



# USDA Forest Service Community Forest and Open Space Conservation Program Frequently Asked Questions *(Updated July 2023)*

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## **General:**

### **What is meant by the term “Community Forest”?**

The Community Forest Program rule defines Community Forest as “Forest land owned in fee-simple by an eligible entity that provides public access and is managed to provide community benefits pursuant to a community forest plan.” Community benefits are economic, ecological, educational, and recreational. A complete definition of community benefits can be found in the rule (Final Rule §230.2 Definitions. *Community benefits*). For the purposes of the program, a community forest is also at least five acres in size and at least 75 percent forested.

### **How much money will be available in this round of request for applications (RFA)?**

The availability of funding for the Community Forest Program each year is not known until Congress appropriates a fiscal year budget for the Forest Service. The Fiscal Year 2024 budget has not yet been appropriated. In Fiscal Year 2023, Congress appropriated \$6 million dollars of funding.

### **What is the maximum amount of CFP funds that can be requested for a project?**

In Fiscal Year 2024, the maximum amount of CFP funds that can be requested for a single project is \$600,000.

All applicants must demonstrate a 50 percent cost share of the total project cost or greater. The cost share can include cash, in-kind services, or donations, which must be from a non-Federal source.

### **What can Community Forest funds be used for?**

The primary purpose of Community Forest Program funds is to acquire private forest lands to create a Community Forest. Allowable acquisition costs directly related to the acquisition of the land for CFP by an eligible entity may also be allowed (Final Rule §230.6 Project costs and cost share requirements (b)(1-5)).

### **What does the grant application include?**

The Revised Rule reduces the information collected by applicants. The application package includes everything listed under section 4 of the Request for Applications (Application Requirements): (1) the

project description- no more than 8 pages; and (2) no more than 2 pages of maps (eight and half inches by eleven inches in size).

The rule also requires that during the application process an applicant must provide documentation that they are an eligible entity and that the proposed acquisition is of eligible lands (Final Rule §230.4 Application requirements (a)). Additionally, all prospective awardees shall be registered in the U.S. Government's System for Award Management prior to the award. Further information can be found at <https://sam.gov/content/home>.

Additional resources for applicants, including a sample application, can be found on the Community Forest Program website <https://www.fs.usda.gov/managing-land/private-land/community-forest/program>.

### **Where do I send my application?**

In the case of non-profits and local governments, the application is sent first to the State Forester, who then sends it to the Forest Service. In the case of an Indian Tribe, the application is sent to the equivalent Tribal official, who then sends it to the Forest Service. All applicants must also send an e-mail to [SM.FS.CFP@usda.gov](mailto:SM.FS.CFP@usda.gov) to confirm an application has been submitted for funding consideration.

Please see the most current request for applications for links to the State Foresters contact list, as well as Forest Service contacts. Forest Service contacts are also available on the Community Forest webpage: <https://www.fs.usda.gov/about-agency/contact-us/community-forest-regional-coordinators>.

### **Why is it important for the application to show how the Community Forest Program is part of a larger landscape initiative?**

The extent to which the community forest contributes to a landscape conservation initiative is one of the ranking criteria that will be used for project selection (Final Rule §230.5 Ranking criteria and proposal selection (c)). The applicant should explain how the property contributes to a larger landscape initiative in the application (Final Rule §230.4 Application requirements (b)(6)).

A project that is not part of a larger landscape initiative may still rank high enough for funding consideration if other attributes are highly ranked and the applicant effectively demonstrates the importance of the project to the community (e.g., the project creates access to green/open space where there is none).

### **If I have additional questions, where can I submit them?**

Please contact the appropriate Forest Service regional contact identified in the Request for Applications with any questions or email questions to [SM.FS.CFP@usda.gov](mailto:SM.FS.CFP@usda.gov). Additional program resources, such as the Community Forest Road Map, can be found on the Community Forest Program website: <https://www.fs.usda.gov/managing-land/private-land/community-forest/program>. These frequently asked questions will be updated periodically.

