

Appendix M

Frequently Asked Questions

Q1. What types of land can be acquired through the Land for Maine's Future Program?

- A. Lands and interests in lands offering opportunity for conservation of lands supporting vital natural areas, wildlife and fish habitat, water access, traditional outdoor recreation, and farmland protection. Commercial working waterfront protection along Maine's coast is accomplished under a program jointly administered with the Department of Marine Resources.⁵

Q2. Who can be a "cooperating entity"?

- A. Private nonprofit charitable organizations, private foundations, municipal conservation commissions, and local governments are considered cooperating entities. For a private nonprofit organization seeking to hold easements funded by Land for Maine's Future Program, the holder/applicant shall provide documentation that the organization meets the holder requirements, as per Maine Conservation Easement statute, (M.R.S.33 Chapter 7, Subchapter 8-A), and has a mission statement pertaining to land conservation activities. In addition, the Land for Maine's Future Board may designate other groups to assist the State in the acquisition and management of public lands. In cases of regionally or locally significant projects, the Board may also accept a cooperating entity as title holder for a given acquisition.

Q3. Who will own the land or conservation easements acquired by the Program?

- A. Title for projects of state significance as determined by the Board will be held by the appropriate state agency. In the case of projects of regional and local significance, an approved cooperating entity may hold title providing that entity can demonstrate to the Board their ability to manage the land for the purpose for which it was acquired. The State of Maine and the cooperation entity enter into a project agreement that gets filed at the respective registry of deeds.

Q4. Who will manage the land acquired by the Program?

- A. Management responsibilities for the acquired lands and interests in lands will be the responsibility of the State agency or cooperating entity holding title. Management of lands held by the State may be accomplished through a partnership with a cooperating entity through a management agreement. When a cooperating entity

⁵ For further information contact Deirdre Gilbert, Department of Marine Resources, (207) 624-6576, deidre.gilbert@maine.gov.

holds the land or interest in land it will execute a project agreement with the sponsoring state agency that contractually binds the terms of the project's management. This agreement is recorded with the deed or easement. A model of the Project Agreement is included in Appendix G.

Q5. What are "matching funds" and what guidelines apply?

- A. All projects are expected to have matching funds of at least 50% of the total eligible project costs. This means that for every \$1 of LMF funds there must be at least \$1 of match value. At least 70% of the match must be in the form of land, cash, or other tangible assets. The value of lands or interest in lands acquired within 2 years of the date of project proposal may be used as tangible match when the property interests have a direct relationship to the project. No more than 30% of the match can be the value of services customarily associated with land acquisition (i.e. appraisal, survey, title work, legal work, ecological and archeological inventory) defined by the LMF statute as "intangible" match. The required match amount and source must be detailed within the project proposal. The match contributions must be received by the applicant no later than the receipt of LMF's contribution of funds (*i.e.*, at closing). This does not preclude the applicant from using funds that will be reimbursed by other non-state funding. Match is discussed further in Section One "Threshold Criteria", Appendix D – Form for Proposal Budget and, under each proposal type.

Q6. When is municipal or county approval of a land acquisition required?

- A. Approval by the elected municipal officials is required when more than 1% of a municipality's state valuation is considered for acquisition with funds from the Land for Maine's Future Program. Similarly, approval by the county commissioners is required if the land proposed to be conserved lies within unorganized territory and constitutes more than 1% of the state valuation within that county.

Q7. What interests in land may be purchased by the Program?

- A. The LMF can support acquisition of a full range of interests in land including:
- fee simple acquisition; and
 - less-than-fee simple interests including, but not limited to, permanent conservation easements, permanent access easements, working waterfront covenants and other permanent interests in land.

Q8. Can the LMF fund be used to fund capital improvements?

- A. The LMF Fund can only be used to fund minor capital improvements on acquired lands to improve public access, as long as these improvements do not compromise the original intent for which the property was purchased. In practice the Board limits most of its grants under this provision up to 5% of the LMF project contribution. The Board will make a larger grant under this program to the extent the additional amount is based on the costs of providing access specifically for disabled or handicapped persons. In the case of the purchase of development rights

on farms, up to 5% of the appraised value may be used to develop a business plan and capital improvement for the farm.

Q9. What does the law exclude from consideration?

- A. The law specifically excludes using bond funds to acquire any of the following:
- buildings or other structures unrelated to the intended use of the property,
 - land for facilities or organized recreational activities; (e.g. ballparks, tennis courts, or playgrounds).
 - capital improvements on any publicly owned facilities; and
 - fee purchase of land of which the primary use value will be as commercially harvested or harvestable forest land.

Q10. What types of land are identified by the law as eligible for potential acquisition?

- A. Eligible lands include:
- recreation lands;
 - prime physical features of the Maine landscape;
 - areas of special scenic beauty;
 - farmland or open space;
 - undeveloped shorelines;
 - wetlands;
 - fragile mountain areas;
 - habitat for plant or animal species or natural communities considered rare, threatened, or endangered in the State;
 - wildlife or fish habitat including deer wintering areas;
 - public access to recreation opportunities or those natural resources identified above;
 - lands with other conservation, wilderness or recreation values; and
 - Working waterfront lands serving commercial fisheries

Potential applicants are strongly encouraged to review the LAPAC report for further discussion on conservation priorities among these resources. The report is available from the LMF staff and is on the LMF website.

