

2018 Requirements Manual

An In-Depth Look at Changes to the Requirements

Executive Summary

The [Requirements Manual](#) helps land trusts understand how the Land Trust Accreditation Commission verifies that a land trust meets *Land Trust Standards and Practices* (Standards) and helps land trusts be successful in the accreditation process. The [2018 Requirements Manual](#) aligns the requirements with the 2017 Standards and the new indicator elements.

The 2018 Manual uses a new format for the requirements to make it easier for land trusts to compile the documentation needed for the accreditation application and to reduce redundancy. The 2018 Manual organizes the requirements in four groups: Governance, Finance, Transactions and Stewardship. The introduction section of the Manual includes important and detailed information on the format and use of the Manual.

The Commission developed the 2018 requirements following discussions with land trusts and professional advisors, including feedback from a public comment period. ([Click here](#) for the Public Comment Summary.) The requirements were developed with a risk-based mindset in response to feedback that the accreditation review should focus more on high-risk areas to make the best use of land trusts’ time. The requirements take into account risk to an individual land trust and risk to the land trust community. The majority of the requirements have not changed, ensuring that accreditation has ongoing public trust and support.

However, there are some changes to be aware of.

- There are new requirements tied to the new indicator elements to help land trusts address areas where risks may be high.
- Some of the existing requirements have been modified to respond to land trust feedback and to incorporate new information.
- Low-risk or redundant concepts were dropped to keep the accreditation program cost-effective for land trusts.

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| What’s New? Added 19 requirements that will be phased-in in 2019 to address high-risk areas. Pgs. 2 – 4 | What’s Different? Changed 13 requirements to address land trust feedback and new information. Pgs. 4 – 10 | What’s Dropped? Eliminated 39 requirements that were low risk or redundant. Pgs. 10 – 13 |
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This document is a companion to the full Manual and provides more in-depth information on each of the above changes. Please contact the Commission (info@landtrustaccreditation.org or 518-587-3143) if you would like additional information.

What's New?

The 2017 Standards include 10 new accreditation indicator elements from high-risk areas that will help position accredited land trusts for the future. Based on these new indicators, the Commission developed corresponding new requirements; these are noted throughout the Manual with a "Starting in ..." notation. This means that land trusts are expected to begin meeting these requirements in 2019 or as noted. New requirements will be phased-in and will generally apply to land trusts' work going forward from the point of phase-in.

For example, there is a new requirement in the "Transactions: Project Due Diligence" section for visually inspecting properties. Each land trust will need to have documentation of this activity for projects starting in 2019, but a land trust does not have to go back and document its visual inspections retroactively for projects before that time.

Governance

New Indicators

- Establish strategic goals for implementing the mission, and then review and update them, as needed, at least once every five years (Element 1B2)
- Have a board development process that includes procedures for recruiting and training board members (Element 3B3)

New Requirements

- ❑ **Board recruitment procedures exist.** Starting in 2019
- ❑ Board adopts its meeting minutes. Starting in 2019
- ❑ **Strategic goals (or plan) established by board.** Starting in 2019
- ❑ Strategic goals (or plan) reviewed by board within past five years. Starting in 2019
- ❑ **Records policy covers organization, transaction and stewardship (Starting in 2019) records.**

Finance

New Indicators

- 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, (d) Reviewing the externally prepared financial audit, review or compilation (Element 3A2)
- Build and maintain sufficient operating reserves to sustain operations (Element 6A4)
- 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 (Element 6D1)
- 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 (Element 6E2)

New Requirements

- ❑ **Operating reserves 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
- ❑ **Board approves annual budget.** Starting in 2019
- ❑ **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
- ❑ **Internal control questions and supporting documentation complete.** Starting in 2019
- ❑ **Internal control certification complete.** Starting in 2019
- ❑ **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

Transactions

New Indicators

- 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 (Element 8C1)
- Promptly record land and conservation easement transaction documents at the appropriate records office (Element 9F3)

