Accreditation Requirements Manual

A Land Trust’s Guide to Understanding Key Elements of Accreditation

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

36 Phila Street, Suite 201, Saratoga Springs, NY 12866
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Please Note: This Requirements Manual augments and replaces the information previously published in the Commission’s Guidance Documents
Acknowledgements
The indicator practices for the land trust accreditation program are taken directly from *Land Trust Standards and Practices*, © 2004 Land Trust Alliance, available for purchase or download online at www.landtrustalliance.org, used here under a license agreement with the Land Trust Alliance.

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The Land Trust Accreditation Commission recognizes community institutions that meet national quality standards for protecting important natural places and working lands forever.

The Land Trust Accreditation Commission is an independent program of the Land Trust Alliance. For more information, visit www.landtrustaccreditation.org
Dear Colleague,

The Land Trust Accreditation Commission is pleased to release this first edition of the *Accreditation Requirements Manual: A Land Trust’s Guide to Understanding Key Elements of Accreditation*.

Since the Commission was founded in 2006, the land trust community has grown and evolved. The Commission has refined and improved the accreditation process accordingly.

This *Requirements Manual* provides information on the elements the Commission evaluates for every indicator practice. It is based on the Commission’s experience in reviewing more than 200 applications for accreditation. Understanding what elements the Commission looks for in an application will enable applicants to submit stronger applications for accreditation, maximizing the use of staff and volunteer resources for both applicants and the Commission.

The manual is comprehensive. We encourage readers to review it carefully, along with the companion *Applicant Handbook*. When reading it, keep in mind that while each applicant must meet each indicator practice, the Commission evaluates each applicant’s approach in the context of the other materials presented in the application to balance individual differences and circumstances with consistency and fairness.

We are excited to provide this manual to accreditation applicants and accredited land trusts and hope it provides you with information that can help you to be successful in the accreditation process and to retain your accredited status.

If you have any questions or comments, please contact the Commission. The contact information is provided on page 3.

Regards,

Tammara Van Ryn
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OVERVIEW
Accreditation is a systematic and objective verification process that results in public recognition of those organizations demonstrating compliance with established quality standards. The land trust accreditation program follows accepted accreditation practices and verifies applicant compliance with *Land Trust Standards and Practices* by evaluating a sampling of the 88 practices that are selected by the Land Trust Alliance. These 26 practices are known as the indicator practices.

To ensure consistent accreditation decisions, the Land Trust Accreditation Commission, an independent program of the Land Trust Alliance, has an evaluation system that is fair but flexible. On one hand, all accredited organizations must demonstrate compliance with each indicator practice. On the other hand, the Commission is aware that one size does not fit all in land conservation. The Commission recognizes the wide diversity of approaches that organizations use to implement the practices and that this diversity is one of the strengths of the land trust community.

This *Requirements Manual* describes how the Commission verifies an organization’s compliance with the indicator practices. It includes information for first-time applicants and renewal applicants. (Note that here and throughout this manual, “first-time” applies when an applicant has not yet been awarded accreditation; some “first-time” applicants may have previously applied but not been awarded accreditation.) The common factors described in this manual are evaluated for most applicants. However, depending on the facts and circumstances of a particular organization, the Commission may evaluate other factors.

The manual is integrally linked to other material published by the Commission, including the *Applicant Handbook*, the *application for accreditation*, and *fact sheets*. The *Applicant Handbook* includes other accreditation policies and requirements of which applicants need to be aware. These include, but are not limited to, definitions, eligibility requirements, requirements for an assessment against all *Land Trust Standards and Practices*, and pre-application requirements. This manual augments and replaces the information previously published in the Commission’s *Guidance Documents*. For any previous references to the *Guidance Documents*, please now refer to this manual.

To ensure that this manual reflects the most current requirements, it will be updated on an annual basis. Notice of revisions will be published in the Commission’s e*Newsletter* and on its website.

FORMAT AND SCOPE OF THE REQUIREMENTS MANUAL
The manual contains information relevant to each of the 26 indicator practices. The appendix includes information relevant to specific organizations (such as those with multiple corporations/related entities, those that have merged with another organization, those that have primarily mitigation projects, or those that are quasi-governmental agencies).

The information for each indicator practice is presented in a standard format. First, the language of the practice directly quoted from *Land Trust Standards and Practices* is
The practice is followed by information related to how the Commission evaluates compliance with the indicator practice, organized into the following sections.

**Key Elements of the Indicator Practice** – This section summarizes the requirements of each indicator practice and related elements that are required at the time of application. It is expected that a first-time applicant will be able to document that its current practice is compliant with these elements. It is expected that an applicant for renewal will be able to document that its practice over the five-year accredited term has remained compliant with these elements.

**Policy/Procedure Elements** – Where applicable, this section provides the required elements of the policies or procedures. (Please note that the definitions for “policy” and “procedure” are provided in the Applicant Handbook.) Each of a first-time applicant’s required policies/procedures will be reviewed for compliance with the indicator practice and to confirm that each is tailored to the applicant organization. Some elements are required to be present in the policy or procedure in a first-time application. If an applicant’s policy or procedure is found to be missing any of these elements, it will be required to revise its policy or procedure prior to accreditation. When an accredited organization submits an application for renewal, the Commission expects that the organization’s policy or procedure will include all the elements required at first-time application and at renewal.

**Additional Elements of Practice Implementation** – This section includes other elements of evaluation that the Commission considers when determining compliance with the indicator practice. It is expected that first-time and renewal applicants will be able to document that their current practice is compliant with these elements.

**Other Information** – Where applicable, this section contains other information relevant to how the Commission evaluates compliance. This ensures that the requirements are applied consistently to all applicants.

**Documentation** – This section summarizes what documentation the Commission examines in order to evaluate compliance with the indicator practice. The description of each application attachment has been provided in a truncated form. For complete information about the required attachments, please refer to the application for accreditation. [Please note that the project documentation requirements have been slightly modified for organizations applying in 2013 and beyond. The information in this manual reflects these changes. Organizations submitting applications prior to 2013 should reference the project documentation checklist for details about required documentation.]

If the organization has multiple corporations or related entities, additional documentation information will be required at the time of application. For more details, please see the section “Links to Additional Information for Specific Groups.”
Land Trust Alliance and Other Related Resources – This section includes a nonexclusive list of resources available from the Land Trust Alliance and other resources related to the indicator practice. Some links are to material available at the Land Trust Alliance’s Learning Center. The Learning Center is a password-protected website created especially for board, staff and volunteers of Land Trust Alliance member land trusts; staff of government and nonprofit partner organizations; professional partners; and individuals who donate $250 or more to the Land Trust Alliance.

Evaluating Compliance with the Requirements
In verifying compliance, the Commission looks for the substance of compliance rather than a specific document title or format. If an applicant cannot document compliance with all applicable elements of evaluation, the organization is not necessarily precluded from achieving accreditation. The Commission will evaluate the severity of failure, whether the failure was isolated and rare, whether the failure relates to a key element of the indicator practice, the ability for the organization to address the failure in a timely manner, and the risk the failure poses to the applicant organization and the credibility of the accreditation program. Depending on the facts and circumstances, the Commission may request additional information, require corrective action, issue an expectation for improvement when it awards accreditation, or not award accreditation. If the evidence of non-compliance is cumulative across the majority of practices, the Commission may also decide to not award accreditation. More information about a Commission decision to not award accreditation can be found in the Applicant Handbook.

Expectations for improvement are provided when the Commission determines that an applicant meets the elements of a practice but needs to do additional work to comply fully with all elements. An accredited organization is expected to provide documentation of how it met any expectations for improvement when it applies for renewal of accreditation. The Commission may also issue expectations for improvement for practices that are not indicator practices for accreditation if an application shows evidence of noncompliance with Land Trust Standards and Practices. Samples of common expectations for improvement are presented in the Commission’s Annual Report and are published on the Commission’s website. Information on how to document implementation of the expectations for improvement at renewal is provided in a fact sheet.

Contact Information
Please contact the Commission with any questions, comments, or feedback.

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ACCREDITATION INDICATOR PRACTICES

Practice 1D. Ethics

“The land trust upholds high standards of ethics in implementing its mission and in its governance and operations.”

Key Elements of the Indicator Practice

- The organization has high standards of ethics and adheres to them in implementing its mission, in its governance, and in its operations.
- The mission serves a public interest.

Additional Elements of Practice Implementation

- The mission has no reference to any goal or activity that might serve the private interest of a few individuals (such as stabilizing taxes, increasing home values, etc.).
- The organization is free of unresolved ethical questions and concerns as evidenced by public comments and practice implementation.
- If the organization routinely solicits the fee title underlying a conservation easement it already holds and if merger of the real estate interests is a legal possibility in the state(s) where the organization operates, then the organization informs its donors that there is a possibility of merged interests.
- 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.

Documentation

At first-time application

- 1D1: Board Resolution
- 2C1: Form 990 (statement of mission)
- Public comments (if any received)
- Other evidence of practice implementation (such as application information for practices 4A and 10B)
At renewal application
- 1D1: Renewal Application Board Resolution
- Pre-application/2C1: Form 990 (statement of mission)
- Public comments (if any received)
- Other evidence of practice implementation (such as application information for practices 4A and 10B)

Land Trust Alliance and Other Related Resources
- Practice 1D
- Standards and Practices Curriculum course, “Avoiding Conflicts of Interest and Running an Ethical Land Trust” (chapter 1)
Practice 2A. Compliance with Laws

“The land trust complies with all applicable federal, state and local laws.”

Key Elements of the Indicator Practice

- All required federal and state filings are accurate and current.

Additional Elements of Practice Implementation

- The organization is not subject to final findings of malfeasance following a governmental investigation that would threaten its ability to be accredited or impair the credibility of the accreditation program.
- The organization meets Internal Revenue Service and state law requirements when classifying individuals as independent contractors or employees.
- If the organization conducts business in another state, it complies with out-of-state corporate registration requirements applicable in that state.

Documentation

At first-time application

- Pre-application: Accreditation Agreement
- Pre-application: Certificate of Good Standing
- Application response
- Public comments (if any received)
- Other evidence of practice implementation (such as application information for practice 2C)

At renewal application

- Pre-application: Renewal Accreditation Agreement
- Application response
- Public comments (if any received)
- Other evidence of practice implementation (such as application information for practice 2C)

Land Trust Alliance and Other Related Resources

- Practice 2A
Practice 2B. Nonprofit Incorporation and Bylaws

“The land trust has incorporated according to the requirements of state law and maintains its corporate status. It operates under bylaws based on its corporate charter or articles of incorporation. The board periodically reviews the bylaws.”

Key Elements of the Indicator Practice

• The organization is incorporated as a nonprofit or formed as a trust in accordance with state law.
• The organization has articles of incorporation, a corporate charter, or a declaration of trust.
• The organization has bylaws based on its articles of incorporation or corporate charter. If the organization is a trust, it has bylaws or an equivalent document based on the declaration of trust.
• The organization maintains its corporate status.
• The board reviews its bylaws (or equivalent document) at least once every five years.

Additional Elements of Practice Implementation

• The organization is in good standing with the state in which it is incorporated.
• The organization’s bylaws are consistent with state law.
  o If the organization takes action without a meeting (such as voting via email), it ensures that such action is allowable under state law and that any action taken is compliant with state law. (For example, the organization ensures that unanimous written consents are received if that is a statutory requirement.)
  o If the organization uses proxy voting, it ensures that such action is allowable under state law and any action taken is compliant with state law.
  o If the organization holds meetings via telecommunications equipment, it ensures that such action is allowable under state law and any action taken is compliant with state law.
• The organization’s bylaws contain all significant operational provisions (such as purposes of the corporation, election of board of directors, meetings of the board, voting, etc.).
• The organization operates in accordance with its bylaws. (For example, if a membership organization, the organization holds annual membership meetings as specified).
Documentation

At first-time application
- Pre-application: Articles of Incorporation, Corporate Charter, or Declaration of Trust
- Pre-application: Certificate of Good Standing
  - For an organization formed as a trust, documentation that the state’s conservation easement enabling statute allows trusts to accept conservation easements (if the organization holds conservation easements)
- 2B1: Current bylaws (or equivalent document)
- 2B2: Statement of when and how the board last reviewed the bylaws, who was involved in the review, and any significant changes resulting from the review
- Other evidence of practice implementation (such as number of board members listed in the pre-application questionnaire, bylaws, and 2C1 Form 990)

At renewal application
- Application response
- 2B1: Articles of Incorporation (if amended since previous accreditation)
- 2B2: Current bylaws (or equivalent document)
- Other evidence of practice implementation (such as number of board members listed in the application, bylaws, and pre-application/2C1 Form 990)

Land Trust Alliance and Other Related Resources

- Practice 2B
- Standards and Practices Curriculum course, “Land Trust Boards: Preparing for Perpetuity” (chapter 1)
Practice 2C. Tax Exemption

“The land trust has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. If the land trust holds, or intends to hold, conservation easements, it also meets the Internal Revenue Code’s (IRC) public support test for public charities. Where applicable, state tax-exemption requirements are met.”

Key Elements of the Indicator Practice

- The organization is recognized as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code or is a quasi-governmental conservation organization.
- The organization annually files a Form 990 with the Internal Revenue Service as required.
- If the organization holds conservation easements, it can demonstrate that at least one-third of its “qualifying support” is broad-based public support or that it meets one of the Internal Revenue Service’s alternate tests for not being classified as a private foundation.
- The organization does not engage in prohibited activities, such as private inurement, excess lobbying or political campaign activity.

