Countdown to 2020: Tips and Pointers for Land Trusts Preparing for First-Time Accreditation

Valerie Roof and Jessica Whittaker, review specialists

October 12, 2018
Workshop Overview

• Introductions
• Overview of accreditation
  • Transition
  • Why accreditation
• First-time application process
• New/changed requirements
• Documentation challenges
• Start Your Plan
• Tools and Resources
Land Trust Accreditation Commission

• Independent program of the Land Trust Alliance
• 19 diverse volunteer commissioners
• 7 staff
Separate Roles

- Sets *Land Trust Standards and Practices* (last updated in 2017)
- Sets accreditation indicators
- Provides general training and educational materials

- Verifies implementation of *Land Trust Standards and Practices* (via indicator elements)
- Develops accreditation application, review process, and requirements, plus associated training
- Makes accreditation decisions
Accredited Land Trusts

- 411 accredited organizations
- About 35 first-time applicants in process
- Accredited land trusts hold more than 78% of conservation land held by land trusts
Land Trust Standards and Practices Revision
Standards Revision Completed

Thank you for your feedback! The Land Trust Alliance board approved the 2017 edition of Land Trust Standards and Practices at its February board meeting — download the final version (available en español and en français). All Alliance member land trusts must adopt the revised Standards as part of their annual membership renewal beginning with those who are renewing their membership in June 2017.

Highlights of What’s New and What to Expect

Here’s a brief summary of what’s new, what to expect and where to find more information. Wondering what happened to a practice (or part of a practice) from the 2004 version in the 2017 revised Standards? See this crosswalk comparison for help.

Resources
## Land Trust Standards and Practices

### What You Can Plan For

<table>
<thead>
<tr>
<th>Year</th>
<th>Event Description</th>
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<tbody>
<tr>
<td><strong>2017</strong></td>
<td>Alliance Board Approves Revised Standards</td>
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<td><strong>March 2017</strong></td>
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<td><strong>June 2017</strong></td>
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<td><strong>Summer 2017–Spring 2019</strong></td>
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<td>Accreditation Application Updates</td>
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<td><strong>2019</strong></td>
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<td><strong>2020</strong></td>
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**NO CHANGE**

- All applicants use existing application; first-time is paper and renewal is electronic.

To ensure all 2018 applicants have advance notice, the transition application for 2018 will be published in summer 2017.

**TRANSITION YEAR**

- All first-time and renewal applicants use a transition application modified with deletions and an addendum.

To ensure all 2019 renewal applicants have advance notice, the new renewal application will be published in summer 2018.

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*Land Trust Alliance*  
*Land Trust Accreditation Commission*
2019

NEW RENEWAL APPLICATION

Renewal applicants use new electronic application that conforms to revised Standards. First-time applications will not be accepted in this year.

To ensure all 2020 first-time applicants have advance notice, the new electronic first-time application will be published in summer 2019.

Current Status

Requirements Manual finalized and in use by applicants
Download: www.landtrustaccreditation.org/2018rm
Webinar: www.landtrustaccreditation.org/webinar
Rally Session B02

New electronic renewal application available and used by renewal groups in 2019 onward; reference copy available

New electronic first-time application used in 2020 onward; reference copy published summer 2019
Accreditation Impact

- Fifteen years ago the land trust community was **ill prepared** to live up to the promise of perpetuity and was **under legislative and regulatory threat**.
  - The Alliance created the Accreditation Commission as a **solution** and offered accredited preparation services to its members.

- Today, **accredited land trusts far outpace those not yet accredited**.
  - They have significantly bigger budgets, more staff and volunteers and
  - **8 times more money invested to steward and defend their conservation lands** than their peers of similar size – they also **save 3 times more land**.
Accreditation Impact

- Accreditation was a strong motivator for change in land trusts; 87% of accredited land trusts responded that accreditation moderately or substantially motivated them to make organizational improvements.

- Public confidence in land trusts increased as a result; 85% of public agencies and foundations say accreditation increases their confidence in land trusts and 83% of landowners feel the same way.

- These positive impacts can grow as more land trusts join the program.
Timeline for First-Time Accreditation

For detailed information on each process step below, visit www.landtrustaccreditation.org/first-time-accreditation.

