

Briefing Paper for Land for Maine's Future Board
LMF Scoring Criteria
November 8, 2011

During their review of the Round #7 LMF proposals, the scoring and nominations committees raised questions regarding several of the scoring criterion. The board asked staff to flesh out the questions for its consideration later in fall 2011. This briefing paper provides some background and analysis of the scoring criteria.

Board Authority

State law gives the Land for Maine's Future Board authority to set priorities and adopt criteria for use in distributing funds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund in accordance with the statutory acquisition criteria. In practice this means the board may interpret and define statutory criteria to flesh out the broad mandate of its authorizing legislation and to add implementation detail.

The board traditionally adopts its criteria by a board vote and in the form of its proposal workbook. Before each call for proposals, the board reviews its criteria and proposal workbook and determines if changes are needed. This was last done in February 2011.

In addition to adopting criteria for use in distributing funds, the board also is charged with identifying public land acquisition needs and establishing funding priorities to target those needs. This assessment is undertaken with broad public participation.

Statutory Acquisition Criteria

The Land for Maine's Future board is charged with distributing funds for significant natural lands. Both the LMF statute and bond language provides guidance for the criteria to be used in determining significance as follows:

- recreation lands;
- prime physical features of the Maine landscape, areas of special scenic beauty, undeveloped shorelines, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values, exemplary natural communities, and other high priority natural features and ecologic functions;
- habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State;
- farmland or open space;
- public water supply protection that is also available for public recreational use;
- significant undeveloped archeological sites and features of historic significance;
- deer wintering yards;
- lands with multiple outstanding resource or recreation values;
- lands with a single exceptional value;
- lands with geographic representation;

- lands that build upon or connect existing holdings; and
- guaranteed public access including:
 - nonmotorized or motorized public access for recreation or natural resource opportunities
 - guaranteed public vehicular access (when possible and appropriate)
 - hunting, fishing, and trapping may not be prohibited (except for working waterfront and farmland protection projects);

Project applicants must also meet other administrative conditions:

- provide matching funds on a 1:1 basis;
- describe the management envisioned for the property for the first 10 years following acquisition;
- describe the anticipated management responsibilities of easements for the landowner and the State or a cooperating entity;
- estimate the costs to the State or a cooperating entity of managing the land; and
- estimate the costs associated with monitoring compliance with an easement when an interest in land is acquired.

Under the statute, the board may not fund:

- facilities for organized recreational activities, including, but not limited to, ballparks, tennis courts or playgrounds;
- capital improvements on any publicly owned facilities; and
- land of which the primary use has been and will be commercial forest land.

Land Acquisition Priorities

Through its authority to assess public land needs, the board can identify priorities rather than simply responding to immediate threats and opportunities. It allows the board to be proactive in defining the types of land that it wants to acquire for conservation and public use.

The board conducted its original needs assessment in 1988, which consisted of public participation/outreach and the establishment of priority land categories, including the legislatively-mandated land types found in the LMF statute. This list created the foundation of the Land for Maine's Future Program's detailed land classification types:

- Recreational Lands
- Water Access Lands
- Lands Supporting Vital Ecological or Conservation Functions and Values
- Rare, Threatened, or Endangered Natural Communities, Plants, or Wildlife Habitat
- Areas of Scenic Interest and Prime Physical Features
- Farmland and Open Space

In 1996, Governor King established by Executive Order the Land Acquisition Priorities Advisory Committee (LAPAC). This committee performed a new needs assessment and its recommendations form the basis for what is referred to as the “LAPAC Multiplier” in the board’s scoring criteria, which gives these lands added points in the scoring process. It identified the following land types as priorities for funding:

- Southern Maine Conservation Lands
- Ecological Reserves
- River Systems
- Undeveloped Coastlines
- Northern Forest Conservation Lands
- Trail Systems
- Islands
- Significant Mountains

Changes over Time

On occasion, the Legislature amends the LMF statute to meet evolving needs. Over time, the legislature has added significant archaeological sites, public drinking water protection, and deer wintering yards to the list of LMF priorities.

The board also adjusts its criteria within its statutory parameters. For example, in 2010, following a year of study, the board adopted new scoring criteria for conservation projects that encourage applicants to identify how their project supports their community or region’s economic goals. The board hopes to cultivate and support closer working relationships between the land conservation and business communities.

