

ASSESSING YOUR ORGANIZATION

Revised 2010

A tool for land trusts to conduct a detailed assessment of organizational progress toward implementing the 2004 *Land Trust Standards and Practices*



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Third edition

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1660 L Street NW, Suite 1100
Washington, DC 20036
www.landtrustalliance.org

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How to Use this Publication

This publication is designed to complement the 2004 *Land Trust Standards and Practices*. General information on *Land Trust Standards and Practices* and on Land Trust Alliance publications and training programs related to the standards and practices can be found at www.landtrustalliance.org. The two-volume Land Trust Standards and Practices *Guidebook* contains more detailed information about each practice and how land trusts can meet them. Alliance member land trusts and partners can find this information, sample documents and more online at The Learning Center (<http://learningcenter.lta.org>).

While there are many different types of assessments, *Assessing Your Organization (AYO)* is designed for land trusts and other groups that wish to evaluate their progress toward implementing *Land Trust Standards and Practices*. The completed AYO provides the land trust with a snapshot in time. It includes a numerical ranking for each of the 88 practices followed by a series of questions to help land trust personnel determine where the organization currently falls on a scale of 1 to 4. Each organization should answer the questions as honestly as possible, taking note of areas that need improvement. It is likely that no one person in the organization will know all the information needed to respond independently to all of the assessment items. Sharing information and knowledge through discussion and dialogue will help members of the organization gain greater knowledge about its operations.

To capture the priorities identified through the assessment, pages 20 and 42 provide space for summarizing action steps. We recommend incorporating action steps into organizational strategic and annual plans and conducting a reassessment approximately every three years. The completed assessment forms will provide an invaluable record of the organization's growth and development.

Once areas for improvement have been identified through the AYO, a land trust can take advantage of the Standards and Practices Curriculum (available online through The Learning Center and in print), the most current, authoritative and comprehensive information on private land conservation, to improve its practices. Authored by some of the best conservation experts in the community, each course in the Standards and Practices Curriculum was put through a rigorous review and pilot process to ensure that land trusts have not only the best information, but that the information represents the diversity of good land trust practices throughout the country. Each course identifies which practices are covered so land trusts can quickly and easily determine on which courses to focus.

For all-volunteer and small staffed land trusts, the AYO is best completed by the full board (and staff) with the aid of a trained assessor (an experienced land trust professional or Alliance or local service center staff). Completing the assessment can take four to six hours, depending on

THE TWELVE STANDARDS

Organizational Strength

- 1 Mission
- 2 Compliance with Laws
- 3 Board Accountability
- 4 Conflicts of Interest
- 5 Fundraising
- 6 Financial and Asset Management
- 7 Volunteers, Staff and Consultants

Land Transactions

- 8 Evaluating and Selecting Conservation Projects
- 9 Ensuring Sound Transactions
- 10 Tax Benefits
- 11 Conservation Easement Stewardship
- 12 Fee Land Stewardship

the amount of advance preparation and the detail and depth of dialogue and discussion during the assessment meeting(s).

Land trusts with larger staff use several approaches to completing the assessment. Some choose to have staff complete the assessment first and then share the results with the board in a facilitated discussion. In other organizations, the board may review or complete the assessment along with staff. If the board has active committees, each committee may review and report on those standards most applicable to their commit-

tee. Those organizations with a very large staff and multiple departments may choose to have a staff leader who delegates completion of specific sections to an appropriate staff person. Because the board has oversight responsibility for the land trust's operations, its review and consideration of the final assessment report is strongly recommended. The time needed to complete the assessment and to permit board review will vary tremendously.

The Land Trust Accreditation Commission, an independent program of the Land Trust Alliance, requires an applicant seeking accreditation to show at registration that it has completed an assessment against the full set of *Land Trust Standards and Practices*. The assessment must not be older than three years from the date of pre-application. The AYO is one tool available for this purpose. Accreditation is a process of continuous improvement and periodic assessments support this process.

For more information and/or assistance in using *Assessing Your Organization*, please contact the Land Trust Alliance program in your region or send an email to SandP@lta.org.



Sample Board Adoption Resolution

The Land Trust Alliance requires that all land trust members of the Alliance adopt *Land Trust Standards and Practices* as their guiding principles. Some public or private funders also ask for such a statement. Below is a sample resolution.

WHEREAS, the [organization] has reviewed *Land Trust Standards and Practices* published by the Land Trust Alliance in 2004; and

WHEREAS, the [organization] agrees that *Land Trust Standards and Practices* are the ethical and technical guidelines for the responsible operation of a land trust;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors of the [organization] hereby adopts *Land Trust Standards and Practices* as guidelines for the organization's operations and commits to making continual progress toward implementation of these standards and practices.

_____ date adopted

Organizational Strength



Mission

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

How well does this describe the land trust?
 1 = not true
 4 = always true
 ? = don't know

A. Mission. The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization. 1 2 3 4 ?

- How does the land trust mission address the public interest? _____

B. 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.

- Does the land trust have a written strategic plan? Yes No
 – If yes, what time period does it cover? _____
 – If no, describe how the land trust establishes its strategic goals: _____

- Does the land trust complete an annual work plan with specific goals/objectives? Yes No
- Does the land trust periodically evaluate its programs and goals? Yes No
- Describe the board's involvement in setting strategic direction and evaluating the land trust's progress: _____

C. 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. 1 2 3 4 ?

- How does the land trust communicate its goals to members, donors, the general public and to other conservation organizations within its service area?

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

1 2 3 4 ?

- Has the board adopted an ethics statement or a statement of organizational values?

