/or related documentation explaining a) that the circumstance was clearly isolated or rare, b) how your land trust typically complies with the requirement and c) the alternative steps your land trust took to mitigate risks associated with the non-compliance

Stewardship

Indicator Elements

- 11B3.** When there are significant changes to the land or the conservation easement (such as a result of an amendment or the exercise of a permitted right), document those changes in an appropriate manner, such as through monitoring reports, a baseline supplement or current conditions report
- 11C2.** Monitor each conservation easement property at least once per calendar year; (a) If the land trust uses aerial monitoring, conduct on-the-ground monitoring at least once every five years, (b) Promptly document the annual monitoring activities for each conservation easement
- 11E1.** Adopt a written policy and develop written procedures for documenting and responding to potential conservation easement violations
- 11E2.** Investigate potential violations in a timely manner and promptly document all actions taken
- 11F3.** Maintain a permanent record of all notices, approvals, denials, interpretations, and the exercise of any significant permitted rights
- 11H1.** Adopt and follow a written policy or procedure addressing conservation easement amendments that is consistent with the Land Trust Alliance Amendment Principles
- 11J1.** In the rare case that it is necessary to extinguish a conservation easement, in whole or in part, (a) Follow the terms of the conservation easement with respect to taking appropriate action and obtain judicial or regulatory review when required by law or specified in the easement deed, (b) Ensure there is no private inurement or impermissible private benefit, (c) Take steps to avoid or mitigate harm to conservation values and/or use any proceeds in a manner consistent with the conservation easement deed, (d) Consider the land trust's actions in the context of its reputation and the impact on the land conservation community at large
- 12B1.** Develop a written land management plan for each conservation property within 12 months after acquiring the land to: (a) Identify the property's conservation values, including any significant cultural and natural features or those that have significant community value, (b) Identify the overall management goals for the property, (c) Identify activities to achieve the goals and to reduce any risks or threats to the conservation values, (d) Specify the uses that are appropriate for the property, in keeping with the property's conservation values, any restrictions and donor or funder requirements
- 12C2.** Inspect properties at least once per calendar year for potential management problems and promptly document the inspection
- 12C3.** Address management problems, including encroachments, trespass and other ownership challenges, in an appropriate and timely manner and document the actions taken

Requirements

Conservation Easement Monitoring and Conservation Property

Inspections ^{11C2, 12C2}

- Each conservation easement monitored once per calendar year. (Monitoring shown over accredited term at renewal; shown over last three years at first-time.)
- Each conservation property inspected once per calendar year. (Inspections shown over accredited term at renewal; shown over last three years at first-time. Starting in 2021 for first-time)
- Monitoring or inspection reports include the following: Starting in 2020 for fee inspection reports
 - Inspection date
 - Property inspected
 - Name of inspector
 - Observations related to property's condition and conservation values
 - Observations related to any potential conservation easement violations or conservation property ownership challenges
- Monitoring or inspection reports completed promptly after monitoring or inspection event.
- Monitoring or inspection methodology sufficient to identify conservation easement violations or conservation property ownership challenges.
- If aerially monitoring conservation easements, on-the-ground monitoring occurs at least once every five years.

Conservation Property Management Plans ^{12B1}

- Every conservation property has a management plan that includes the following:
 - Identification of conservation values
 - Management goals
 - Activities to achieve management goalsIf a first-time applicant has a management plan for each conservation property but one or more are missing some of the required content above, a feasible plan with strategies and timelines to upgrade the plans before its first renewal exists.
- Management plan does not allow uses that adversely impact the conservation values and/or violate restrictions on the property.
- Management plans generally completed within 12 months of acquisition.
- Management plans generally updated within 12 months of new parcels being added to the property. (Such as with updated maps, new property information.)
- Management plans generally updated after significant changes to the conservation values or natural features. (Such as after wildfires, hurricanes.)