New Requirements

- ❑ **Visual inspection to document the property's conservation values completed before closing.** Starting in 2019
- ❑ Conservation easements and fee title deeds submitted for recording generally within a week after the final signature(s). Starting in 2019
- ❑ Form 8283 includes the following: *(in addition to other items in the requirement)*
 - Donor's cost or adjusted basis Starting in 2019
- ❑ **Originals of the following records are retained, kept generally secure and protected from damage or loss: *(in addition to other items in the requirement)***
 - **Conservation easement stewardship records, including substantive notices, approvals, denials, interpretations, exercise of significant permitted rights** Starting in 2019

Stewardship

New Indicators

- 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 ^(Element 11B3)
- Maintain a permanent record of all notices, approvals, denials, interpretations, and the exercise of any significant permitted rights ^(Element 11F3)

New Requirements

- ❑ **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}

What's Different?

The majority of the requirements have not changed. However, some of the prior requirements ([Click here](#) for previous editions of the Manual) have been modified to respond to land trust feedback and to incorporate new information from other nonprofit industry standards and the Land Trust Alliance. Below is a detailed summary of the requirements that have been modified along with an explanation of what has changed. If your land trust received an expectation for improvement in one or more of these areas when it was accredited or renewed, please contact the Commission with any questions.

Finance

- ❑ **Annual audited, reviewed or compiled financial statements, obtained at the following level based on total annual support and revenue, include footnotes and disclosures and show unrestricted, board-designated and restricted net assets.**
 - >\$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

What's Changed:

- *The annual audit, review or compilation (for fiscal year 2018 and beyond) needs to include footnotes and disclosures and show unrestricted, board-designated and restricted net assets. This change may particularly effect the format of compilations.*
- *The threshold when an audit is required was raised from \$500,000 to \$750,000 for fiscal year 2018 and beyond.*

- *Compilations can now be conducted by a certified public accountant (CPA) that is not independent. Alternatively, a land trust can choose to have its compilation completed by an independent qualified accountant rather than a CPA.*

□ **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**

What's Changed:

- *While still a good practice, including the date of the gift in the gift acknowledgement letter is no longer an accreditation requirement.*

□ **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.

What's Changed:

- *The minimum defense funding requirements are now tied to the results of a land trust's Legal Defense Reserves Calculator, rather than a per conservation easement amount. (Note the stewardship funding requirements have not changed.) The requirements also specify an acceptable alternative if the land trust does not have the full amount. In the alternative, the land trust must have half the required funds and a plan to raise the remaining funds by its next renewal.*

Transactions

- **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)

What's Changed:

- *The updated requirement limits the lookback period for when a baseline documentation report (or current conditions report) needs a landowner signature. Before, all baseline documentation reports needed a landowner signature (or a documented attempt to get a signature). Now, the baseline documentation report only needs a landowner signature (or*

a documented attempt to get a signature) if the conservation easement was completed in 2004 or later.

- *The updated requirement simplifies the necessary contents of baseline documentation reports. The following items, while still good practices to incorporate, are no longer required for accreditation.*
 - *Information on the location of the conservation easement*
 - *Property description*
 - *The authorship and qualifications and/or experience of the baseline preparer*
 - *Other acknowledgements or information that would make the material admissible as a business record in court (such as an indication that the record was created at or near the time of the event rather than later in anticipation of litigation, that the record was created by someone with direct knowledge or who was given the information by someone knowledgeable, that the record was created and kept in the course of the organization's regularly conducted business, and that it is the organization's regular practice to create or maintain such records)*

□ 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**

What's Changed:

- *Written notification is now required. Starting in 2019, verbal notification to potential land or conservation easement donors will no longer be sufficient to meet the requirement.*
- *The new requirement simplifies the necessary contents of the notification to potential land or conservation easement donors. The following items, while still good practices to incorporate, are no longer required for accreditation.*
 - *Information on the timing of the appraisal (not earlier than 60 days prior to the date of contribution and before the due date for the tax return on which the deduction is first claimed; if the appraisal is after the donation, it must reflect the value of the conservation easement or fee property on the date of the gift)*
 - *That the donor should use an appraiser who follows USPAP*
 - *That the organization will not knowingly participate in a project if it has significant concerns about the tax deduction*

- 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.

