

Section I

The Land for Maine's Future Board & Program



Land for Maine's Future Board & Staff

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Legislative & Policy Objectives

The Land for Maine's Future Fund is managed by a 9-member board, of which six are private citizens and three are state agency commissioners. The program staff is responsible for providing support for Board activities relating to acquisitions.

Recent Policy Objectives initiated in the 130th legislative session:

1. \$40,000,000 in new funding for LMF projects was approved by the Governor and legislators through the biennial budget.

This budget allocation allows the Board to spend up to \$10,000,000 in the first year (FY 22) and no more than \$10,000,000 plus any unused balance from prior years in each of the 3 subsequent years.

Up to \$30,000,000 may be allocated to conservation and recreation projects and at least \$2,000,000 must be allocated toward water access projects. At least \$4,000,000 must be allocated to each of farmland preservation and working waterfront as well – these categories are addressed in separate workbooks.

2. Other legislative changes include:

- Funds are available for projects of statewide significance and for community conservation projects. Establishes a definition for community conservation projects;
- Preference given to community conservation projects that benefit multiple municipalities and address regional conservation needs;
- Prioritizes projects that address climate change;
- Prioritizes projects that conserve lands that have been determined by the Department of Inland Fisheries and Wildlife to be important for conserving deer in northern, eastern and western Maine. These lands are to be held and managed by the Maine Department of Inland Fisheries and Wildlife;
- A requirement that hunting, fishing, trapping and public access may not be prohibited, subject to applicable state, local or federal laws, rules and regulations. This provision does not apply to working farmland and working waterfront projects;
- The Board may allocate up to 5% of the appraised value to be applied toward a stewardship and management fund for the property acquired with LMF funds,
- In the instance of deer wintering habitat acquisitions, up to 5% of the appraised value may be applied toward development of a management plan to provide for the land's continuing function as a deer wintering area;
- Establishment of a Farmland Access Protection Program to be jointly administered by the Department of Agriculture, Conservation and Forestry and the Land for Maine's Future Board;

Needs Assessment

The Board conducted its original needs assessment in 1988, which consisted of public participation meetings 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 which are used in the scoring process:

- 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
- Open Space

In 1996, Governor King established the Land Acquisition Priorities Advisory Committee (LAPAC). This committee performed a new needs assessment and its recommendations form the basis for some of the scoring process, most notably the "Land Assets" found in [Appendix D](#), and the Conservation and Recreation Lands [Scoring System](#) in this workbook.

Since then, the program has updated its criteria to keep current with emerging needs, public input, and legislative action.

As part of its preparation for issuing this workbook, the current LMF Board drew upon the previous LMF Workbook, updated statutory requirements, recommendations from the Maine Climate Council, on-going work to review the program and policies, and the Board's recent experience in scoring and selecting project finalists to develop the priorities and scoring system described herein.

Board Policies & Guidelines

The Land for Maine's Future Board follows well-established policies and guidelines as it conducts its business. The following is a brief summary of the most important of these. Please contact LMF staff with any questions.

Primary Purpose of the Program - The primary purpose of the LMF Program is to conserve land in its undeveloped state, provide public recreational water access, working waterfront protection, and continuing productive farms and farmlands. The LMF Conservation and Recreation Program and Public Access to Maine Waters Fund work to protect access to our most cherished lands and waters on behalf of our citizens, preserving Maine's quality of life for all.

Providing Public Recreational Access – Public recreational access is a core purpose of the Land for Maine's Future Program. All lands acquired with LMF Conservation & Recreation and Water Access funding are open to the public.

Hunting, Fishing & Trapping – Pursuant to statute, hunting, fishing, trapping and public access may not be prohibited on conservation and recreation lands acquired with LMF funding, except to the extent of applicable state, local and federal laws and regulations. Exceptions include farms and commercial working waterfront properties, or for protection of critical natural resources.

Discriminatory Fees and Access – Public access may not be limited in any way based on the location of a visitor's residence. If entrance or usage fees are established, they must be uniform for all visitors. Generally, the establishment of fees must be allowed in the Project Agreement and approved by the Designated State Agency.

Willing Sellers Only - The Board requires proposals to include a signed consent from the owner(s) of land being proposed for consideration.

