



An independent program of the Land Trust Alliance

Summary of Changes to the 2021 *Requirements Manual*

Table of Contents

Overview..... 2

What is Different in Formatting.....2

STRUCTURE.....2

BOLD VS. NON-BOLD LABELS.....2

What is Different in Requirements.....3

OVERVIEW.....3

FINANCE.....3

TRANSACTIONS.....4

STEWARDSHIP.....6

Have additional questions?

This document is a companion to the [full Manual](#) and provides more in-depth information on the changes. Questions? Contact: **Valerie Roof** | vroof@landtrustaccreditation.org | 518-587-3143

LAND TRUST 
ACCREDITATION
COMMISSION
An independent program
of the Land Trust Alliance



Overview

The *Requirements Manual* (Manual) helps land trusts understand how the Land Trust Accreditation Commission verifies that a land trust meets *Land Trust Standards and Practices* (Standards). The Manual also helps land trusts be successful in the accreditation process. The Commission looks at the requirements annually to evaluate if updates are needed.

When deciding whether to revise or add requirements, the Commission considers consistency with Standards and professional sources; equity among land trusts; feasibility of implementation and verification; and the level of risk to land trusts and the land trust community. The goal is to have clear requirements informed by land trust community feedback that are the basis for fair and consistent decisions.

Land trust community feedback is gathered by commissioners, who represent accredited land trusts, receiving comments from land trusts throughout the year, and by having public comment periods. An open call for comments was held in July 2020 and requests for comments on specific changes was held in Fall 2020. The

2021 applicants will not see any changes in the application or the accreditation management system, but minor changes will be made for 2022 applicants based on modified requirements and user feedback.

Commission appreciates the more than thirty responses that were received in response to this second comment period. These comments helped improve and inform the final requirements.

What is Different in Formatting

STRUCTURE

The 2021 Manual now contains links to the educational materials, background narratives, and courses related to each indicator element that are available on The Learning Center. When designing the 2018 Manual, the Commission decided to reduce the amount of explanation about requirements in the Manual and instead included that information in the background narratives. This gives land trusts access to more complete and in-depth information. [See page 10 of the Manual for more information.](#)

The 2021 Manual no longer includes the list of the documents provided in the main accreditation application. Now that the reference version of the complete application is available on the Commission's website, the 2021 Manual includes a link ([see page 5](#)) to these accreditation application documents to ensure land trusts are using the most current versions. The online accreditation application includes pre-application materials, targeted verification documents, application questions, application documents, and documentation from land and easement projects.

BOLD VS. NON-BOLD LABELS

The bold/non-bold labeling was implemented in the 2018 Manual to help land trusts understand how the Commission views individual requirements and to reflect that, while all are important, not all requirements carry the same level of risk ([see page 6 of the Manual](#)).

To ensure this feature of the Manual was helpful, a question was included in the fall comment period. Most respondents indicated that the bold/non-bold distinction helped them better understand the requirements and how the Commission uses the requirements. As a result, the 2021 Manual continues to use the bold/non-bold labeling, but the category of some requirements was changed

to better reflect risk and the way the Commission addresses compliance. [The redline version of the Manual](#) shows the changes in the categories.

The requirements **highlighted in yellow** were changed; the previously bold became non-bold and vice versa.



What is Different in Requirements

OVERVIEW

Most requirements have not changed. Some have been modified to improve consistency and clarity, respond to land trust feedback, and to incorporate new information from other industry standards and the Land Trust Alliance.

For example, requirements in the Finance section now use updated terminology of “assets with donor restriction” and “assets without donor restriction” rather than “unrestricted,” “temporarily restricted,” and “permanently restricted.” This change was made to be consistent with changes made by the Financial Accounting Standards Board.

Other requirements were combined to streamline the application and review.

For example, there were two similar requirements in the Finance: Financial Records and Financial Health and in Finance: Internal Controls related to addressing internal control issues. These were combined into one requirement:

IV.2. Appropriate action taken to address any significant internal control issues and/or recommendations for significant changes to financial procedures listed in the management letter or correspondence that accompanied the most recent audit, review or compilation.

Below is a summary of the new requirements and those with substantive updates along with an explanation of what changed, why the change was made, and what feedback was collected from land trusts.

FINANCE

I.1 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 net assets without donor restrictions, with board-designation and with donor restrictions.

(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
- **\$250,000 - \$750,000**: Review by independent CPA
- <\$250,000: Compilation by CPA; if not using a CPA, the compilation must be prepared by an independent qualified accountant Threshold applies to fiscal years ending 12/31/2020 and beyond; for earlier fiscal years, review expected when support and revenue exceeded \$100,000

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UPDATED
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WHY IS IT IMPORTANT?

- An annual financial evaluation ensures a land trust’s board has reliable financial information to fulfill its financial oversight responsibilities.
- The Manual establishes requirements land trusts across the nation must meet in order to operate a fair and credible program regardless of where a land trust is located. The requirements are based on an analysis of the thresholds set by a majority of states as well as standards set by other nonprofit charity evaluators.

WHAT CHANGED?