1. Applicant Submits Pre-Application* about 3 months before application due date

2. Applicant Submits Application and Fee on or before application due date

3. Applicant Has Call with Commission Review Team about 1-4 months after application due date; call agenda sent one week prior

4. Commission Provides Project Selection and Fee Information about 2 months before application due date

5. Commission Reviews the Application Materials about 1-4 months after application due date

6. Commission Provides Additional Information Request about 2-4 weeks after call with review team

7. Applicant Submits Additional Information Request due 1-3 months after follow-up letter received

8. Commission reviews additional documentation and makes final decision† timing depends on when Commission meets next

* Applicant Registers through Lottery Registration in early summer of year preceding application

† Applicant Receives Commission Decision about 10 months after application submitted
Application Review

• Review team (staff and commissioners) evaluates compliance with indicator elements by considering:
  – Pre-application/Application
  – Supporting documents
  – Project documentation
  – Public notice/comments
  – Research
Applicant Conference Call

- Detailed agenda sent in advance
- Clarification/more information
- Lasts about 2 hours
Additional Information Request

• Follow-up letter with document requests or corrective action
Commission’s Review Approach

• Consistency
• Fair but flexible
• All must demonstrate compliance
• No one-size-fits all
• Recognize diversity
Decision by Full Commission

- **Accredit**
  - Awarded for 5-year term
  - Expectations for Improvement

- **Table**

- **Not Accredit**
Questions on the Application Process?
2017 Standards → 2018 Requirements

Introducing the 2018 Requirements Manual and revised Accreditation Requirements

The Land Trust Accreditation Commission has revised the accreditation requirements to align with the 2017 revised Land Trust Standards and Practices. The new and improved 2018 Requirements Manual is designed to be clearer and to reduce the amount of time land trusts spend applying for accreditation. Learn more by visiting www.landtrustaccreditation.org/standards-revision.

added
new section on stewardship
added
new section on stewardship in high-risk areas
positioning accredited land trusts to increase revenue

retained
added
new section on stewardship
positioning accredited land trusts to increase revenue
new section on stewardship in high-risk areas

dropped
redundant concepts, making accreditation less time-consuming and redundant

examples
Financial health
Stewardship and defense funding
Board development
Insurance
Visual inspection as part of project due diligence
Stewardship records
Monitoring and inspections
Review and approval of transaction files

examples
Verifying charitable solicitation registration parallely
Verifying periodic review of financial concerns
Verifying every detail of Form 990 parallely
Confirming that property boundaries are located accurately

examples
Financial records
Title investigation
Documentation reports
Baseline
Compliance reports
Monitoring and inspections
Review and approval of transaction files
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.

What’s New?
- Added 19 requirements that will be phased in by 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

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 518-507-3143) if you would like additional information.

CROSSWALK OF REQUIREMENTS: 2016 TO 2018

Following the 2017 Standards revisions, the accreditation program is transitioning from reviewing “indicator practices” to reviewing “indicator elements.” All of the indicator elements will be grouped into one of four categories: Governance, Finance, Transactions, and Stewardship.

This document gives you a high-level overview of how the accreditation program’s existing requirements will be translated into the 2018 requirements. The core concepts from the indicator practices are still in place, with a few high-risk areas added, and a number of low-risk or redundant areas dropped.

<table>
<thead>
<tr>
<th>New Areas Added</th>
<th>2018 Requirements Manual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirements added related to...</td>
<td>Added to category...</td>
</tr>
<tr>
<td>Strategic goals</td>
<td>Governance</td>
</tr>
<tr>
<td>Board development process</td>
<td>Finance</td>
</tr>
<tr>
<td>Financial health</td>
<td>Finance</td>
</tr>
<tr>
<td>Insurance</td>
<td>Stewardship</td>
</tr>
<tr>
<td>Visual inspection as part of project due diligence</td>
<td>Transactions</td>
</tr>
<tr>
<td>Promptly recording deeds</td>
<td></td>
</tr>
<tr>
<td>Avoiding fraudulent or abusive transactions</td>
<td></td>
</tr>
<tr>
<td>Documentation of change to land subject to conservation easement or conservation easement</td>
<td></td>
</tr>
<tr>
<td>Stewardship records</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2016 Requirements Manual: Requirements related to...</th>
<th>2018 Requirements Manual: Where moved or if dropped...</th>
</tr>
</thead>
<tbody>
<tr>
<td>High standards of ethics</td>
<td>Transactions</td>
</tr>
<tr>
<td>Mission</td>
<td></td>
</tr>
<tr>
<td>Disclosures to landowners about related entity</td>
<td>Dropped – no longer an indicator element</td>
</tr>
</tbody>
</table>
2018 Requirements Framework: Key Concepts

1. Indicator Elements in Four Groups
2. Documents for Each Group
3. Requirements for Each Group
4. Two Categories of Requirements

- Bold
  - Proactive Verification
  - Hard Stop!

