

**COMMUNITY FOREST**



**PROGRAM**

# **An Invitation: Establishing a community forest with the U.S. Forest Service**

The 2008 Farm Bill (Public Law 110-234) established the Community Forest and Open Space Conservation Program to provide financial resources to tribal entities, local governments, and conservation non-profit organizations to acquire and establish community forests through fee simple acquisitions. This document provides detailed information and resources to potential program applicants or grant recipients to participate effectively with the Community Forest and Open Space Conservation Program. Successful participation is multi-faceted and will require strong ongoing coordination with U.S. Forest Service personnel beyond the pages of this document.

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# 1 BACKGROUND AND PURPOSE

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## Authorization

Establishment of the Community Forest and Open Space Conservation Program (Community Forest Program or CFP) was authorized by Section 8003 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-234); which amends the Cooperative Forestry Assistance Act of 1978. The authorizing language is available as Appendix A.

## Establishment

On October 20, 2011, the final rule establishing the Community Forest Program was published in the Federal Register. The rule codifies and clarifies the congressional authorizing language in order to implement the program. The final rule published in the Federal Register is available as Appendix B.

## Community Forest Program Purposes

In establishing the Community Forest Program, Congress cited rapid development of private forest lands across the nation, declining public access supporting outdoor recreational opportunities, rising obesity rates linked to decreased outdoor recreation, the essential role of forest land in protecting public water supplies, importance of forest management demonstration opportunities, financial and community benefits derived from local government management of forest lands for timber and other products, and a lack of financial resources available to local governments for purchasing important private forest land available for sale. To address these findings, CFP established authority for the Secretary of Agriculture to award grants for acquiring private forest land threatened by conversion to non-forest uses in order to provide communities with:

- Economic benefits
- Environmental benefits
- Educational benefits
- Forest Management Demonstration benefits
- Recreational benefits

## 2 Eligibility: Entities, Land, Expenses

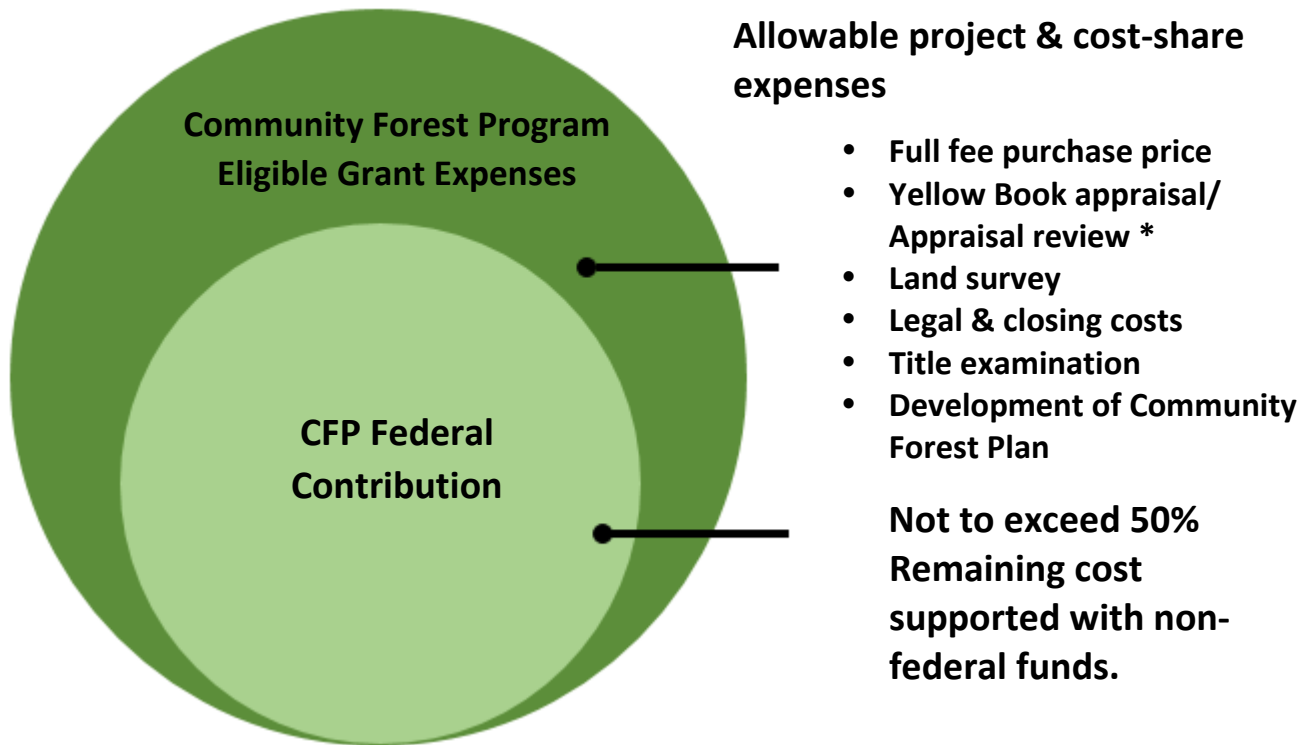
### Community Forest Program Eligible Entities