Additional Elements of Practice Implementation

- The organization’s Form 990 is complete and accurate, including the following items.
  - The organization’s reported financial information matches or reconciles with the compiled, reviewed or audited financial information.
  - The organization segregates and reports its fundraising, management and general, and program service expenses (also relates to practice 6B).
  - The organization provides all applicable schedules, including:
    - Schedule A: The organization demonstrates it meets the public support test if it holds conservation easements.
    - Schedule B: The organization discloses required contributions and is registered or is exempt from registering to solicit in all states where contributors are located (see practice 5A).
    - Schedule C: The organization reports its lobbying expenses, even if de minimis.
    - Schedule D: The organization reports required information on its conservation easements and endowment funds.
    - Schedule L: The organization reports financial transactions or arrangements with conflicted parties.
    - Schedule M: The organization reports all noncash contributions, including any conservation easements.
    - Schedule O: The organization provides the necessary supplemental information.
• All other information accurately reflects the organization’s activities.
• The organization reports on any applicable unrelated business income (Form 990-T).
• The organization’s board reviews the Form 990 before filing.

Documentation

At first-time application
• Pre-application: tax determination letter from the Internal Revenue Service
• Application responses
• 2C1: Most recent Form 990 (or Form 990-EZ or Form 990-N)
• 2C1: Form 990-T (required for organizations with unrelated business income)

At renewal application
• Pre-application/2C1: Most recent Form 990 (or Form 990-EZ or Form 990-N) and Form 990-T (required for organizations with unrelated business income)
• Application responses
• 2C2: Federal tax-determination letter (if new or revised since previous accreditation)

Land Trust Alliance and Other Related Resources

• Practice 2C
• Detailed Guide to the New Form 990
• Standards and Practices Curriculum course, “Nonprofit Law and Recordkeeping for Land Trusts, Volume I: Complying with Local, State and Federal Law” (chapter 2)
• Internal Revenue Service
  o Form 990-N Information
  o 2011 Form 990-EZ Instructions
  o 2011 Form 990 Instructions
  o 2011 Schedule A Instructions (Form 990 or 990-EZ)
  o 2011 Schedule C Instructions (Form 990 or 990-EZ)
  o 2011 Schedule D Instructions (Form 990)
  o 2011 Schedule L Instructions (Form 990 or 990-EZ)
  o 2011 Schedule M and Instructions (Form 990)
  o 2011 Form 990-T
Practice 3C. Board Governance

“The land trust provides board members with clear expectations for their service and informs them about the board’s legal and fiduciary responsibilities. The board meets regularly enough to conduct its business and fulfill its duties, with a minimum of three meetings per year. Board members are provided with adequate information to make good decisions. Board members attend a majority of meetings and stay informed about the land trust’s mission, goals, programs and achievements.”

Key Elements of the Indicator Practice

- 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 board meets frequently enough to conduct its business, no less than three times per year.
- Individual board members receive the information they need to make decisions in the best interests of the organization.
- Board members attend a majority of board meetings.

Additional Elements of Practice Implementation

- The board operates consistently with its bylaws, including the elements below.
  - Types and frequency of meetings
  - Voting (such as email, phone, proxies, etc.)
  - Size of board
- The organization’s board is a functional size relative to its scope and mission.
- Board members are committed to and engaged in the work of the organization.
- The organization has had a quorum for most of its board meetings during the past 12 months.
- The board is not controlled or dominated by an individual or a small group of individuals who are related or have close personal relationships with each other (also relates to practice 4A).
- 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 written job descriptions and/or a manual for board members.
- The organization has a process to recruit, train, and orient new board members and evaluate individual board members and the board as a whole.
- The organization evaluates the performance of the executive director or equivalent position (if the organization has staff).
- The board sets strategic direction and evaluates the organization’s progress (also relates to practice 7A).
- Board members are provided with materials in advance of each board meeting (preferably at least three days); the materials generally include a meeting agenda,
minutes of the previous meeting, and informational materials for most decision items on the agenda.

Documentation

At first-time application
- Preliminary attachments: board member list and biographies
- Application responses
- 3C1: Statement describing how board members are provided with clear expectations for their service, are informed about the board’s legal and fiduciary responsibilities, are provided with adequate information for making good decisions, and are informed about the activities of the organization
- 3C2: Evidence supporting statement 3C1
- 3C3: Description of the board’s involvement in the following: setting strategic direction and evaluating the organization’s progress, receiving training to fulfill its duties, evaluating performance of individual board members and of the board as a whole, and evaluating the executive director or most highly compensated employee (if the organization has staff)
- 3C4: Evidence supporting statement 3C3
- 3C5: List of board committees by name with a description of each committee’s authority, including a list of who is on each committee and how often each committee meets
- 3C6: Materials provided to the board in advance of its most recent regular board meeting for which minutes are available, as well as any additional material provided at the meeting
- 3C7: Minutes from the board meeting for which materials are submitted in 3C6
- Other evidence of practice implementation (such as documentation of financial oversight in practice 6B)

At renewal application
- Application responses
- 3C1: List of board committees, including committee name, who is on each committee, and how often each committee meets
- 3C2: List of current board members and board member biographies
- 3C3: Materials provided to the board in advance of its most recent regular board meeting for which minutes are available as well as any additional materials provided at the meeting
- 3C4: Minutes from the board meeting for which materials are submitted in 3C3
- 3C5: Statement describing which of the requirements the organization did not meet and how the organization has since ensured continued compliance with this practice (if applicable)

Land Trust Alliance and Other Related Resources

- Practice 3C
• Standards and Practices Curriculum course, “Land Trust Boards: Preparing for Perpetuity”
Practice 3F. Board Approval of Land Transactions

“The board reviews and approves every land and easement transaction, and the land trust provides the board with timely and adequate information prior to final approval. However, the board may delegate decision-making authority on transactions if it establishes policies defining the limits to that authority, the criteria for transactions, the procedures for managing conflicts of interest, and the timely notification of the full board of any completed transactions, and if the board periodically evaluates the effectiveness of these policies.”

Key Elements of the Indicator Practice

- Every land and conservation easement transaction is reviewed by the board or by an entity to which the board has directly (via written policy) or indirectly (via committee description or other means) delegated decision-making authority.
- Every land and conservation easement transaction is approved by the board. Alternatively, if the full board does not approve every land and conservation easement transaction, then the organization has a dated, board-adopted policy or policies for delegating decision-making authority (see below).
  - The need for a delegation policy applies when a committee of the board [such as the executive committee or lands committee] or other designee makes the final decision about a transaction in lieu of full board action. Delegation policies are required even if delegation only happens on an occasional basis, such as at the end of year. Note that some land trusts delegate authority in their bylaws; generally bylaws provisions do not meet all of the delegation-policy requirements and a separate policy is required.
  - A delegation policy is not needed if the board delegates final-approval authority for a specific project that it has preliminarily approved.
- The board or delegated decision-making authority receives timely and adequate information about each transaction before it makes its final decision to approve it.

Policy Elements

At first-time application and thereafter
- The policy or policies include all of the following elements.
  - Any limitations on authority to act (such as requiring full board approval if a conflicted party is involved, requiring a committee review before a final decision is made, etc.)
  - 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
Additional Elements of Practice Implementation

- The organization documents that the board or delegated entity has reviewed the land transaction.
- The application and project documentation show that each project is evaluated to determine whether it meets the organization’s criteria and advances the organization’s mission (also relates to practice 8B).
- The board or delegated decision-making authority receives sufficient information in writing prior to approval to make an informed decision. (Examples of sufficient information include the project location, project size, analysis of how the conservation values of the project compare to the organization’s criteria/mission, public benefits, number and type of reserved rights retained, anticipated stewardship obligations and costs, etc.)
- The organization documents the board or delegated decision-making authority’s approval of the land transaction.
- If a project changes substantially from initial review and conceptual approval (such as significant changes in size, restrictions, number and type of reserved rights, etc.), then the organization updates the board or delegated decision-making authority before the project is completed.
- For organizations that delegate review and/or approval authority,
  - The fact, nature, and extent of the delegation are appropriate for the organization’s scope and scale.
  - There is documentation of the delegated entity’s deliberations (such as committee meeting minutes or notes).
  - There is documentation of the delegated entity reporting back to the board on its actions in a timely manner (preferably at the next board meeting).
  - 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.
- If transaction work is completed by a partner or similar entity, the organization still carefully reviews each transaction and documents that the project is consistent with its own project selection criteria and that all required review and approval procedures have been taken prior to approving the project.

Documentation

At first-time application
- Application response
- 3C5: List of board committees and descriptions (for documentation of indirect project review delegation)
- 3F1: Statement describing the steps the organization takes to evaluate and complete a land or conservation easement acquisition project, who is involved in each step and when each step normally occurs in the process
- 3F2: Material provided to the board or committee before it reviewed the most recent project
• 3F3: Material provided to the board or committee before it approved the most recent project
• 3F4: Policy delegating transaction approval authority (if applicable)
• 3F5: Explanation of why the organization has chosen to delegate transaction approval authority and how the organization evaluates its delegation of transaction approval authority (if applicable)

Project Documentation
For projects completed within the last 10 years
- 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 of the project
- Minutes of the meeting when the project was approved or other record of final decision
- Other documentation that helps illustrate how the organization reviewed and approved the project, if any

At renewal application
• Application response
• Policy attestation
• 3F1: Documentation that the board has periodically evaluated the effectiveness of its delegation of transaction approval authority policies (if applicable)

Project Documentation
- 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 of the project
- Minutes of the meeting when the project was approved or other record of final decision
- Other documentation that helps illustrate how the organization reviewed and approved the project, if any

Land Trust Alliance and Other Related Resources

• Practice 3F
• Standards and Practices Curriculum course, “Land Trust Boards: Preparing for Perpetuity” (chapter 1)
• Standards and Practices Curriculum course, “Acquiring Land and Conservation Easements” (chapter 1)
Practice 4A. Dealing with Conflicts of Interest

“The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy applies to insiders (see definitions), including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.”

Key Elements of the Indicator Practice

- The organization has a board-adopted, written conflict of interest policy (or policies) that applies to insiders (see below).
- The policy addresses how conflicts are avoided or managed.

Policy Elements

At first-time application and thereafter
- The organization has a dated, board-adopted, written conflict of interest policy (or policies) that applies to all of the following insiders.
  - Board members
  - Staff members (if the organization has staff)
  - Substantial contributors
  - Parties related to the above
- The policy addresses how conflicts are avoided or managed.

At renewal application and thereafter
- The policy (or policies) must also apply to all of the following insiders.
  - 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, etc.)
- The policy must ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means, including that a conflicted party not be present during the board’s discussion (unless asked to provide information) and vote on an issue where he/she is conflicted.
Additional Elements of Practice Implementation

- The organization appropriately documents the disclosure and management of actual and potential conflicts, including reflecting in minutes or meeting notes that the conflicted party was not present for the discussion (unless asked to provide information) and was not present for the vote.
- If the organization engages in transactions with insiders, it does so infrequently.
- If the organization conducts financial transactions with insiders (such as compensating a board member for legal services), the organization documents how it determines that there is no private inurement and the rate of compensation paid (such as comparable data of hourly or flat rates paid for similar services, competitive bid results received in response to a solicitation for services, other market analysis of the going rate for the scope of services provided, etc.).
- The board’s presiding officer and treasurer and/or firms, companies, or entities they work for are never compensated for professional services.
- The organization either avoids or appropriately manages (such as with disclosure statements, waivers acknowledging the board member’s dual role, etc.) potential conflicts arising from attorney board members who represent landowners in land transactions with the organization.
- When engaging in a land or conservation easement transaction with an insider, the organization ensures that there is no impermissible private benefit or private inurement by implementing the steps below.
  - Following its conflict of interest policy
  - Documenting that the project meets the organization’s land protection criteria
  - Following all its standard transaction policies and procedures
  - For sales and purchases, obtaining an independent appraisal from a qualified appraiser
  - For sales, marketing a property widely before selling it to an insider
  - Taking all other steps necessary to avoid impermissible private benefit or private inurement

Documentation

At first-time application
- Application responses
- 4A1: Conflict of interest policy
- 4A2: Statement describing how the organization implements its conflict of interest policy
- 4A3: Evidence of a conflict of interest disclosure
- 4A4: Statement(s) describing the nature of each land transaction conflict within the past five years (if applicable)
- 4A5: Meeting minutes from the most recent land transaction conflict (if applicable)
- 4A6: Statement(s) describing the nature of each financial conflict within the past five years (if applicable)
- 4A7: Evidence of how the rate was determined for each financial conflict within the past five years (if applicable)
- 4A8: Meeting minutes from the most recent financial conflict (if applicable)
- Other evidence of practice implementation
  - Preliminary Attachment: Land Conservation Project List (identification of projects with conflicted parties)
  - 2C1: Form 990
  - 3C7: Board meeting minutes
  - Material submitted for practices 3C and 9J
  - Material submitted for documentation of projects involving a conflicted party

At renewal application
- Application responses
- Policy attestation
- 4A1: Evidence of a conflict disclosure
- 4A2: Statement(s) describing the nature of the most recent land or easement transaction with an insider (if applicable)
- 4A3: Minutes of the meeting when the decision(s) was made on the most recent land or easement transaction involving an insider (if applicable)
- 4A4: Copy of the donor’s Form 8283 and corresponding appraisal (if applicable)
- 4A5: Statement(s) briefly describing the nature of each financial transaction involving an insider since its last application for accreditation (if applicable)
- 4A6: Statement(s) describing in detail the nature of the most recent financial transaction involving an insider (if applicable)
- 4A7: Evidence that shows how the rate for goods and/or services was determined for the most recent financial transaction involving an insider (if applicable)
- 4A8: Minutes of the meeting when the decision was made on the most recent financial transaction involving an insider (if applicable)
- Other evidence of practice implementation
  - Pre-application: Land Conservation Project List (identification of projects with conflicted parties)
  - Pre-application/2C1: Form 990
  - 3C4: Board meeting minutes
  - Material submitted for practices 3C and 9J
  - Material submitted for documentation of projects involving a conflicted party

Land Trust Alliance and Other Related Resources

- **Practice 4A**
- Standards and Practices Curriculum course, “Avoiding Conflicts of Interest and Running an Ethical Land Trust” (chapters 2 and 3)
Practice 5A. Legal and Ethical Practices

“The land trust complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits fundraising costs to a reasonable percentage of overall expenses.”