What's Changed:

- *The updated requirement includes the due diligence steps and land trust responsibilities that are outlined in the Land Trust Alliance Tax Shelter Advisory.*

- Copies retained of the following records:

- Critical correspondence (see above)
- Baseline documentation reports
- Title insurance policies, if any
- Unrecorded surveys, if any

What's Changed:

- *The updated requirement narrows the records that are required to be duplicated. The following duplicates, while still good practices to create, are no longer required for accreditation. (Originals of these documents are still required to be retained, kept generally secure and protected from damage or loss.)*
 - *Legal agreements, deeds, conservation easements, amendments*
 - *Other evidence of title investigation*
 - *Recorded surveys*

Stewardship

- 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})

What's Changed:

- *Annual inspections of fee properties have been an accreditation requirement since 2014. The updated requirement increases the length of time first-time applicants need to show annual inspections of its conservation properties. Rather than showing that it has one year of monitoring, a first-time applicant will need to show three years of monitoring starting in 2021. This change aligns with the conservation easement monitoring requirement.*

- 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**

What's Changed:

- *The updated requirement narrows the contents of conservation easement monitoring reports. The following items, while still good practices to incorporate, are no longer required for accreditation.*
 - *Information to substantiate the specific monitoring visit, such as*
 - *Description of the area that was observed during the inspection (such as the entire property, eastern boundaries and south road, etc.)*
 - *Information that helps substantiate the monitor's observations (including substantiation of "no change observed")*
 - *Observation of the conditions and context of the inspection (such as weather or ground conditions, routes of travel, means of travel, etc.)*
 - *A notation of the presence or absence of the landowner or other party*
- *The updated requirement also now specifies that conservation property inspection reports will need to include specific content starting in 2020. At that point, it will be no longer sufficient to provide alternative documentation of the inspection (such as a job description for an on-site manager).*

- **If aerially monitoring conservation easements, on-the-ground monitoring occurs at least once every five years.**

What's Changed:

- *The updated requirement allows on-the-ground monitoring every five years, as opposed to every three years.*

- **Violation policy and/or procedures exist.**

What's Changed:

- *The updated requirement no longer requires specific content in the violation policy and/or procedures. Application reviewers will skim the policy and/or procedures, and most documents will be found acceptable as long as there are no high-risk concerns identified in the policy and/or procedures. The following items, while still good practices to incorporate, are no longer specifically required for accreditation. (Application reviewers will evaluate how the land trust manages actual violations.)*
 - *Details on how the applicant will respond to a potential violation of a conservation easement, including*
 - *How the applicant will identify, review and make decisions to resolve a suspected violation*
 - *The timing and nature of communications with the landowner*

- *The role of each party (such as board members, volunteers, staff, partners, etc.) in the enforcement process*

□ **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**

What's Changed:

- *The updated requirement narrows the specific content in the amendment policy and/or procedures. The following items, while still good practices to incorporate, are no longer specifically required for accreditation. (Application reviewers will evaluate how the land trust manages actual amendments.)*
 - *Amendments must satisfy the following provisions (see "Amending Conservation Easements: Evolving Practices and Legal Principles")*
 - *Clearly serve the public interest and be consistent with the organization's mission*
 - *Comply with all federal, state, and local laws*
 - *Not jeopardize the organization's tax-exempt status or status as a charitable organization under federal or state law*
 - *Be consistent with conservation purpose(s) and intent of the conservation easement*
 - *Be consistent with the documented intent of the donor, grantor, and any direct funding source*
 - *A description of the circumstances under which the organization would consider an amendment*
 - *A description of the role of the board (and any committees) in addressing an amendment*
 - *A description of how the procedures vary depending on the type of amendment considered (if there are variations)*