Scoring in Round #7

During their review of the latest LMF proposals, the scoring and nominations committees identified the following questions regarding the scoring criteria:

1. *Should/is there a way to factor into the scoring criteria the stated priorities of the sponsoring state department as it does with Dept of Marine Resources working waterfront proposals?*

Currently, the Dept of Marine Resources works with an industry advisory committee to score working waterfront proposals. Based on the committee’s review, the DMR Commissioner selects projects for funding and makes recommendations to LMFB. The LMFB typically accepts these recommendations.

Dept of Agriculture also has an internal process for screening and prioritizing farm projects, but its process runs parallel to the LMF scoring process. The LMF scoring committee scores farmland proposals and makes recommendations to LMFB. The LMFB’s ranked list of farmland projects does not always match the department’s.

Dept of Conservation has an advisory committee rank and score forest conservation proposals for submission for funding for the federal Forest Legacy Program. These proposals are the department’s highest priorities for LMF funding. These proposals compete with and are scored against other conservation/recreation proposals.

These three departmental processes are proactive in that the departments work to identify projects and work with applicants to develop proposals. State agencies (Depts of

Conservation and Inland Fisheries & Wildlife) are also reactive, meaning they review applications from local land trusts and conservation organizations and determine whether to sponsor projects for LMF funding based on resource management and conservation priorities.

The advantage of having LMFB review and score proposals is the statewide and citizen's perspective the board brings, rather than the focused mission of one agency or another. Maine law vests authority for the LMF funds in its appointed board that includes citizen representation. Because they are representative of the constituency groups served by the government program, citizen board members can enhance public participation and decision-making.

The working waterfront program is somewhat different in that it is an economic development initiative. Its focus is on preserving the commercial fishing industry. Proposals are from businesses and often contain proprietary information. Their evaluation requires an added level of expertise about the business ventures. Conservation, recreation and farmland proposals seek to conserve land, rather than a particular business activity.

Policy question: Does the board want to delegate authority to line departments for scoring and prioritizing land conservation projects?

2. Consider legislative intent that there be vehicular access and whether the accessibility criterion needs to be revised or more clearly defined.

The statute requires LMF funded land to have vehicular access when possible and appropriate. All LMF lands must have nonmotorized public access and, except for working waterfronts and farmland, LMF-supported landowners may not prohibit hunting, fishing, and trapping.

In some instances, public access may be reasonably limited to protect public safety or the conservation values of the protected property. For example, lands are open to hunting during hunting season, but closed in the months when deer are wintering (the same for nesting sites or spawning habitat); or trapping is limited in areas where there is heavy public foot traffic. These types of restrictions must be part of a collaborative resource management plan developed in cooperation with the state agency sponsor.

In this way, current LMF criteria give the greatest number of points to land projects that provide the greatest degree of accessibility appropriate with the intended use of the property.

Vehicular access tends to be associated with recreational lands. The current criteria are designed to favor the board's six priority lands, which give equal weight to recreational lands as they do wildlife habitat, for example.

Increasing the number of points awarded to projects with vehicular access could increase scores of recreational projects. It would also favor projects in urban areas where road networks are located and motorized trail systems like snowmobile and ATV trails, which tend to have better vehicle access than hiking or nonmotorized trails.

Policy question: Does the board want to favor recreational projects over conservation or strike a different balance between the two?

3. Clarify how much to factor in public access into the scoring on farm proposals.

State statute exempts LMF-supported farmland from the public access requirement for hunting, fishing, and trapping. In addition, the board has generally taken the position that vehicular access to farmland is not appropriate and public access to lands under active farming may be controlled for public safety.

LMF typically has not considered public access as a key criterion when scoring farmland proposals. Rather it has focused on the quality of soils and their agricultural productivity.

Projects with associated recreational access may receive a small number of added points in scoring. Current criteria for farmland awards points for public educational, recreational, and wildlife benefits (7-10 points). Part of the recreational benefits includes public access. There are no specified points for public access. The scoring committee judges the value of all three of these attributes and may award all 10 points for educational benefits, for example, without regard for public access.

Further LMF's agriculture easement template explicitly states that the purpose of the easement is to "protect agricultural use and related conservation values by limiting nonagricultural uses of the land." This easement language is used even for projects that might have received added points in scoring for public access.

Easement language permits low impact agri-tourism activities, such as farm tours, work experiences, field trips, petting zoos, corn mazes, and hay rides, if they do not conflict with the conservation values of the protected property. Other recreational uses may be permitted with the permission of the landowner.

If the board wanted to favor farmland projects that also provide public access for recreational benefits, it could call that out or increase the points for it. Depending on the number of added points, this could tend to favor recreational farm land over productive farm land.