Yes No

Comments:

Organizational Strength

STANDARD
2

Compliance with Laws

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

How well does this describe the land trust?
1 = not true
4 = always true
? = don't know

- | | |
|--|--|
| A. Compliance with Laws. The land trust complies with all applicable federal, state and local laws. | 1 2 3 4 ? |
| <ul style="list-style-type: none"> • Did the land trust file a Form 990 or its equivalent (Form 990-EZ or e-Postcard [Form 990-N]) for the last tax year? • If the land trust has staff, has the land trust adopted and implemented a written whistleblower policy? | <p style="text-align: right;">Yes No</p> <p style="text-align: right;">Yes No N/A</p> |
| B. 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. | 1 2 3 4 ? |
| <ul style="list-style-type: none"> • Date of incorporation • If a membership organization, do the bylaws describe the roles, rights and responsibilities of membership? • Are the land trust's current practices consistent with its bylaws? • Does the board periodically review the bylaws? <ul style="list-style-type: none"> – Describe when and how the board last reviewed the bylaws and who was involved in the review: _____ _____ _____ • Were there any significant changes that resulted from the review? <ul style="list-style-type: none"> – If yes, please describe: _____ _____ _____ • Does the organization follow state nonprofit reporting requirements? | <p style="text-align: right;">Yes No N/A</p> <p style="text-align: right;">Yes No</p> <p style="text-align: right;">Yes No</p> <p style="text-align: right;">Yes No</p> <p style="text-align: right;">Yes No</p> <p style="text-align: right;">Yes No</p> |

| | | | | | | | |
|--|----------|----------|----------|----------|----------|------------|-----------|
| • Does it have (or can it obtain) a “certificate of good standing” from its state department regulating nonprofits? | | | | | | Yes | No |
| • Does the land trust have any related entities, such as a corporation, supporting organization or other affiliated entity (whether for profit or nonprofit), legally linked to the organization? | | | | | | Yes | No |
| C. 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. | 1 | 2 | 3 | 4 | ? | | |
| • Has the land trust received a letter from the IRS granting it provisional or permanent 501(c)(3) status? | | | | | | Yes | No |
| • The land trust understands and complies with (<i>check all that apply</i>): | | | | | | | |
| <input type="checkbox"/> Prohibitions on private inurement | | | | | | | |
| <input type="checkbox"/> Reporting on unrelated business income and lobbying | | | | | | | |
| <input type="checkbox"/> Meeting the public support test for public charities | | | | | | | |
| <input type="checkbox"/> Federal and state financial reporting requirements (IRS Form 990 and relevant state charities report forms) | | | | | | | |
| D. 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.) | 1 | 2 | 3 | 4 | ? | | |
| • Does the land trust have a dated, written records policy? | | | | | | Yes | No |
| • The policy addresses (<i>check all that apply</i>): | | | | | | | |
| <input type="checkbox"/> Short-term records storage | | | | | | | |
| <input type="checkbox"/> Long-term records storage | | | | | | | |
| <input type="checkbox"/> Who is the custodian of records | | | | | | | |
| <input type="checkbox"/> How records will be protected from loss, fire and other hazards and access by unauthorized persons | | | | | | | |
| <input type="checkbox"/> Document destruction | | | | | | | |
| <input type="checkbox"/> For land and easement transactions, the definition of what the land trust considers to be an irreplaceable document essential to the defense of each transaction | | | | | | | |
| E. 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. | 1 | 2 | 3 | 4 | ? | | |

- Does the land trust engage in public policy work?
- If so, the land trust understands and complies with (*check all that apply*):
 - Prohibitions on political campaign activity
 - Limitations on lobbying

Yes **No**

Comments:

Organizational Strength

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.

How well does this describe the land trust?
1 = not true
4 = always true
? = don't know

A. 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. 1 2 3 4 ?

B. 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. 1 2 3 4 ?

- Number of board seats authorized in the bylaws: _____
- Number of board seats currently filled: _____
- How does the board (a) *recruit*, (b) *train* and (c) *evaluate* individual board members and the performance of the board as a whole?

C. 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. 1 2 3 4 ?

- Are board members provided with information (such as job descriptions) to help them understand their legal and fiduciary responsibilities and fulfill their role as board members? Yes No
- Does the land trust have an up-to-date board policy manual? Yes No

- Does the board meet regularly and often enough to conduct its business effectively? **Yes** **No**
 - Total number of board meetings in the last 12 months: _____
 - If fewer than three, how does the board conduct its business? _____

- Does every board member attend meetings regularly, stay informed and participate in the land trust's business and/or its oversight? **Yes** **No**
 - Total number of board meetings with a quorum in the last 12 months: _____
 - Are the board meeting agenda and other materials sent in advance of the meeting? **Yes** **No**
- Does the land trust have a policy limiting the number of terms a board member may serve? **Yes** **No**

D. 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. **1** **2** **3** **4** **?**

- Do the land trust's bylaws contain provisions for a quorum and notice of meetings? **Yes** **No**
- Are all board actions documented in the minutes of board meetings? **Yes** **No**
 - Are these records maintained and distributed to all board members? **Yes** **No**

E. 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.) **1** **2** **3** **4** **?**

- Does the board make decisions through a process that everyone understands and agrees to? **Yes** **No**
- List the land trust's standing committees and how often they meet: _____
- If the land trust has staff, describe how the board evaluates the executive director or chief staff person: _____

F. 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.

1 2 3 4 ?

- Does the full board approve every land and easement transaction before the transaction is completed? **Yes No**
- Describe the procedure the land trust uses to provide information to the board and obtain board approval of transactions. Include the steps the land trust takes to evaluate and complete a land or easement project, who is involved in each step (staff, volunteer, consultant, board member or committee, etc.) and when each step normally occurs in the process:

- Transaction approval authority may be delegated to a committee or staff only after the board has adopted a written delegation of transaction approval policy. Has the land trust adopted such a policy? **Yes No N/A**

– If yes, the policy includes (*check all that apply*):

- Any limitations on authority to act (such as requiring full board approval if a conflicted party is involved or requiring a committee review before a final decision is made, etc.)
- Criteria for transactions
- Any provisions for the management of conflicts of interest that are not covered in the conflict of interest policy
- Requirements for timely notification of the full board
- Requirements for periodic evaluation of the policy

– Explain why the land trust has chosen to delegate transaction approval to an individual or group other than the full board:

Comments:

Organizational Strength

STANDARD

4

Conflicts of Interest

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

How well does this describe the land trust?

1 = not true
4 = always true
? = don't know

- A. 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. 1 2 3 4 ?
- Does the land trust have a dated, written conflict of interest policy? Yes No
 - If yes, the policy (*check all that apply*):
 - Describes who is an “insider,” including:
 - ✓ Board and staff members
 - ✓ Substantial contributors
 - ✓ Parties related to the above
 - ✓ Those who have an ability to influence decisions of the land trust
 - ✓ Those with access to information not available to the general public
 - Describes how conflicts with insiders should be disclosed and to whom
 - Prohibits the conflicted party from being present during the discussion (unless asked to provide information) and voting on an issue where he or she is conflicted
 - Requires written documentation of actions taken to prevent or address potential or actual conflicts
- B. 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. 1 2 3 4 ?

