

Land Trust 
Accreditation Commission
An independent program of the Land Trust Alliance

**Frequently Asked Questions about Accreditation
and Accepting Fee Land or Conservation Easement Projects from Another Land Trust
and the Corporate Combination of Land Trusts**

This document describes what the Land Trust Accreditation Commission will review when evaluating land trusts that have accepted assets from and/or experienced a corporate combination (such as a merger) with other organizations. We expect this document will be refined as the Commission and the land trust community gain more experience with these issues. If you have questions or comments about the information in this document, please contact us.

Q: My organization is considering accepting, or has accepted, fee land or conservation easements that were initially acquired by another conservation organization. What kind of documents will the Commission look for with respect to these projects?

A: The Commission appreciates the land trust community's efforts to ensure that every conserved fee property and conservation easement has an active and responsible organization to steward it. We know that projects done by another organization and eventually accepted by your land trust may not have been completed the same way your group would have done them. The focus of the Commission's review is on the due diligence and risk assessment performed by your organization before it accepted these projects and your documentation for and ability to steward and defend these fee and easement properties.

If a land trust accepts fee or easements properties from another organization (accepted projects) before it applies for accreditation, the Commission would generally expect the land trust to be compliant with the accreditation indicator practices at the time of application as to these accepted projects. The Commission may, however, consider the circumstances under which the land trust accepted the projects, when the projects were accepted and other relevant factors when making its decisions; see more below.

If an accredited land trust notifies the Commission that it has accepted a significant number of projects from another organization the Commission may contact the accredited land trust for information to evaluate the acceptance of the projects through the Commission's Compliance Confirmation Policy and Procedures and/or may evaluate this at renewal (depending on how close the accredited land trust is to renewal).

If an applicant/accredited land trust is obligated to take on assets from another organization in settlement of a legal proceeding, the Commission may take these circumstances into consideration on a case-by-case basis and may modify its review expectations accordingly.

In evaluating the acceptance of fee land or conservation easement projects from another organization, the Commission generally looks for the following documentation in its review. For more information on how the Commission evaluates several of these practices see the *Guidance Documents* published by the Commission.

- Practices 3F and 8B: Evidence that the board of the applicant/accredited land trust reviewed the risks and benefits of accepting the projects and evaluated how the projects met its mission (either individually or as a group of projects) along with evidence of board approval of the acceptance of the projects.
- Practice 7A: A statement that describes how the organization evaluated and addressed the additional capacity it needed to steward the accepted projects, including any changes in management or staffing needed to address a larger portfolio of projects or expanded service area.
- Practices 9E, 9H and 11I: A statement that describes the legal review conducted of the projects before they were accepted (such as whether each deed was reviewed, if title documentation was reviewed, etc.) along with any conclusions of the review. If the legal review identified any conservation easement amendments or other changes necessary to ensure enforceability of the accepted projects, the Commission may require and evaluate a plan for making these changes.
- Practices 11A and 12A: A statement that describes the stewardship and defense funds the applicant/accredited land trust has for the projects it accepted and whether the funds are unrestricted, temporarily restricted or permanently restricted (see next bullet as well). The Commission will expect the applicant/accredited organization to have at least the minimum funds necessary to defend the fee land or conservation easements (see the *Guidance Document* for these practices). If additional stewardship and defense funds are necessary, the Commission may require and evaluate a plan for raising the funds.
- Practice 6B and Standard 5: If stewardship and defense funds or other financial assets were transferred to the applicant/accredited land trust along with the fee land or conservation easement projects, a statement that describes how the new holder evaluated the original donors' intent with respect to the funds transferred to it before classifying them as unrestricted, temporarily restricted or permanently restricted and that describes how donors of substantial restricted gifts or conservation properties were notified of the transfer of assets.
- Practice 11B: A statement that describes the contents of the baseline documentation that exists for each accepted conservation easement and that confirms that at least minimal baseline documentation, sufficient to aid in an immediate enforcement action, exists for each accepted easement (including at least a brief written description of the conservation values of the property and any existing structures or conditions relative to the terms of the easement, a map of the property, relevant photo documentation and a date the information was compiled). If additional documentation, maps, photos or signatures are necessary (see the Commission's *Guidance Document* for this practice for details), the Commission may require and evaluate a plan for completing the upgrades.

