

LAND TRUST STANDARDS AND PRACTICES

Standard 1: Mission

The land trust has a clear mission that serves a public interest, and all programs support that mission.

Practices:

1A: Mission

The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization.

1B: Planning and Evaluation

The land trust regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals and activities to be sure they are consistent with the mission.

1C: Outreach

The land trust communicates its mission, goals and/or programs to members, donors, landowners, the general public, community leaders, conservation organizations and others in its service area as appropriate to carry out its mission.

1D: Ethics

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

Standard 2: Compliance with Laws

The land trust fulfills its legal requirements as a nonprofit tax- exempt organization and complies with all laws.

Practices:

2A: Compliance with Laws

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

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.

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.

2D: Records Policy

The land trust has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored and disposed. (See 9G.)

2E: Public Policy

The land trust may engage in public policy at the federal, state and/or local level (such as supporting or opposing legislation, advocating for sound land use policy, and/or endorsing public funding of conservation) provided that it complies with federal and state lobbying limitations and reporting requirements. Land trusts may not engage in political campaigns or endorse candidates for public office.

Standard 3: Board Accountability

The land trust board acts ethically in conducting the affairs of the organization and carries out the board's legal and financial responsibilities as required by law.

Practices:

3A: Board Responsibility

The board is responsible for establishing the organization's mission, determining strategic direction and setting policies to carry out the mission, and, as required by law, the oversight of the organization's finances and operations.

3B: Board Composition

The board is of sufficient size to conduct its work effectively. The board is composed of members with diverse skills, backgrounds and experiences who are committed to board service. There is a systematic process for recruiting, training and evaluating board members.

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.

3D: Preventing Minority Rule

The land trust's governing documents contain policies and procedures (such as provisions for a quorum and adequate meeting notices) that prevent a minority of board members from acting for the organization without proper delegation of authority.

3E: Delegation of Decision-Making Authority

The board may delegate decision-making and management functions to committees, provided that committees have clearly defined roles and report to the board or staff. If the land trust has staff, the board defines the job of, oversees and periodically evaluates the executive director (or chief staff person). (See 3F and 7E.)

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.

Standard 4: Conflicts of Interest

The land trust has policies and procedures to avoid or manage real or perceived conflicts of interest.

Practices:

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.

4B: Board Compensation

Board members do not serve for personal financial interest and are not compensated except for reimbursement of expenses and, in limited circumstances, for professional services that would otherwise be contracted out. Any compensation must be in compliance with charitable trust laws. The board's presiding officer and treasurer are never compensated for professional services.

4C: Transactions with Insiders

When engaging in land and easement transactions with insiders (see definitions), the land trust: follows its conflict of interest policy; documents that the project meets the land trust's mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the land trust obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the land trust widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.

Standard 5: Fundraising

The land trust conducts fundraising activities in an ethical and responsible manner.

Practices:

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.

5B: Accountability to Donors

The land trust is accountable to its donors and provides written acknowledgement of gifts as required by law, ensures that donor funds are used as specified, keeps accurate records, honors donor privacy concerns and advises donors to seek independent legal and financial advice for substantial gifts.

5C: Accurate Representations

All representations made in promotional, fundraising, and other public information materials are accurate and not misleading with respect to the organization's accomplishments, activities and intended use of funds. All funds are spent for the purpose(s) identified in the solicitation or as directed in writing by the donor.

5D: Marketing Agreements

Prior to entering into an agreement to allow commercial entities to use the land trust's logo, name or properties, the land trust determines that these agreements will not impair the credibility of the land trust. The land trust and commercial entity publicly disclose how the land trust benefits from the sale of the commercial entity's products or services.

Standard 6: Financial and Asset Management

The land trust manages its finances and assets in a responsible and accountable way.

Practices:

6A: Annual Budget

The land trust prepares an annual budget that is reviewed and approved by the board, or is consistent with board policy. The budget is based on programs planned for the year. Annual revenue is greater than or equal to expenses, unless reserves are deliberately drawn upon.

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.