|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Local governments</b>                 | Any municipal government, county government, or other local government with jurisdiction over local land use decisions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Indian Tribes</b>                     | Federally recognized Indian tribes and Alaska Native Corporations, as defined by Section 4 of the Indian Self-Determination and Education Assistance Act (U.S.C. 450b).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Qualified nonprofit organizations</b> | <p>Consistent with Section 170(h) (3) of the Internal Revenue Code, and existing primarily for one or more of the following conservation purposes:</p> <ul style="list-style-type: none"><li>• The preservation of land areas for outdoor recreation by, or for the education of, the general public,</li><li>• The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,</li><li>• The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public, or</li><li>• The preservation of a historically important land area or certified historic structure.</li></ul> |

### Community Forest Program Eligible Land (definitions specific to CFP)

|                             |                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Private forest lands</b> | Lands that are threatened by conversion to nonforest uses, are not lands held in trust by the United States, and can provide defined community benefits and allow public access.                                                                                                                                                     |
| <b>Forest lands</b>         | Lands that are at least five acres in size, suitable to sustain natural vegetation, and at least 75 percent forested. Forests are determined by both the presence of trees and the absence of nonforest uses.                                                                                                                        |
| <b>Full Fee Purchase</b>    | Land conveyance where a purchaser acquires all rights, title and interest in a property from a seller or owner. Also known as fee simple or fee acquisition. (Only fee simple acquisitions are eligible under the Community Forest Program. Purchase of Conservation Easements is not supported under the Community Forest Program.) |

## Community Forest Program Eligible Grant Expenses



### Costs not allowed as reimbursable or cost-share expenses

- Conservation Easement Purchases
- Long-term operation, maintenance, and land management
- Construction of buildings or recreational facilities
- Research
- Existing liens or taxes owed
- Costs associated with preparation of the application, except any allowable project costs specified in 36 CFR 230.6(b)

\* Uniform Appraisal Standards for Federal Land Acquisitions

## Cost share contributions

Can include cash, in-kind services, or donations and must meet the following requirements:

Be supported by Federal grant regulations as described in the CFP Rule § 230.6 (a)(b)(c);

- Be accomplished within the grant period;
- Not include other Federal funds unless specifically authorized by Federal statute;
- Not include non-Federal funds used as cost share for other Federal programs;
- Not include funds used to satisfy mandatory or compensatory mitigation requirements under a Federal regulation, such as the Clean Water Act, the River and Harbor Act, or the Endangered Species Act; and
- Not include borrowed funds (Community Forest Program Final Rule defined Borrowed Funds as funds which would encumber subject property, in whole or in part, to another party).

Cost share contributions may include the purchase or donation of lands located within the community forest as long as it is provided by an eligible entity and legally dedicated to perpetual land conservation consistent with CFP program objectives.

For the purposes of calculating the cost share contribution, the grant recipient may request the inclusion of project due diligence costs, such as title review and appraisals that were incurred prior to issuance of the grant. These pre-award costs may occur up to one year prior to the issuance of the grant, but cannot include the purchase of CFP land, including cost share tracts.