- Practice 11C: Evidence that the applicant/accredited land trust inspected each conservation easement property before accepting it. The Commission would further look for documentation that the land trust has monitored each easement annually since accepting it (see the Commission's *Guidance Document* for this practice for details).
- Practice 11E: A statement that describes any unresolved violations of the conservation easements that were accepted. If there are unresolved violations, the Commission may require and evaluate a plan for resolving the violations.
- Practice 12C: A statement that describes the contents of the management plans or summaries for each property being accepted and that confirms at least a management summary exists for each property. If more detailed management plans are necessary (see the Commission's *Guidance Document* for this practice for details), the Commission may require and evaluate a plan for completing the upgrades.
- Practice 12D: Evidence that the applicant/accredited land trust inspected each fee property before accepting it. The Commission would further look for documentation that the land trust has periodically inspected each fee property since accepting it. If any management issues have been identified, the Commission may require and evaluate a plan for resolving the management issues.

Q: My organization is considering a corporate combination with another organization. Should we combine before or after we apply for accreditation?

A: The answer depends on the details of the corporate combination and the circumstances of the combining organizations. Land trusts consider combining for a variety of reasons: overlap in service areas, benefits of combined membership and growth in volunteers, and reduction in administrative costs, to name a few. A corporate combination differs from a collaboration or shared service arrangement in that a combination generally involves transferring assets from one organization to another and dissolving one or more corporations.

A corporate combination can take a variety of forms. For example, one group may wholly absorb another group, or separate organizations may combine to form a new entity. If two or more land trusts that are not yet accredited bring the best of each organization to what is essentially a new organization – whether they use the corporate identity of one party to the combination or they create a new corporation – it may be best for the new/combined entity to wait a year or two to apply for accreditation until it has developed evidence of how the policies and procedures of the new group are working and until the new/combined entity can demonstrate how it completes land transactions. If one organization essentially absorbs another with no change in its governance or procedures, it may have the evidence it needs to apply for accreditation soon after the merger.

If a corporate combination occurs after an accreditation decision, the accredited land trust must inform the Commission per the Accreditation Agreement. If an accredited land trust is dissolved as part of the combination, a new corporation would have to apply as a new applicant; the license to use the accreditation seal is not transferable. If an accredited land trust becomes the primary organization that the other group(s) merge into, the Commission may ask the accredited land

trust for information to evaluate the combination through the Commission's Compliance Confirmation Policy and Procedures. Additional review may occur at renewal.

The Commission recommends an organization not undergo a corporate combination during the application review process, as the organization will have to submit additional information during its review and it will delay the Commission's decision.

Q: If my land trust is already accredited and is considering or has completed a corporate combination, what kind of documents would the Commission look for with respect to the merger?

A: As noted above, if a corporate combination occurs after an accreditation decision, the accredited land trust must inform the Commission per the Accreditation Agreement. The Commission may ask the land trust for information to evaluate the corporate combination through the Commission's Compliance Confirmation Policy and Procedures. Additional review may occur at renewal.

The Commission may evaluate the following types of information from the accredited land trust that has recently combined with one or more other organizations.

- General: A statement that describes when, why and how the corporate combination took place, including how the organizations ensured the combination was accomplished consistent with applicable state law (practice 2A).
- Practice 2B: Articles of incorporation and bylaws that describe the new/combined entity.
- Practice 3C: Information on the composition of the board of the new/combined entity, how board members are provided with clear expectations for service, what is provided to board members in advance of meetings, and minutes from recent board meetings. Evidence of each board's review and approval of the benefits and risks of the corporate combination.
- Practice 4A: A conflict of interest policy for the new/combined entity and evidence of how any conflicts have been managed.
- Practices 2C, 6B and 6D and Standard 5: Federal tax filings and financial statements that conform to Internal Revenue Service requirements and Financial Accounting Standards Board guidance for merged organizations. If financial assets were transferred to the new/combined entity, a statement that describes how it evaluated the original donors' intent with respect to the funds transferred to it before classifying the funds as unrestricted, temporarily restricted or permanently restricted and that describes how donors of substantial restricted gifts or conservation properties were notified of the transfer of assets and combination.
- Practice 7A: A statement that describes how the new/combined entity evaluated and addressed any changes in management or staffing needed to address an expanded service area or scope of work.