- The threshold when a review is required has been raised from \$100,000 to \$250,000 for fiscal years ending 12/31/2020 and beyond. For earlier fiscal years, a review is expected when support and revenue exceeded \$100,000.
- A reminder that, beginning in 2018, compilations must include footnotes and disclosures and show net assets without donor restrictions, with board-designation, and with donor restrictions.



WHY THE CHANGE?

- The Commission heard from several land trusts asking that the threshold for a compilation be evaluated. In response to that land trust input, the Commission reviewed other industry standards, including the Wise Giving Alliance’s Standards for Charitable Accountability, and various state law requirements and found that raising the threshold to \$250,000 was consistent with these. [Note: the threshold for obtaining an audit was raised from \$500,000 to \$750,000 in 2018.]

WHAT DID LAND TRUSTS SAY?

- There was unanimous support for this change.

TRANSACTIONS

III.2. Tax-deductible conservation easements also include the following consistent with the Treasury Department regulations and Tax Court decisions:

- d. **Approval provisions that do not allow lack of grantee’s response to grantor’s request to be automatic approval of the activity** Starting in 2022

NEW
REQUIREMENT

WHY IS IT IMPORTANT?

- Land trusts have a responsibility to review, on their own behalf, each potentially tax-deductible conservation easement for consistency with the Treasury Department regulations. Part of this review includes considering whether the easement document contains elements that would place a landowner at risk of being denied a deduction, which could impact the reputation of the land trust and the larger land trust community.

HOW WILL IT BE IMPLEMENTED?

- To give land trusts time to implement the change, this requirement will be phased in and start in 2022. Accreditation reviewers will look that tax-deductible conservation easements completed in 2022 and later meet the requirement. Corrective action will not be required for older conservation easements.

WHY ADD IT NOW?

- In 2018 Tax Courts disallowed a deduction because a conservation easement included a clause that failure of the grantee to respond to a request for approval within a specified timeframe constituted default approval, which failed to satisfy the perpetuity requirements.
- Because default approval clauses have potential conservation risk and reputational risk, the Land Trust Alliance advises land trusts to not include them in tax-deductible conservation easements.
- For more information, see the Land Trust Alliance’s [Drafting Approval Standards in Conservation Easements](#)

WHAT DID LAND TRUSTS SAY?

- Most respondents supported the addition of the requirement noting many already address this issue. To respond to the feedback received about the importance of clarity, the final requirement includes updated language.



III.2. Tax-deductible conservation easements also include the following consistent with the Treasury Department regulations and Tax Court decisions:

e. Extinguishment provisions that require:

- i. Grantee be entitled to at least the proportionate value² of the conservation easement at the time of the gift

(²Must not subtract a) the value of permitted improvements since the time of the gift or b) the satisfaction of any and all prior claims) Starting in 2022

NEW
REQUIREMENT

WHY IS IT IMPORTANT?

- Land trusts have a responsibility to review, on their own behalf, each potentially tax-deductible conservation easement for consistency with the Treasury Department regulations. Part of this review includes considering whether the easement document contains elements that would place a landowner at risk of being denied a deduction, which could impact the reputation of the land trust and the larger land trust community.

and “after the satisfaction of any and all prior claims.” A conservation easement must absolutely guarantee that the land trust receive its proportionate share of the extinguishment proceeds. The Land Trust Alliance revised its guidance to land trusts to reflect that ruling.

- For more information, see the Land Trust Alliance’s [Pointers for Drafting the Proceeds Clause in Conservation Easements](#).

HOW WILL IT BE IMPLEMENTED?

- To give land trusts time to implement the change, this requirement will be phased in and start in 2022. The Commission will look that tax-deductible conservation easements completed in 2022 and later meet the requirement. Corrective action will not be required for older conservation easements.

WHY ADD IT NOW?

- The Treasury Department regulations require that tax-deductible easements include provisions to address extinguishment of easements and how the easement allocates any possible extinguishment awards (“proceeds”) between the landowner and the land trust using the method set in the “proceeds clause.” A recent Tax Court ruling disallowed a deduction because the easement failed to satisfy the ‘protected in perpetuity’ requirement because it included the language: “minus any increase in value after the date of this Conservation Easement attributable to improvements”

WHAT DID LAND TRUSTS SAY?

- Most respondents supported the addition of the requirement noting many already address this issue. To respond to the feedback received about the importance of clarity, the final requirement includes updated language.

V.4. Land trust evaluates each transaction and takes actions to resolve substantial concerns² with the appraisal, appraised value or other terms of the transaction to ensure the land trust does not knowingly participate in potentially fraudulent or abusive transactions, including the following:

- a. Involving legal counsel as appropriate
- b. Taking appropriate action including one or more of the following: documenting concerns were shared with the donor, seeking an independent substantiation of value, withdrawing from the transaction prior to closing, asking to see the landowner’s appraisal prior to closing, documenting the board’s decision to proceed with the transaction and/or with signing the Form 8283, refusing to sign the Form 8283
- c. Signed the Form 8283 only when a gift was received

(²If the title investigation or other documentation shows the property has been held for a short period, the landowner appears to have inflated expectations for the value of the donation, the appraised value does not appear defensible in light of the land trust’s knowledge of local land values, the appraisal appears to contain unjustified extraordinary assumptions, the appraised value is significantly in excess of the donor’s cost or adjusted basis [if recent].)