## 3 APPLICATION PROCESS OVERVIEW

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To implement the Community Forest Program, the U.S. Forest Service issues a Request for Applications (RFA) in the Federal Register. Typically, the RFA is published in the fall, with applications due in mid-January from eligible nonprofit and local government entities to the State Forester with jurisdiction over the project location. Tribal applicants submit applications to the appropriate Tribal government official at this time. All applicants must also send an email to [communityforest@fs.fed.us](mailto:communityforest@fs.fed.us) to confirm an application has been submitted for funding consideration. The RFA provides details on the specific annual application process, key contact information, due dates, and other pertinent information. It is important to consult the RFA for the given program year of your application.

A sample Request for Applications is available as **Appendix C**. If developing a Community Forest Program application, be sure to consult the [Community Forest Program home page](#) to access the current Request for Applications.

## Community Forest Program Road Map

After an eligible entity submits an application to the State Forester or equivalent Tribal government official, the CFP timeline allows for one month to review the application and determine applicant and project eligibility. After the one month period for review, **ALL** applications are submitted to the U.S. Forest Service entity with jurisdiction over the project location, which will be specified in the annual RFA, but generally will be FS Regions, the Northeast Area (Area), or International Institute of Tropical Forestry (IITF). The U.S. Forest Service has one month to review applications and confirm applicant and project eligibility, then officially submit **ALL** applications for consideration in the national Community Forest Program competition.

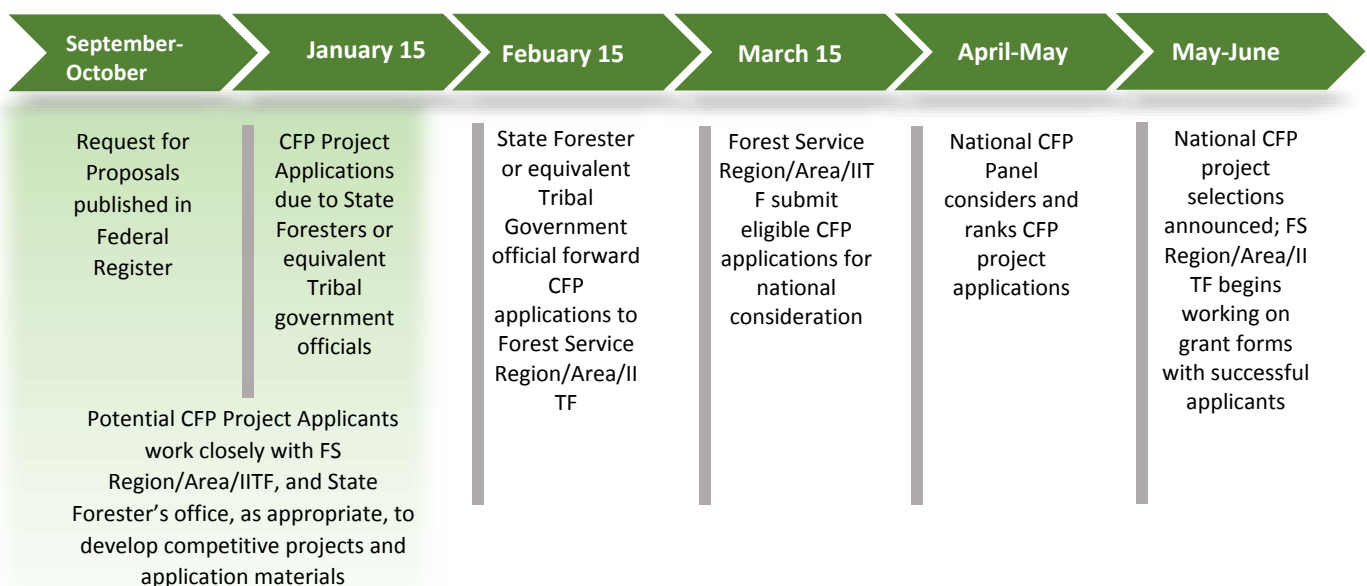
A national selection panel is recruited annually to consider applications. The panel typically consists of U.S. Forest Service national and regional subject matter experts, and evaluates projects based on the following criteria, as published in the RFA:

- Type and extent of community benefits (economic, environmental, educational, demonstration, recreational) provided.
- Extent and nature of community engagement in the establishment and long-term management.
- Amount of cost share leveraged.
- Extent to which the community forest contributes to a landscape conservation initiative.
- Extent of due diligence completed on the project.
- Likelihood that, unprotected, the property would be converted to nonforest uses.
- Costs to the Federal government.