Key Elements of the Indicator Practice

- The organization complies with all applicable state charitable solicitation laws (see below).
- 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.)

Additional Elements of Practice Implementation

- For gifts greater than $250, including gifts of land and conservation easements, the organization issues a contemporaneous written gift acknowledgement letter. The letter should be contemporaneous to the gift but must be sent by the time the donor files the tax return for the year of the donation and include the following items.
  o Name of the organization
  o Date of the donation
  o Amount of cash contribution (if applicable)
  o Description (but not the value) of noncash contribution (if applicable) (such as size, location, donation type [i.e., fee property, conservation easement])
  o One of the following,
    ▪ Statement that no goods or services were provided by the organization in return for the contribution, or
    ▪ Description and good faith estimate of the value of goods or services, if any, that the organization provided in return for the contribution [The statement may indicate that the amount of the contribution that is deductible for federal income tax purposes is limited to the portion of the gift contributed by the donor that is in excess of the value of goods or services provided by the organization]
- The organization uses gifts only for their intended purposes.
- Solicitations are clear about any restrictions on the use of moneys received as well as when and if the organization reserves the right to expend the principal of the donation.
- If the organization solicits gifts using the term “endowment” in its communications with donors, the funds are either permanently restricted or temporarily restricted (if the donor is aware that the principal of the funds could be spent) (also relates to practice 6B).
• If an organization serves as a fiscal sponsor for another entity, the organization has the documentation below.
  o Written agreement between the two entities, including information on the control of the funds
  o Documented process for tracking income and expenditures for the sponsored entity
  o Solicitation and gift acknowledgement letters associated with money solicited and received for the sponsored entity that clearly identify the purpose of the funds and who holds the funds

Information on Compliance with State Charitable Solicitation Laws

The organization complies with charitable solicitation registration requirements in all states/jurisdictions where it clearly meets the requirements. For example, it is registered in all jurisdictions in which it operates; to which it actively directs substantial numbers of solicitations, whether via mail, email, or telephone; or where fundraising solicitations are physically conducted via in-person meetings or events.

Where registration requirements may be uncertain, the organization has analyzed the number of solicitations it sends to jurisdictions where it is not registered and the total amount raised from such solicitations and has evaluated whether registering in those jurisdictions is required. The organization has taken steps to register in those jurisdictions where its analysis indicates it must or would be prudent to do so. The evaluation may be based on the National Association of State Charity Officials’ position paper, The Charleston Principles, Guidelines on Charitable Solicitations Using the Internet, or may be a similar analysis done under the guidance of experienced professionals. While written specifically for internet solicitations and are not directly applicable to other methods of fundraising solicitations, the “Charleston Principles” provide a guide for the purposes of completing the accreditation application. Applicants should be aware that the “Charleston Principles” do not have the force of law in all jurisdictions and that reliance on them for the purposes of accreditation may not ensure compliance with each jurisdiction’s legal requirements.

Documentation

At first-time application
• Application responses
• 2C1: Form 990 (fundraising expenditures and Schedule B list of donors)
• 5A1: Copy of a recent solicitation for general or operating funds that was sent to an individual donor
• 5A2: Copy of the acknowledgement of a gift sent as a result of the solicitation in 5A1
• 5A3: Copy of an actual recent solicitation for a conservation easement stewardship and/or defense fund contribution and for a fee land stewardship contribution
• 5A4: Copy of the actual, signed acknowledgement of the gift(s) received as a result of the solicitation(s) in 5A3
• 5A5: Copy of the actual signed acknowledgement letter provided to the donor of the most recent gift or bargain sale of land or conservation easement
• 2C1: Form 990 (fundraising expenditures and Schedule B list of donors)
• Project Documentation
  o 5A: Letter or other written acknowledgement of easement or land gifts valued at more than $250 (if donation or bargain sale)
  o 9J: Copy of actual solicitation for a contribution to the project fundraising campaign and copy of the gift acknowledgement letter (if funds were solicited from individual donors for the purchase of the fee property or conservation easement)
  o 11A: Copy of an actual solicitation for a contribution to the stewardship and/or defense fund, copy of the gift acknowledgement letter, and indication of which fund contribution was deposited into (if the stewardship and defense funds were solicited from individual donors)
• Other evidence of practice implementation (such as documentation of how the organization tracks and accounts for donor-restricted gifts provided in practice 6B, responses to questions about fiscal sponsorships, etc.)

At renewal application
• Application responses
• Pre-application/2C1: Form 990 (fundraising expenditures and Schedule B list of donors)
• 5A1: Statement providing information on each entity for which the organization acts as a fiscal sponsor (if applicable)
• 5A2: Written agreement(s) between the organization and the sponsored entity (if applicable)
• 5A3: Example of written materials used to solicit funds for sponsored entity (if applicable)
• 5A4: Actual written acknowledgement of the gift received as a result of the solicitation in 5A3 (if applicable)
• Project Documentation
  o 5A: Letter or other written acknowledgement of easement or land gifts valued at more than $250 (if donation or bargain sale)
  o 9J: Copy of actual solicitation for a contribution to the project fundraising campaign and copy of the gift acknowledgement letter (if funds were solicited from individual donors for the purchase of the fee property or conservation easement)
  o 11A: Copy of an actual solicitation for a contribution to the stewardship and/or defense fund, copy of the gift acknowledgement letter, and indication of which fund contribution was deposited into (if the stewardship and defense funds were solicited from individual donors)
• Other evidence of practice implementation (such as documentation of how the organization tracks and accounts for donor-restricted gifts provided in practice 6B)

Land Trust Alliance and Other Related Resources
• Practice 5A
• State Charitable Solicitation Laws
• **Contemporaneous Substantiation Letters Required**

• Standards and Practices Curriculum course, “*Building the Foundation for Fundraising Success*” (chapter 2)

• Standards and Practices Curriculum course, “*Nonprofit Law and Recordkeeping for Land Trusts, Volume I: Complying with Local, State and Federal Law*” (chapter 3)

• Internal Revenue Service: *Charitable Contributions: Substantiation and Disclosure Requirements*
Practice 6B. Financial Records

“The land trust keeps accurate financial records, in a form appropriate to its scale of operations and in accordance with Generally Accepted Accounting Principles (GAAP) or alternative reporting method acceptable to a qualified financial advisor.”

Key Elements of the Indicator Practice

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

Additional Elements of Practice Implementation

- The board provides oversight of the organization’s finances.
- The organization has accounting procedures and/or other internal controls to prevent misuse or loss of funds that are appropriate to the scale of the organization.
- The organization has implemented changes to its accounting system and internal controls if recommended by its financial advisor or auditor (also relates to practice 6D).
- The organization appropriately tracks donor restrictions on contributions (also relates to practice 5A).
- The organization appropriately tracks unrestricted, temporarily restricted, and permanently restricted funds.
- The organization has clear descriptions of the allowed uses of and any restrictions on the dedicated and restricted funds it holds.
- The organization prepares a budget annually.
- The organization’s budgets and financial statements show income exceeding expenses. If there is a deficit, it is not a trend, and the organization has a specific strategy to address the deficit.
- The organization segregates its expenses into program services, management and general, and fundraising and reports them accordingly on the Form 990 (also relates to practice 2C).
- The organization’s financial records are compliant with GAAP.
  - If not, the organization reports income and expenses, assets and liabilities accurately.
  - If not, the organization has a statement from a qualified financial advisor that its alternative reporting method is acceptable.
Documentation

At first-time application
- Preliminary attachment: Schedule of Dedicated and Restricted Funds
- Application response
- 6B1: Statement describing how the organization ensures that its finances and assets are managed in a responsible and accountable manner
- 6B2: Evidence supporting description of and restrictions on the funds listed on the Schedule of Dedicated and Restricted Funds
- 6B3: Most recent budget-to-actual report and other financial reports provided to the board
- 6B4: Minutes from the board meeting where the financial reports submitted in 6B3 were discussed
- 6B5: Statement from financial advisor explaining why GAAP is not followed (if applicable)
- Other evidence of practice implementation (such as 2C1 Form 990, material submitted for practices 5A and 6D, and 6D6 breakdown of unrestricted, temporarily restricted and permanently restricted funds)

At renewal application
- Application response
- Attestation
- 6B1: Schedule of Dedicated and Restricted Funds
- 6B2: Statement describing how the organization solicits, acknowledges and classifies dedicated funds
- 6B3: Copy of the solicitation described in statement 6B2
- 6B4: Annotated copy of the signed acknowledgement of the contribution received via the process described in statement 6B2
- 6B5: Statement describing the organization’s policies and/or procedures for securing and managing conservation easement and fee property stewardship and defense funds
- 6B6: Statement from financial advisor explaining why GAAP is not followed (if applicable)
- 6B7: Statement describing which of the items the organization could not attest to and how the organization has since ensured compliance (if applicable)
- Other evidence of practice implementation (such as pre-application/2C1 Form 990, material submitted for practices 5A and 6D, and 6D5 breakdown of unrestricted, temporarily restricted and permanently restricted funds)

Land Trust Alliance and Other Related Resources
- Practice 6B
- Standards and Practices Curriculum course, “Financial Management of Land Trusts” (chapters 1 and 2)
Practice 6D. Financial Review or Audit

“The land trust has an annual financial review or audit, by a qualified financial advisor, in a manner appropriate for the scale of the organization and consistent with state law.”

Key Elements of the Indicator Practice

- The organization conducts the expected level of annual financial audit, review, or compilation (see below).
- The person conducting the annual financial audit, review, or compilation is qualified.

Additional Elements of Practice Implementation

- The board reviews the annual financial audit, review, or compilation.
- If the organization has greater than $500,000 in expenditures of federal funds in a year, then it obtains a single or program-specific audit conducted for that year in accordance with Circular A-133, published by the U.S. Office of Management and Budget.
- The information on the types of restrictions on funds listed on the Schedule of Dedicated and Restricted Funds can be reconciled with the information in the financial statements.

Information on Expected Level of External Financial Evaluation

At first-time application, it is expected that the organization obtains an external evaluation for its most recent fiscal year that is keeping with the table below. At renewal, it is expected that the organization will have the appropriate level of evaluation from 2011 onwards. (The Commission first published these requirements in 2010 with the stated expectation that these requirements would apply to all groups starting in 2011.) For the purposes of accreditation, the thresholds are based on an organization’s total annual support and revenue without including the value of donated conservation fee properties or conservation easements.

<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 or equivalent evaluation by an independent certified public accountant (CPA) or 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>
• An independent CPA is a certified public accountant who has no financial or other interest in the organization.
• If state law requirements are stricter than the guidelines given above, the organization must follow state law.
• If an organization has income levels that only occasionally or modestly exceed the $500,000 audit threshold, is located in a state that does not have audit requirements at or below the $500,000 level under state law, and has consistently had reviews of its finances, the Commission may evaluate the applicant’s compliance with this practice on a case-by-case basis and accept a procedure that relies on annual reviews with periodic audits.

Documentation

At first-time application
• Preliminary attachment: Schedule of Dedicated and Restricted Funds
• Application responses
• 6D1: Audited/reviewed/compiled financial statements from last two fiscal years
• 6D2: Management letter and related correspondence that accompanied the most recent financial audit/review/compilation of the organization’s financial records
• 6D3: Statement describing what actions have been taken to address the recommended changes in 6D2 (if applicable)
• 6D4: Minutes from the board meeting when the results of the audit/review/compilation of the organization’s financial records were presented
• 6D5: Statement describing who conducts the annual external evaluation of the organization and what type of report is received, if the organization does not receive an audit, review, or compilation by a CPA (if applicable)
• 6D6: Breakdown of unrestricted, temporarily restricted and permanently restricted funds (if not clearly described in the financial statements)
• Other evidence of practice implementation (such as 2C1 Form 990 and information provided in practice 6B)

At renewal application
• Application responses
• 6B1: Schedule of Dedicated and Restricted Funds
• 6D1: Audited/reviewed/compiled financial statement from last fiscal year
• 6D2: Management letter and related correspondence that accompanied the most recent financial audit/review/compilation of the organization’s financial records
• 6D3: Statement describing what actions have been taken to address the recommended changes in 6D2 (if applicable)
• 6D4: Statement explaining why the organization did not have a financial audit/review/compilation at a level consistent with the Commission’s requirements for each year of its accredited term (if applicable)
• 6D5: Breakdown of unrestricted, temporarily restricted and permanently restricted funds (if not clearly described in the financial statements)
• Other evidence of practice implementation (such as pre-application/2C1 Form 990 and information provided in practice 6B)
Land Trust Alliance and Other Related Resources

- Practice 6D
- Standards and Practices Curriculum course, “Financial Management of Land Trusts” (chapter 3)
Practice 7A. Capacity

“The land trust regularly evaluates its programs, activities and long-term responsibilities and has sufficient volunteers, staff and/or consultants to carry out its work, particularly when managing an active program of easements.”

Key Elements of the Indicator Practice

• The organization regularly evaluates its programs, activities, and long-term responsibilities.
• 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.).

Additional Elements of Practice Implementation

• The organization has a process for regularly evaluating its programs and goals.
• The organization considers the size and capacity of its workforce and its obligations when developing its annual work plans.
• The organization has the resources (such as financial, personnel, etc.) to support its plans.