## **Eligibility:**

### **Is property currently owned by a unit of government eligible for the Community Forest Program?**

No. The rule defines eligible lands as private forest lands (Final Rule §230.2 Definitions. *Eligible lands*).

### **If property already has a conservation easement in place, is it eligible for the Community Forest Program?**

No. The statute and rule define eligible lands as private forest lands that are threatened by conversion to non-forest uses (Final Rule §230.2 Definitions. *Eligible lands*). A conservation easement on a property has removed the threat of conversion.

### **If the land has already been acquired can Community Forest Program funds be used to pay off a loan?**

No. Funds cannot be used for existing liens or taxes owed (Final Rule §230.6 Project cost and cost share requirements).

### **The landowner of a potential Community Forest Program project needs to sell the land before the grant will be executed. Is the project eligible through reimbursement?**

No. The land cannot be acquired before the grant is fully executed. Furthermore, the rule requires the applicant to submit all necessary documentation to regional Forest Service managers and allow at least 60 days prior to closing on an acquisition for review and acceptance (§230.8 Acquisition requirements). The absolute earliest land could be acquired and be eligible for Community Forest Program purposes (including cost share tracts) would be 60 days after the grant is fully executed.

### **We have identified a project but currently, the property is less than 75% forest, which is required by the Final Rule. Can a project that needs reforestation or restoration qualify for funding?**

No, projects must be at least 75 percent forested (Final Rule §230.2 Definitions. *Forest lands*).

### **Can land be part of the Forest Legacy Program and the Community Forest Program?**

A proposed application cannot be submitted for funding consideration simultaneously for both the Community Forest Program and the Forest Legacy Program (Final Rule §230.3 Application process (f)). However, if a project is submitted for consideration but not funded in one program, it may be submitted for funding by the other program during the next application cycle if it qualifies.

### **Can a Community Forest Program application include multiple tracts or different owners?**

Yes, an application can be for multiple tracts, even if multiple owners are involved. The acquisition of tracts does not have to be simultaneous.

### **Can a Community Forest Program application include non-contiguous tracts?**

Yes, a community forest can be made up of non-contiguous tracts, but the applicant must explain how these parcels make sense and deliver on the objectives of the community forest as a whole. Our experience shows that this is challenging. Before submitting an application, you should discuss it with your Forest Service regional contact identified in the RFA.

### **What types of nonprofit organizations are eligible to apply for funding?**

The rule (Final Rule §230.2 Definitions. *Qualified nonprofit organization*) identifies qualified nonprofit organizations as an organization that is described in Section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)) and operated in accordance with one or more of the conservation purposes specified in Section 170 (h)(4)(A) of that Code. These conservation purposes include:

- The preservation of land areas for outdoor recreation by, or for the education of, the general public,
- The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public, or
- The preservation of a historically important land area or certified historic structure.

For the purposes of the Community Forest Program, a qualified organization must also have a commitment to protect in perpetuity the purposes for which the tract was acquired under the Community Forest Program and demonstrate that it has the resources to enforce the protection of the property as a community forest as a condition of acquiring a tract under the Community Forest Program.

### **The rule mentions that all surface and subsurface mineral rights must be purchased, if possible. Why is this required?**

Mining and nonrenewable resource extraction that would disturb the surface are defined by the rule as non-forest uses and are not allowed (Final Rule §230.2 Definitions. *Nonforest uses*) because they would conflict with the purposes for which the property was acquired. Because surface disturbance is incompatible with the program, lands with outstanding mineral interest might not be eligible.

If there are severed mineral rights on a proposed CFP property, these rights must be acquired so that such uses are controlled by the holder of the community forest. If they cannot be obtained, then the grant recipient must follow the retention of qualified mineral interest requirements as outlined in the Internal Revenue Service regulations (26 CFR 1.170A-14(g)(4)). If all three requirements of 26 CFR 1.170A-14(g)(4)(ii)(a) are satisfied, including conducting a remoteness determination, the property can be eligible for participation in the Community Forest Program. If mineral rights are not intact, cannot be acquired, and the property does not meet IRS requirements listed above, the property is not eligible for funding through the CFP (Final Rule §230.8 Acquisition requirements (a)(3)).