Q11. What is a Farmland Protection Project?

- A. Farmland projects are to be submit under Conservation and Recreation and are to choose “Farmland and Open Space” as the Major Land Asset. A Farmland Protection Project can provide Maine farmland owners with an alternative to selling farmland to other land development use and preserve prime agricultural lands. The Land for Maine’s Future Program works in partnership with the Maine Department of Agriculture, Conservation and Forestry (DACF), Bureau of Agriculture Food and

Rural Resources, nonprofit cooperating entities, towns, and farmers to develop proposals focused specifically on farmland protection. In addition, federal funds may be available through the USDA Farm and Ranch Lands Protection program as match with LMF Funds. LMF typically supports the acquisition of agricultural conservation easements. LMF may also support the acquisition of farmland in fee by a project partner (town or land trust) if there is a clear commitment to keeping the land in agricultural production. In the case of an easement, current and future agricultural uses of the land are protected by prohibiting conflicting, non-agricultural uses (i.e. subdivision, housing development, etc.). The conservation easement is held by an approved cooperating entity (e.g. town or land trust) or occasionally by the State through the DACF. The landowner is compensated for this restriction on a “willing buyer/willing seller” basis. This can help an existing farm landowner to maintain the availability of his or her farmland for agricultural production, forever. Agricultural conservation easements allow farmers to retain all other ownership rights; they can sell or continue to farm and they can diversify their agricultural enterprise and operation; they just can’t grow houses. If they do sell, their land will be valued as farmland, which often makes it more affordable for the next generation of farmers.

Q12. Who can propose land for acquisition by the Program?

- A. Anyone can nominate or propose land for acquisition by LMF Program, when sponsored by a designated state agency as long as the threshold criteria, the criteria of the sponsoring state agency, and proposal requirements are met. The proposal must include a written statement from the landowner with their consent that the property is being proposed to the Program.

Q13. When can proposals be submitted?

- A. Whenever the Board issues a call for proposals. Contact the Program Director for the opening and closing dates of the current proposal period. The Conservation-Recreation and Farmland proposals must be received by LMF no later than 5pm on September 15, 2017 (Board has changed due date from 9/1 to 9/15). Proposal inquiries can be submitted any time during the year for staff review and feedback (see Inquiry Forms provided in Appendices A and B). Anyone who has submitted an inquiry during the year will be notified when full proposals will be accepted. There is a separate proposal process for water access projects which may be processed at any time (see Section III).

Q14. How will the proposed properties be scored?

- A. After the information in a proposal is reviewed by the program staff, the Staff will score the proposal. The Board then hears presentations from applicants and may adjust the staff scores. The Board then meets to review their adjusted scores and consider Other Board Considerations. The Board then enters into executive session to determine preliminary allocations. The Board then votes in a public session to

select finalists. See Scoring System in Sections II and III for the detailed scoring procedures.

Q15. Who will appraise the lands proposed for acquisition?

- A. If an appraisal has been conducted by or is available to an applicant it should be included as part of the proposal. The Board may decide to accept an existing appraisal or may request that an applicant provide a new or updated appraisal. If an applicant provides an appraisal to the Board and it is accepted, he/she may apply the documented cost of the appraisal as match. Any appraisal must be an arm's length appraisal conducted by a Maine certified general real estate appraiser and must conform to the standards outlined in Appendix F. Appraisals solely commissioned by the landowner or with the landowner as the sole client will not be accepted.

Q16. Will LMF support projects when the landowner wants a price higher than the appraised value?

- A. The LMF Board will not generally participate in purchases which exceed fair market value as established by independent appraisal. This policy applies even where the extra funds are drawn from other sources. Such sales can make future conservation projects more expensive. In extraordinary cases, the Board will consider exceptions to this policy.

Q17. How will an applicant know the status of his/her proposal?

- A. All applicants will be notified by mail as to the status of their proposals when the scoring and evaluation process is complete. An applicant may call the Program staff at any time and inquire about the status of his/her proposal. If a potential applicant submits an Inquiry Form, he/she will receive a letter which may also provide guidance on whether the proposal is aligned with the Program's priorities.

Q18. What considerations does the Board want to see reflected in conservation easements?

The Board may fund acquisition of conservation easements on parcels of land to protect key public values. Any easement proposal considered by the Board is expected to address the following elements:

1. Conservation purpose of the easement and description of natural resources to be protected,
2. Restrictions on development and subdivision (building, mining, road construction, etc.) that are inconsistent with the conservation purposes,
3. Provisions for public access (pedestrian, water access, vehicle access, etc.),
4. Accommodations for public use/recreation,
5. Private uses to be maintained/continued, and
6. See also Appendix G "Guidance for Working Forest Easements" and Appendix H "Guidance for Agricultural Conservation Easements".

Q19. Are pre-acquired properties eligible for reimbursement?

- A. Lands or interest in lands acquired within 2 years of the date of project proposal 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 at the Board approved amount, not to exceed the actual purchase price or appraised value whichever is less. Any duly appraised value in excess of actual purchase price may be used as match.