- Are any board members currently compensated for services? **Yes** **No**
 - What procedures are followed when the land trust considers compensating a board member for services?
-
-
-

- C. 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.
- | | 1 | 2 | 3 | 4 | ? | N/A |
|---|----------|----------|----------|----------|------------|----------------------|
| • Within the past five years, has the land trust: | | | | | | |
| – Acquired (through purchase, donation or other means) land or easements from an insider? | | | | | | Yes No |
| – Sold land to an insider? | | | | | | Yes No |
| – Engaged in any other land or easement transactions with an insider (such as amendments or transfers)? | | | | | | Yes No |
| – Engaged in financial transactions other than land or easement transactions (such as contracts for legal or bookkeeping services, rental payments, purchases of goods or services, loans, etc.) with an insider? | | | | | | Yes No |
| • If yes, for each transaction, did the land trust: | | | | | | |
| – Follow its conflict of interest policy? | | | | | | Yes No |
| – Ensure that the project met its mission and follow all transaction policies and procedures? | | | | | | Yes No |
| – Ensure that there was no private inurement or impermissible private benefit? | | | | | | Yes No |
| – Obtain an independent appraisal if the transaction involved a purchase or sale? | | | | | Yes | No N/A |
| – Market the property widely to other prospective buyers if the transaction involved a sale? | | | | | Yes | No N/A |

Comments:

Organizational Strength

STANDARD
5

Fundraising

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

How well does this describe the land trust?
1 = not true
4 = always true
? = don't know

- | | 1 | 2 | 3 | 4 | ? | | | | | | | | | | | | | | | | | | |
|--|---|---|---|---|------------|-----------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|------------|-----------|
| A. 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. | | | | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none"> • In what states is the land trust registered to solicit funds? <table border="0" style="margin-left: 20px; width: 80%;"> <tr> <td style="border-bottom: 1px solid black; height: 15px;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 15px;"></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 15px;"></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <ul style="list-style-type: none"> – Does the land trust solicit funds from donors (such as via telephone, mail, e-mail, verbal solicitations or other means) who reside in states other than those in which the land trust is registered to solicit? – If yes, how did the land trust determine that it was not required to register to solicit in these states? | | | | | | | | | | | | | | | | | | | | | | Yes | No |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none"> • Approximately what percentage of the land trust's operating expenses for the previous fiscal year was allocated to fundraising? _____ % • In the last five years, has the land trust paid a commission to any fundraiser? | | | | | Yes | No | | | | | | | | | | | | | | | | | |
| B. 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. | | | | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none"> • Does the land trust provide a timely written acknowledgement to donors for all gifts valued at \$250 or more, including gifts of land and easements, stating that the donor received no goods or services in return as applicable? • Do the land trust's fundraising materials conform to any state and/or federal legal requirements and clearly indicate which portions of a donor's gift are tax deductible? • Are all funds spent for the purposes stated or consistent with the donor's wishes and tracked accordingly? | | | | | Yes | No | | | | | | | | | | | | | | | | | |

- | | |
|--|---|
| <ul style="list-style-type: none"> • Does the land trust ensure that donor privacy concerns are honored? | Yes No |
| <ul style="list-style-type: none"> • Does the land trust advise donors to seek independent financial and legal advice for substantial gifts? | Yes No |
| <p>C. 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.</p> | 1 2 3 4 ? |
| <p>D. 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.</p> | 1 2 3 4 ? N/A |
| <ul style="list-style-type: none"> • Does the land trust allow commercial entities to use its logo, properties or name? | Yes No |

Comments:

Organizational Strength

STANDARD
6

Financial and Asset Management

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

How well does this describe the land trust?
1 = not true
4 = always true
? = don't know

A. 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.

1 2 3 4 ?

- Does the land trust prepare an annual budget?
 - If yes, is the budget reviewed and approved by the board?
- Do annual revenues consistently exceed expenses?
- Does the land trust complete an annual fundraising plan to ensure diversified funding?
- How many members/financial supporters does the land trust have?
- Does the land trust have an operating reserve?
 - If yes, what percent of annual operating expenses could be covered by the operating reserve?
- Is the budget guided by a long-range financial plan?
- The land trust's total annual operating (i.e., not including land or easement acquisition) budget for the last two years:

Yes No
Yes No
Yes No
Yes No

_____ **Yes No**
_____ %
Yes No

| Current Year | | Last Year | |
|---------------------|----------|------------------|----------|
| Projected income | \$ _____ | Income | \$ _____ |
| Projected expenses | \$ _____ | Expenses | \$ _____ |

B. 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.

1 2 3 4 ?

- Does the land trust keep its financial records according to Generally Accepted Accounting Principles (GAAP)?

Yes No

- If no, has a qualified financial advisor determined that an alternative reporting method is acceptable? **Yes** **No**
- Does the land trust have written accounting procedures that govern its financial reporting and financial management? **Yes** **No**
- Has the land trust established a system to ensure that all restricted funds are properly recorded and expended only in accordance with the restrictions? **Yes** **No**

C. 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. **1** **2** **3** **4** **?**

- Who is involved in creating and reviewing financial reports and how frequently does this occur? _____

D. 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. **1** **2** **3** **4** **?**

- The land trust has an annual independent, *external* evaluation of its financials. **Yes** **No**
 - If yes, is it a (*check one*):
 - Financial audit completed by a Certified Public Accountant (CPA)
 - Financial review completed by a CPA
 - Financial compilation completed by a CPA
 - An external evaluation of the land trust's records by a qualified financial advisor other than the treasurer
 - Other: _____

– If yes, were the results of the review or audit report reviewed by the board? **Yes** **No**

E. 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. **1** **2** **3** **4** **?**

F. 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. **1** **2** **3** **4** **?**

- Does the land trust have any endowments or dedicated funds? **Yes** **No**
 - If yes, how much in each category?
 - Operating \$ _____ Stewardship \$ _____
 - Legal defense \$ _____ Land acquisition \$ _____ Other \$ _____

– If yes, does the land trust have a written policy on the allowable uses and investment of its dedicated funds?

Yes No

G. 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.)

1 2 3 4 ?

- Does the land trust track stewardship and enforcement costs?
- Does the land trust periodically evaluate the adequacy of its funds?
- If full funding for these costs is not secure, does the board have a policy committing the land trust to raising the necessary funds?