Documentation

At first-time application
• Pre-application responses
• 7A1: Statement describing how and when the organization evaluates its programs, activities and long-term responsibilities to determine if it has sufficient capacity to carry out its plan of work and who is involved in this evaluation. Indication of whether the organization plans to increase its conservation easement stewardship or land management capacity in the next five years.
• 7A2: Evidence supporting statement 7A1
• Other evidence of practice implementation (such as Land Conservation Project List and documentation provided in standards 11 and 12)

At renewal application
• Application responses
• 7A1: List of staff members (if applicable)
• 7A2: Evidence that the organization has evaluated its programs, activities and long-term responsibilities since its last application for accreditation
• Other evidence of practice implementation (such as Land Conservation Project List and documentation provided in standards 11 and 12)

Land Trust Alliance and Other Related Resources
Practice 7A

Standards and Practices Curriculum course, “Mission, Planning and Capacity” (chapters 2 and 3)

Conservation Capacity and Enforcement Capability
Practice 8B. Project Selection and Criteria

“The land trust has a defined process for selecting land and easement projects, including written selection criteria that are consistent with its mission. For each project, the land trust evaluates its capacity to perform any perpetual stewardship responsibilities.”

Key Elements of the Indicator Practice

- The organization has a defined process for selecting land and conservation easement projects.
- The organization has written project selection criteria that are consistent with its mission.
- For each project, the organization evaluates its capacity to perform any perpetual stewardship responsibilities.

Additional Elements of Practice Implementation

- The organization documents that it applies its selection criteria when deciding whether to proceed with a project, including when accepting a property from another organization.
- All projects accepted by the organization are consistent with its criteria.
- The organization evaluates whether it has the resources (such as financial, personnel, etc.) to provide perpetual stewardship for each land and conservation easement it acquires in perpetuity.

Documentation

At first-time application

- 8B1: Written project selection criteria
- 8B2: Statement describing a project the organization declined to accept and an explanation of why it did not accept it
- Project Documentation
  - Evidence of how the organization reviewed the project against its project selection criteria, including that it evaluated the project against its capacity to perform any perpetual stewardship responsibilities
- Other evidence of practice implementation (such as evaluating capacity in practice 7A and project approval process in practice 3F)
At renewal application

- Attestation
- Project Documentation
  - Evidence of how the organization reviewed the project against its project selection criteria, including that it evaluated the project against its capacity to perform any perpetual stewardship responsibilities
- Other evidence of practice implementation (such as evaluating capacity in practice 7A and project approval process in practice 3F)

Land Trust Alliance and Other Related Resources

- Practice 8B
- Standards and Practices Curriculum course, "Evaluating and Selecting Conservation Projects" (chapter 1)
Practice 8D. Public Benefit of Transactions

“The land trust evaluates and clearly documents the public benefit of every land and easement transaction and how the benefits are consistent with the mission of the organization. All projects conform to applicable federal and state charitable trust laws. If the transaction involves public purchase or tax incentive programs, the land trust satisfies any federal, state or local requirements for public benefit.”

Key Elements of the Indicator Practice

• 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.
  o The organization reviews each transaction for which the landowner may take a tax deduction for consistency with the requirements of Internal Revenue Code §170(h) and the accompanying Treasury Department Regulations (U.S.C. §1.170A-14) and/or applicable federal or state requirements.

Additional Elements of Practice Implementation

• All projects confer a public benefit.
• The organization has a process for evaluating and documenting public benefit.
• The organization complies with the donor’s wishes in protecting the property (thus complying with state charitable trust laws).
• For tax-deductible conservation easements, the organization documents that the requirements of Internal Revenue Code §170(h) and the accompanying Treasury Department Regulations (U.S.C. §1.170A-14), particularly as they relate to public benefit, have been met.

Documentation

At first-time application
• 8D1: Statement describing how the organization evaluates and documents the public benefit of every land and easement transaction, including how it screens each project to ensure that all federal, state and local requirements for public benefit are met
• 8D2: Evidence supporting statement 8D1
• Project Documentation
  o Evidence that the organization evaluated and documented the public benefit of the project prior to completion
• Other evidence of practice implementation (such as public benefit checklist as part of practice 8B criteria, project documentation relative to landowner goals, etc.)
At renewal application

- Project Documentation
  - Evidence that the organization evaluated and documented the public benefit of the project prior to completion

Land Trust Alliance and Other Related Resources

- Practice 8D
- Standards and Practices Curriculum course, “Evaluating and Selecting Conservation Projects” (chapter 2)
Practice 9E. Easement Drafting

“Every easement is tailored for the property according to project planning (see 8G) and: identifies the important conservation values protected and public benefit served; allows only permitted uses and/or reserved rights that will not significantly impair the important conservation values; contains only restrictions that the land trust is capable of monitoring; and is enforceable.”

Key Elements of the Indicator Practice

- Conservation easements are individually tailored to the specific property according to a project plan or process.
- Conservation easements identify important conservation values and public benefits.
- Conservation easements only permit uses and reserved rights that will not impair the important conservation values.
- Conservation easements restrictions are within the capacity of the organization to monitor. (For example, if the organization includes complex forestry restrictions in its conservation easements, it has or can obtain from knowledgeable parties the information and expertise to monitor them.)
- Conservation easements are enforceable.

Additional Elements of Practice Implementation

- The person responsible for drafting the organization’s conservation easements has the necessary knowledge and experience.
- The organization obtains legal review of its conservation easements.
- Where appropriate, the organization obtains expert advice in financial, real estate, tax, scientific and land/water management matters, as they pertain to specific conservation easements.
- The conservation easement contains basic elements (see below).
- The conservation easement or other recorded documents (such as recorded baseline documentation report) gives the organization control over the future exercise of any reserved rights and that such rights are not so broad as to allow future decision-makes the ability to negate the terms of the conservation easement.
- If the landowner intends to take a tax deduction for a conservation easement donation, then the conservation easement must meet the requirements of the Internal Revenue Code and Treasury Department Regulations.
Information on Basic Elements of a Conservation Easement

The most recent conservation easement recorded by the applicant or its most recent conservation easement template includes at least the following elements.

- **Deed form**
  - Identification of the parties (such as property owner, grantee/holder, etc.)
  - Legal description of the property to be conserved
  - Required words of conveyance
  - Statement of the duration of the conservation easement (required to be perpetual if a tax-deductible conservation easement*)
  - Statement of what, if any, consideration was given in exchange for the conveyance of the conservation easement

- **Purposes clause and/or recitals**
  - Identification of the property’s conservation values
  - Description of the public benefit served by the conservation easement*
  - Identification of one or more conservation purposes as defined in the Treasury Department Regulations*

- **Restrictions and reserved rights**
  - Restrictions that are appropriate for the type(s) of conservation easement it is (such as agricultural, mitigation, scenic, open space, etc.) and that protect the property’s conservation values
  - Language that avoids restrictions that cannot be enforced (such as some prohibitions on hunting)
  - Measurable standards for conservation easement terms or clear definitions
    - In determining which terms need further definition, the organization should consider whether the term is central to protecting the conservation values of the conservation easement and, if so, whether the term can be defined to provide an objective metric to aid in enforcement
  - Omission of allowable uses and reserved rights that could significantly impair the property’s conservation values
  - Clear definitions of special use areas, building envelopes and other such areas so that they can be identified on the ground (such as by identifying the location of permitted building areas, by identifying special protection areas where buildings are not permitted and/or by including the criteria for the review and approval of future building areas, etc.)
  - Clear designation of when grantee review or approval of the exercise of permitted and reserved rights or other activities is required, relevant factors to consider in the decision, and how review or approval is obtained

- **Conservation easement holder’s rights**
  - Right-of-entry and inspection to monitor the conservation easement and inspect the property for conservation easement violations*
    - The conservation easement cannot unduly limit the grantee’s right to access the property to monitor or prohibit or unduly burden annual monitoring
  - Right to enforce the conservation easement,* including
    - To access the property without prior notice in the event of an emergency or if the holder believes a potential violation is occurring
    - To take immediate action (in other words, secure an injunction from a court)
• To require restoration of the land to its condition at the time of the donation*

Other provisions
  o Qualification of the holder as a qualified conservation organization*
  o For a tax-deductible conservation easement, a prohibition on the surface extraction of minerals*
  o Limitations on assignment
    ▪ The conservation easement is transferrable only to another qualified organization that agrees to carry out the original conservation purposes of the conservation easement*
  o A reference to the baseline documentation report
  o Termination and proceeds provisions
    ▪ In the event of termination or condemnation, the organization is entitled to proceeds in proportion to the value of the conservation easement at the time of the gift and must use those proceeds in a manner consistent with the conservation purposes of the original conservation easement*
    ▪ For a tax-deductible conservation easement, extinguishment for unexpected changes that make continued use of the property impossible or impractical for conservation purposes can only be accomplished by judicial proceedings*
  o The conservation easement must give rise to an immediately vested property right*

Starred (*) elements are required by the Treasury Department Regulations (U.S.C. §1.170A-14) for qualified conservation contributions (tax-deductible conservation easements).

Documentation

At first-time application
  • 9E1: Statement describing the process the organization uses to draft each conservation easement
  • 9E2: Statement describing how the conservation easement template was created and how it is used (if applicable)
  • 9E3: Standard conservation easement template or most recent conservation easement (if no template used)
  • Project Documentation
    o Deed of conservation easement
  • Other evidence of practice implementation (such as consistency of final easement document with project planning documented in practice 8B and with baseline documentation report in practice 11B)
At renewal application
• 9E1: Standard conservation easement template (if applicable)
• Project Documentation
  o Deed of conservation easement

Land Trust Alliance and Other Related Resources

• Practice 9E
• Standards and Practices Curriculum course, “Conservation Easement Drafting and Documentation” (chapters 1 and 2)
• “The Conservation Easement Handbook”
Practice 9G. Recordkeeping

“Pursuant to its records policy (see 2D), the land trust keeps originals of all irreplaceable documents essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and copies in a separate location. Original documents are protected from daily use and are secure from fire, floods and other damage.”

Key Elements of the Indicator Practice

• The organization has a board-adopted records policy (see below).
• The organization has originals and duplicates of all irreplaceable documents essential to the defense of each transaction (see below).
• The originals and duplicates of irreplaceable documents are in separate locations (see below).
• The organization’s originals are kept secure (see below).

Policy Elements

At first-time application and thereafter

• The organization has a written, board-adopted records policy that governs how organization and transaction records are created, collected, retained, stored and disposed of.
• The records policy or related procedures defines or lists what the organization considers to be an irreplaceable document essential to the defense of each transaction.

Additional Elements of Practice Implementation

• The organization has originals and duplicates of the irreplaceable documents below.

At first-time application and thereafter

  o Legal agreements, deeds, conservation easements and amendments, etc.
  o Critical correspondence (such as correspondence with the landowner related to project goals, tax and legal matters, notifications, approvals, enforcement, other key matters the organization determines essential to the defense of the transaction, etc.)
  o Baseline documentation reports for conservation easements
  o Conservation easement monitoring reports
  o Title insurance policies or evidence of title investigation
  o Full appraisals (or summary appraisals if full appraisals are not available)
  o Forms 8283 (for projects where the landowner claimed a federal tax deduction)
    (Note: originals and duplicate Forms 8283 will be required at first-time application for all applicants beginning in 2014 and beyond.)
At renewal application and thereafter
  o Surveys
  o Fee property land inspection records
  o Contracts and leases relative to long-term land management activities

- If originals are stored in an individual’s home, then the organization has the following documentation.

At first-time application and thereafter
  o A written agreement with the individual that guarantees that other representatives of the organization (such as officers, key employees, etc.) can access the records.

At renewal application and thereafter
  o Documentation that at least once every five years it evaluates options for storing original documents elsewhere in the future (such as a bank deposit box, lawyer’s office, secure storage facility, town hall, historical society, etc.).

Information on Format of Originals

An organization should have paper, original copies of legal agreements, deeds, conservation easements and amendments, critical correspondence, baseline documentation reports, and title insurance policies. Electronic originals of these documents are acceptable if an organization can provide evidence that it creates and stores electronic originals in keeping with the provisions of the Electronic Signatures in Global and National Commerce Act of 2000, applicable state law, or similar legislation.

An organization may keep an electronic version rather than the paper original of its other irreplaceable documents, if it has determined that the electronic version would be admissible in court in accordance with state laws. In this case, the electronic copies, rather than the paper copies, need to be protected from fire, floods and other hazards. If an organization keeps two electronic versions of some documents, it must still meet the separate storage location requirements.

Information on Separate Storage Locations

For accreditation, “separate location” generally means that records are stored in such a way that at least one set will survive a calamity (such as fire or flood) that destroys records in the other location. Records kept in the same building do not meet the separate storage requirement. It is not necessary to store all duplicate records in the same location. For example, some duplicate records may be in a bank safe deposit box while other records may be duplicated electronically. The registry of deeds may serve as a duplicate storage location for deeds and amendments, as well as baselines if baseline documentation reports are recorded.
Paper Storage
A separate location might be a storage facility or office where paper copies of documents are kept. Records might be in a bank safe deposit box, at the office of the organization’s attorney, at the local historical society, in an archival storage facility, or in a myriad of other locations that are not in the same location as the duplicate set of records.

Electronic Storage
If an organization stores its duplicates electronically, then it will need to document that it has copies of the signed originals (not draft or unsigned versions of documents). In its application response, an organization will need to describe that it has all of the items below.

- It has conducted a thorough inventory of all historical transaction data and converted all irreplaceable documents to electronic files.
- It has systems in place to ensure that all new documents are appropriately converted to an electronic format.
- It has systems in place to update the data to current technology so that the documents can be accessed in perpetuity.
- It has effectively tested its backup system.

Information on Protection of Originals

The organization’s originals are kept secure in keeping with the following requirements.

At first-time application
- The organization demonstrates that it has taken steps to ensure that original documents are protected from daily use and are reasonably secure from fire, floods or other foreseeable hazards (such as fireproof safe that is protected from daily use, in an archive facility or bank that has reasonable protections against damage from fire and/or floods or in other protected locations).

