

## **Environment and Natural Resources Trust Fund (ENRTF) Fee Title Acquisition Criteria and Checklist**

*NOTE: The following criteria and checklist should be considered minimum requirements and may be modified in the future.*

### Overall Fee Title Acquisition Project Requirements

Priority is to be given to acquiring lands with high quality natural resources and conservation lands that provide natural buffers to water resources.

All new lands acquired must have an ecological restoration and management plan that is consistent with the highest quality conservation and ecological goals for the site. Funding for implementation of the restoration and management plan must be included in the appropriation or have another funding source identified in the work plan.

To ensure public accountability for the use of public funds, documentation of the selection process used to identify parcels acquired and documentation of all related transaction costs, including appraisals, legal fees, recording fees, commissions, other similar costs, and donations must be provided to the LCCMR and to all parties involved in the transaction. The project manager must also report to the LCCMR any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal. More information about how to provide this documentation can be found on the LCCMR website at [http://www.lccmr.leg.mn/Project-Manager-Info/transaction\\_costs\\_guidance.pdf](http://www.lccmr.leg.mn/Project-Manager-Info/transaction_costs_guidance.pdf).

Project managers must provide the LCCMR and the Office of Management and Budget (MMB) an analysis of increased operations and maintenance costs likely to be incurred by public entities as a result of the acquisition and how these costs will be paid.

All projects acquiring land or interest in land have three additional requirements: Minnesota Statute 116P.15 Land Acquisition Restrictions, 116P.16 Real Property Interest Report to the LCCMR, and 116P.17 Acquisition of Lands to be Conveyed to the State; Commissioner Approval. Full text of Minnesota Statutes 116P.15-17 can be found at the end of this document.

### Fulfilling Fee Acquisition Reporting Requirements to the LCCMR

#### *Documented in Work Plan*

1. Stipulate county board approval will be obtained for each acquisition
2. Stipulate a restoration and management plan will be prepared. Include an explanation of the components of the restoration and management plan.
3. Identify funding source(s) to implement the restoration and management plan
4. Stipulate that an analysis will be provided to LCCMR and MMB which identifies increased operations and maintenance costs likely to be incurred by public entities as a result of the acquisition and how these costs are to be paid.
5. Description of project selection process, including necessary project criteria and the decision-making process used to sort/rank projects. If proposed acquisitions are part of an adopted plan, referencing that plan and providing a link (if available) is sufficient to satisfy this requirement.
6. Provide a proposed list of acquisitions, as described in work plan instructions.
7. Provide a parcel-scale map for each acquisition.
8. If lands are to be conveyed to the DNR, stipulate that written approval from the DNR commissioner will be obtained prior to the acquisition.

*Provided to LCCMR for Each Fee Title Acquisition After Procurement:*

- Natural Resources Management Plan: stipulate it has been prepared.
- Transaction cost report (see "Project Manager Info" page on LCCMR website).
- Initial Land Acquisition report (see "Project Manager Info" page on LCCMR website).

### **116P.15 LAND ACQUISITION RESTRICTIONS**

Subdivision 1. **Scope.** A recipient of an appropriation from the trust fund or the Minnesota future resources fund who acquires an interest in real property with the appropriation must comply with this section. If the recipient fails to comply with the terms of this section, ownership of the interest in real property transfers to the state. For the purposes of this section, "interest in real property" includes, but is not limited to, an easement or fee title to property.

Subd. 2. **Restrictions; modification procedure.**

(a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.

(b) A recipient of funding who acquires an interest in real property subject to this section may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the commission. The commission shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

- (1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and
- (2) the interest is in a reasonably equivalent location, and has a reasonably equivalent usefulness compared to the interest being replaced.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

- (1) a legal description of the interest in real property covered by the funding agreement;
- (2) a reference to the underlying funding agreement;
- (3) a reference to this section; and
- (4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement or work program controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Legislative-Citizen Commission on Minnesota Resources or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work program, ownership of the interest in real property shall transfer to this state."

**History:** *15p2001 c 2 s 141; 2002 c 225 s 4; 2006 c 243 s 21*

### **116P.16 REAL PROPERTY INTEREST REPORT**

By December 1 each year, a recipient of an appropriation from the trust fund that is used for the acquisition of an interest in real property must submit annual reports on the status of the real property

to the Legislative-Citizen Commission on Minnesota Resources in a form determined by the commission. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person who holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

- (1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;
- (2) inform the person to whom the responsibility is transferred of the property restrictions under section 116P.15; and
- (3) provide written notice to the commission of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred.

After the transfer, the person who holds the interest in the real property is responsible for reporting requirements under this section.

**History:** *1Sp2005 c 1 art 2 s 136; 2006 c 243 s 21*

### **116P.17 ACQUISITION OF LANDS TO BE CONVEYED TO THE STATE; COMMISSIONER APPROVAL**

A recipient of an appropriation from the trust fund who acquires an interest in real property must receive written approval from the commissioner of natural resources prior to the acquisition of the interest, if the interest:

- (1) is acquired in whole or in part with the appropriation; and
- (2) will be conveyed to the state for management by the commissioner.

The commissioner shall approve acquisitions under this section only when the interest in the real property:

- (1) is identified as a high priority by the commissioner; or
- (2) meets the objectives and criteria identified in the applicable acquisition plan for the intended management status of the property.

**History:** *2010 c a s*