Yes No

Yes No

Yes No N/A

H. 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.)

1 2 3 4 ?

- Does the land trust have a dissolution clause in its incorporation papers that specifies how its assets, including land and easements, will be distributed?

Yes No

I. 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.

1 2 3 4 ?

- Does the land trust have general liability insurance?
- Does the land trust carry directors and officers (D&O) insurance?
- If the land trust uses its land to secure debt, does it carefully consider factors such as whether or not the land is subject to any restrictions, how the land trust's supporters and the general public will perceive such an action, and whether it is consistent with or furthers the land trust's mission?

Yes No

Yes No

Yes No N/A

Comments:

Organizational Strength

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.

How well does this describe the land trust?
1 = not true
4 = always true
? = don't know

A. 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. 1 2 3 4 ?

- Number of: Full-time staff _____ Part-time staff _____
- Describe how and when the land trust 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:

- Do volunteers and/or staff members have a manageable workload, and does the land trust takes measures to avoid volunteer/staff burnout? Yes No
- Does the land trust have any plans to add staff or increase its conservation easement stewardship or land management capacity within the next five years? Yes No

B. Volunteers. If the land trust uses volunteers, it has a program to attract, screen, train, supervise and recognize its volunteers. 1 2 3 4 ? N/A

- Approximate number of active volunteers (not including board members): _____
- Briefly describe how the land trust recruits, trains, supervises and recognizes its volunteers: _____

| | | | | | | |
|--|----------|----------|----------|----------|----------|-------------------------|
| C. 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. | 1 | 2 | 3 | 4 | ? | |
| <ul style="list-style-type: none"> • Does the land trust have written job descriptions and annual goals for each staff member? • Are job duties or work procedures for key positions documented to help provide continuity? | | | | | | Yes No |
| D. 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. | 1 | 2 | 3 | 4 | ? | |
| <ul style="list-style-type: none"> • Are volunteers and staff provided with the training they need to carry out their responsibilities? • How much does the land trust spend each year to train: Board members/volunteers \$_____ Staff \$_____ | | | | | | Yes No |
| E. 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.) | 1 | 2 | 3 | 4 | ? | N/A |
| <ul style="list-style-type: none"> • Do board members know the difference between their roles as board members and when they have a role as a volunteer assisting staff? • Does the board delegate to the chief staff person (usually the executive director) supervisory authority over all other staff? | | | | | | Yes No |
| F. 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. | 1 | 2 | 3 | 4 | ? | N/A |
| <ul style="list-style-type: none"> • Does the land trust have a dated, written personnel policy? • Does the land trust adhere to all federal and state laws and regulations related to employment practices, including hiring, wage and hour, tax withholding and reporting, and dismissal? | | | | | | Yes No |
| G. Compensation and Benefits. If the land trust has staff, it provides fair and equitable compensation and benefits, appropriate to the scale of the organization. | 1 | 2 | 3 | 4 | ? | N/A |
| <ul style="list-style-type: none"> • Does the land trust periodically review the salaries and benefits offered by other similar organizations in its region? | | | | | | Yes No |
| H. 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 <i>Land Trust Standards and Practices</i> that are relevant to their work. | 1 | 2 | 3 | 4 | ? | N/A |
| <ul style="list-style-type: none"> • Does the land trust have standard procedures for soliciting bids and entering into contracts? | | | | | | Yes No |

Comments:

Organizational Strength

Setting Priorities

In light of what you have discovered about your land trust's implementation of Standards 1-7...

Right now, the land trust's organizational strengths are...

- 1.
- 2.
- 3.

Right now, the greatest organizational challenges are...

- 1.
- 2.
- 3.

Some specific steps the land trust will take over the next one to three years toward overcoming the challenges are...

- 1.
- 2.
- 3.

Land Transactions



Evaluating and Selecting Conservation Projects

The land trust carefully evaluates and selects its conservation projects.

How well does this describe the land trust?
 1 = not true
 4 = always true
 ? = don't know

- | | 1 | 2 | 3 | 4 | ? |
|--|---|---|------------|-----------|---|
| A. Identifying Focus Areas. The land trust has identified specific natural resources or geographic areas where it will focus its work. | | | | | |
| • Does the land trust have a strategic conservation plan or other document that identifies high priority areas? | | | Yes | No | |
| • Does the land trust partner with other conservation organizations or agencies to inventory and identify special interest areas? | | | Yes | No | |
| B. 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. | | | | | |
| • Does the land trust have written selection criteria that are used to evaluate potential projects? | | | Yes | No | |
| – If yes, the criteria address (<i>check all that apply</i>): | | | | | |
| <input type="checkbox"/> Consistency with the land trust's mission and goals | | | | | |
| <input type="checkbox"/> Public benefit of the transaction | | | | | |
| <input type="checkbox"/> Federal and state requirements | | | | | |
| <input type="checkbox"/> Land trust priorities | | | | | |
| <input type="checkbox"/> Project feasibility | | | | | |
| <input type="checkbox"/> Capacity and ability to fulfill perpetual stewardship responsibilities | | | | | |
| • Are projects declined when they do not meet the criteria? | | | Yes | No | |
| • Does the land trust have a written checklist for guiding the organization through the selection process? | | | Yes | No | |

C. 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). 1 2 3 4 ?

D. 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. 1 2 3 4 ?

- How does the land trust evaluate and document the public benefit of every land and easement transaction and how does it screen each project to ensure that all federal, state and local requirements for public benefit are met?

E. 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. 1 2 3 4 ?

- The process includes consideration or examination of the following (*check all that apply*):

- Whether the property meets the organization's land protection criteria
- Identification of the property's important conservation values
- Identification of any potential management problems

- Is there a standard site evaluation form that provides a written record of the visit? Yes No

F. 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. 1 2 3 4 ?

G. 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. 1 2 3 4 ?

- Does the land trust have and follow a written process to guide the planning of each project? Yes No

– If yes, the process (*check all that apply*):

- Identifies the property boundaries
- Identifies important conservation values

- Identifies how the project meets the mission of the land trust and its protection criteria
- Evaluates the threats to the conservation values
- Clarifies landowner and land trust goals for the project
- Selects the most important conservation strategy for the property
- Evaluates the land trust's capacity to undertake the project and fulfill any long-term stewardship responsibilities