Municipal and County Approval - Municipal approval is required for LMF funding when property interests representing more than 1% of a municipality's state valuation are considered for acquisition. Board policy is to encourage applicants to seek municipal input on all acquisitions. Within unorganized territories, approval of the appropriate county commissioners is required if the land value of a proposed project constitutes more than 1% of the state valuation within that county. The year of the appraisal will determine the year of the municipal valuation used.

Public Notice of Intent to Purchase - The Board publishes a notice of a vote to acquire property 10 days in advance of the meeting. Notices are placed in a general circulation newspaper describing the property to be voted on and inviting all members of the public to submit comments in writing or to appear before the Board with comments about the proposed acquisition.

Public Participation Welcome at All Meetings - All Board meetings are open to the public and include opportunity for public input. Meetings are publicly announced in advance on the LMF

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website, DACF website, and State of Maine public meetings calendar. Additionally, as noted above, when projects come before the Board for their final allocation, public notices are printed in applicable newspapers and on the LMF website.

No Fee Acquisition of Lands for Timber Production - By statute, LMF is prohibited from funding the fee acquisition of land for which the primary use value has been or will continue to be commercially harvested or harvestable forest land. This does not prohibit the acquisition of conservation easements in which the rights to harvest timber are retained by the landowner.

Addressing Land and Easement Management Costs - The Board requires all applicants to address stewardship and management costs as part of a proposal. LMF statute requires that applicants provide estimates of the management costs associated with the project over the first 10 years of ownership.

Project Ownership - As part of the proposal, the applicant must specify how the project's ownership will be held.

When a project involves an easement that is to be held by a local entity (a "cooperating entity", per LMF statute, includes land trusts and municipalities), language may be added to the easement giving the State of Maine third party enforcement rights on the terms of the easement. If this is not done, a Project Agreement between the cooperating entity and the State of Maine will define the terms of the project and be recorded with the easement (see [Appendix F](#)). Because all projects have differences, the description of project goals and management expectations may change from project to project.

Similarly, where a project is owned in fee by a cooperating entity, a Project Agreement (see [Appendix F](#)) is signed between the entity and the State of Maine to define the terms of the project and recorded with the deed. The deed must also include reference to the fact that the parcel has been acquired as part of an LMF funded project.

Designated State Agency Sponsorship: Prior to submission, proposals must be sponsored by a Designated State Agency (DSA) (Department of Inland Fisheries & Wildlife, Department of Agriculture, Conservation and Forestry, or the Maine Historic Preservation Commission).

Pre-Acquired Properties - Lands acquired within 2 years prior to the date of the project proposal deadline may be considered for reimbursement when the pre-acquisition was conducted on behalf of the sponsoring agency **or** the sponsoring agency was aware of and supported the pre-acquisition. LMF contribution will be no more than the Board approved amount, not to exceed the actual purchase price or appraised value whichever is less. Any appraised value approved by the LMF Board in excess of the purchase price may be used as match. All other LMF due diligence and policy requirements apply to pre-acquired properties. Only in rare circumstances will the Board consider reimbursement for a pre-acquired easement. Contact LMF staff with questions.

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Purchases Above Appraised Value Strongly Discouraged - The Board's basic rule is that it will not participate in a transaction where the purchase price exceeds fair market value based on an independent appraisal that is approved by the Appraisal Oversight Committee and accepted by the Board. However, it is recognized that the market will, on rare occasions, offer opportunities that may require exceptions to the basic rule. **Applicants should be aware that this exception is seldom invoked and consult with program staff prior to making any commitments that would require an exception.**

Board Allocation of Project Funding - The Board's allocation is considered preliminary until the actual value is determined by an LMF Board approved appraisal. The value determined by this appraisal, and other project costs, will guide the amount of funds LMF contributes to the project. In the event that the project changes in scope or size, the Board's approval of funding may differ from the original allocation. Final funding awards are at the approval of the LMF Board. Awards are subject to the availability of funds and subject to state budget and finance procedures.

Project Adjustments - The Director and Project Manager must be notified if, at any point prior to closing, a proposal selected as a project finalist has adjustments to its scope and size from what was accepted for funding by the LMF Board. Staff will review and determine what adjustments are appropriate or if the proposed changes require the project to return to the LMF Board for approval.