At renewal application and thereafter
- All originals of the irreplaceable documents listed above are protected from daily use and are reasonably secure from fire, floods or other foreseeable hazards.
Documentation

At first-time application
- Application responses
- 9G1: Records policy that governs organization and transaction documents
- 9G2: Statement describing how the organization stores and manages its records

At renewal application
- Application responses
- Policy attestation
- 9G1: Statement describing how the organization manages its electronic records (if applicable)
- 9G2: Documentation describing how the organization is guaranteed access to records stored in a private residence (if applicable)

Land Trust Alliance and Other Related Resources

- Practice 9G
- Practice 2D
- Standards and Practices Curriculum course, “Acquiring Land and Conservation Easements” (chapter 5)
- Standards and Practices Curriculum course, “Managing Conservation Easements in Perpetuity” (chapter 1)
Practice 9H. Title Investigation and Subordination

“The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.”

Key Elements of the Indicator Practice

- The organization investigates title to each property or conservation easement it intends to acquire (see below).
- The organization addresses mortgages, liens, and other encumbrances as specified by the practice.

Additional Elements of Practice Implementation

At first-time application and thereafter

- The organization has acceptable documentation of investigating title both to confirm the legal description and the owner and to uncover encumbrances. Acceptable documentation includes the following provided by a professional title company or law firm.
  - Title insurance policy
  - Title insurance commitment
  - Title opinion
  - Title report or title abstract

[At first-time application, the Commission may accredit an organization that has not been in the practice of investigating title through a professional title company or law firm if the organization has documentation that it investigated title in other ways (such as with trained staff, a staff attorney, etc.).]

- The organization documents that it appropriately addresses mortgages, liens and other encumbrances so that they will not result in the extinguishment of the conservation easement or significantly undermine conservation values. Examples of acceptable documentation include the following items.
  - Mortgage subordination agreement (if there is a mortgage)
  - Mineral remoteness report from a qualified geologist or similar professional (if the mineral rights have been severed from the fee title estate)
  - Water rights due diligence report from water attorney, qualified water engineer, or qualified individual coupled with a description of those rights in the deed or conservation easement (if water rights are applicable to the project and could affect the conservation values)
Copies of rights-of-way or access easements or a memo to the project file with an analysis of how such easements could affect the organization’s interest in the land or the protection of the conservation values in a conservation easement

- The organization investigates title as part of its due diligence when accepting the transfer of land or conservation easements from an affiliate or other conservation entity.
  - If the organization works with a non-profit partner that has a similar mission and the partner completed a full title investigation that is satisfactory and meets the Commission’s requirements, it is acceptable for the organization to obtain a copy of the partner’s past title investigation and to bring it current prior to closing rather than completing another full title investigation.

- The organization ensures that there are no gaps in title by legally recording deeds and conservation easements in a timely manner at the appropriate records office in accordance with local and state law.

At renewal application and thereafter
- A professional title company or law firm conducts the title investigation.
- If the organization conducts initial title investigation early in the transaction process, it documents that it has final title investigation prior to closing to ensure no additional encumbrances have been placed on the property since the initial title investigation.

Information on Completing Retroactive Title Investigation

If an organization has not investigated title for every conservation easement or fee land transaction completed in the past 10 years, the organization may be required during its accredited term to complete a retroactive title investigation for such transactions. If title issues are identified as part of a retroactive examination of title that might impair the ability of the organization to enforce a conservation easement or protect the conservation values of the property (whether a conservation easement or fee ownership), then the organization will need to provide documentation at the time of renewal that the organization evaluated the risk the title issues pose to the conservation values on the property, that it determined whether any corrective action could or should be taken, and that it took reasonable steps with respect to taking any corrective action.
Documentation

**At first-time application**
- Application responses
- 9H1: Statement describing how the organization investigates title to each property it intends to acquire or accept a conservation easement on (including investigation of all mortgages, liens, mineral rights, water transfers and other encumbrances, legal ownership and other title issues)
- Project Documentation
  - Evidence of title investigation
  - Lien or mortgage subordinations, if any
  - Mineral remoteness reports, if any
  - Other documentation that shows how encumbrances that could impact the project were addressed, if any

**At renewal application**
- Application response
- 9H1: Statement describing if any projects were completed without title investigation during the accredited term and, if so, an explanation of why title was not investigated (if applicable)
- Project Documentation
  - Evidence of title investigation
  - Lien or mortgage subordinations, if any
  - Mineral remoteness reports, if any
  - Other documentation that shows how encumbrances that could impact the project were addressed, if any

**Land Trust Alliance and Other Related Resources**
- Practice 9H
- Standards and Practices Curriculum course, “Acquiring Land and Conservation Easements” (chapter 3)
Practice 9J. Purchasing Land

“If the land trust buys land, easements or other real property, it obtains a qualified independent appraisal to justify the purchase price. However, the land trust may choose to obtain a letter of opinion (see definitions) from a qualified real estate professional in the limited circumstances when a property has a very low economic value or a full appraisal is not feasible before a public auction. In limited circumstances where acquiring above the appraised value is warranted, the land trust documents the justification for the purchase price and that there is no private inurement or impermissible private benefit. If negotiating for a purchase below the appraised value, the land trust ensures that its communications with the landowner are honest and forthright.”

Key Elements of the Indicator Practice

- The organization obtains a qualified independent appraisal to justify the purchase price for land, conservation easements, or other real property it buys; in limited circumstances as specified in the practice, it can rely on a letter of opinion from a qualified real estate professional.
- The organization documents justification for any purchase at a price above appraised value and that there was no private inurement or impermissible private benefit.
- The organization has honest and forthright communications with landowners when purchasing land and conservation easements for a price below appraised value.

Additional Elements of Practice Implementation

- The organization obtains appraisals that are independent (see below).
- The organization has appropriate documentation (such as trend data for market appreciation, range of values of similar purchases, market factors not covered in the appraisal, etc.) for any purchases of land or conservation easements for more than the appraised value.
- If the organization purchased land or conservation easements from an insider, it applied its conflict of interest policy and avoided private inurement and impermissible private benefit (relates to practice 4A).

Information on Independent Appraisals

When purchasing land or conservation easements at fair market value or in a bargain sale, the organization must document the price it paid to purchase the property with a qualified independent appraisal that is independent from any appraisal provided solely for the seller of the property. According to Land Trust Standards and Practices definitions, a qualified independent appraisal is an independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) by
a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience.

The organization has at least one of the following to document the purchase price.

- An appraisal commissioned by the organization
- An appraisal commissioned by a public agency
- An appraisal commissioned by a nonprofit partner (if the nonprofit partner has a mission similar to that of the organization and requires its funds to be spent responsibly)
- An appraisal commissioned jointly by the organization and the landowner
- A review appraisal of the landowner’s appraisal that is commissioned by the organization

**Bargain Sales**
The exception to obtaining an independent appraisal for a bargain sale is when the amount paid by the organization is *de minimis*. *De minimis* generally means that there was a very low dollar value paid. The Commission may also consider an exception to the independent appraisal requirement if the applicant paid only a small fraction of the value substantiated in an appraisal commissioned by the landowner, provided that the applicant has clear documentation of how it determined the value it paid and how it determined that the amount paid did not result in private inurement or impermissible private benefit.

**Low-Value Exception**
As specified in the practice, in the limited circumstances when the economic value of the property is so low as to negate concerns about private inurement or impermissible private benefit or an appraisal is not feasible before a public auction, the organization may choose to obtain a letter of opinion from a qualified real estate professional. A letter of opinion is not sufficient in the case of transactions with insiders.

According to *Land Trust Standards and Practices* definitions, a letter of opinion is a written estimation of a property’s value, most often prepared by a qualified appraiser and occasionally prepared by a highly experienced real estate professional. An appraiser may call this document a Restricted Use Appraisal Report.

**Area-Wide Appraisals for Uniform, Low-Value Parcels**
An applicant may use an area-wide report containing all sales of certain types of property within a specific area, compiled by a qualified independent appraiser or other real estate professional, when the applicant purchases land or conservation easements in an area where the parcels are generally uniform in their size and/or characteristics and the properties have a low economic value.

**Residential Appraisals for Fee Properties**
An applicant may use a residential appraisal report to support the purchase price for a fee property when the property is similar to other residential properties or house lots in the area and the residential appraisal report meets USPAP standards (as attested to by the appraiser in the report). This applies to fee properties, not conservation easements.
Use of Staff or Board Member Appraisers
If a property or conservation easement is purchased, it is acceptable to use staff or board members who are certified appraisers that are considered to be independent under USPAP.

Unacceptable Documentation
The following are generally not acceptable documentation of an independent appraisal. In most cases, the documentation listed below would require a review appraisal commissioned by the organization to be acceptable.

- Relying on the landowner’s appraisal or a price set by the landowner
- Relying on an appraisal of an adjacent property
- Basing value on tax assessments
- Basing value on summaries of comparable sales or experience with similar sales compiled by staff, volunteers or other individuals who are not qualified appraisers
- Relying on a public agency estimate of value that was not derived from an appraisal

Documentation
At first-time application
- Application responses
- 9J1: Statement describing how the organization determines the purchase price (if applicable)
- 9J2: Appraisal for most recent purchase of land or conservation easement and the purchase and sale, or bargain sale, agreement (if applicable)
- 9J3: Statement describing how the organization determined the purchase price if it paid above the appraised value and how frequently the organization has paid more than appraised value (if applicable)
- 9J4: Evidence that there was no private inurement or impermissible private benefit for the most recent transaction acquired at a price above the appraised value (if applicable)
- 9J5: Sample correspondence with the landowner relative to the bargain sale element of the most recent bargain sale transaction and/or explanation of how the organization ensured that its communications with the landowner were honest and forthright (if applicable)
- Project Documentation

If fee property or conservation easement was purchased
- Purchase and sale agreement
- Qualified independent appraisal used to substantiate the purchase price
- Statement describing project costs, source(s) of funds, and use of excess funds (if any)

If acquired above the appraised value
- Evidence justifying the purchase price and confirming that there was no private inurement or impermissible private benefit associated with the purchase

If funds were solicited from individual donors

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• Copy of an actual solicitation for a contribution to the project fundraising campaign
• Copy of the actual signed acknowledgement of the gift received as a result of the solicitation above
• Other evidence of practice implementation (such as documentation provided in practice 4A)

At renewal application
• Application responses
• 9J1: Appraisal for most recent purchase of land or conservation easement and the purchase and sale agreement (if applicable)
• 9J2: Statement describing if any easements or properties were purchased without obtaining an independent appraisal and an explanation of how the purchase price was determined and why there was no appraisal (if applicable)
• 9J3: Statement describing if the organization has paid more than appraised value and, if so, an explanation how the organization determined what price it would pay (if applicable)
• 9J4: Evidence that there was no private inurement or impermissible private benefit for the most recent transaction acquired at a price above the appraised value (if applicable)
• Project Documentation
  If fee property or conservation easement was purchased
    • Purchase and sale agreement
    • Qualified independent appraisal used to substantiate the purchase price
    • Statement describing project costs, source(s) of funds, and use of excess funds (if any)
  If acquired above the appraised value
    • Evidence justifying the purchase price and confirming that there was no private inurement or impermissible private benefit associated with the purchase
  If funds were solicited from individual donors
    • Copy of an actual solicitation for a contribution to the project fundraising campaign
    • Copy of the actual signed acknowledgement of the gift received as a result of the solicitation above
• Other evidence of practice implementation (such as documentation provided in practice 4A)
Land Trust Alliance and Other Related Resources

- Practice 9J
- Standards and Practices Curriculum course, "Acquiring Land and Conservation Easements" (chapter 4)
Practice 10B. Appraisals

“The land trust informs potential land or easement donors (preferably in writing) of the following: Internal Revenue Code appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than $5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.”

Key Elements of the Indicator Practice

The organization notifies landowners of the items below.

- Internal Revenue Code requirements for a qualified appraisal, including 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 conveyance), donor responsibilities, and that the donor should use a qualified appraiser who follows USPAP
- That the organization will request a copy of the appraisal
- That the organization will not knowingly participate in a project if it has significant concerns about the tax deduction

Additional Elements of Practice Implementation

- The organization furnishes the required notification to landowners early in the negotiations of each project so that the landowner can make an informed decision.
  - The preferred format is either a written communication specific to the individual landowner or standard written materials that are provided to the landowner along with written documentation of when the landowner was provided with the materials.
  - In limited circumstances, if the organization has a written policy or checklist that requires verbal rather than written notification and the organization is able to provide evidence (such as internal memoranda documenting a meeting or phone call) that this notification occurred along with a copy of its policy, this combination may be used to provide evidence of landowner notification.
- The organization only signs a Form 8283 when it is complete and accurate (such as the landowner’s name, a detailed description of the gift, the amount received by the landowner in a bargain sale, the appraiser’s signature, the date of the gift corresponds to the date the deed was recorded, etc.) and that the appraisal supporting the Form 8283 meets the requirements of the Treasury Department Regulations.
• If the organization has significant concerns about a landowner’s tax deduction, accuracy of the Form 8283, or if the appraisal does not meet the requirements of the Internal Revenue Code for a qualified appraisal, it documents that it takes appropriate action to resolve its concerns. (If the organization has never experienced this situation, it is prepared for how it would respond.)