Each panel member is instructed to score each project application according to consistent scoring guidance. The actual Community Forest Program Panel Review Guidance provided to the national selection panel is available as **Appendix D**.

Selected CFP projects are announced after the national panel scores and ranks applications, typically in the spring or summer.

### CFP Application Process. (Dates illustrative and subject to change)



## Community Forest Program Application & Maps.

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A Recommended Application Template is included as **Appendix E**, and **Appendix F** provides helpful hints for creating CFP project application maps.

## Community Forest Program Application Components.

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Currently (as of 2016) CFP applications must be accompanied by a completed SF-424 package (sample included as **Appendix G** of this document) and documentation verifying that the applicant is an eligible entity (such as articles of nonprofit incorporation).

As published in the annual RFA, a CFP project application narrative can be no longer than eight pages plus two maps, and include the following information about the proposed community forest:

### Property Information

- Description of the property proposed for acquisition
- Description of current land uses
- Description of forest type and vegetative cover
- Map showing property location in relation to roads, improvements, and other protected lands
- Description of applicable zoning and land use regulations
- Description of types and extent of community benefits, including to underserved communities
- Description of relationship to landscape conservation initiative
- Description of any threats of conversion to non-forest uses

### Community Forest Establishment Information

- Description of the benefitting community
- Description of community involvement to date and anticipated in long-term management
- List of supporting individuals and organizations, and their specific roles
- A draft Community Forest Plan

### Acquisition Information

- Proposed project budget
- Status of due diligence, including landowner negotiations, title search, minerals determination, and appraisal
- Description of required 50% cost share
- Proposed timeline for acquisition and establishment of the community forest
- Long-term management costs and funding sources

### Technical Support Needs

CFP technical assistance funds may be provided to State Foresters or equivalent officials of Indian tribes through an administrative grant to help develop community forest plans and implement community forest projects funded through the CFP. These technical assistance funds are not available to reimburse CFP proposal development costs. Any requests for technical assistance for establishment of a community forest must be included in the initial CFP application, coordinated with the State Forester or equivalent tribal official prior to submission, and requested in a letter to the regional CFP manager.



## 4 AWARD PROCESS FEDERAL GRANT MANAGEMENT

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If your project is selected by the national panel to receive a CFP grant, the next task will be to work closely with your Forest Service CFP program manager and grants & agreements staff to submit and process forms to receive federal financial assistance.

### Federal Grant Forms.

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Federal grant forms are only necessary for projects selected by the CFP national panel. The—current as of 2016—Application for Federal Assistance SF-424 consists of the following forms found in the table below.

**Appendix G** provides SF-424 guidance and instructions, along with some completed samples of the SF-424 and budget tables (Additional forms may be required in future years).

| Form                                            | Name                                                                                                         | Appendix          |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------|
| <b>Standard Form 424</b>                        | Application for Federal Assistance                                                                           | <b>Appendix H</b> |
| <b>Standard Form 424C—Construction Programs</b> | Budget information                                                                                           | <b>Appendix I</b> |
| <b>Standard Form 424D—Construction Programs</b> | Assurances of compliance with all applicable Federal laws, regulations, and policies                         | <b>Appendix J</b> |
| <b>AD-1047</b>                                  | Certification Regarding Debarment and Suspension                                                             | <b>Appendix K</b> |
| <b>AD-1049</b>                                  | Certification Regarding Drug-Free Workplace                                                                  | <b>Appendix L</b> |
| <b>FS-1500-35</b>                               | Certification Regarding Lobbying (if FS \$ are >\$100,000)                                                   | <b>Appendix M</b> |
| <b>AD-3030-FS</b>                               | Felony Conviction and Tax Delinquent Status for Corporate Applicants (if your organization is a corporation) | <b>Appendix N</b> |
| <b>FS-1500-22</b>                               | Financial Capability Questionnaire                                                                           | <b>Appendix O</b> |

### Civil Rights Review.

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In addition to the SF-424 suite of forms, the Forest Service will conduct a Civil Rights Review of your organization, unless you can share evidence that another federal agency has conducted such a review in the last 12 months. **Appendix P** provides the questions that your Forest Service program manager will be asking your organization during the Civil Rights Compliance Review.