- Not Bold
  - Red Flags
  - Next Step Depends on Risk
Requirements: Risk-Based

**Bold Example**

- New board members trained.

*Documentation of training new board members will be verified for every applicant.*

**Non-bold Example**

- Land trust generally operates in accordance with its bylaws.

*Red flag: look at risk in the context of the entire application.*

- Low risk: Bylaws require 9-15 board members; land trust has 8 board members; board operates effectively. No questions.

- High risk: Bylaws require a 9-15 member board; land trust has 4 board members; board appears to be controlled by one member. Questions.
Governance  Finance
Transactions  Stewardship
New Finance Requirements: Records & Financial Health

• Operating surplus exists at the end of last fiscal year [statement from board officer explains reason for deficit]

• Operating reserves at the end of last fiscal year sufficiently cover three months of operating expenses [board evaluation of operating reserve needs and a feasible plan to address the needs]

• Concentrated or sole source of funding not overly relied on

• Debt or lease payments can generally be met.
New Finance Requirements: Board Oversight & Donor Restrictions

• Board approval of annual budget

• Board review of periodic financial reports that include:
  – Unrestricted, board-designated and restricted net assets
  – Actual unrestricted and restricted revenue and expenses for the reporting period as compared to budget

• Documentation of the business process system it 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
New Finance Requirements: Internal Controls and Insurance

• Written internal controls or accounting procedures

• Have general liability insurance that covers significant risks

• Board [or delegated entity] evaluates insurance needs at least every five years:
  – Directors and officers liability insurance
  – Property insurance
  – Insurance required by law
Changed Requirements for Audit, Review, Compilation

<table>
<thead>
<tr>
<th>Total Annual Support/Revenue without the value of donated conservation fee properties or conservation easements</th>
<th>Minimum Level of Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $100,000</td>
<td>Annual compilation by an independent certified public accountant (CPA) or independent qualified accountant</td>
</tr>
<tr>
<td>$100,000-$500,000</td>
<td>Annual financial review by an independent CPA</td>
</tr>
<tr>
<td>&gt; $500,000</td>
<td>Annual audit by an independent CPA</td>
</tr>
</tbody>
</table>

Financial Records and Financial Health

- 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.

2C1(a), 3A2(b), 6A2, 6A3, 6A4, 6C1

- >$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

LANT TRUST ACCREDITATION COMMISSION
## Defense Fund Requirements

### Applicants in 2017 and beyond

<table>
<thead>
<tr>
<th>Number of Conservation Easements and Conservation Fee Properties</th>
<th>At first-time application</th>
<th>At renewal application and thereafter</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-15</td>
<td>Either: a) Amount generated by the Calculator, or b) $3,000 per conservation easement and a plan and commitment to reach the amount generated by the Calculator by the time of renewal.</td>
<td>Either: a) Amount generated by the Calculator, or b) $50,000 and a plan and commitment to reach the amount generated by the Calculator by the time of next renewal.</td>
</tr>
<tr>
<td>More than 15</td>
<td>Either: a) Amount generated by the Calculator, or b) $50,000 for first 15 conservation easements, plus a minimum of $1,500 for each additional conservation easement and a plan and commitment to reach the amount generated by the Calculator for conservation easements and fee properties by the time of next application.</td>
<td></td>
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</tbody>
</table>

## Stewardship and Defense Funding

- 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.
LAND TRUST ALLIANCE
Legal Defense Reserves Calculator

This is a tool to help calculate minimum adequate legal defense reserves for conservation easements and other property owned by your land trust. It is for legal defense reserves calculations only. It does not calculate reserves for stewardship routine costs. The reserves determined by this calculator are not a substitute for routine stewardship costs.