Documentation

At first-time application
• Application responses
• 10B1: Written materials provided to land and easement donors to notify them (1) of the Internal Revenue Code appraisal requirements, (2) of the organization’s requirements with respect to requesting a copy of the appraisal and (3) that the organization will not knowingly participate in projects where it has significant concerns about the tax deduction
• 10B2: Forms 8283 and corresponding appraisals for the last three land or easement acquisition projects involving a donation or a bargain sale
• 10B3: How the organization has or would address any significant concerns it had about the tax deduction for a project
• Project Documentation
  o Evidence that the landowner was notified of Internal Revenue Code appraisal requirements and that the organization would request a copy of the appraisal and would not knowingly participate in the project if it had significant concerns about the tax deduction
  o Qualified independent appraisal used to substantiate the tax donation
  o Signed Form 8283 and supplemental statement
• Other evidence of practice implementation (such as bargain sale documentation in practices 5A and 9J)

At renewal application
• Application response
• 10B1: Statement describing if any tax-deductible projects were completed without the organization reviewing a copy of the appraisal and, if so, an explanation why the appraisal was not reviewed and how the organization determined that the Form 8283 was accurate and that it did not have significant concerns about the tax deduction (if applicable)
• Project Documentation
  o Evidence that the landowner was notified of Internal Revenue Code appraisal requirements and that the organization would request a copy of the appraisal and would not knowingly participate in the project if it had significant concerns about the tax deduction
  o Qualified independent appraisal used to substantiate the tax donation
  o Signed Form 8283 and supplemental statement
Land Trust Alliance and Other Resources

- **Practice 10B**
- Standards and Practices Curriculum course, “Tax Benefits and Appraisals of Conservation Projects” (chapter 3)
- Practical Pointers: Form 8283
- Practical Pointers: Qualified Appraisal Checklist
- Internal Revenue Service: Conservation Easement Audit Techniques Guide
Practice 11A. Funding Easement Stewardship

“The land trust determines the long-term stewardship and enforcement expenses of each easement transaction and secures the dedicated or operating funds to cover current and future expenses. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose.”

Key Elements of the Indicator Practice

- The organization determines the stewardship, enforcement, and other long-term expenses of each conservation easement transaction.
- The organization secures funds to cover current and future expenses for each conservation easement. If funds are not secured for a specific conservation easement at or before the completion of the transaction, the land trust has a plan to secure the funds.
- The organization has a dedicated or restricted fund or funds to cover long-term stewardship and enforcement costs.

Additional Elements of Practice Implementation

- The organization has a standard method for calculating the stewardship and defense funding needs for each conservation easement transaction and the amount calculated is adequate to meet its needs.
- The organization obtains funding for each conservation easement acquisition.
- The organization’s project documentation shows that the stewardship and defense contribution was received for recent projects or that a specific plan to obtain the funds is in place.

At first-time application

- The organization meets the funding requirements for conservation easement defense (see below).
- The organization demonstrates one of the below.
  - It meets the stewardship funding requirements (see below).
  - It covers its current stewardship costs through existing sources (such as stewardship funds, operating funds, grants, operating reserves, etc.) and has a credible stewardship funding plan (see below).

At renewal application and thereafter

- The organization continues to meet the funding requirements for conservation easement defense (see below).
- The organization meets the stewardship funding requirements (see below).
Information on Conservation Easement Stewardship and Defense Funding Requirements

The Commission relies on funding recommendations from the Land Trust Alliance. These funding levels are summarized in the tables below. Please note that participation in the Terrafirma Risk Retention Group LLC, the conservation defense insurance company, is not considered by the Commission or Land Trust Alliance as a substitute for any portion of the minimum defense reserves.

At first-time application

<table>
<thead>
<tr>
<th>Number of Conservation Easements</th>
<th>Defense Funding</th>
<th>Stewardship Funding</th>
</tr>
</thead>
</table>
| Organizations with 1-15 conservation easements | Either:  
a) $50,000, or  
b) $3,000 per conservation easement and a plan and commitment to reach $50,000 by the time of renewal | Either:  
a) A minimum of $3,500 per conservation easement, or  
b) Ability to cover current expenses with operating revenues and a plan and commitment to reach $3,500 per conservation easement by the time of renewal |
| Organizations with 16+ conservation easements | $50,000 for first 15 conservation easements, plus a minimum of $1,500 for each additional conservation easement | |

At renewal application and thereafter

<table>
<thead>
<tr>
<th>Number of Conservation Easements</th>
<th>Defense Funding</th>
<th>Stewardship Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizations with 1-15 conservation easements</td>
<td>$50,000</td>
<td>A minimum of $3,500 per conservation easement*</td>
</tr>
<tr>
<td>Organizations with 16+ conservation easements</td>
<td>$50,000 for first 15 conservation easements, plus a minimum of $1,500 for each additional conservation easement</td>
<td></td>
</tr>
</tbody>
</table>

* If an applicant for renewal is unable to show that it meets the stewardship funding requirements but has made significant progress towards them, then the Commission may consider an exception to these funding requirements. In evaluating such an exception, the Commission will assess of what steps were taken to meet the requirements, an explanation of the inability to meet the requirements, and documentation of how the organization plans to meet the requirements.
Information on Stewardship Funding Plans

If a first-time applicant has made progress toward funding its stewardship obligations but has not yet secured the required level of funding, then the Commission will require the applicant to submit a fundraising plan. (The plan elements also apply for those organizations that have less than 15 conservation easements and need a plan to obtain $50,000 in defense funds by renewal.)

The Commission will evaluate the applicant’s plan and will consider whether the organization can demonstrate the capacity and intent to implement it over the next five years. Evidence of a plan and a commitment to implement the plan include all of the following elements.

- A target goal for the amount of stewardship and additional enforcement funding the organization needs and the amount that it intends to raise over the next five years toward its goal, along with a description of how the target goal was determined
- A set of specific strategies with timelines for raising the target goal by the time of renewal
- A description of any new policies or procedures that will be implemented to help carry out the plan (such as a stewardship funding policy, expanded investment policy, changes to stewardship and enforcement calculations and requested amounts, etc.)
- A board resolution committing the organization to implementation of the funding plan and to dedicating funds raised via the plan to stewardship and enforcement of its conservation easements

Documentation

At first-time application

- Preliminary attachment: Schedule of Dedicated and Restricted Funds
- Application response
- 11A1: Statement describing the organization’s practice for determining and securing conservation easement stewardship and defense funds
- 11A2: Evidence of how the organization determined the long-term stewardship and enforcement expenses for a recent conservation easement project
- 11A3: For organizations that do not currently have the necessary funds, a plan for raising easement stewardship and defense funds (if applicable)
- Project Documentation
  - Stewardship and defense fund calculation
  - Evidence that stewardship funding was received or that a plan is in place to secure the funds

If stewardship and defense funds were solicited from individual donors

- Copy of an actual solicitation for a contribution to the stewardship and/or defense fund
- Copy of the actual acknowledgement of the gift received as a result of the solicitation above along with an indication of which fund the contribution received via the solicitation was deposited into
• Other evidence of practice implementation (such as information submitted for practices 5A, 6B, and 11E)

At renewal application
• Application response
• 6B1: Schedule of Dedicated and Restricted Funds
• 11A1: Statement describing if any projects were completed without determining the stewardship and enforcement expenses and/or without securing the necessary funds and, if so, an explanation of how the organization will cover the current and future expenses associated with the easement (if applicable)
• Project Documentation
  o Stewardship and defense fund calculation
  o Evidence that stewardship funding was received or that a plan is in place to secure the funds

If stewardship and defense funds were solicited from individual donors
  o Copy of an actual solicitation for a contribution to the stewardship and/or defense fund
  o Copy of the actual acknowledgement of the gift received as a result of the solicitation above along with an indication of which fund the contribution received via the solicitation was deposited into

Land Trust Alliance and Other Related Resources

• Practice 11A
• Standards and Practices Curriculum course, “Determining Stewardship Costs and Raising and Managing Dedicated Funds” (chapter 1)
• Conservation Capacity and Enforcement Capability
Practice 11B. Baseline Documentation Report

“For every easement, the land trust has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, a schedule for finalizing the full report and an acknowledgement of interim data [that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)] are signed by the landowner at closing.”

Key Elements of the Indicator Practice

• The organization has a baseline documentation report for every conservation easement it holds. (This applies to every conservation easement, not just those conservation easements for which a landowner took a tax deduction.)
• All conservation easements have a baseline documentation report (or interim data and a schedule for finalizing the full baseline documentation report as detailed in the practice) prepared prior to closing and signed by the landowner at or before closing.
• Each baseline documentation report documents the important conservation values and relevant conditions of the property as necessary to monitor and enforce the conservation easement.

Additional Elements of Practice Implementation

• Every baseline documentation report includes the required contents (see below).
• The baseline documentation report is a distinct document that represents the condition of the property at the time the conservation easement was granted and is clearly identified as such.
• If the baseline documentation report is prepared significantly in advance of closing, the organization inspects the property prior to closing and notes the inspection and any changes (or absence of changes) to the property in the final baseline documentation report.
• The organization completes a baseline documentation supplemental report or similar document concurrent with significant conservation easement amendments (such as amendments that change the conservation easement boundaries, authorize additional improvements, etc.).

Information on Required Contents of a Baseline Documentation Report

At first-time application and thereafter
• Date of completion
• Information on the location of the conservation easement
• Property description
• Documentation of the conservation values and public benefits, including written descriptions along with related maps and photographs
• Documentation of existing conditions that relates to the conservation easement’s restrictions and reserved rights, including written descriptions along with related maps and photographs (such as the location and condition of any manmade improvements, data that would influence the exercise of reserved rights, pre-existing conditions that are otherwise prohibited by the conservation easement, other features that may threaten the conservation values, etc.)
• Dated signatures of the landowner and organization acknowledging that both attest to the accuracy of the information contained in the report
  o If the landowner is receiving tax benefits for a donated conservation easement, the acknowledgement must be compliant with the Treasury Department Regulations [§1.170A-14(g)(5)(i)(D)].

At renewal application and thereafter
• Statement of the purpose of the baseline document report (such as to provide an accurate representation of the protected property at the time of the grant of the conservation easement, to aid in the enforcement of the conservation easement, etc.)
• Background information on the project that would help in conservation easement monitoring or enforcement (such as a description of how the property fits within the conservation objective, how the project was funded, contact information for any lessees on the property, contact information for the landowner, etc.)
• The authorship and qualifications and/or experience of the baseline preparer
• Other acknowledgements 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)
• Baseline or conservation easement map(s) that contain the following items
  o Clear property boundaries
  o North arrow and scale
  o Date the map was created
  o Features relative to the enforcement of the conservation easement (such as existing manmade improvements or incursions [such as roads, buildings, fences or gravel pits], vegetation and identification of flora and fauna [including, for example, rare species locations, natural habitat, animal breeding and roosting areas and migration routes], land use history [including present uses and recent past disturbances], distinct natural features [such as large trees and aquatic areas], etc.)
  o Copy of the conservation easement
  o Other items recommended in the Treasury Department Regulations (such as maps showing the property line and other contiguous or nearby protected areas, an aerial photograph of the property at an appropriate scale taken as close as possible to the date the donation is made, and, if the terms of the donation
information on evaluation of and requirements for upgrading old, non-
compliant baseline documentation reports

the commission will expect that a first-time applicant organization’s baselines for its
newest projects meet or exceed the contents identified as being required at first-time
application. if an applicant’s older baselines do not have all of the contents required at
first-time application, the commission may nevertheless accredit the organization if its
older baselines have enough information to defend the conservation easement and
contain (within a single report and/or by explicit reference to other identifiable
documents, including the applicable conservation easement) the items below.

• date of completion
• documentation of the conservation values and public benefits, which can be written
descriptions and/or appropriate photographs and maps
• documentation of existing conditions that relate to the conservation easement’s
restrictions and reserved rights, which can be written descriptions and/or appropriate
photographs and maps

in this situation, the commission will also evaluate the organization’s plans to upgrade
substandard baseline information or create current condition reports over the five-year
accreditation term. the baseline updates, supplements, or current condition reports
must at least meet the “at first-time application” requirements. if the organization did not
secure landowner signatures on the original baselines, it will need to document its
attempt to secure them from original or subsequent landowners. this documentation
should include the efforts to contact the landowner for his/her signature, the response
from the landowner, and if the landowner is not reachable or refuses to sign, any
additional action the organization will take. the commission will expect that these
upgrades and attempts to secure signatures will be completed by the time the
organization applies for renewal and that at renewal the organization’s baselines for its
newest projects contain the at renewal contents.

documentation

at first-time application
• preliminary attachment: land conservation project list
• application response
• 11b1: statement describing the process the organization uses to create its baseline
documentation reports
• 11b2: table of contents or outline of the organization’s standard baseline
documentation report
• 11b3: plan to upgrade any baseline reports or create current condition reports for
any that lack the at first-time application contents, including the number of
easements for which additional information is needed, the type of information to be
compiled, and the specific timeline for securing this information (if applicable)
- Project Documentation
  - Complete, signed baseline documentation report

At renewal application
- Pre-application: Land Conservation Project List
- Application response
- Attestation
- 11B1: Statement describing if any conservation easements were accepted without having a baseline documentation report at the time of closing and, if so, an explanation of why the baseline was not completed by closing and when the baseline was completed (if applicable)
- Project Documentation
  - Complete, signed baseline documentation report
- Other evidence of practice implementation (such as materials requested as part of the verification process)

Land Trust Alliance and Other Related Resources
- Practice 11B
- Standards and Practices Curriculum course, “Conservation Easement Drafting and Documentation” (chapter 3)
Practice 11C. Easement Monitoring

“The land trust monitors its easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keeps documentation (such as reports, updated photographs and maps) of each monitoring activity.”

Key Elements of the Indicator Practice

- The organization monitors its conservation easements at least annually.
- The organization documents its annual monitoring activities in writing for each conservation easement (see below).

Additional Elements of Practice Implementation

- The organization’s Land Conservation Project List shows annual monitoring for every conservation easement.
  - Conservation easement monitoring is defined by the Commission as annual documented visual inspection of a conservation easement-protected property to ensure that the terms of the conservation easement are being upheld with on-the-ground physical inspections as the site warrants.
  - If there is an isolated and rare gap in monitoring a conservation easement annually, the Commission will review any explanation of the circumstances resulting in the gap in monitoring and will also consider the organization’s monitoring history in its evaluation of this practice.