- Practice 9G: A records policy for the new/combined entity that addresses how records were combined and are now managed.
- Practices 8B, 8D, 11E, 11I and 3F (if applicable) and other land conservation policies: A statement describing any changes to the land acquisition process for the new/combined entity along with any revised project selection criteria, land conservation policies or procedures.
- For specific information on how the Commission will review acceptance of fee land or conservation easements that may be part of the organizational corporate combination, see the first question in this document.

Q: If my land trust combines with one or more organizations before it applies for accreditation, what kind of documents would the Commission look for with respect to the combination?

A: If the new/combined entity is applying for accreditation for the first time, the applicant will need to complete the entire application and include all required attachments as they pertain to the new/combined entity (i.e., appropriate articles of incorporation, conflict of interest policy, evidence of board governance, etc.). As noted above, it may be best for the new/combined entity to wait a year or two to apply for accreditation until it has developed evidence of how the policies and procedures of the new group are working and until it can demonstrate the steps the new/combined entity takes to complete land transactions.

In addition to the information required in the application for accreditation, the Commission may evaluate the following types of information from the recently combined organization.

- General: A statement that describes when, why and how the corporate combination took place, including how the organizations ensured the combination was accomplished consistent with applicable state law (practice 2A).
- Land Conservation Project List (LCPL): An indication of which properties originated from which organization in the notes field of the LCPL.
- Practice 6B and Standard 5: If financial assets were transferred to the new/combined entity, a statement that describes how it evaluated the original donors' intent with respect to the funds transferred to it before classifying the funds as unrestricted, temporarily restricted or permanently restricted and that describes how donors of substantial restricted gifts or conservation properties were notified of the transfer of assets and combination.
- For specific information on how the Commission will review acceptance of fee land or conservation easements that may be part of the organizational corporate combination, see the first question in this document.

Communications Related to Corporate Combinations, Changes in Operations, and the Acquisition of Assets

Q: What is the compliance confirmation process?

A: As required by the Accreditation Agreement, an accredited organization is required to notify the Commission if it has had a major change in organizational structure or operations. The Commission will need to verify either at time of notification or at the time of accreditation renewal whether those changes are consistent with *Land Trust Standards and Practices* and program requirements. Generally, minor changes (e.g., change of organizational name or modest change in geographic scope) will be evaluated at the time of accreditation renewal. Major changes (e.g., corporate combination with another group or acceptance of conservation easements as a new practice having only held fee heretofore) likely will require additional review before the end of the land trust's accreditation period, to evaluate compliance.

Q. When should an accredited land trust contemplating corporate combination, changing its land conservation operations, or acquiring assets of a non-accredited land trust contact the Commission?

A. An accredited land trust considering one or more of these kinds of changes is strongly advised to contact Commission staff as early in the process as possible. This will provide a chance to discuss the compliance confirmation process and receive information that may be useful as your land trust proceeds through the transition process. In any case, as stated above, the accredited land trust is required to notify the Commission as soon as a combination or other change in operations occurs.

Q: Is the compliance confirmation process public?

A: While compliance is being reviewed by the Commission, your land trust will continue to be listed as accredited with its accreditation term and with no other information. In the case of a corporate combination, if a name change has occurred, the land trust will continue to be listed in Commission and Land Trust Alliance materials as the entity originally accredited by the Commission until the compliance confirmation process is complete. If compliance is confirmed and no further action is needed, the accredited land trust's name will be changed to the newly combined land trust's name. The Commission will strive to complete the compliance process as quickly as feasible, while making sure that the Commission has adequate time to review the response and that the accredited land trust has reasonable time to respond to the information requested.

Q: How should an accredited land trust that has combined with one or more non-accredited land trusts or otherwise significantly changed or expanded its operations communicate publicly about its accredited status?

A: Upon notification of a corporate combination or other significant change in operations or responsibilities not considered by the Commission at the time of accreditation, the Commission will provide the land trust with sample language it may use in its public communications. In corporate combination situations, land trusts are advised to note the accredited status of any combining entities. In both merger and non-merger situations, the land trust should state that the

Commission is in the process of confirming the newly combined or expanded entity's compliance with accreditation requirements. If there are any questions about communications, land trusts should contact Commission staff with questions or to review draft materials.

Land Trust Accreditation Commission
112 Spring Street, Suite 204
Saratoga Springs, NY 12866
(518) 587-3143
info@landtrustaccreditation.org

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