### System of Award Management (SAM).

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Prior to award, the recipient must be eligible to receive federal funding as verified in [SAM](http://www.sam.gov) at [www.sam.gov](http://www.sam.gov). This includes confirmation that the recipient is not on the Excluded Parties Listing.

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### **Requirement for Data Universal Numbering System (DUNS) Numbers.**

As part of the SAM registration process, the recipient must have a DUNS number. For information on obtaining a [DUNS](http://www.dnb.com/duns-number.html) number visit <http://www.dnb.com/duns-number.html>.

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### **Grant Period.**

Community Forest Program grants must start within the fiscal year that the project was awarded funding (10/1 – 9/30). The initial grant period for CFP grants will be two years. If there is a need, the grant may be extended up to five years. Grant extensions are done at the discretion of the Forest Service and will only be granted if there are circumstances outside of the recipient's control that have prevented acquisition and if there is a high likelihood of success if the grant is extended. Extensions must be formally requested by the grant recipient to the Forest Service.

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### **Annual Reporting.**

During the life of the federal grant (the identified start date and end date of the grant) the recipient will be required to submit annual narrative and financial reports detailing progress on the project. See **Appendix Q** for a sample CFP annual narrative reporting form. See **Appendix R** for a blank SF-425 annual financial reporting form. Generally, the reporting period for these reports ends on December 31, and the reports are due by the following March 31, but specific requirements will be negotiated with your Forest Service region and included in the grant documentation.

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### **Program Income.**

Federal grant regulations define program income as “gross income earned by a recipient that is directly generated by a sponsored activity or earned as a result of the award.” Such income must be accounted for in the submitted project budget, and handled uniquely. For the purposes of the Community Forest Program, if a timber sale or other revenue-generating activity is planned on the Community Forest property during the grant, with income accruing to the CFP grantee, that income must be projected in the project budget initially submitted with your grant paperwork. If revenue is generated from the Community Forest after the CFP grant period, program income rules do not come into effect. Please work closely with your Forest Service program manager and grants & agreements staff if you anticipate any revenue generating activities during the grant period, since addressing program income in a federal grant can be complicated.

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### **Reimbursement or Advance Payment.**

When you submit your grant application, you will need to decide if you will request reimbursement for the costs of your CFP acquisition after providing the purchase funds from your own organization's resources, or advance payment of the grant funds so they can be included in escrow for closing.

**Appendix S** provides sample SF-270 forms for reimbursement or advance payment. If selecting advance payment, please be aware that completed acquisition due diligence documentation must be submitted to the Forest Service at least 60 days prior to the acquisition closing date.

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### **Grant Award Package**

After receipt and approval of all federal grant forms, your organization will receive a grant award package, a sample of which is included as **Appendix T**. This package includes specific Federal Government, Forest

Service, and Community Forest Program administrative provisions for which your organization will be accountable.

A list of documentation required to close the federal grant after completion of the project is included in the CFP Post-Acquisition Requirements section of this document.

## 5 ACQUISITION MANAGEMENT

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A Community Forest Program acquisition entails completion of specific requirements, and associated review and acknowledgement by the Forest Service prior to payment of grant funds.

As outlined in Section 4, CFP acquisition funds can be either requested in advance of the acquisition (up to 30 days), or reimbursed after the acquisition has occurred. For advanced payments, the Grant Recipient must notify the Forest Service’s Community Forest Program Manager and submit all necessary documentation for final review and concurrence at least 60 days in advance of the acquisition closing date.

As noted in the CFP Final Rule **§ 230.7 Grant requirements**, the CFP funds are unavailable to the grant recipient to acquire the property by the grantee, until all items in **§ 230.8 Acquisition Requirements** are met.