At first-time application (required at time of pre-application)

- A monitoring frequency that meets one of the following evaluation methods.
  - There is at least one monitoring inspection each calendar year for a minimum of three years.
  - The last two consecutive monitoring inspections are approximately 12 months apart. (In defining “approximately 12 months apart,” occasional intervals upwards of 15 months apart are acceptable. Under no circumstances are intervals of greater than 15 months acceptable if relying on this method for evidence.)

At renewal application and thereafter

- At least one monitoring inspection each calendar year during the entire five year accredited term (or annually since date the conservation easement was acquired).
- If the organization closed on a conservation easement at the end of one year, the organization monitors the conservation easement by the end of the next year. (For example, if a conservation easement closed in October 2011, the first monitoring visit is before the end of 2012.)
- The organization’s monitors have the necessary training/expertise.
• The organization records the information that is needed to enforce the conservation easement in its documentation of annual monitoring inspections and the monitoring reports contain the required elements (see below).

**Information on Documenting Monitoring**

The organization must maintain written, annual documentation of the condition of the property, even if the organization drives or walks by or otherwise inspects the property on a regular basis. The documentation must be contemporaneous to when the inspection occurred.

If a conservation easement is on a property that is owned in fee by a public agency or another conservation organization, the organization still needs a record of annual monitoring. If the applicant shares its monitoring responsibilities with, or delegates them to, another entity (such as a public agency, a co-holder, other partner, etc.), the organization will need to have documentation of its own annual monitoring or will need to provide evidence of the annual monitoring inspections conducted by the other entity. Failure of one co-holder to monitor does not release the other co-holder from the responsibility.

**Information on Required Elements of Monitoring Reports**

A monitoring report must at least include the items below.

*At first-time application and thereafter*
• Identification of the specific conservation easement being monitored
• The date of the inspection
• The printed name and signature of the monitor
• Observations relative to the restrictions, reserved rights and conservation values recorded during the inspection

*At renewal application and thereafter*
• A 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 (such as on foot, by car, etc.)
• A notation of any photos taken, their location, and the identity of the photographer
• Affiliation of the monitor
• Address of the monitor (if not organization staff)
• A notation of the presence or absence of the landowner or other party
Information on Aerial Monitoring

If the organization relies on aerial photography or imagery as part of its conservation easement monitoring protocol, the Commission will evaluate the organization’s monitoring practice based on the scale of the project, the type of conservation easement, whether the organization’s monitoring protocol was developed by a qualified professional, the quality of the data documented for the visual inspection, and whether the organization’s use of technology is appropriate to its capacity.

It is acceptable for an organization to aerially monitor its conservation easements annually, if the organization does all of the following:

• Supplements the aerial monitoring with on-the-ground monitoring generally at least once every three years (depending on each conservation easement’s particular circumstances)
• Has aerial photographs verifiable to a specific date
• Has aerial photographs that provide sufficient information to monitor the properties (including easily identifiable boundaries and restrictions appropriate to aerial monitoring)
• Keeps documentation of the monitoring
• Immediately follows up on any potential violations with an on-the-ground inspection

Documentation

At first-time application
• Preliminary attachment: Land Conservation Project List
• Application responses
• 11C1: Statement describing how the organization monitors its conservation easements
• 11C2: Evidence of how easement monitors are trained and evaluated
• 11C3: Template easement monitoring report
• 11C4: If the land conservation project list indicated there were gaps in the annual monitoring over the last several years, an explanation of the circumstances and how the organization addressed them (if applicable)
• Project Documentation
  • Monitoring reports from the last three years (or since date acquired if acquired within last three years)

At renewal application
• Pre-application: Land Conservation Project List
• Application response
• 11C1: Statement explaining the circumstances that resulted in any monitoring gap and how the organization has since ensured continued compliance with the practice (if applicable)
• Project Documentation
  • Monitoring reports from the last five years (or since date acquired if acquired within last five years)
• Other evidence of practice implementation (such as materials requested as part of the verification process)

**Land Trust Alliance and Other Related Resources**

• Practice 11C
• Standards and Practices Curriculum course, "Conservation Easement Stewardship" (chapters 3 and 4)
Practice 11E. Enforcement of Easements

“The land trust has a written policy and/or procedure detailing how it will respond to a potential violation of an easement, including the role of all parties involved (such as board members, volunteers, staff and partners) in any enforcement action. The land trust takes necessary and consistent steps to see that violations are resolved and has available, or has a strategy to secure, the financial and legal resources for enforcement and defense.”

Key Elements of the Indicator Practice

- The organization has a board-adopted policy or dated procedure describing how it responds to a potential conservation easement violation (see below).
- The policy or procedure describes the role of all parties (such as board members, volunteers, staff, partners, etc.).
- The organization takes necessary and consistent steps to resolve violations.
- The organization has secured the financial and legal resources necessary for enforcement and defense (see practice 11A).

Policy/Procedure Elements

At first-time application and thereafter
- The policy or procedure must include all of the following items.
  - 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

Additional Elements of Practice Implementation

- All conservation easement violations have been or are being resolved in a timely manner appropriate to the nature of the violation.
- The organization follows its policy or procedure in addressing all potential violations.
- The policy or procedure and implementation thereof show board, committee, and/or legal involvement appropriate to the violation.
- The organization has the minimum funds dedicated for conservation easement defense (see practice 11A).
Documentation

At first-time application
- Application responses
- 11E1: Conservation easement enforcement policy or procedure
- 11E2: Statement describing the most recent conservation easement violation (if applicable)
- 11E3: Materials provided to the board (or its delegate) in advance of its discussion of the violation described in 11E2 and the meeting minutes recording the discussion (if applicable)
- Project Documentation
  - If the conservation easement has been violated
    - A brief description of the violation
    - Evidence of how the organization discovered, documented, reviewed, and resolved the violation
- Other evidence of practice implementation (such as information submitted for practices 6B, 11A, and 11C)

At renewal application
- Application response
- Policy/procedure attestation
- 11E1: Statement describing the nature of each violation that has occurred since the organization’s last application for accreditation (if applicable)
- 11E2: Statement describing the most recent conservation easement violation in detail (if applicable)
- 11E3: Materials provided to the board (or committee/person delegated to take action) in advance of its discussion(s) of the violation described in 11E2 and the meeting minutes recording the discussion(s) (if applicable)
- Project Documentation
  - If the conservation easement has been violated
    - A brief description of the violation
    - Evidence of how the organization discovered, documented, reviewed, and resolved the violation
- Other evidence of practice implementation (such as information submitted for practices 6B, 11A, and 11C)

Land Trust Alliance and Other Related Resources
- Practice 11E
- Standards and Practices Curriculum course, “Managing Conservation Easements in Perpetuity” (chapter 3)
Practice 11I. Amendments

“The land trust recognizes that amendments are not routine but can serve to strengthen an easement or improve its enforceability. The land trust has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires compliance with the land trust’s conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization’s mission.”

Key Elements of the Indicator Practice

- The organization does not routinely amend its conservation easements for purposes other than strengthening the conservation easement, improving enforceability, or adding additional area to the conservation easement.
- The organization has a board-adopted policy or dated procedure that addresses conservation easement amendments (see below).

Policy/Procedure Elements

At first-time application and thereafter
- The policy or procedure must include all of the following items.
  - A prohibition against private inurement and impermissible private benefit
  - Any provisions for the management of conflicts of interest that are not covered in the conflict of interest policy
  - A provision that all amendments must result in positive or not-less-than neutral conservation outcomes

At renewal and thereafter
- The policy or procedure must also include all of the following items.
  - 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 amendments
  - A provision that amendments must satisfy the following Amendment Principles (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 how the procedures vary depending on the type of amendment considered (if there are variations)

**Additional Elements of Practice Implementation**

- Amendments accepted by the organization are developed and approved in accordance with the organization’s written policy, including that parties are involved in a manner and at a time consistent with the policy and/or procedure.
- The majority of the organization’s amendments are minor and/or technical.
- Appraisals and other contemporaneous evidence document that no private inurement or impermissible private benefit resulted from a conservation easement amendment.
- Amendments are not inconsistent with donor intent.
- If the organization’s standard conservation easement includes a broad discretionary consent clause, the organization clearly defines in its policies or procedures when it may grant discretionary consent and when it must amend a conservation easement’s terms.

**Information on Release of Conservation Easement Restrictions: Full or Partial Extinguishment**

This section provides information on how the Commission will evaluate an organization that has released restrictions on all or a portion of conservation easement-protected land in exchange for conservation easement restrictions on land not previously protected. Organizations have effectuated these “swaps” or releases of conservation easement restrictions for a variety of reasons, including:

- To address a violation (releasing the land where the violation occurred from the conservation easement but putting additional acreage under conservation easement)
- To resolve a land or boundary dispute with a neighbor abutting conservation easement land
- To accommodate a landowner’s preference (adjusting the boundaries of land under conservation easement)
- To gain what the organization considers to be greater conservation value than the original conservation easement provided (releasing the original conservation easement in exchange for an area of greater conservation priority)

Some organizations have historically characterized these actions as amendments rather than extinguishments. Amendments that release conservation easement restrictions covering a portion of ground in exchange for comparable or additional protection elsewhere are identified as being the highest risk category of amendments by the Land Trust Alliance in its report, “Amending Conservation Easements: Evolving Practices and Legal Principles.” The 2011 Internal Revenue Service Instructions for Form 990 for Schedule D now explain:
“An easement is released, extinguished, or terminated when it is condemned, extinguished by court order, transferred to the land owner, or in any way rendered void and unenforceable, in each case whether in whole or in part. An easement is also released, extinguished, or terminated when all or part of the property subject to the easement is removed from the protection of the easement in exchange for the protection of some other property or cash to be used to protect some other property.”

The Commission considers the results of actions rather than the label placed on them by the organization and will review such actions by evaluating whether the applicant was following its amendment policy or procedures and other applicable policies, whether the applicant complied with the conservation easement language, and whether it is in compliance with state and federal laws. The Commission may request additional documentation beyond that requested in the application to fully evaluate the release of conservation easement restrictions.

Organizations should be aware that reliance on this evaluation approach for the purposes of accreditation may not ensure compliance with applicable funder, state, or federal requirements. For example, the Internal Revenue Service has indicated that except in the very limited situations where a release of conservation easement restrictions meets the extinguishment requirements of section 1.170A-14(g)(6) of the Treasury Department Regulations, the contribution of a conservation easement that allows a release of conservation easement restrictions is not considered tax-deductible under section 170(h) of the Internal Revenue Code.

Elements of Evaluation for Release of Conservation Easement Restrictions

- The organization followed all of its stated procedures for project review and approval and, if applicable, its amendment policy or procedures and conflict of interest policy.
- The organization followed the terms of the conservation easement with respect to taking appropriate action (such as following the terms of any amendment and/or extinguishment clauses, securing judicial review if the conservation easement’s extinguishment clause requires a judicial order, etc.).
- The organization documented that the release/exchange resulted in no net loss of conservation values.
- The organization documented that the release/exchange did not result in any private inurement or impermissible private benefit to the landowner. (Generally, this should have been documented through appraisals and reviewed by legal counsel.)
- The organization considered the size of the area released from the conservation easement’s restrictions, its conservation values, and its relationship to the remaining conserved property.
- The organization considered other feasible alternatives.
- The organization acted reasonably and in good faith with respect to the donor’s original intent for the property.
- The organization considered its actions in the context of its reputation and the impact on the conservation community at large.
• Legal counsel evaluated the project in light of state and federal laws and determined the following items.
  o That the release/exchange action was legally permissible and followed all applicable laws
  o That there was not a legal obligation to require a judicial order (Alternatively, if there was a legal obligation to do so, the organization obtained a judicial order)
• The organization recorded the appropriate documents (such as deeds, amended deeds, etc.) to effectuate the release/exchange action.

Documentation

At first-time application
• Application responses
• 11I1: Conservation easement amendment policy or procedure
• 11I2: Statement describing the most recent conservation easement amendment in detail (if applicable)
• 11I3: Before- and after-amendment versions of the conservation easement or relevant clauses for the amendment described in statement 11I2 (if applicable)
• 11I4: Materials provided to the board (or its delegate) in advance of its approval of the amendment described in 11I2 and the meeting minutes recording the action (if applicable)
• Project Documentation
  If the conservation easement has been amended in the last 10 years
  o Before- and after-version of the conservation easement deed (or a tracked-changes version)
  o Brief description of the amendment
  o Evidence of how the organization reviewed and approved the amendment
  o Documentation used to determine that there was no private inurement or impermissible private benefit conferred by the amendment
• Other evidence of practice implementation (such as board involvement in amendment in practice 3F and conservation easement provisions allowing boundary adjustments in practice 9E)

At renewal application
• Application response
• Policy/procedure attestation
• 11I1: Statement describing the nature of each conservation easement amendment approved by the organization since its last application for accreditation (if applicable)
• 11I2: Statement describing the most recent conservation easement amendment in detail (if applicable)
• 11I3: Original conservation easement for the most recently amended easement (if applicable)
• 11I4: Amended version(s) of the conservation easement provided in 11I3 (or a tracked-changes version) (if applicable)
• 11I5: Materials provided to the board (or committee/person delegated to take action) in advance of its approval of the amendment provided in 11I4 (if applicable)
• 11I6: Meeting minutes recording the action approving the amendment provided in 11I4 (if applicable)
• 11I7: Documentation used to determine that the amendment in 11I4 did not confer private inurement or impermissible private benefit (if applicable)
• Project Documentation
  *If the conservation easement has been amended in the last 10 years*
  *Before- and after-version of the conservation easement deed (or a tracked-changes version)*
  *Brief description of the amendment*
  *Evidence of how the organization reviewed and approved the amendment*
  *Documentation used to determine that there was no private inurement or impermissible private benefit conferred by the amendment*

**Land Trust Alliance and Other Related Resources**

• [Practice 11I](#)
• Standards and Practices Curriculum course, "[Managing Conservation Easements in Perpetuity](#)" (chapter 2)
• [Amending Conservation Easements: Evolving Practices and Legal Principles](#)
• Internal Revenue Service: [2011 IRS Instructions for Form 990 for Schedule D](#)
• Internal Revenue Service: [General Information Letter on “Swaps”](#)
Practice 12A. Funding Land Stewardship

“The land trust determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement and other costs. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose.”