H. 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. 1 2 3 4 ?

- The land trust considers the following in its evaluation (*check all that apply*):
 - Whether fee ownership or a conservation easement is the best way to protect the conservation values
 - Whether development or other uses of the property should be allowed, why and to what extent
 - Alternatives more financially advantageous for the landowner (e.g., a government easement purchase program if the land trust only accepts donations)
 - Alternatives that better suit the land (e.g., an organization that will accept the property in fee if the land trust only accepts conservation easements)

I. 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. 1 2 3 4 ?

J. 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. 1 2 3 4 ? N/A

- Does the land trust have appropriate written agreements to manage its partnership projects? Yes No

K. 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. 1 2 3 4 ?

| | | | | | | |
|--|----------|----------|----------|----------|------------|------------|
| <p>L. Nonconservation Lands. A 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.</p> | 1 | 2 | 3 | 4 | ? | N/A |
| <ul style="list-style-type: none"> Does the land trust have a policy or procedure for land it receives as gifts and does not intend to hold for permanent conservation? | | | | | Yes | No |
| <p>M. 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.</p> | 1 | 2 | 3 | 4 | ? | N/A |

Comments:

Land Transactions

STANDARD
9

Ensuring Sound Transactions

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

How well does this describe the land trust?
1 = not true
4 = always true
? = don't know

- | | |
|--|---|
| <p>A. 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.</p> <ul style="list-style-type: none"> Is every transaction reviewed by a qualified attorney? | <p>1 2 3 4 ?</p> <p>Yes No</p> |
| <p>B. 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.</p> <ul style="list-style-type: none"> Does the land trust inform each landowner in writing to obtain independent legal advice? | <p>1 2 3 4 ?</p> <p>Yes No</p> |
| <p>C. 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.</p> <ul style="list-style-type: none"> Does the land trust have a written policy or procedure on evaluating properties for hazardous materials? Does the land trust check public sources of information to determine if the project contains or is near a known hazardous waste site? | <p>1 2 3 4 ?</p> <p>Yes No</p> <p>Yes No</p> |
| <p>D. 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.</p> <ul style="list-style-type: none"> Does the land trust inspect the boundary of each property before acquisition? Is there a survey for each property? | <p>1 2 3 4 ?</p> <p>Yes No</p> <p>Yes No</p> |

- Under what conditions would the land trust acquire a property without a survey? _____

- Are easement and any special use area boundaries clearly identifiable on the ground (either with survey monumentation or clearly delineated natural features)? **Yes No**

E. Easement Drafting. Every easement is tailored for the property according to project planning (see 8G) and: **1 2 3 4 ? N/A**
 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.

- Describe the process the land trust uses to draft each easement: _____

- When drafting conservation easements, the land trust (*check all that apply*):

- Uses experienced professionals to draft the easement document
- Identifies the important conservation values to be protected
- Clearly documents the public benefit served
- Uses measurable standards for easement terms or, if impractical, refers to accepted standards
- Allows only permitted uses and/or reserved rights that will not significantly impair the important conservation values
- Avoids restrictions that cannot be monitored or are unenforceable
- Ensures that the easement deed is clear and enforceable by the organization

- Does the land trust use a standard easement template? **Yes No**
 – If yes, how was the template created and how often is it reviewed by a qualified attorney? _____

- If yes, when was the template last modified? _____

F. 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. **1 2 3 4 ?**

G. 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. 1 2 3 4 ?

- Are originals of irreplaceable documents kept in a secure location, safe from fire, weather, etc.? Yes No
 - Where does the land trust keep its original land and easement records and how are they protected? _____

- Are back-up copies kept in a separate location? Yes No
 - Where are the duplicates located and in what format? _____

- Does the land trust maintain any of its records (originals or duplicates) electronically? Yes No
 - If yes, describe how the land trust keeps its electronic data secure and up to date: _____

H. 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. 1 2 3 4 ?

- The land trust ensures that (*check all that apply*):
 - All mortgages are discharged or subordinated prior to acquiring a conservation easement
 - All encumbrances, including any liens, easements and outstanding interests (such as mineral rights), are thoroughly analyzed and either removed or a determination made that they won't compromise the land trust's ability to protect the land
 - Title insurance is obtained for all purchases of land or conservation easements
 - All properties and conservation easements have an adequate legal description

I. Recording. All land and easement transactions are legally recorded at the appropriate records office according to local and state law. 1 2 3 4 ?

| | 1 | 2 | 3 | 4 | ? | N/A |
|---|----------|----------|----------|----------|----------|------------|
| <p>J. 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.</p> | | | | | | |
| <ul style="list-style-type: none"> • Has the land trust purchased land or easements or been involved in a bargain sale transaction in the last five years? Yes No <li style="padding-left: 20px;">– If yes, did the land trust obtain a qualified independent appraisal in each instance? Yes No <li style="padding-left: 20px;">– If yes, did the land trust acquire any land or easements at a price above the appraised value? Yes No <ul style="list-style-type: none"> • If yes, did the land trust document that there was no private inurement or impermissible private benefit? Yes No • When negotiating bargain sale transactions, how does the land trust ensure that its communications with the landowner are honest and forthright? | | | | | | |
| _____ | | | | | | |
| _____ | | | | | | |
| _____ | | | | | | |

| | 1 | 2 | 3 | 4 | ? | N/A |
|--|----------|----------|----------|----------|----------|------------|
| <p>K. 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.)</p> | | | | | | |
| <ul style="list-style-type: none"> • When selling land or easements, the land trust (<i>check all that apply</i>): <ul style="list-style-type: none"> <input type="checkbox"/> Documents the important conservation values of the property <input type="checkbox"/> Plans the project according to practice 8G and drafts appropriate protection agreements <input type="checkbox"/> Obtains a qualified independent appraisal <input type="checkbox"/> Markets the property to ensure that the land trust receives a fair price, has the best potential stewards of the property, and to retain public trust and credibility | | | | | | |

| | 1 | 2 | 3 | 4 | ? | N/A |
|---|---|-----|----|-----|-----|-----|
| <p>L. 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.</p> <ul style="list-style-type: none"> Does the land trust consider the stewardship capabilities of the entity receiving the property? If the land trust transfers or exchanges land with a private party, does the land trust obtain a qualified independent appraisal? | | | | | | |
| | | | | | Yes | No |
| | | Yes | No | N/A | | |

Comments:

Land Transactions



Tax Benefits

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

How well does this describe the land trust?
 1 = not true
 4 = always true
 ? = don't know

A. 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 Section 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. 1 2 3 4 ?