Project funding may be reduced from the original allocation amount based upon the impact of the project change to the attributes of the original project.

Proposals must return to the LMF Board for reconsideration when:

1. Reductions in size
 - Reductions in land are more than 10% of the original total project land area. This includes instances in multi parcel projects
 - A parcel is removed from a multi-parcel project.
2. Reductions in scope

If changes in project scope substantially affect public access, recreational opportunities, uses of the land, ecological or conservation attributes.
3. Change in project parcels

Substitute parcels must be approved by the Board.

Reserved Rights and Title Issues - All reserved rights and issues affecting the property's title encountered during the due diligence process must be reviewed by the Project Manager and Director, including changes to conservation easement terms, mineral ownership, reserved rights, etc. to determine if these could materially affect the conservation values of the property and the investment of public funds.

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Environmental Concerns – Properties that receive LMF funds must be free from all environmental concerns at the time of closing. Prior to closing, all projects must submit a Phase I Environmental Site Assessment (ESA) report to LMF dated within 1 year of closing. The ESA report must be conducted in accordance with then-current applicable ASTM standards for a Phase 1 Environmental Site Assessment at the time the report is created and under conditions that permit inspection of ground conditions (snow on the ground is not acceptable). Debris, trash, tires or other forms of refuse or encroachments from abutting lands identified in the ESA report must be removed from the property, with documentation provided to LMF staff prior to the release of LMF funds.

Buildings are generally not allowed on LMF properties, except under specific circumstances. Contact LMF staff if you have questions about existing buildings on the property.

For properties pre-acquired for State of Maine ownership, (fee & easement), an ESA may not be necessary. Contact LMF staff with questions.

Acquisition Awards – LMF will consider requests for up to 50% of the appraised value of the land or interest in land to be acquired. In the case of multi-parcel projects, this limit applies to the total value of all parcels; LMF may contribute more than 50% towards the purchase of an individual parcel as long as the total award is no greater than 50% of the total value of all parcels. LMF funds may be applied only to the purchase of land or interests in land and may not be used for reimbursement of other project costs.

Supplemental Awards – By statute, the LMF Board may also award up to 5% of the appraised land value for access improvements, and up to 5% of the appraised land value for stewardship and management. Access improvement awards are made by the LMF Board after the land is acquired. Access Improvement Grants must be matched 1:1 by 1) excess cash and land value, 2) the applicant's contribution to a dedicated stewardship fund, and/or 3) applicant funds invested in access improvements. See [Appendix I](#) for more information on access improvement awards.

Stewardship and management awards are made by the LMF Board at the same time as project awards. These funds must be held in a dedicated endowment fund and restricted to use on the property receiving LMF funding. The Board's policy on stewardship and management awards will be posted to the LMF website once adopted by the Board. Stewardship awards must be matched 1:1 by funds placed in a stewardship fund by or on behalf of the applicant, subject to the same restrictions as the stewardship funds awarded by LMF. However, the LMF Board may allow excess match from the acquisition of the property to serve as all or a portion of the match required for LMF stewardship awards when after demonstrable efforts the applicant is not able to provide stewardship funds as match AND the applicant demonstrates that stewardship of the property is adequately provided for through operating funds, a pooled stewardship fund, or other means.

Match – An applicant is expected to provide matching funds greater than or equal to 100% of the total Award Amount. This means that for every \$1 of LMF funds, there must be \$1 of match value. For this round, 100% of the required match value must be supplied in the form of cash or land value. The value of lands or interest in lands acquired within 2 years of the date of project

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proposal may be used as tangible match when the property interests have a direct relationship to the project. This value must be validated by an independent appraisal which meets LMF appraisal standards.

Lands donated as matching funds are subject to the same requirements and restrictions as lands acquired with LMF funds.

Purchase Price Determined by Appraised Value - Board policy requires that the fair market value of a property or a conservation easement is determined through a qualified independent appraisal and that the acquisition price reflects the appraised value. Appraisals should follow the Appraisal Standards found in [Appendix E](#).