Key Elements of the Indicator Practice

- The organization determines the immediate and long-term financial and management implications of each fee property transaction.
- The organization secures funds to manage the property. If funds are not secured for a specific property at or before the completion of the transaction, the land trust has a plan to secure the funds.

Additional Elements of Practice Implementation

- The organization has a standard method for calculating how much it needs to cover its immediate and long-term stewardship expenses for each new property (such as funds needed for liability insurance, maintenance, improvements, periodic inspections, enforcement and other costs).
- The organization obtains stewardship funding for each fee property acquisition.
- The organization’s project documentation shows that the stewardship funding was received for recent projects or that a specific plan to obtain the funds is in place.

At first-time application

- The organization demonstrates one of the following items.
  - It has sufficient resources to cover its annual fee land stewardship operating expenses through income from dedicated funds.
  - It has a) dedicated funds to cover at least emergency fee land management needs, issues related to title disputes, and legal defense or enforcement costs and b) covers its current annual fee land stewardship operating expenses through diverse and secure sources of annual income (such as lease income, earned income, reserve fund income, a history of success with annual appeals for stewardship, etc.).
  - A credible funding plan (see below) that shows that the organization will obtain the necessary dedicated funds as well as the diverse and secure sources of income it will rely on during its accredited term.

At renewal application and thereafter

- The organization demonstrates one of the following items.
  - It has sufficient resources to cover its annual fee land stewardship operating expenses through income from dedicated funds.
It has dedicated funds to cover at least emergency fee land management needs, issues related to title disputes and legal defense or enforcement costs and covers its current annual fee land stewardship operating expenses through diverse and secure sources of annual income (such as lease income, earned income, reserve fund income, a history of success with annual appeals for stewardship, etc.).

### Information on Stewardship Funding Plans

As fee land stewardship expenses for every organization vary, the plan should include a calculation of what the organization needs to cover emergency expenses and the amount needed to cover the annual operating costs of its fee land stewardship program. Operating expenses include liability insurance, periodic inspections, and general management and maintenance costs, etc. For the purposes of accreditation, operating costs do not include costs associated with funding-dependent capital improvements or restoration projects. Evidence of a plan and a commitment to implement the plan include all of the following elements.

- A target goal for the amount of funding the organization needs and the amount that it intends to raise over the next five years toward its goal, along with a description of how the target goal was determined
- A set of specific strategies with timelines for raising the amount of the target goal by the time of renewal
- A description of any new policies or procedures that will be implemented to help carry out the plan (such as a stewardship funding policy, expanded investment policy, changes to stewardship and enforcement calculations and requested amounts, etc.)
- A board resolution committing the organization to implementation of the funding plan and to dedicating funds raised via the plan to cover emergency fee land management needs, issues related to title disputes, and legal defense or enforcement costs.

### Documentation

**At first-time application**

- Preliminary attachment: Schedule of Dedicated and Restricted Funds
- Application response
- 12A1: Statement describing the organization’s practice for determining and securing the immediate and long-term funds needed to manage its fee properties
- 12A2: Evidence of how the organization determined the land management expenses for a recent fee property acquisition
- 12A3: For organizations that do not currently have the necessary funds, a plan for raising land management funds (if applicable)
- Project Documentation
  - Management or stewardship fund calculation
  - Evidence that stewardship funding was received or that a plan is in place to secure the funds

*If stewardship and management funds were solicited from individual donors*
• Copy of an actual solicitation for a contribution to the stewardship and/or management fund
  • Copy of the actual acknowledgement of the gift received as a result of the solicitation above along with an indication of which fund the contribution received via the solicitation was deposited into
• Other evidence of practice implementation (such as information submitted for practice 6B)

**At renewal application**
• Application response
• 6B1: Schedule of Dedicated and Restricted Funds
• 12A1: Statement describing if any projects were completed without determining the immediate and long-term financial and management implications of the transaction and/or without securing the necessary funds and, if so, an explanation how the organization will cover the current and future expenses associated with the property (if applicable)
• Project Documentation
  • Management or stewardship fund calculation
  • Evidence that stewardship funding was received or that a plan is in place to secure the funds
  *If stewardship and management funds were solicited from individual donors*
  • Copy of an actual solicitation for a contribution to the stewardship and/or management fund
  • Copy of the actual acknowledgement of the gift received as a result of the solicitation above along with an indication of which fund the contribution received via the solicitation was deposited into
• Other evidence of practice implementation (such as information submitted for practice 6B)

**Land Trust Alliance and Other Related Resources**

• [Practice 12A](#)
• Standards and Practices Curriculum course, "Determining Stewardship Costs and Raising and Managing Dedicated Funds" (chapter 1)
• [Conservation Capacity and Enforcement Capability](#)
Practice 12C. Land Management

“The land trust inventories the natural and cultural features of each property prior to developing a management plan that identifies its conservation goals for the property and how it plans to achieve them. Permitted activities are compatible with the conservation goals, stewardship principles and public benefit mission of the organization. Permitted activities occur only when the activity poses no significant threat to the important conservation values, reduces threats or restores ecological processes, and/or advances learning and demonstration opportunities.”

Key Elements of the Indicator Practice

- The organization has a written land management plan or a written summary document for each property it holds in fee.
- Permitted activities and restrictions, if any, are noted in the plan or summary.

Additional Elements of Practice Implementation

- Every management plan or summary includes the required contents (see below).
- Permitted activities are compatible with the organization’s conservation goals for its fee properties (such as appropriate recreational activities in protected habitats, limited or no resource extraction in ecologically sensitive areas, etc.).
- Permitted and restricted activities are consistent with donor intent and funder requirements.
- The organization’s management activities on its fee properties reduce threats, restore ecological processes, or advance learning and demonstration.
- Land management plans or summaries are completed by the time the property is acquired.
- Land management plans or summaries are updated as needed to reflect parcel additions (see below), external threats, or changes in management activities as necessary to ensure safety and appropriate management of the properties.

Information on Required Contents of a Land Management Plan or Summary

There is no prescribed length or format for a land management plan or summary. However, a management plan or summary must at least contain all of the items below.
- A description of the property (such as size, location, etc.)
- A description of any conservation values or attributes and/or the reasons why the organization protected this 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 (such as leases, severed mineral rights, right-of-ways, easements, etc.)
- A description of potential threats to the conservation values or areas of special concern (such as invasive species, neighbor encroachment, unauthorized access, etc.)
• Overall management goals (including identification of permitted activities) and actions necessary to achieve the goals (If the organization is waiting to complete a detailed management plan, this may include interim actions until the final management plan is complete.)
• A timeline for planned management activities and for regular inspections of the property

Information on Properties Requiring a Management Plan or Summary

The Commission expects the organization to have a management plan or summary for every fee property (such as conservation properties, properties with an office facility, properties intended for transfer or sale, etc.). An exception is a property where the landowner retains a life estate. The following provides additional information for management plans or summaries on some specific types of properties.
• Wilderness properties or those that are not actively managed: The management plan or summary would indicate the organization’s intent to keep a property forever wild or its choice to undertake no management.
• Properties the organization intends to transfer (such as to a public agency or other conservation holder): The management plan or summary would indicate what actions the organization must carry out while the property is in its ownership.
• Office facilities that are located on a property or in a historic structure that the organization owns: The management plan or summary would address the natural or cultural features that require management, any restrictions on the property, and general maintenance required for safety and responsible ownership.
• Appurtenant fee parcel created in the event that common law principles were used to create a conservation easement: The need for a management plan on the appurtenant fee parcel will depend on the management of the conservation easement-protected property. If the appurtenant fee parcel is managed as a separate parcel from the property under conservation easement, then a management plan or summary will likely be required. If the appurtenant fee parcel is managed as part of the conservation easement-protected land, a management plan or summary will generally not be needed.
• Properties under lease: A lease can serve as a management plan or be supplemented with additional material as needed.

Information on Management Plans or Summaries for Related Parcels

• An organization may have a single management plan or summary for contiguous parcels if there is a clear identification of which parcels are addressed by the plan.
• A master plan does not negate the need for specific information about each parcel.
• If the organization adds land to a property covered under a master management plan, the organization should also have documentation (such as a short summary, print out of a database record, plan amendment, etc.) for the new parcel that at least meets the minimum management plan contents, including all of the following:
  o A description of the added parcel (size, location, etc.)
  o Notation of any conservation values unique to the new parcel
  o A summary of any restrictions that came with the property
• Any specific threats or management actions that are not covered in the master plan
• If the new parcel substantively changes the management needs of the whole property, a revised plan is required (such as if the new parcel substantially changes the acreage under management so that it may require increased staff or volunteers, adds new natural resources to be managed, etc.).
• Properties that are not physically connected may fall under a master management plan if the landscape is relatively uniform and there are no significant threats on the intervening parcels.

Documentation

At first-time application
• Preliminary attachment: Land Conservation Project List
• 12C1: Statement describing the process used to develop management plans or summaries for every property
• 12C2: Statement describing how the organization ensures appropriate management of its fee properties
• Project Documentation
  o Management plan or summary

At renewal application
• Pre-application: Land Conservation Project List
• Application response
• 12C1: Statement describing if any fee properties were accepted without having a management plan or summary at the time of closing and, if so, an explanation when the management plan or summary for the project was completed (if applicable)
• Project Documentation
  o Management plan or summary

Land Trust Alliance and Other Related Resources

• Practice 12C
• Standards and Practices Curriculum course, “Caring for Land Trust Properties” (chapters 1 and 2)
Practice 12D. Monitoring Land Trust Properties

“The land trust marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse or overuse, vandalism or safety hazards) and takes action to rectify such problems.”

Key Elements of the Indicator Practice

- The organization marks its boundaries in such a way that corners and property lines can be identified on the ground for purposes of inspection.
- The organization regularly inspects its properties (see below).
- The organization takes action to rectify management problems.

Additional Elements of Practice Implementation

- The organization can locate the boundaries of its properties.
  - If the organization does not mark the boundaries of its 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.
- The organization documents inspection of its fee properties. Acceptable forms of documentation may vary based on the nature of the property and frequency of inspections. The following list provides some examples of acceptable documentation.
  - A written and signed inspection report indicating the date of the inspection and findings
  - For properties that are routinely inspected by staff or volunteers with on-going oversight of the property, a staff or volunteer report to the board, memo to file on activities and findings, etc.
  - For properties where there is an on-site manager, a job description identifying the responsibilities of the individual to inspect the property, to address issues, and to report.
- The organization resolves management problems on its fee properties in a timely manner or is taking action to resolve them.

Information on Documenting Regular Inspections

For purposes of accreditation, “regularly” in the context of fee land inspections means at least once per calendar year for applicants in 2014 and beyond. Acceptable evidence of compliance will be the most recent inspection date being within a year of the application date. (For example, a January 2013 or later inspection date would be acceptable for a 2014 application.)

If there is an isolated and rare gap in the inspection date not being within a year of the application date, the Commission will review any explanation of the circumstances.
resulting in the gaps in inspections and also consider the organization’s inspection history in its evaluation of this practice.

**Documentation**

*At first-time application*
- Application responses
- Preliminary attachment: Land Conservation Project List
- 12D1: Statement describing how the organization regularly monitors/inspects each fee property
- 12D2: Statement describing how the organization addressed a recent management issue on a fee-owned property
- Project Documentation
  - Description of how the property boundaries are marked or can be identified on the ground for purposes of monitoring/inspection and enforcement
  - Monitoring/inspection reports from the most recent inspection visit
  - Evidence of how the organization resolved significant management issues, if any

*At renewal application*
- Pre-application: Land Conservation Project List
- Application responses
- 12D1: Statement explaining the circumstances for any missed inspection and description of how the organization has since ensured continued compliance with the practice (if applicable)
- 12D2: Statement describing the nature of any unresolved management issues and the steps being taken to resolve the issues (if applicable)
- Project Documentation
  - Description of how the property boundaries are marked or can be identified on the ground for purposes of monitoring/inspection and enforcement
  - Monitoring/inspection reports from the most recent inspection visit
  - Evidence of how the organization resolved significant management issues, if any

**Land Trust Alliance and Other Related Resources**

- **Practice 12D**
- Standards and Practices Curriculum course, *"Caring for Land Trust Properties"* (chapter 4)
LINKS TO ADDITIONAL INFORMATION FOR SPECIFIC GROUPS

Please refer to the links below for important information about specific types of organizations.

Information for Organizations with Multiple Corporations/Related Entities
- Fact Sheet
- Basic Level Application Addenda
- Intermediate Level Application Addenda
- Complete Level Application Addenda

Information for Organizations with Mergers
- Frequently Asked Questions about Accreditation and Accepting Fee Land or Conservation Easement Projects from another Land Trust and the Corporate Combination of Land Trusts

Information for Organizations with Mitigation Projects
- Special Report: Mitigation Land Trusts (see page 8 of the 2010 Annual Report)

Information for Quasi-Governmental Organizations
- Land Trust Standards and Practices: Interpretation and Application of the 2004 Revisions for Quasi-Governmental Conservation Organizations not Recognized as a Tax-Exempt Organization under Section 501(c)(3) of the Internal Revenue Code