- Does the land trust notify potential donors in writing that the project must meet federal (and state) requirements? Yes No
- Does the land trust review on its own behalf every transaction in terms of these requirements? Yes No

B. 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. 1 2 3 4 ?

- The land trust notifies potential donors in writing of the following (*check all that apply*):
 - IRC appraisal requirements for a qualified appraisal for gifts valued at more than \$5,000
 - Information on the timing of the appraisal
 - That the donor should use an appraiser who follows Uniform Standards of Professional Appraisal Practice
 - That the donor, not the land trust, is responsible for any determination of the value of the donation
 - That the land trust will not knowingly participate in a project where it has significant concerns about the tax deduction
- Does the land trust always request a copy of the completed appraisal? Yes No

C. No Assurances on 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. 1 2 3 4 ?

D. Donee Responsibilities – 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," and Part 3, "Declaration of Appraiser," is complete. If the land trust believes no gift has been made or the property has not been accurately described, it refuses to sign the form. If the land trust has significant reservations about the value of the gift, particularly as it may impact the credibility of the land trust, it may seek additional substantiation of value or may disclose its reservations to the donor. (See 5B for other gift substantiation requirements.) 1 2 3 4 ?

- Does the land trust only sign Form 8283 when all of the information is complete? Yes No
- Does the land trust refuse to sign the form if it believes no gift has been made or if the property has not been accurately described? Yes No
- If the land trust has significant reservations about the value of a gift, it *(check all that apply)*:
 - Seeks additional substantiation of value
 - Discloses its reservations to the donor

Comments:

Land Transactions



Conservation Easement Stewardship

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

How well does this describe the land trust?
 1 = not true
 4 = always true
 ? = don't know

DOES THE LAND TRUST HOLD CONSERVATION EASEMENTS?

Yes No

[If no, skip to Standard 12]

If yes, how many conservation easements does the land trust hold? _____ How many acres? _____

A. 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.)

1 2 3 4 ?

- What does the land trust anticipate spending on conservation easement stewardship and defense this fiscal year?

Stewardship: \$ _____ Defense: \$ _____

- What are the approximate sources of funds to cover these costs this fiscal year (*check all that apply and enter the amounts*)?

- Unrestricted annual operating funds \$ _____
- Special restricted grants \$ _____
- Stewardship endowment or dedicated fund interest \$ _____
- Stewardship endowment or dedicated fund principal \$ _____
- Other: _____ \$ _____

- Describe the land trust's practices for determining how costs are calculated and reviewed and how it secures conservation easement stewardship and defense funds:

- Are the land trust's stewardship funds adequate for current and future stewardship responsibilities? Yes No ?
 - If no, does the land trust have *(check all that apply)*?
 - At least the minimum level of dedicated easement enforcement funding (a minimum of \$50,000; if the land trust holds more than 15 easements, it needs an additional \$1,500 to \$3,000 per easement)
 - An ability to cover current stewardship expenses
 - A plan for raising stewardship funds to at least the minimum level (\$3,500 per easement)

B. 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 Section 1.170A-14(g)(5)(i)] are signed by the landowner at closing. 1 2 3 4 ?

- Does the land trust have a baseline documentation report for every easement it holds? Yes No
 - If not, for how many easements does the land trust have complete documentation?
 - If not, does the land trust have a plan for completing the baseline for those easements without documentation? Yes No
- At a minimum, the land trust's baseline documentation reports contain the following elements *(check all that apply)*:
 - Title page stating that the document is a baseline documentation report
 - Date of completion
 - Property description and information on the location of the easement
 - Documentation of the conservation values and public benefits, including written descriptions along with related maps and photographs
 - Acknowledgement/certification that meets the Treasury regulation requirements for donated easements
 - Signatures(s) of the landowner(s)
 - Signature of an authorized representative of the land trust
- Are all current baseline documentation reports prepared prior to closing and signed by the landowner at closing? Yes No
- Has your land trust evaluated its older baseline documentation reports to determine the extent to which they meet current standards and are adequate to defend the easement? Yes No
 - If older baseline reports are inadequate, is there a plan in place to address deficiencies? Yes No N/A
- Describe the process the land trust uses to create baseline documentation reports: _____

| | | |
|-------------------------------------|--|-------------------|
| C. 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. | 1 2 3 4 ? |
| • | Does the land trust monitor all of its easements on an annual (or more frequent) basis? – If yes, for how many consecutive years has the land trust monitored all of its easements on an annual basis? | Yes No |
| • | Does the land trust document its annual monitoring in writing and with photos as appropriate? – If yes, at a minimum, the land trust's monitoring reports contain the following elements (<i>check all that apply</i>): | Yes No |
| | <input type="checkbox"/> Identification of the specific easement being monitored <input type="checkbox"/> Date of the inspection <input type="checkbox"/> Printed name and signature of the monitor <input type="checkbox"/> Observations relative to the restrictions, reserved rights and conservation values recorded during the inspection | |
| • | Does the land trust have a template easement monitoring report? | Yes No |
| • | Describe how the land trust monitors the conservation easements it holds, including what involvement the landowner has in the monitoring process (if any): _____ _____ | |
| • | Has the land trust developed a formal program (including written materials) to train and oversee monitors so that there is consistency in monitoring? | Yes No |
| D. 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. | 1 2 3 4 ? |
| • | How often each year does the land trust contact easement landowners? | |
| • | Does the land trust track changes in land ownership and have an established process in place to explain its easements and monitoring responsibilities to new owners of easement-protected land? | Yes No |
| E. 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.). | 1 2 3 4 ? |

- Is there a dated, written policy or procedure that states how the land trust will address potential violations? **Yes** **No**
 - If yes, the policy or procedure includes (*check all that apply*):
 - Details on how the land trust will respond to a violation, including:
 - ✓ How the land trust will identify, review and make decisions to resolve a suspected violation
 - ✓ Steps the land trust will take to document its enforcement actions
 - ✓ The timing and nature of communications with the landowner
 - The role of each party (such as board members, volunteers staff and partners) in the enforcement process
 - Clear descriptions of the differences in how the land trust responds to minor violations and major violations, *if the land trust has different procedures for each*

- Have any of the land trust's conservation easements been violated? **Yes** **No**
 - If yes, please describe the most recent conservation easement violation in detail: _____

 - If yes, approximately how many violations have there been of conservation easements held by the land trust? _____
 - If yes, briefly describe the nature of the violations that have occurred in the last five years: _____

 - If yes, have all violations been resolved? **Yes** **No**

F. 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. **1** **2** **3** **4** **?**

- Does the land trust have a written policy or procedure for how and when it responds to landowner requests? **Yes** **No**
- What is the timeframe for responding to landowner notices or requests? _____

G. 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.) **1** **2** **3** **4** **?**

- Does the land trust have a contingency plan for all of its easements? **Yes** **No**

- If a contingency holder is named in an easement (*check all that apply*):
 - The holder has agreed to accept the easement
 - The holder is qualified to accept the easement under federal and state law
 - The holder has the capacity to monitor and defend the easement
 - Complete files and stewardship funds are available for transfer to the holder

H. 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.)

1 2 3 4 ? N/A

I. 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.

1 2 3 4 ?