Applicants may use a realtor's opinion of value as a means of establishing a value for the purposes of applying for LMF funds. Once a proposal is selected by the Board as a finalist, an appraisal must be conducted in accordance with the LMF appraisal standards described in [Appendix E](#). The Board will typically require appraisals with a valuation date no more than a year old at the time of the Appraisal Oversight Committee's review, unless an executed purchase and sales agreement is in place with a value based on the appraisal. In all instances, appraisals for LMF funded properties must be reviewed and approved by the LMF Appraisal Oversight Committee.

Press Releases - All press releases or media advisories announcing any phase of an acquisition with LMF funds must be coordinated with the LMF staff. Media coverage is encouraged.

LMF Signage - LMF will provide silk-screened metal signs upon completion of a project and will provide additional or replacement signs upon request. Applicants are responsible for ensuring these signs are placed and maintained on all conserved properties.

Threshold Criteria

The Land for Maine's Future Board follows established policies and guidelines when it makes decisions on which projects to fund. These "threshold criteria" supplement policies and guidelines that are found in Section I and refer to the Board's expectation that all proposals meet the following minimum requirements. In rare cases, a proposal that does not meet these criteria will be considered.

Adequate Title: Clear title is required. If clear title is not available at the time of application then the applicant is required to obtain clear title prior to closing.

Appraised Value: The owner is willing to accept an offer at or below fair market value based on an appraisal that conforms to Land for Maine's Future appraisal standards (see [Appendix E](#)). The appraisal valuation date should be less than a year old at the time of the Appraisal Oversight Committee review, unless an executed purchase and sales agreement is in place with a value based on the appraisal.

Applicant's Capacity: Applicants must demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. Non-profit applicants must submit their most recent financial audit if one exists and the most recent financial statement that represents the organization's current financial condition. The Board may consider all relevant factors including without limitation: organizational debt, fund raising ability, past land conservation activity and transactions, track record with LMF projects, organizational history, scope of conservation vision, and evidence of success in building and sustaining land protection campaigns.

In addition, the Board will consider whether or not the proposed title or easement holder has the ability, experience, and resources to manage the property appropriately.

Relationship to Local Comprehensive Planning Efforts: For community conservation projects, the project must be consistent with an adopted comprehensive plan (if one exists) meeting the standards of the Growth Management Act (30-A MRSA sections 4301-4349) with evidence that the municipality had adopted strategies to implement the plan. For strongest Board consideration, a project should be an explicit component of a larger integrated effort by the applicant and municipality to achieve the conservation, recreation, and other goals of the comprehensive plan.

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A project proposed within a locally designated growth area must be able to demonstrate that the project doesn't diminish the intent of the designation.

Other Board Considerations:

- Does the property increase geographic distribution of LMF investments?
- Does the property provide benefit to people from multiple towns and/or address regional conservation needs?
- Does the property serve as an anchor parcel for conservation in an area of the state without existing conservation lands?
- Does the budget include >50% in matching funds?
- Are >50% of matching funds secured (in hand)?
- Does the relative cost of the property (LMF contribution or estimated value) align with the values offered by the property? (a good bang for the buck?)
- Will the property require an average or low level of ongoing management needs? In the case of conservation easements, sufficient matching funds are needed to monitor and enforce the easement. The Board will evaluate whether the proposal includes an adequate contribution, as identified by the sponsoring state agency, to the State's conservation stewardship or easement monitoring endowment fund.
- Does the applicant have a good track record of completing projects to LMF standards or is this the applicant's first application to the LMF program?
- Does applicant demonstrate financial & staff capacity to adequately steward the property?
- Does the project design result in a good investment of public funds and a good resource for the public?
- Does the applicant demonstrate that the property is under threat from losing public access or conversion to a use that would minimize the value of the resources present?

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List of Contacts

As an applicant begins to develop a proposal, they may seek information sources, conservation partners, and the required sponsorship from State agencies associated with the acquisition and management of public lands. The organizations listed below can assist you in this effort. For more about the mission and priorities of Designated State Agencies, please see [Appendix B](#). If you need any further guidance, contact the Land for Maine's Future Program at (207) 287-7576.

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Land Trusts and Non-Profit Organizations

For the name of the land trust nearest your property, please contact the Maine Land Trust Network (www.mltn.org) or the Land for Maine's Future Program.