□ **Every conservation property has a management plan that includes the following:**

- **Identification of conservation values**
- **Management goals**
- **Activities to achieve management goals**

What's Changed:

- *The updated requirement narrows the content of conservation property management plans. The following items, while still good practices to incorporate, are no longer required for accreditation. (Application reviewers will evaluate whether the management plan allows uses that adversely impact the conservation values or violate restrictions on the property.)*
 - *A description of the property*

- *A summary of the restrictions that came with the property or that were placed on the property after the organization took ownership, if any*
- *A description of potential threats to the conservation values or areas of special concern*

What's Dropped?

The Commission dropped the requirements below to eliminate low-risk or redundant concepts, which helps keep the accreditation program cost-effective for land trusts. Any activities or work you completed in the past to comply with these accreditation requirements has been in keeping with the Standards and land trust community best practices. So, even if some of the work you have been doing is no longer required for accreditation, your land trust and the land trust community will be stronger for it. These were areas determined to not be essential to verify as part of the accreditation process. If your land trust received an expectation for improvement in one or more of these areas when it was accredited or renewed, please contact the Commission with any questions.

From Former Practice 1D. Ethics

- The mission exclusively serves public interest(s).
- For organizations operating through or with a related entity (such as a supporting organization or limited liability company), the primary organization clearly discloses in writing to prospective donors or sellers of land and/or conservation easements which entity will be the ultimate recipient of the property or holder of the conservation easement. The notice is provided early in the transaction process so that the donor or seller can make an informed decision.

From Former Practice 2A. Compliance with Laws

- All required federal and state filings are accurate and current.
- The organization is not subject to final findings of malfeasance following a governmental investigation that would threaten the organization's ability to be accredited or impair the credibility of the accreditation program.
- If the organization holds conservation easements or fee properties in another state, it complies with out-of-state corporate registration requirements applicable in that state.

From Former Practice 2B. Nonprofit Incorporation and Bylaws

- The board reviews its bylaws (or equivalent document) at least once every five years.

From Former Practice 2C. Tax Exemption

- The organization does not engage in prohibited activities, specifically excess lobbying, or political campaign activity. *(Note: The prohibition on private inurement and impermissible private benefit is still addressed in the requirements.)*

From Former Practice 3C. Board Governance

- The organization communicates to board members clear expectations for their service as board members and the board's legal and fiduciary responsibilities as a governing body.
- The organization has had a quorum for most of its board meetings during the past 12 months.
- If a staff member serves on the board, his/her role as a staff member is clearly defined and his/her role as a board member is limited accordingly.
- The organization has a process to evaluate the board (such as reviewing whether the board is a functional size, assessing whether there is a risk of minority rule, reviewing if board members are engaged in decision-making and financial oversight, etc.).

From Former Practice 3F. Board Approval of Land Transactions

- The policy or policies for delegation of conservation project approval includes the following elements.
 - Criteria for transactions or reference to the organization's existing criteria
 - Any provisions for the management of conflicts of interest that are not covered in the conflict of interest policy
 - Requirements for timely notification of any completed land transactions to the full board (*Note: Timely notification to the full board has been eliminated as a policy element, but the notice is still required to be provided.*)
- There is documentation that the board has evaluated the effectiveness of its delegation of transaction approval policy or policies at least once every five years.

From Former Practice 4A. Dealing with Conflicts of Interest

- The organization does not compensate the board's presiding officer and treasurer and/or firms, companies, or entities for whom they work for professional services (the Internal Revenue Service's Form 1099-MISC indicates that professional services are provided by attorneys, accountants, architects, contractors, engineers, etc.) if the individual's compensation from that firm, company, or entity is based in whole or in part on distributions of its profits. The presiding officer and treasurer and/or firms, companies, or entities for whom they work shall never be retained to conduct a financial compilation, review, or audit of the land trust's financial records.
- The organization either avoids or appropriately manages (such as with disclosure statements; waivers between the attorney board member and the organization acknowledging the board member's dual role; meeting minutes that reflect that the conflicted party fully disclosed the conflict, was not present for the discussion [unless asked to provide information], and was not present for the vote; etc.) potential conflicts arising from attorney board members who represent landowners in land transactions with the organization.