Policy question: Does the board want to give any preference to recreational farm land (meaning farm land projects that also provide recreational benefits) over those intended to conserve productive soils?

4. How should the board handle ongoing landscape-scale projects (i.e. how to know what is the end point of a project)?

One way to understand the geographic size of LMF-funded projects is to look at the resource to be protected.

Conservation of wildlife habitat, forest lands, and other natural resources often require a certain scale to be effective. Deer wintering yards for example are dynamic and need to be managed within a broader landscape that includes travel corridors and browse areas. A piecemeal approach to land conservation, while likely resulting in a number of protected deer wintering areas, may not benefit deer populations.

The departments of Conservation and Inland Fisheries & Wildlife have authority to carry out thoughtful planning and management of the state's natural resources. They develop resource management plans for various legislated plant and animal species that identify areas needing protection. This can help inform the LMF board about state priorities.

These state management priorities are captured in several of the existing LMF criteria (regional considerations, significance, rare, threatened or endangered). Resource management plans tend also to be within a defined geographic scope with a legislated public purpose as their intent. Also, through their sponsorship, state natural resource agencies can also target LMF projects from local land trusts and conservation organizations that help achieve state resource management goals.

The board could add criteria to more directly reward projects that contribute to the goals of a state resource management plan. This would help the state achieve its conservation goals, but could tend to disfavor smaller, local and regional projects as well as recreational projects.

Policy Decision: Does the board want to be more proactive in funding lands that support the implementation of state resource management plans?

5. *Should/is there a way to factor into the scoring criteria whether the proposed conservation can be achieved through local land use regulations?*

Clearly, land conservation goals can be accomplished through local land use planning and regulation. In Maine, authority for land use is vested in municipal government. Municipalities have a number of tools at their disposal to identify and inventory important conservation lands including comprehensive planning, open space planning/greenprinting, scenic assessment inventorying, farmland and open space current use taxation programs, transfer of development rights, and asset-based economic development planning. Through zoning, it can enact siting standards, regulate lot size and density, restrict uses, and enact impact fees to conserve lands identified in its plans.

Current LMF criteria ask applicants to describe how local planning and regulatory strategies support the conservation project. It does not ask them to assess how conservation might be achieved through these strategies.

Municipal planning and zoning tend to be local. Although growing in use, regional land use strategies have not been the norm. Farmland, watersheds, forests, rivers, and ecological reserves to name a few are not necessarily contained within a single municipality's boundaries. Land conservation requires a regional planning approach. Many land trusts were formed because individual municipal land use authority is diffuse and limited in scope of area.

Municipal planning and zoning also focuses on local priorities. At times, when state goals are paramount, the Legislature uses its authority to further them rather than rely on individual municipalities. The Land for Maine's Future program was enacted because the Legislature wanted to protect Maine's natural heritage, which it viewed as a broader, statewide goal than what could be accomplished through local zoning.

LMF scoring criteria could be amended to give added points to projects that are part of a local or regional land use plan (i.e. more points than are awarded currently).

Policy Decision: Does the board want to strengthen its emphasis on regional planning and regulation through the award of LMF funds?

6. *The scoring criteria do not define “Single Exceptional Value.” The 50 points for Single Exceptional Value appear to replicate the points for Significance. The 50 points are virtually unachievable for a local or regional project, which means that those projects will underachieve against the maximum potential score. Until 2011, no local or regional projects were awarded the Single Exceptional Value points. Do we remove the 50-point category for local and regional projects?*

The board can define single exceptional value to help the scoring committee better score this criterion and distinguish it from the significance criterion, such as:

- The land contains a resource or provides a recreational opportunity that is one-of-kind or exceptionally rare.
- The land contains a resource or provides a recreational opportunity that is not found anywhere else in the state.
- The land contains a resource or provides a recreational opportunity that is recognized globally or nationally as exceptional and unique.

In scoring, LMF proposals compete only within their “significance” category (i.e. statewide, regional, local). Regional and local projects do not compete with statewide projects. This is accomplished through existing scoring; which establishes different point ranges for statewide, regional, and local projects.

Nevertheless, the 50 points for single exceptional value tend to outweigh all other criteria when it is applied to a project. If the resource is truly so outstanding, then this may be appropriate. The board may want to use greater discretion when awarding these points.

Policy Questions: Does the board want to define single exceptional value? Does it want to limit single exceptional value to statewide projects?

7. *Larger or multiple parcels inherently have more potential to receive significantly higher points. How can the board even the playing field for smaller local and regional projects?*

Larger or multiple parcels may receive more points because they have the potential to contain a greater number of conservation values. The LMF statute specifically calls out a preference for “lands with multiple outstanding resource or recreational values.”