This calculator is for ordinary conservation defense costs only. It does not cover catastrophic events such as multiple appeals, strategic lawsuits against public participation (SLAPP suits), liability for unusual land trust activities or extreme negligence. This calculator determines reserves based on current data and current conditions. Land trusts should re-evaluate reserves at least annually to account for changing risks and increased portfolios.

Part I: Base Reserves

The base reserve is the minimum of money your land trust needs to save up to be able to survive a significant legal claim in your state. This number may change as the actuaries learn more.

Land trust’s name: 

State in which land trust is located:
Select State: $0 Base Fund

Does the trust have general liability insurance?
No: $0

How long has the trust been insuring owned property with Terrafirma?
Not enrolled: $0

How long has the trust been insuring property under easement with Terrafirma?
Not enrolled: $0

Does the trust have Directors and Officers (D&O) Insurance?
No: $0
New Transaction Requirements

• Evaluate the Form 8283 and landowner’s appraisal and document 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 concerns with the appraisal, appraised value or other terms of the transaction Signed the Form 8283 only when a gift was received

• Follow the then current Land Trust Alliance Tax Shelter Advisory
## Land Conservation Project List

**CONSERVATION EASEMENTS PROJECT LIST**

COMPLETE THIS WORKSHEET ONLY IF APPLYING FOR RENEWAL OF ACCREDITATION

otherwise please select the "First-Time Accreditation CEList" tab for your conservation easements listing

(see separate tab for complete instructions, including a description of the contents of each column)

<table>
<thead>
<tr>
<th>Date Acquired</th>
<th>Project Name</th>
<th>Grantor</th>
<th>Town, City, or County</th>
<th>Acres</th>
<th>Type (D/B/P/M/O/C)</th>
<th>Baseline Report Date Completed</th>
<th>Monitoring Dates (mm/yy)</th>
<th>Complete if Form 8283</th>
</tr>
</thead>
<tbody>
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Enter yes if, since 2016, transaction was a) with a pass-through entity of unrelated parties with an appraised value more than 2.5 times the basis in the property within 36 months of the entity’s acquisition and b) the value of the donation was greater than $1 million.

If yes to column "A", enter appraised FMV.

Notes (also, if "O" or "C" selected in Column F, please describe)
New Stewardship Requirements

• Fee Inspection reports include the following:
  – 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

• Inspect fee properties annually

• Monitoring or inspection reports completed promptly after monitoring or inspection event.
## Land Conservation Project List

**CONSERVATION FEE PROPERTIES PROJECT LIST**

COMPLETE THIS WORKSHEET ONLY IF APPLYING FOR RENEWAL OF ACCREDITATION

otherwise please select the "First-Time Accreditation Fee List" tab for your conservation fee property listing

(see separate tab for complete instructions, including a description of the contents of each column)

<table>
<thead>
<tr>
<th>Date Acquired</th>
<th>Property or Preserve Name</th>
<th>Grantor</th>
<th>Town, City, or County</th>
<th>Acres</th>
<th>Type (D/B/P) M/O</th>
<th>Date of Management Plan</th>
<th>Monitoring Dates (mm/yy)</th>
<th>Complete if Form 8283</th>
</tr>
</thead>
<tbody>
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</table>

Enter yes if, since 2016, there was a transfer of ownership unassociated with the purchase or donation of property by a public agency or any other entity with an appraised value more than 2.5 times the basis of the property, within 36 months of the property's acquisition and:

1. It was placed in a conservation trust or
2. The value of the donation was greater than $1 million.

If yes to column "j," enter appraised FMV.

Notes
Critical Application Needs

- Take actions to meet the requirement
- Document that you met the requirement
- Communicate that you met the requirement
Common Documentation Problems

Lack of complete documentation (or missing)

- Evidence an insider was absent for discussion and vote
- Copy of notification sent to landowners about tax and appraisal issues
- Documentation of review and approval of transactions
- Information sent to board in advance of final project approval
- Documentation of no private inurement or impermissible private benefit
- Documentation that mortgages, liens and other encumbrances were addressed
- Evidence that title was brought current at closing (30 days)
Documentation Challenges

Documenting review and approval of transactions

For each project selected you will be asked to provide:

- Evidence of the review of the project by the full board and/or by a committee
- Material provided to the board (or other decision maker) before final approval
- Minutes of the board meeting when the project was approved or other record of final decision