6C: Financial Reports and Statements

The board receives and reviews financial reports and statements in a form and with a frequency appropriate for the scale of the land trust's financial activity.

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.

6E: Internal System for Handling Money

The land trust has established a sound system of internal controls and procedures for handling money, in a form appropriate for the scale of the organization.

6F: Investment and Management of Financial Assets and Dedicated Funds

The land trust has a system for the responsible and prudent investment and management of its financial assets, and has established policies on allowable uses of dedicated funds and investment of funds.

6G: Funds for Stewardship and Enforcement

The land trust has a secure and lasting source of dedicated or operating funds sufficient to cover the costs of stewarding its land and easements over the long term and enforcing its easements, tracks stewardship and enforcement costs, and periodically evaluates the adequacy of its funds. In the event that full funding for these costs is not secure, the board has adopted a policy committing the organization to raising the necessary funds. (See 6F, 11A and 12A.)

6H: Sale or Transfer of Assets (Including Land and Easements)

The land trust has established policies or procedures on the transfer or sale of assets, including real property. (See 4C, 9K and 9L.)

6I: Risk Management and Insurance

The land trust assesses and manages its risks and carries liability, property, and other insurance appropriate to its risk exposure and state law. The land trust exercises caution before using its land to secure debt and in these circumstances takes into account any legal or implied donor restrictions on the land, the land trust's mission and protection criteria, and public relations impact.

Standard 7: Volunteers, Staff and Consultants

The land trust has volunteers, staff and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.

Practices:

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.

7B: Volunteers

If the land trust uses volunteers, it has a program to attract, screen, train, supervise and recognize its volunteers.

7C: Staff

If the land trust uses staff, each staff member has written goals or job descriptions and periodic performance reviews. Job duties or work procedures for key positions are documented to help provide continuity in the event of staff turnover.

7D: Availability of Training and Expertise

Volunteers and staff have appropriate training and experience for their responsibilities and/or opportunities to gain the necessary knowledge and skills.

7E: Board/Staff Lines of Authority

If the land trust has staff, the lines of authority, communication and responsibility between board and staff are clearly understood and documented. If the board hires an executive director (or chief staff person), the board delegates supervisory authority over all other staff to the executive director. (See 3E.)

7F: Personnel Policies

If the land trust has staff, it has written personnel policies that conform to federal and state law and has appropriate accompanying procedures or guidelines.

7G: Compensation and Benefits

If the land trust has staff, it provides fair and equitable compensation and benefits, appropriate to the scale of the organization.

7H: Working With Consultants

Consultant and contractor relationships are clearly defined, are consistent with federal and state law, and, if appropriate, are documented in a written contract. Consultants and contractors are familiar with sections of Land Trust Standards and Practices that are relevant to their work.

Standard 8: Evaluating and Selecting Conservation Projects

The land trust carefully evaluates and selects its conservation projects.

Practices:

8A: Identifying Focus Areas

The land trust has identified specific natural resources or geographic areas where it will focus its work.

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.

8C: Federal and State Requirements

For land and easement projects that may involve federal or state tax incentives, the land trust determines that the project meets the applicable federal or state requirements, especially the conservation purposes test of IRC Section 170(h).

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.

8E: Site Inspection

The land trust inspects properties before buying or accepting donations of land or easements to be sure they meet the organization's criteria, to identify the important conservation values on the property and to reveal any potential threats to those values.

8F: Documenting Conservation Values

The land trust documents the condition of the important conservation values and public benefit of each property, in a manner appropriate to the individual property and the method of protection.

8G: Project Planning

All land and easement projects are individually planned so that the property's important conservation values are identified and protected, the project furthers the land trust's mission and goals, and the project reflects the capacity of the organization to meet future stewardship obligations.

8H: Evaluating the Best Conservation Tool

The land trust works with the landowner to evaluate and select the best conservation tool for the property and takes care that the chosen method can reasonably protect the property's important conservation values over time. This evaluation may include informing the landowner of appropriate conservation tools and partnership opportunities, even those that may not involve the land trust.