### **Are there restrictions on other types of rights, contracts, or other encumbrances?**

Yes, there are restrictions. The rule states that “Title to lands acquired using CFP funds must not be subject to encumbrances or agreements of any kind that would be contrary to the purpose of the CFP (Final Rule §230.8 Acquisition requirements (a)(4)(i).)”

### **Can Community Forest Program funds be used to acquire land in a Department of Defense (DOD) Buffer zone? And can DOD funds be used as federal cost share?**

Yes, Community Forest Program funds can be used to acquire land in a DOD buffer zone as long as it meets all the requirements of the program.

The DOD allows the recipient of funds provided pursuant to an agreement under [10 U.S. Code §2684a](#) or under the Sikes Act (16 U.S.C. 670 et seq.) to use such funds to satisfy the match or cost-sharing requirement of any conservation program of the Department of Agriculture or the Department of the Interior as long as it meets all the requirements of the program. See [10 U.S.C 2684a\(h\)](#).

### **Applications and Funding Decisions:**

#### **How will decisions be made as to what projects to fund?**

The application process is explained in the Final Rule §230.3 Application process, §230.4 Application requirements, and §230.5 Ranking criteria and proposal selection of the rule. Projects are evaluated by a national panel of Forest Service Staff that review each application and score the projects based on the criteria discussed in the RFA. The Forest Service will give priority to applications that maximizes the delivery of community benefits as defined by the rule (Final Rule §230.5 Ranking criteria and proposal selection).

### **Tribal Questions:**

#### **Can only Federally Recognized Tribes apply for funding for a project?**

Yes, only Federally Recognized Indian Tribes may apply for funding (Final Rule §230.1 Purpose and scope (a)(1)). The term “Indian Tribe” is given in section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b); includes federally recognized Indian Tribes and Alaska Native Corporations (Final Rule §230.2 Definitions *Eligible Entity* (2)).

#### **Will applications from Tribes be reviewed separately from local units of government and non-profit organizations? Will there be a fixed amount or percentage that will go to Tribes?**

All applications, including those from Indian Tribes, will be considered together and all eligible entities will have access to a single source of funds. The rule states (Final Rule §230.5 Ranking criteria and proposal selection) “The Forest Service will evaluate all applications received by the State Foresters or equivalent officials of the Indian Tribes...”.

#### **Can a Tribe apply for funding for a project in ancestral lands if the Tribal government is now located in another State?**

Yes, provided that all other program requirements are satisfied. Public access would still be required. It may be difficult to manage the lands as intended by the community forest program if there is not a local presence.

#### **Are Tribal colleges and universities eligible for funding?**

Eligible entities are defined as local governments, non-profit organizations, and federally recognized Tribes; colleges and universities are not eligible for funding. However, colleges and universities may

partner with an eligible entity to assist the eligible entity in acquiring the community forest through this program.

**Can a Community Forest be placed in Tribal Trust status?**

No, the enacted legislation or law (Section 7A, 16 U.S.C. c6 Effect on Trust Land A. and B.) states that no land acquired under the program be converted to land held in trust by the United States on behalf of any Indian Tribe.

**What degree of public access is required? Could a Tribe close all or portions of a community forest to non-tribal members of the public for short durations (a few days to a few weeks)?**

As long as reasonable public access is allowed, limited closures, which are outlined and explained in the application and the community forest plan, to accommodate Tribal ceremonies may be consistent with the definition of public access. The rule defines Public Access as “Access that is provided on a non-discriminatory basis at reasonable times and places but may be limited to protect cultural and natural resources or public health and safety (Final Rule §230.2 Definitions *Public access*).” The rule further requires (Final Rule §230.9 Ownership and use requirements (c)) that the Grant recipient shall provide appropriate public access.