- Does the land trust have a dated, written amendment policy or procedure? **Yes No**
 - If yes, the land trust's amendment policy or procedure includes (*check all that apply*):
 - 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 requirement for compliance with any funding requirements
 - A description of the role of the board (and any committees) in addressing amendments
 - A provision that all amendments must result in positive or not less than neutral conservation outcomes
 - A provision that amendments must be consistent with the organization's mission
 - The Amendment Principles (see "Amending Conservation Easements: Evolving Practices and Legal Principles")
 - A description of the circumstances under which the land trust would consider an amendment
 - How its procedures may vary depending on the type of amendment being considered
- Have any of the land trust's conservation easements been amended? **Yes No**
 - If yes, please describe the most recent conservation easement amendment in detail: _____
 - _____
 - _____

– If yes, approximately how many conservation easement amendments has your land trust completed? _____

– If yes, briefly describe the nature of the amendments that your land trust has completed in the last five years:

J. 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. **1 2 3 4 ?**

- Does the land trust have data on the percent of value of the property represented by the easement for every tax deductible easement it holds? **Yes No**

K. 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. **1 2 3 4 ? N/A**

- Has the land trust ever extinguished a conservation easement (other than through condemnation)? **Yes No**
 - If so, what were the circumstances? How was private inurement or impermissible private benefit avoided? Was the land trust able to prevent a net loss of the important conservation values of the property? How did it maintain the public's confidence in the land trust and in easements?

Comments:

Land Transactions



Fee Land Stewardship

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

How well does this describe the land trust?
 1 = not true
 4 = always true
 ? = don't know

DOES THE LAND TRUST OWN LAND?

[If no, skip this section.]

Yes No

If yes, how many properties does the land trust own? _____ How many acres? _____

A. 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.)

1 2 3 4 ?

- What does the land trust anticipate spending on fee land management this fiscal year? \$ _____
- What are the approximate sources of funds to cover these costs this fiscal year (*check all that apply and enter the amounts*)?

- Unrestricted annual operating funds \$ _____
- Special restricted grants \$ _____
- Management endowment or dedicated fund interest \$ _____
- Management endowment or dedicated fund principal \$ _____
- Other: _____ \$ _____

- Describe the land trust's practices for determining how expenses are calculated for each transaction and how it secures the immediate and long-term funds for managing its fee properties:

| | | | | | | | |
|---|----------|----------|----------|----------|----------|------------|-----------|
| <ul style="list-style-type: none"> Does the land trust have the necessary funds (dedicated or operating) for fee land management? | | | | | | Yes | No |
| <ul style="list-style-type: none"> – If no, does the land trust have: <ul style="list-style-type: none"> A written plan for raising land management funds? An ability to cover current land management expenses? | | | | | | Yes | No |
| <p>B. 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.</p> | 1 | 2 | 3 | 4 | ? | | |
| <ul style="list-style-type: none"> Does the land trust have written stewardship principles to guide its land management? | | | | | | Yes | No |
| <p>C. 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.</p> | 1 | 2 | 3 | 4 | | | |
| <ul style="list-style-type: none"> Does the land trust have a written management plan or summary for each property that it holds in fee? | | | | | | Yes | No |
| <ul style="list-style-type: none"> – If yes, each management plan or summary includes (<i>check all that apply</i>): <ul style="list-style-type: none"> <input type="checkbox"/> A description of the property (size, location, etc.) <input type="checkbox"/> A description of the conservation values or attributes (the reasons why the land trust protected this property) <input type="checkbox"/> A summary of the restrictions that came with the property or that were placed on the property after the land trust took ownership, if any <input type="checkbox"/> A description of potential threats to the conservation values or areas of special concern (such as invasive species, neighbor encroachment, unauthorized access) <input type="checkbox"/> Overall management goals (including identification of permitted activities) and actions necessary to achieve the goals <input type="checkbox"/> A timeline for planned management activities and for regular inspections of the property | | | | | | | |
| <ul style="list-style-type: none"> Are management plans or summaries completed by the time of acquisition? | | | | | | Yes | No |
| <ul style="list-style-type: none"> Describe the process the land trust uses to develop management plans or management summaries: _____ | | | | | | | |
| | | | | | | | |
| | | | | | | | |

D. 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.

1 2 3 4 ?

- How often does the land trust inspect its fee-owned properties? _____
- The inspection is (*circle one*): In accordance with a formalized monitoring schedule Ad hoc
- Is the inspection documented in writing? **Yes No**

- Are the boundaries of each of the land trust's fee properties marked in such a way that corners and property lines can be identified on the ground for the purposes of monitoring/inspection and enforcement? **Yes No**

- If no, how many properties have boundaries that are not marked (as described above)? _____
- If no, describe the properties without marked boundaries and how your organization is able to determine the boundaries for monitoring/inspection, management activities and enforcement purposes. Also describe your land trust's plans for marking (as described above) the boundaries of these properties.