UPDATED



WHY IS IT IMPORTANT?

- Most conservation transactions that involve a tax deduction do not raise the types of concerns addressed in this requirement. However, the public’s impression of land trusts and support for private land conservation is affected by their perception of the integrity of conservation transactions. While the Internal Revenue Service does not hold land trusts responsible for the tax deductions claimed by a landowner, land trusts have an obligation to help minimize misuse of tax policies that have effectively led to the voluntary protection of land.

WHAT CHANGED AND WHY?

- The requirement clarifies that land trusts have a responsibility to consider a transaction as a whole and take action to ensure they are not knowingly participating in a potentially fraudulent or abusive transaction.

STEWARDSHIP

I.1 Monitoring or inspection reports include the following:

f. **Date report completed** Starting in 2022

NEW
REQUIREMENT

WHY IS IT IMPORTANT?

- Having the report completion date helps land trusts document that reports are completed promptly after the visit, which will aid in reports being admissible as evidence in court. In order to meet the business records exception to the rules against hearsay, the record must be made at or near the time of the event.
- The date of report completion also helps the Commission verify compliance with the requirement that monitoring and inspection reports are completed generally within three months of the monitoring or inspection date.

HOW WILL IT BE IMPLEMENTED?

- To give land trusts time to implement the change, this requirement will be phased in and start in 2022. The

- The requirement includes more information about what types of triggers should be flagged as possibly causing substantial concerns and what actions the land trust can take to resolve those concerns.
- For more information, see the Land Trust Alliance’s narratives on indicator element [10C2 and 10C3](#): Avoiding Fraudulent or Abusive Transactions.

WHAT DID LAND TRUSTS SAY?

- The Commission initially sought comment on a new, separate requirement. To respond to the feedback received, the Manual instead includes clarity to an existing requirement.

Commission would focus on a land trust’s current work at that time, and corrective action will not be required for older monitoring or inspection reports.

- A land trust can incorporate the completion date by including a “date report completed” field or by including a dated signature of the report preparer. (Note, having the preparer sign the report is not required for accreditation but is an approach used by some land trusts.)

WHAT DID LAND TRUSTS SAY?

- Most of the respondents supported this change, with many noting that this is their current practice and others suggesting it may be difficult for small land trusts. Phasing in the requirement will give land trusts of all sizes time to revise their practices and templates.



II.1. Every conservation property has a management plan that includes the following:

- a. **Date plan completed or updated** Starting with plans created or updated in 2022 and beyond

NEW
REQUIREMENT

WHY IS IT IMPORTANT?

- A date of completion or update will help land trusts know when management plans were created or last updated and facilitate the update process as needed.
- The Commission can more equitably evaluate the requirement that land trusts complete management plans and update them with added parcels within 12 months of acquisition.

HOW WILL IT BE IMPLEMENTED?

- This change would be phased in starting in 2022, so land trusts do not need to update existing plans to meet the new requirements. However, if a plan is created or updated in 2022 or later, the plan should contain a date in addition to the other required elements.

WHAT DID LAND TRUSTS SAY?

- There was almost unanimous support for this addition.
- One respondent requested clarification on which date is required (e.g., the date created, signed, effective, or approved by the board). For accreditation purposes, management plans are not required to be adopted by the board or signed by third parties. Therefore, in general the “date plan completed or updated” can be the date the plan is created.

II.2 Management plan has sufficient detail to effectively protect and manage the property. (Such as maps with location of key property features or specific activities, summaries of restrictions or donor/funder requirements that inform uses, maps that show property location and boundaries.)

NEW
REQUIREMENT

WHY IS IT IMPORTANT?

- A written management plan is essential for each land trust property to help identify the resources that are to be protected and to memorialize what actions the land trust plans to take or avoid to accomplish its goals.
- Land trusts manage protected property in significantly different ways, including active agriculture, active restoration of various habitats, or allowing nature “to take its course.” This new requirement recognizes that the nature of the properties and the purposes for protection differ greatly, therefore the detail included in the management plan will vary as well. However, the plan needs to include sufficient detail that is scaled to the management goals of the property. For example, a parcel with active forest management needs more detail than a one-page management plan that identifies “forest management” as an activity.
- The requirement offers suggestions for the level of detail that may be included in a plan, such as maps, summaries, etc.

HOW WILL IT BE IMPLEMENTED?

- Most land trusts have management plans that meet this requirement. However, land trusts that rely on very brief management plans should evaluate whether adding more detail to the plan is needed to effectively protect and manage the property.
- If the Commission finds during the review process that additional detail is required in a land trust’s management plans, additional action may be required to meet this requirement.

WHAT DID LAND TRUSTS SAY?

- The Commission initially proposed two new requirements: a) management plans include a map to show the location of the different management areas and b) management plans contain detail appropriate to the scale and risk of activities on the property. Overall, survey respondents indicated support for these additions, however, they noted the need for some flexibility in the plan content to reflect the facts and circumstances about each fee property. The new requirement responds to the feedback received.