Consult the Figure 1. on the following page for the Acquisition Requirements, with citations from the CFP Final Rule, which must be met and documented prior to the release of acquisition funding.

The following Appendices provide crucial guidance on the appraisal process and other technical components of a successful CFP acquisition:

|                    |                                                                                                            |                                            |
|--------------------|------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| <b>Appendix U</b>  | CFP Appraisal Pre-work Discussion                                                                          |                                            |
| <b>Appendix V</b>  | Sample CFP Appraisal Instructions                                                                          | <i>Forms specific to appraisal process</i> |
| <b>Appendix W</b>  | Sample Scope of Work for CFP Review Appraisal Services                                                     |                                            |
| <b>Appendix X</b>  | Sample Technical Appraisal Review Report                                                                   |                                            |
| <b>Appendix Y</b>  | Sample Amicable Agreement landowner notification letter                                                    |                                            |
| <b>Appendix Z</b>  | 26 CFR 1.170A-14. Section (g)(4), contains information relevant to mineral remoteness determination        |                                            |
| <b>Appendix A1</b> | Sample Mineral Remoteness Determination acceptable to the Community Forest Program                         |                                            |
| <b>Appendix B1</b> | Sample Notice of Grant Requirement Language to be inserted into the recorded deed for the Community Forest |                                            |

**Note: CFP grant recipients should anticipate working closely with their Forest Service program manager to ensure the full list of acquisition requirements outlined above are acceptable and adequate for the Community Forest Program**

**FIGURE 1.**

**CFP ACQUISITION  
REQUIREMENTS**

**Final Appraisal Review Report | § 230.8 (a)(1)(i)**

Completed appraisal AND an technical appraisal review of the subject property must conform to Federal Appraisal (Yellow Book) Standards as contained in the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). Available as a public document at: (<http://www.justice.gov/enrd/land-ack/Uniform-Appraisal-Standards.pdf>)

- a) Appraisers and Review Appraisers must be certified as a general appraiser in the state where the appraised property is located, or have obtained reciprocity or a temporary practice permit in the state where the appraised property is located.
- b) Appraisers and Review Appraisers must certify in the appraisal report that they meet the requirements of the 'Competency Rule' as stated in the current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) published by the Appraisal Standards Board of The Appraisal Foundation.

**Documentation of value by independent appraisal | § 230.8 (a)(1)(ii)  
Final Amicable Agreement/Landowner Letter | § 230.8 (a)(2)**

Under the Community Forest Program, a grant recipient must notify the landowner in writing of the market value of the property, that eminent domain will not be used, and that the property will not be acquired if negotiations fail to result in an amicable agreement.

- a) The consideration paid to any landowner must not be any more than the 'market value' of the conveyed lands as determined by an appraisal prepared and reviewed in compliance with UASFLA as noted in item #1 above.
- b) If the grant recipient has a voluntary option for less than the appraised value, they do not have to renegotiate the purchase agreement.

**Final Minerals determination or  
letter stating minerals have not been severed from surface rights | § 230.8 (a)(3)**

Ensure that the purchase included all surface and subsurface mineral rights whenever possible. However, if severed mineral rights cannot be obtained, then the grant recipient must follow the retention of qualified mineral interest requirements outlined in the Internal Revenue Service regulations that address both surface and subsurface minerals as outlined in 26 CFR 1.170A-14(g)(4).

**Final Title ensuring no liens, restrictions, or right-of-ways  
that are incompatible with the CFP | § 230.8 (a)(4)**

Ensure that the title to land acquired conforms to title standards applicable to the State land acquisition where the land is located.

- a) Title must not be subject to encumbrances or agreements of any kind that would be contrary to the purpose of the CFP.
- b) Title insurance cannot be used as a substitute for acceptable title.