From Former Practice 5A. Legal and Ethical Practices

- The organization does not engage in commission-based fundraising.

- Fundraising costs do not exceed a reasonable percentage of overall expenses. (For example, the organization generally limits its fundraising expenses to 35 percent or less of related contributions, in keeping with the generally accepted Wise Giving Alliance’s standards.)
- The organization complies with all applicable state charitable solicitation laws.

From Former Practice 6B. Financial Records

- Financial records are kept with a GAAP-compliant system or an alternative reporting method that is acceptable to the organization’s qualified financial advisor.

From Former Practice 7A. Capacity

- The organization has sufficient human resources to carry out its work (evidenced by the ability to monitor its conservation easements, inspect its fee properties, prepare baseline documentation reports and management plans, fulfill its stewardship requirements, etc.).

From Former Practice 8B. Project Selection and Criteria

- The organization has a defined process for selecting land and conservation easement projects (also relates to practice 3F).
- For each project, the organization evaluates its capacity to perform any perpetual stewardship responsibilities.

From Former Practice 8D. Public Benefit of Transactions

- The organization identifies and documents the public benefit(s) of every land and conservation easement transaction.
- All land and conservation easement transactions conform to applicable federal and state charitable trust laws.
- Pertinent federal, state, and local requirements for public benefit are met.
- The organization complies with the donor’s wishes in protecting the property (thus complying with state charitable trust laws).

From Former Practice 9E. Easement Drafting

- Conservation easements are individually tailored to the specific property according to a project plan or process. *(Note: The conservation easement requirements collectively address having the easement be specific to the property and project; however, a specific project plan or process is not required.)*
- The person responsible for drafting the organization’s conservation easements has the necessary knowledge and experience or the organization obtains legal review of its conservation easements.
- If the organization’s standard conservation easements include a broad discretionary consent clause, then the organization has conservation easement provisions, discretionary consent policies, procedures, or guidelines, and/or amendment policies or procedures (also relates to practice 11I) that address discretionary consent.

From Former Practice 9G. Recordkeeping

- If the organization stores its originals in an electronic format, the organization can describe how these originals meet the requirements of applicable federal and state law with respect to rules of evidence regarding electronic originals.
- If originals are stored in an individual's home, the organization has a written agreement with the individual that guarantees that other representatives of the organization (such as officers, key employees, etc.) can access the records.

From Former Practice 9J. Purchasing Land

- The organization has honest and forthright communications with landowners when purchasing land and conservation easements for a price below appraised value.

From Former Practice 11A. Funding Easement Stewardship

- The organization determines the stewardship, enforcement, and other long-term expenses of each conservation easement transaction.

From Former Practice 11E. Enforcement of Easements

- The organization has legal involvement appropriate to the violation.

From Former Practice 11I. Amendments

- The organization does not routinely amend its conservation easements for purposes other than strengthening the conservation easement, improving enforceability, or adding area to the conservation easement.

From Former Practice 12A. Funding Land Stewardship

- The organization determines the immediate and long-term financial and management implications of each conservation fee property transaction.

From Former Practice 12C. Land Management

- At closing, the organization has at least a general written statement about its management goals and/or near-term management needs for the conservation fee property.

From Former Practice 12D. Monitoring Land Trust Properties

- The organization can locate the boundaries of its conservation properties.
- If the organization does not mark the boundaries of its conservation fee properties, it has surveys, maps, photos, written descriptions, or other on-the-ground indicators (such as roads, rivers, fences, etc.) of the boundaries that would enable a person to find the boundaries using GPS or other means.