Any limits on public access should be described in the application. One of the community benefits on which a proposed project will be evaluated is recreational benefits such as hiking, hunting, and fishing secured through public access. Significant limitations on public access could render a project ineligible or have an impact on the competitiveness of a project.

For funded projects, the management of public access must be outlined and discussed in the community forest plan (Final Rule §230.2 Definitions. *Community forest plan* (7)). The plan must discuss any proposed limitations to protect cultural or natural resources.

**Use and Management of a Community Forest:**

**What degree of public access must be allowed? Can it be closed to the public for certain times of the year?**

Eligible lands are defined by the rule in part as “Private Forest Lands that: (3) if acquired by an eligible entity, can provide defined community benefits under the Community Forest Program and allow public access (Final Rule §230.2 Definitions. *Eligible lands*).

The rule defines Public Access as “Access that is provided on a non-discriminatory basis at reasonable times and places but may be limited to protect cultural and natural resources or public health and safety (Final Rule section §230.2 Definitions *Public access*).” The rule further requires (Final Rule §230.9 Ownership and use requirements (c)) that the Grant recipient shall provide appropriate public access.

The management of public access must be outlined and discussed in the community forest plan (Final Rule §230.2 Definitions. *Community forest plan* (7)). The plan must discuss any proposed limitations to

protect cultural or natural resources. One of the community benefits on which a proposed project will be evaluated is recreational benefits such as hiking, hunting, and fishing secured through public access. Significant limitations on public access could render a project ineligible or have an impact on the competitiveness of a project.

**Can hunting be allowed on property that is acquired through the Community Forest Program?**

Recreational benefits including hunting are recognized as community benefits that can be provided by the CFP (Final Rule §230.2 Definitions. *Community benefits*). As with other uses of a property, game management and hunting activities will need to be addressed in the community forest plan.

**Can there be structures on land that enters the Community Forest Program?**

Generally, structures are viewed as nonforest uses and are not allowed by the program. There are, however, exceptions. If there is a bona fide need and it is supported by the community forest plan, there may be a caretaker building (Final Rule §230.2 Definitions *Nonforest uses*). There may also be compatible recreational facilities, concessions and educational kiosks, energy development for onsite use, facilities associated with appropriate forest management and parking areas. These structures, facilities and parking areas must be identified in the community forest plan and must have only minimal impact to forest and water resources (Final Rule §230.2 Definitions *Nonforest uses (2)(vi)*). Existing structures, such as but not limited to communication infrastructure, do not disqualify a property from consideration, but when developing the community forest plan, the grant recipient must explain the utilization or demolition of existing structures and the proposed needs for further improvements (Final Rule §230.2 Definitions. *Community forest plan (6)*).

**How long must the land remain in a forested condition? Can the use be changed in the future? Can it be sold?**

The intent of the program is to establish community forest for community benefits by acquiring and protecting forestlands. The statute and the rule are clear that once a community forest is acquired by an eligible entity through the Community Forest Program, the community forest must remain in a forested condition in perpetuity. Also, the property cannot be sold or conveyed to any entity that is not an eligible entity as defined by the Final Rule.

The final rule requires that (Final Rule §230.8 Acquisition requirements (b)(1-8)) a notice of the grant agreement must be filed with the deed to the property. This notice requires that grant recipients manage the land consistent with the intent of the CFP and that the recipient will not convey or encumber the interest in the property. If the interest is sold or converted to non-forest use, the grant recipient must pay the United States an amount equal to the current sale price or the current appraised value of the parcel (at time of sale/conversion), whichever is greater (Final Rule §230.9 Ownership and use requirements (d)).

**Must timber management occur on the property?**

No. Sustainable forest management (harvesting, thinning, forest health treatments etc.) is an allowed use but not required. Economic benefits such as timber and non-timber products are viewed by the

program as community benefits. The list of community benefits that can be derived from a project are outlined in the Final Rule (Final Rule §230.2 Definitions. *Community benefits*).