- How do you document review of projects?
- Do you keep a record of what was sent to the board and when?
Documentation Challenges

Documenting that mortgages, liens and other encumbrances were addressed

Encumbrances or severed mineral rights shown in the title investigation are appropriately addressed so they will not result in extinguishment of the conservation easement or significantly undermine the conservation values

• Situation A: Title investigation indicated coal, natural gas and other mineral rights have been severed fee project
• Situation B: $500,000 mortgage showing on title commitment showing on easement project

– Could these potentially result in the extinguishment of the conservation easement or significantly undermine the conservation values?
– How would you address the potential encumbrances?
– What documentation would you provide?
Documentation Challenges

Documenting title was updated at closing

Title investigation is updated by title company or attorney generally within 30 days of closing

– What documentation would you provide?
Use the *Requirements Manual*

Conflict of interest policy:

- Applies to all insiders
  - Board members
  - Staff members (if the organization has staff)
  - Substantial contributors
  - Parties related to board members, staff (if the organization has staff), and substantial contributors
  - Those who have an ability to influence decisions of the organization (such as committee members)
  - Those with access to information not available to the general public (such as volunteers, contractors, consultants, advisory board members, etc.)
- Addresses how conflicts are identified, and avoided or managed.
Gathering Information

• Conflicts of interest (financial and land/easement)
• Single audit (if > $750,000 in federal funds)
• Purchase appraisals (most recent)
• Above appraised value purchases (most recent)
• Forms 8283 and landowners’ appraisals
• Conservation easement violations
• Fee ownership challenges
• Conservation easement amendments
• Conservation easement extinguishments
Accreditation Tools

• Applicant Handbook
• Requirements Manual
www.landtrustaccreditation.org
Other Tools

Alliance
- The Learning Center
- Standards and Practices background narratives
- Training, conferences, online learning and webinars
- Staff

Commission
- Enews
- Factsheets/Policies
- Application Materials
- Webinars
- Tutorials
- Sample Statements
- Template Policies and Accreditation Tips
- Staff
Narratives for Practice Elements

**STANDARD 11 CONSERVATION EASEMENT STEWARDSHIP**

**B. Baseline Documentation Report**

1. Prepare the report prior to closing and have it signed by the landowner and land trust and land trust sign a schedule for finalizing the full report and an acknowledgment of interim data that for donations and bargain sales meets Treasury Regulation Sec. 1.170A-14(4)(5)(ii) at closing.

Accreditation indicator elements located at [www.landtrustaccreditation.org](http://www.landtrustaccreditation.org)

**PREPARING BASELINE DOCUMENTATION REPORTS**

**Author**

Land trusts will often create the baseline for each easement they hold, sometimes at their own cost and sometimes for a fee paid by the landowner. Although the Treasury Regulations require that a landowner make available to the donee (easement holder), prior to the time the donation is made, documentation sufficient to establish the condition of the property at the time of the gift [grant of easement], the land trust should take the lead on creating the baseline in order to ensure that the document contains all the information that needs to be in a baseline (and no extraneous materials), that the report is prepared to the land trust’s standards and is consistent with other land trust reports and that the document is prepared within the requisite timeframe (prior to closing and executed at closing). If a land trust does not have the capacity to prepare baseline documentation, it should, at a minimum, adopt a policy that states that the land trust:

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**Seasonal Conditions and Finalizing the Report**

For accreditation, a baseline documentation report must include an acknowledgment attesting to the accuracy of the report signed and dated by the land trust and landowner at or before closing. If a land trust has older baseline reports that are not signed or creates current conditions reports for older easements, it should attempt to obtain the landowner signature for all easements completed in 2004 or later. If a land trust cannot obtain the signatures of the landowner on these reports, it should retain documentation that it attempted to get the reports signed.

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**If seasonal conditions prevent the baseline documentation report from being completed prior to closing, a land trust must have interim data and a schedule for finalizing the full report that are signed by the land trust and landowner at or before closing.**
Are You Ready?

• Is our land trust committed?
• Is our land trust eligible?
• Does (or will) our land trust meet the pre-application requirements?
• Will our land trust be ready to complete the accreditation application?
• Is this the right time?
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  518-587-3143  

• Jessica Whittaker  
  jwhittaker@landtrustaccreditation.org  
  508-763-2053
Final Questions and Thank you!