**Final Deed language, including | § 230.8 (a)(5)  
Notice of Grant Requirement | § 230.8 (a)(5)(i-viii)**

Ensure that the deed is recorded in the lands record of the local county or municipality along with a 'Notice of Grant Requirement' that contains the following provisions:

- a) that the property (including and cost share tracts) was purchased with CFP funds;
- b) provides a complete legal description;
- c) identifies the name and address of the grant recipient who is the authorized title holder;
- d) states the purpose of the CFP;
- e) references by title and agreement number, the Grant Agreement with the Forest Service and the address where such is kept on file;
- f) states that the grant recipient confirms its obligation to manage the interest in real property pursuant to the grant, the Community Forest Plan, and the purpose of the CFP;
- g) states that the grant recipient will not convey or encumber the interest in real property, in whole or in part, to another party; and
- h) further states that the grant recipient will manage the interest in the real property consistent with the purposes of the CFP

## 6 POST-ACQUISITION REQUIREMENTS

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Post-acquisition requirements due 120-days after the Community Forest is acquired:

**§ 230.7 (g)** GIS shapefile of the lands acquired with CFP funds OR used as cost share.

Appendix C1 provides GIS data standards required for the Community Forest Program.

**§ 230.9 (a)** Final Community Forest Plan.

Appendix D1 outlines required components of a Community Forest Plan.

### **Grant Close-out Documentation.**

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Prior to community forest program acquisition, all acquisition requirements outlined above must be approved by the Forest Service, which meets the bulk of grant close out documentation needs. In addition to documents already provided, a CFP grant recipient will need to submit a letter requesting the grant be closed, the final recorded deed (if acquisition occurred with an FS Advance Payment), a Request for Payment (SF-270) marked 'final', a Final Financial Status Report (SF-425), and a final Performance Report.

**Appendix E1** provides a sample CFP Grant Close-out Report template.

### **Perpetual Community Forest Requirements.**

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- Maintain the community forest consistent with the program and application purposes. If a grant recipient sells or converts the acquired community forest to nonforest uses or a use inconsistent with the purposes of the CFP, the grant recipient shall:
  - a. Pay the United States an amount equal to the current sale price or the current appraised value of the parcel, whichever is greater; and
  - b. Not be eligible for additional grants under the CFP.
- Provide appropriate public access.
- Submit every 5 years a self-certifying statement that the property has not been sold or converted to non-forest uses.
- Be subject to a spot check conducted to verify that Community Forest has not been sold or converted to non-forest uses.
- Periodically review and update the Community Forest Plan as necessary.

## 7 APPENDICES

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- A. Community Forest & Open Space Program Authorizing Language
- B. Community Forest Program final rule published in Federal Register, October 20, 2011
- C. 2016 Community Forest Program Request for Applications
- D. Community Forest Program Panel Review Guidance
- E. Community Forest Program Application Template
- F. Community Forest Program Project Map Recommendations
- G. Sample Completed Federal Grant Forms
- H. Application for Federal Assistance SF424
- I. Budget information—Construction programs SF424C
- J. Assurances of compliance with all applicable Federal laws, regulations, and policies—Construction programs SF424D
- K. Certification Regarding Debarment and Suspension AD1047
- L. Certification Regarding Drug-Free Workplace AD1049
- M. Certification Regarding Lobbying (if FS \$ are >\$100,000) FS-1500-35
- N. Felony Conviction and Tax Delinquent Status for Corporate Applicants (if your organization is a corporation) AD-3030
- O. Financial Capability Questionnaire FS-1500-22
- P. Civil Rights Compliance Review
- Q. Sample CFP Annual Narrative Grant Accomplishment Report Form Blank
- R. SF425 annual financial reporting form
- S. Sample SF270 forms for reimbursement or advance payment
- T. Grant Award Package
- U. CFP Appraisal Pre-work Discussion
- V. Sample CFP Appraisal Instructions
- W. Sample Scope of Work for CFP Review Appraisal Services
- X. Sample Technical Appraisal Review Report
- Y. Sample Amicable Agreement landowner notification letter
- Z. 26 CFR 1.170A-14. Section (g)(4)—Page 13 contains information relevant to mineral remoteness determination

## **7 APPENDICES CONT'D.**

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- A1.** Sample Remoteness Determination acceptable to the Community Forest Program
- B1.** Sample Notice of Grant Requirement Language to be inserted into the recorded deed for the Community Forest
- C1.** GIS data standards required for the Community Forest Program
- D1.** Required components of a Community Forest Plan
- E1.** Sample CFP Grant Close-out Report template
- F1.** Landowner 5-year Questionnaire