8I: Evaluating Partnerships

The land trust evaluates whether it has the skills and resources to protect the important conservation values on the property effectively, or whether it should refer the project to, or engage in a partnership with, another qualified conservation organization.

8J: Partnership Documentation

If engaging in a partnership on a joint acquisition or long-term stewardship project, agreements are documented in writing to clarify, as appropriate, the goals of the project, roles and responsibilities of each party, legal and financial arrangements, communications to the public and between parties, and public acknowledgement of each partner's role in the project.

8K: Evaluating Risks

The land trust examines the project for risks to the protection of important conservation values (such as surrounding land uses, extraction leases or other encumbrances, water rights, potential credibility issues or other threats) and evaluates whether it can reduce the risks. The land trust modifies the project or turns it down if the risks outweigh the benefits.

8L: Nonconservation Lands

The land trust may receive land that does not meet its project selection criteria (see 8B) with the intent of using the proceeds from the sale of the property to advance its mission. If the land trust intends to sell the land, it provides clear documentation to the donor of its intent before accepting the property. Practices 4C, 9K and 9L are followed.

8M: Public Issues

A land trust engaging in projects beyond direct land protection (such as public policy, regulatory matters or education programs) has criteria or other standard evaluation methods to guide its selection of and engagement in these projects. The criteria or evaluation methods consider mission, capacity and credibility.

Standard 9: Ensuring Sound Transactions

The land trust works diligently to see that every land and easement transaction is legally, ethically and technically sound.

Practices:

9A: Legal Review and Technical Expertise

The land trust obtains a legal review of every land and easement transaction, appropriate to its complexity, by an attorney experienced with real estate law. As dictated by the project, the land trust secures appropriate expertise in financial, real estate, tax, scientific, and land and water management matters.

9B: Independent Legal Advice

The land trust refrains from giving specific legal, financial and tax advice and recommends in writing that each party to a land or easement transaction obtain independent legal advice.

9C: Environmental Due Diligence for Hazardous Materials

The land trust takes steps, as appropriate to the project, to identify and document whether there are hazardous or toxic materials on or near the property that could create future liabilities for the land trust.

9D: Determining Property Boundaries

The land trust determines the boundaries of every protected property through legal property descriptions, accurately marked boundary corners or, if appropriate, a survey. If an easement contains restrictions that are specific to certain zones or areas within the property, the locations of these areas are clearly described in the easement and supporting materials and can be identified in the field.

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.

9F: Documentation of Purposes and Responsibilities

The land trust documents the intended purposes of each land and easement transaction, the intended uses of the property and the roles, rights and responsibilities of all parties involved in the acquisition and future management of the land or easement.

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.

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.

9I: Recording

All land and easement transactions are legally recorded at the appropriate records office according to local and state law.

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.

9K: Selling Land or Easements

If the land trust sells land or easements, it first documents the important conservation values, plans the project according to practice 8G, and drafts protection agreements as appropriate to the property. The land trust obtains a qualified independent appraisal that reflects the plans for the project and protection agreements and justifies the selling price. (The land trust may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstance when a property has a very low economic value.) The land trust markets the property and selects buyers in a manner that avoids any appearance of impropriety and preserves the public's confidence in the land trust, and in the case of selling to an insider (see definitions) follows practice 4C. (See 6H for sales of other assets.)

9L: Transfers and Exchanges of Land

If the land trust transfers or exchanges conservation land or easements, the land trust considers whether the new holder can fulfill the long-term stewardship and enforcement responsibilities, ensures that the transaction does not result in a net loss of important conservation values and, for donated properties, ensures that the transfer is in keeping with the donor's intent. If transferring to a party other than another nonprofit organization or public agency, the consideration is based on a qualified independent appraisal (or letter of opinion when the property has a very low economic value) in order to prevent private inurement or impermissible private benefit.

Standard 10: Tax Benefits

The land trust works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.

Practices:

10A: Tax Code Requirements

The land trust notifies (preferably in writing) potential land or easement donors who may claim a federal or state income tax deduction, or state tax credit, that the project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or any other federal or state requirements. The land trust on its own behalf reviews each transaction for consistency with these requirements.