- Describe how the land trust regularly monitors/inspects each of its fee properties for activities such as trespass, misuse or overuse, vandalism or safety hazards:

- Describe a recent management issue on a fee-owned property and how the land trust addressed the issue:

- Does the land trust have any unresolved management issues on fee-owned properties that would threaten the property's important conservation values? **Yes No**
- If yes, please describe the nature of the issue(s) and the steps being taken to resolve the management issue(s):

- | | |
|--|---|
| E. 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. | 1 2 3 4 ? |
| F. Community Outreach. The land trust keeps neighbors and community leaders informed about its ownership and management of conservation properties. | 1 2 3 4 ? |
| <ul style="list-style-type: none"> • Does the land trust have an active program of involving the community in the stewardship of its properties? Yes No • The land trust notifies neighbors of its properties and appropriate public officials about (<i>check all that apply</i>): <ul style="list-style-type: none"> <input type="checkbox"/> Ownership of its properties <input type="checkbox"/> Significant management activities to be conducted on its properties | |
| G. 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. | 1 2 3 4 ? |
| <ul style="list-style-type: none"> • Does the land trust have a contingency plan for all of its properties? Yes No • To ensure that a contingency holder will accept the land, are complete files and stewardship funds available for transfer? Yes No | |
| H. 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.) | 1 2 3 4 ? N/A |
| I. 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. | 1 2 3 4 ? |

Comments:

Land Transactions

Setting Priorities

In light of what you have discovered about your land trust's implementation of Standards 8-12...

Right now, the organization's land transaction strengths are...

- 1.
- 2.
- 3.

Right now, the greatest land transaction challenges are...

- 1.
- 2.
- 3.

Some specific steps the land trust will take over the next one to three years toward overcoming the challenges are...

- 1.
- 2.
- 3.

Definitions of Key Terms

Capacity: The ability to perform all the actions required to acquire and manage conservation land and easements and manage other programs by having adequate human and financial resources and organizational systems in place.

Conflict of interest: A conflict of interest arises when a person in a position of authority in an organization, such as a director, officer, manager or other “insider,” is in a position, or perceived to be in a position, to be able to benefit personally (or create a benefit to a family member or other organization with which they are associated) from a decision he or she could make.

GAAP: The Federal Accounting Standards Board (FASB) Accounting Standards Codification is now the single source of authoritative nongovernmental US generally-accepted accounting principles (GAAP). Topic 958 of the Codification, Not-for-Profit Entities, provides standards for financial statements for nonprofit organizations and incorporates Statement of Financial Accounting Standards 116, 117, 124 and 136.

Important conservation values: These are the key values on a site that are the focus of protection efforts. Important conservation values are determined during property evaluation and project planning.

Insiders: 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. The IRS generally considers “insiders” or disqualified persons under IRC §4958 to be persons who, at anytime during the five-year period ending on the date of the transaction in question, were *in a position to exercise substantial influence over the affairs of the organization*. “Insiders” generally include: *board members, key staff, substantial contributors* [see IRC §507(d)(2)], *parties related to the above* and *35-percent controlled entities*. While these are strict definitions within the tax code, land trusts are advised to take an even more proactive approach to the potential damage conflicts of interest may cause an organization and also include in the definition of “insiders” *all staff members and those with access to information not available to the general public* (such as certain volunteers). Related parties is defined by the IRS to include spouse, brothers and sisters, spouses of brothers and sisters, ancestors, children, grandchildren, great-grandchildren and spouses of children, grandchildren and great-grandchildren.

IRC: Internal Revenue Code.

Land trust: A nonprofit organization that, as all or part of its mission, actively works to conserve land by undertaking or assisting in land or easement acquisitions, or by engaging in the stewardship of such land or easements.

Letter of opinion: A written estimation of a property’s value. A letter of opinion may be used instead of a qualified independent appraisal when the economic value of the property is so low

as to negate concerns about private inurement or private benefit or when a full appraisal is not feasible before a public auction. (A letter of opinion is not sufficient in the case of transactions with insiders.)

Private inurement: An action in which a person who is an “insider” to the tax-exempt organization, such as a director or an officer, derives a benefit from the organization without giving something of at least equal value in return. The IRS prohibition on inurement is absolute. The IRS also imposes penalties on directors, officers, key employees and other insiders who engage in transactions that confer an excess benefit on the individual.

Qualified independent appraisal: An 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.

Strategic conservation planning: A process that produces tools to aid decision-makers in identifying, prioritizing, pursuing and protecting those specific tracts of land that will most effectively and efficiently achieve the land trust’s mission.

Widely marketed: Announcing the availability of a property for sale to lists of prospective buyers, through websites, mailings and listings in newsletters and other publications or media. “Widely marketed” does not require public listing with a real estate agent.

Resources from the Land Trust Alliance

These publications and resources are available from the Land Trust Alliance, 1660 L Street NW, Suite 1100, Washington, DC 20036, 202-638-4725, www.landtrustalliance.org.

- **Standards and Practices Curriculum**

For the first time ever, land trusts now have access to a consistent, authoritative curriculum that explains how to implement *Land Trust Standards and Practices*. This curriculum was designed to be easily accessible, interactive and tailored to the unique needs of land trusts. It can provide you with the tools you need to prepare your organization for accreditation, improve your individual skills and build your organization to its full potential. Check www.lta.org/publications or The Learning Center for the current list of available courses.

- **The Learning Center** (<http://learningcenter.lta.org>)

The Alliance's online service that puts information about conservation and organizational management at your fingertips. The Learning Center is available to Alliance land trust members and partners. The searchable library contains Alliance publications, sample documents and other material. It also contains a complete guide for implementing Land Trust Standards and Practices, including explanations, links and sample documents.

- ***The Standards and Practices Guidebook: An Operating Manual for Land Trusts***

First published in 1993 and totally revised and updated in 2006, this complete guide provides practical information on every aspect of land trust operations. A wide variety of sample documents offer policies, forms and checklists.

- ***The Conservation Easement Handbook, 2nd Edition***

Revised and expanded in 2005, this book is essential for all those who work with easements. This volume includes information on IRS criteria for tax deductible gifts, negotiation and acquisition, baseline data, monitoring and enforcement, back-up grantees and model conservation and historic easements. Includes CD-ROM with a wide selection of sample easements, policies, checklists and other documents.

- ***The Federal Tax Law of Conservation Easements***

This authoritative legal volume interprets the IRS regulations on gifts of conservation easements and discusses related income and estate tax considerations. The **Third Supplement** updates the volume by discussing cases and letter rulings through 2000.

- ***Appraising Easements***

This authoritative handbook describes what should be contained in an easement appraisal report and general principles of easement evaluation.

- ***Appraising Conservation and Historic Preservation Easements***

Revised and expanded in 2011, this authoritative handbook interprets national legislative initiatives and examines the valuation of conservation and historic preservation easements from the perspective of the IRS, the courts, easement-holding organizations and appraisers.



1660 L Street NW, Suite 1100
Washington, DC 20036
www.landtrustalliance.org