**The rule mentions economic benefits as a community benefit. What types of activities and products provide economic benefits?**

The rule defines economic benefits as timber and non-timber products resulting from sustainable forest management and tourism. Examples of activities and products that provide economic benefits may include (but are not limited to) mountain biking or other recreational activities, cultural resources, maple syrup harvesting, grazing, mushroom gathering, and other activities that accrue benefits to the community. As with other uses of a property, activities will need to be addressed in the community forest plan.

**Appraisals**

**What are Federal Appraisal standards?**

Federal appraisal standards refer to the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) also known as the 'Yellow Book'. A copy may be found at the following website: <https://www.justice.gov/file/408306/download>. Both the appraisal and the review appraisal must be completed to UASFLA compliance.

**How recent must an appraisal be?**

An appraisal must be an accurate representation of the market at the time of acquisition. Each appraisal has an effective date when it is completed. Generally, the appraisal is considered to be representative of the market for one year; beyond that, the appraisal must be updated. An appraisal may be valid for less than one year if there are significant changes in the market either up or down.

**What type of appraisal review is required, administrative or technical?**

A technical review, which is performed by an appraiser in accordance with UASFLA (UASFLA Sec. 3.2 Types of Appraisal Reviews), may be conducted as either desk reviews or field reviews (UASFLA Sec. 3.3 Problem Identification). Whether to require a technical desk review versus a technical field review is the grant recipient's choice.

**The Final Rule mentions an appraisal review. Who does this appraisal review? Does the Forest Service do this appraisal review?**

The grant recipient is responsible for identifying and working with a review appraiser that is qualified to complete an appraisal review in accordance with Federal Appraisal Standards. The rule requires that the grant recipient must provide documentation that the appraisal and associated appraisal review were conducted in a manner consistent with the Federal appraisal standards (Final Rule §230.8 Acquisition



requirements (a)(1)(i)). The Forest Service may choose to conduct spot checks of projects to ensure that the standard has been met.

### **Role of the State Forester or Equivalent Official:**

#### **What is a State's long-term role in the monitoring of tracts protected through the Community Forest Program?**

The Forest Service, not the State, is responsible for long term monitoring (Final Rule §230.9 Ownership and use requirements (g)).

#### **What is the State's role in program implementation?**

The State Forester receives applications from qualified nonprofits and local governmental entities and submits them to the Forest Service. As time and resources allow, the State Forester may provide a review of each application to help the Forest Service determine 1) that the applicant is an eligible entity, 2) that the land is eligible, 3) that the proposed project has not been submitted for funding consideration under the Forest Legacy Program and, 4) whether the proposed project contributes to a landscape conservation initiative.

The State Forester may, at their discretion, provide assistance to an eligible entity in developing a community forest plan. Such assistance may be funded with a grant to the state if technical assistance needs are identified in the application and provided by state personnel.

### **Technical Assistance Funds**

#### **What are technical assistance funds? How are they requested?**

Technical assistance funds may only be provided to State foresters or equivalent officials of Indian Tribes through an administrative grant to help implement a community forest project funded within their jurisdiction. This could be assistance in developing the community forest plan, survey work, and assistance with title work, mineral determination, or other needs.

The Community Forest Program applicant must contact the State Forester or equivalent official to determine technical assistance needs and request technical assistance funds in the application. Technical assistance funds are not subject to the 50-50 match requirement of acquisition funds. Technical assistance funds to States or equivalent officials of Indian Tribes are discussed in §230.10 of the Final Rule.

#### **Is a State or Tribe's pre-award cost (such as providing technical assistance to an applicant) reimbursable?**

Developing a project is not an allowable reimbursable cost. If a State or Tribe assists an applicant with an allowable cost (such as a survey prior to the grant being awarded) this may be considered an allowable cost under the State's technical assistance grant if the project receives funds. Allowable costs are discussed in §230.6 (b) of the Final Rule.

**If a State or Tribe were to receive these funds, how long would they have to spend them?**

These funds will be available to the State or Indian Tribe to provide technical assistance to the eligible entity that received the grant. The initial grant period for both the project and technical assistance grant 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.