10B: Appraisals

The land trust informs potential land or easement donors (preferably in writing) of the following: IRC 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.

10C: No Assurance on Donor Deductibility or Tax Benefits

The land trust does not make assurances as to whether a particular land or easement donation will be deductible, what monetary value of the gift the Internal Revenue Service (IRS) and/or state will accept, what the resulting tax benefits of the deduction will be, or whether the donor's appraisal is accurate.

10D: Donee Responsibilities - IRS Forms 8282 and 8284

IRS Forms 8282 and 8283. The land trust understands and complies with its responsibilities to sign the donor's Appraisal Summary Form 8283 and to file Form 8282 regarding resale of donated property when applicable. The land trust signs Form 8283 only if the information in Section B, Part 1, "Information on Donated Property"

Standard 11: Conservation Easement Stewardship

The land trust has a program of responsible stewardship for its easements.

Practices:

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. (See 6G.)

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.

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.

11D: Landowner Relationships

The land trust maintains regular contact with owners of easement properties. When possible, it provides landowners with information on property management and/or referrals to resource managers. The land trust strives to promptly build a positive working relationship with new owners of easement property and informs them about the easement's existence and restrictions and the land trust's stewardship policies and procedures. The land trust establishes and implements systems to track changes in land ownership.

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. (See 6G and 11A.)

11F: Reserved and Permitted Rights and Approvals

The land trust has an established procedure for responding to landowner required notices or requests for approvals in a timely and consistent manner, and has a system to track notices, approvals and the exercise of any significant reserved or permitted rights.

11G: Contingency Plans/Backups

The land trust has a contingency plan for all of its easements in the event the land trust ceases to exist or can no longer steward and administer them. If a backup grantee is listed in the easement, the land trust secures prior consent of the backup grantee to accept the easement. To ensure that a backup or contingency holder will accept an easement, the land trust has complete and accurate files and stewardship and enforcement funds available for transfer. (See 11H.)

11H: Contingency Plans for Backup Holder

If a land trust regularly consents to being named as a backup or contingency holder, it has a policy or procedure for accepting easements from other land trusts and has a plan for how it will obtain the financial resources and organizational capacity for easements it may receive at a future date. (See 11G.)

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.

11J: Condemnation

The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation and the IRC, and has appropriate documentation of the important conservation values and of the percentage of the full value of the property represented by the easement. The land trust works diligently to prevent a net loss of conservation values.

11K: Extinguishment

In rare cases, it may be necessary to extinguish, or a court may order the extinguishment of, an easement in whole or in part. In these cases, the land trust notifies any project partners and works diligently to see that the extinguishment will not result in private inurement or impermissible private benefit and to prevent a net loss of important conservation values or impairment of public confidence in the land trust or in easements.

Standard 12: Fee Land Stewardship

The land trust has a program of responsible stewardship for the land it holds in fee for conservation purposes.

Practices:

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. (See 6G.)

12B: Stewardship Principles

The land trust establishes general principles to guide the stewardship of its fee-owned properties, including determining what uses are and are not appropriate on its properties, the types of improvements it might make and any land management practices it will follow.

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.

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.

12E: Land Stewardship Administration

The land trust performs administrative duties in a timely and responsible manner. This includes establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting, and maintaining files.

12F: Community Outreach

The land trust keeps neighbors and community leaders informed about its ownership and management of conservation properties.

12G: Contingency Backup

The land trust has a contingency plan for all of its conservation land in the event the land trust ceases to exist or can no longer manage the property. To ensure that a contingency holder will accept the land, the land trust has complete and accurate files and stewardship funds available for transfer.

12H: Nonpermanent Holdings

When a land trust holds fee land with the intention to sell or transfer the land, the land trust is open about its plans with the public and manages and maintains the property in a manner that retains the land trust's public credibility. (See 8L.)

12I: Condemnation

The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation, and works diligently to prevent a net loss in conservation values.