Beginning in 1999, when the legislature expressly authorized local land trusts and municipalities to compete for LMF funding and to hold LMF-funded lands, the board has been sensitive to trying to fund smaller, local projects. In past years, local and regional projects have competed well and were routinely funded. In round #7, of the 16 conservation/recreation projects, half (8) were regional and, although unusually, none of the projects were local.

The board could develop additional or different scoring criteria for local and regional projects. For example adding criteria that recognizes how the project contributes to a community’s culture or sense of place (similar to existing criteria for farmlands). This would have to be carefully thought out. Local and regional projects also could be large and large projects often have cultural benefits.

Policy Question: Does the board want to have different criteria for different-sized projects? What measure might be used to define scale?

8. Points awarded for economic development were either 0 or 5; no other values were considered. Is five points the right amount? Did it accomplish what the board hoped it would?

Through an added, small incentive, the board hopes to encourage land conservation as an economic development strategy. It asked LMF project applicants to demonstrate how their project supports the community's economic development vision and whether it had support of economic developers. Round 7 was only minimally successful in this regard. Most of the projects addressed the economic spin-off of the project (reactive) rather than understanding how the project helped the community support its economic development goals (proactive). For this criterion, the board was not looking for numbers of jobs created, rather it wanted to see land conservation on the list of the community's economic development goals, and land conservationists consulted when strategies and investment priorities for economic development are set.

Policy Question: Does the board want to encourage land conservation as an economic development strategy? Does the current scoring accomplish that?

9. What is the basis for allocating points for "Farmland and Open Space" vs "Areas of Scenic Interest?"

While they sound similar because open space can be of scenic interest, these two land categories are intended to capture different conservation values.

Area of Scenic Interest include: undeveloped shorelines, mountain viewsheds, visual access to water, areas along scenic byways, waterfalls, gorges, rapids, mountain ridges, beach-dune systems, eskers, cobble beaches, archaeological sites.

Farmland and Open Space include: prime farmlands, unique farmlands, multiple-use forest systems, land near population centers for passive recreation, multi-community parklands, river corridor greenways.

Areas of Scenic interest are scenic views. Open space is for working lands.

Policy Question: Does the board want to change its definitions of scenic interest or open space?

10. How do we determine land trust capacity and should this be part of the scoring?

Currently the board requests project applicants to describe their capacity to manage a LMF project to closing (and beyond), including its financial capacity.

Most project applicants provide a history of their experience managing land conservation projects assuming, because they have a proven track record, they can continue to effectively manage projects. It is rare that an applicant distinguishes its staff and resource capacity to take on the new, proposed LMF project. It is hard for the board to understand the existing workload for the organization, the number of staff, and how many projects

they are managing, and to assess whether the organization can see the project through to closure in a timely and effective manner.

The land trust's capacity is not part of scoring but may be considered by the nominating committee as one of the factors its uses for deciding which projects get funded. Capacity is generally not a significant factor in the board's award decisions.

Limited capacity on the part of project applicant can slow a project's progress. It can tie up LMF funds that might have been used on other projects (i.e. lost opportunity cost). It can take more LMF staff resources to manage.

Policy Question: Does the board want to give greater consideration to an organization's capacity in selecting LMF projects for funding?

11. How do we take into account geography and project readiness into the scoring?

The board handles geography and project readiness in the same way it handles capacity. These attributes are not part of scoring but are considered by the nominations committee in making awards. It is difficult for the nominations committee to factor in geography and project readiness over and above a project's numerical score. Objective scoring is easier to understand (and explain) than subjective assessments.

Note: The board does factor geography in part into scoring through the LAPAC multiplier—southern Maine conservation lands and northern forest conservation lands are given additional points in scoring due to their geographic location.

The board could set aside funds by region or county to ensure geographic representation. Or it could focus on different regions of the state with each bond. For example, when the board issues a call for proposals, it could state that projects from Northern Maine (or Western Maine or Downeast) will receive preference in that round of funding. In the next bond issue, it could focus on a different region. The regions might be decided based on federal funding (what's needed for Maine to draw down the most federal funding such as forest legacy or agriculture); or some other objective factor.

Also, it could factor project readiness into scoring by awarding points for projects that are the most ready.

Policy Question: Does the board want to factor geography and project readiness into its call for proposals or in scoring?

Recommendation

The LMF board directs the scoring committee to review the scoring criteria and make recommendations for adjustments if needed.