Conservation Easement Enforcement and Amendment Policies ^{11E1, 11H1}

- Violation policy and/or procedures exist.
- Amendment policy and/or procedures:
 - Require amendments to have a net beneficial or neutral effect on the protected conservation values
 - Prohibit impermissible private benefit and private inurement

Conservation Easement Amendments and Extinguishments ^{11H1, 11J1}

- ❑ Amendments generally consistent with the [Land Trust Alliance Amendment Principles](#), including the following:
 - Having a net beneficial or neutral effect on the protected conservation values
 - Not resulting in private inurement or impermissible private benefit
- ❑ Extinguishment actions are documented to show:
 - Followed conservation easement terms with respect to obtaining judicial or regulatory review (or obtained written legal counsel determination why judicial or regulatory review not needed)
 - Did not result in private inurement or impermissible private benefit
 - Took steps to avoid or mitigate harm to conservation values
 - Used any proceeds appropriately
 - Did not put land trust's or land trust community's reputation in jeopardy
- ❑ Board informed or involved as appropriate to scale of amendment or extinguishment.
- ❑ If co-held, co-holder involved in amendment or extinguishment according to terms of conservation easement or other agreement.

Conservation Easement Enforcement and Conservation Property Ownership Challenges ^{11E2, 12C3}

- ❑ Enforcement action or actions taken to address ownership challenges are documented to show:
 - Were timely
 - Were consistent with conservation values and/or restrictions
 - Did not result in private inurement or impermissible private benefit
- ❑ Board informed or involved in resolution as appropriate to scale of violation or ownership challenge.
- ❑ If co-held, co-holder involved according to terms of conservation easement, deed or other agreement.

Conservation Easement Stewardship Records ^{11B3, 11F3}

- ❑ **Significant changes to the land** (such as resulting from natural disaster or exercise of a permitted right) **or changes to the conservation easement** (such as resulting from an amendment) **sufficiently documented**. (Such as with documentation that includes the date, written descriptions and photographs and/or maps.) ^{Starting in 2019}
- ❑ Substantive notices, approvals, denials, interpretations and the exercise of significant permitted rights sufficiently documented. ^{Starting in 2019}
- ❑ Approved activities consistent with conservation easement purposes and terms.
- ❑ Approved activities do not result in private inurement or impermissible private benefit.

Documents

The accreditation application includes pre-application materials, application questions and documentation from land and easement projects, together with the application documents listed below for the Stewardship group. The Commission uses these documents to verify your land trust meets the requirements above.

- 📄 Conservation Easement Violation Policy and/or Procedures
- 📄 Conservation Easement Amendment Policy and/or Procedures
- 📄 Documentation of a recent example of a record of substantive notice, approval, denial, interpretation or exercise of significant permitted right
- 📄 Documentation of a recent example of how your land trust documented a significant change to the land (such as resulting from natural disaster or exercise of a permitted right) or change to the conservation easement (such as resulting from an amendment) (such as a monitoring report, baseline supplement or current conditions report)
- 📄 *If your land trust's management plans do not contain the required contents (at first-time only):* Plan for updating management plans to meet requirements (such as a plan that includes a summary of which management plans need updates, specific timeline for the updates so they are complete by the time of first renewal, description of how your land trust will carry out the plan)
- 📄 *If additional documents are requested by the Commission about amendments and/or extinguishments disclosed in the pre-application:*
 - a) Before and after version of the conservation easement deed
 - b) Materials provided to board (or delegated entity) in advance of meeting to approve action
 - c) Record of the approval
 - d) Documentation used to determine there was no private inurement or impermissible private benefit (such as appraisal, letter of opinion from qualified real estate professional, correspondence with legal counsel, memo to file)
 - e) *For extinguishments only:* Evidence of action regarding obtaining judicial or regulatory review (or legal determination that judicial or regulatory review not needed), taking steps to avoid/mitigate harm to conservation values and using proceeds appropriately.
- 📄 *If additional documents are requested by the Commission about conservation easement violations and/or property ownership challenges disclosed in the pre-application:* Evidence of how the issue was discovered, documented, reviewed and resolved (such as monitoring/inspection report, minutes of board or committee meetings, internal memos, communications with landowners)
- 📄 *If your land trust has an isolated or rare instance when it was not able to show compliance with the requirements (over accredited term at renewal or most recent at first-time):* Statement and/or related documentation explaining a) that the circumstance was clearly isolated or rare, b) how your land trust typically complies with the requirement and c) the alternative steps your land trust took to mitigate risks associated with the non-compliance