

## § 230.9

## 36 CFR Ch. II (7–1–12 Edition)

which applies to all tracts, including cost share tracts:

(1) Complete an appraisal:

(i) For lands purchased with CFP funds, the appraisal must comply with Federal Appraisal Standards prior to the release of the grant funds. The grant recipient must provide documentation that the appraisal and associated appraisal review were conducted in a manner consistent with the Federal appraisal standards.

(ii) For donated cost share tracts, the market value must be determined by an independent appraiser. The value needs to be documented by a responsible official of the party to which the property is donated.

(2) Prior to closing, notify the landowner in writing of the appraised value of the property and that the sale is voluntary. If the grant recipient has a voluntary option for less than appraised value, they do not have to renegotiate the agreement.

(3) Purchase 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 (26 CFR 1.170A-14 (g)(4)), which address both surface and subsurface minerals.

(4) Ensure that title to lands acquired conforms to title standards applicable to State land acquisitions where the land is located:

(i) 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.

(ii) Title insurance must not be a substitute for acceptable title.

(5) Record with the deed in the lands record of the local county or municipality, a Notice of Grant Requirement, which includes the following:

(i) States that the property (including cost share tracts) was purchased with CFP funds;

(ii) Provides a legal description;

(iii) Identifies the name and address of the grant recipient who is the authorized title holder;

(iv) States the purpose of the CFP;

(v) References the Grant Agreement with the Forest Service (title and agreement number) and the address where it is kept on file;

(vi) 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;

(vii) States that the grant recipient will not convey or encumber the interest in real property, in whole or in part, to another party; and

(viii) States that the grant recipient will manage the interest in real property consistent with the purpose of the CFP.

### § 230.9 Ownership and use requirements.

(a) Grant recipient shall complete the final community forest plan within 120 days of the land acquisition, and must update the plan periodically to guide the management and the community benefits of the community forest.

(b) Grant recipient shall provide appropriate public access.

(c) In the event that a grant recipient sells or converts to nonforest uses or a use inconsistent with the purpose of the CFP, a parcel of land acquired under the CFP, the grant recipient shall:

(1) Pay the United States an amount equal to the current sale price or the current appraised value of the parcel, whichever is greater; and

(2) Not be eligible for additional grants under the CFP.

(d) For Indian tribes, land acquired using a grant provided under the CFP must not be sold, converted to nonforest uses or a use inconsistent with the purpose of the CFP, or converted to land held in trust by the United States on behalf of any Indian tribe.

(e) Every five years, the grant recipients will submit to the Forest Service a self-certifying statement that the property has not been sold or converted to nonforest uses or a use inconsistent with the purpose of the CFP.

(f) Grant recipients will be subject to a spot check conducted by the Forest Service to verify that property acquired under the CFP has not been sold or converted to nonforest uses or a use

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inconsistent with the purpose of the CFP.

### § 230.10 Technical assistance funds.

CFP technical assistance funds may be provided to State Foresters or equivalent officials of Indian tribes through an administrative grant to help implement community forest projects funded through the CFP, and as a result, funds will only be provided to States or Indian tribes with a CFP project funded within their jurisdiction. Section 7A (f) of the authorizing statute limits the funds made available for program administration and technical assistance to no more than 10% of all funds made available to carry out the program for each fiscal year.

## Subpart B—Urban and Community Forestry Assistance Program

SOURCE: 65 FR 57549, Sept. 25, 2000, unless otherwise noted.

### § 230.20 Scope and authority.

The Urban and Community Forestry Assistance Program is authorized by Section 9 of the Cooperative Forestry Assistance Act of 1978, as amended (16 U.S.C. 2105). The scope of this authority includes the provision of technical, financial, and related assistance to State and local governments, non-profits, and other members of the public to: maintain, expand, and preserve forest and tree cover; expand research and education efforts related to trees and forest cover; enhance technical skills and understanding of tree maintenance and practices involving cultivation of trees, shrubs and complementary ground covers; and implementing a tree planting program to complement urban tree maintenance and open space programs. The Secretary has delegated the authority for implementing the program to the Chief of the Forest Service under 7 CFR 2.60(a)(16).

### § 230.21 Implementation of the program.

(a) The Urban and Community Forestry Assistance Program is implemented through the Forest Service Grants, Cooperative Agreements, and Other Agreements Program (FSM 1580) and the Grants, Cooperative Agree-

ments, and Other Agreements Handbook (FSH 1509.11). The Forest Service Manual and Handbook are available from the Forest Service internet homepage or at National Forest offices.

(b) The Forest Service, under the authority of the Cooperative Forestry Assistance Act of 1978 and through the Urban and Community Forestry Assistance Program, coordinates financial, technical, and related assistance with the Natural Resources Conservation Service for the Urban Resources Partnership initiative. The Natural Resources Conservation Service provides similar assistance through the Urban Resources Partnership initiative under the authority of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a–590f). The Urban Resources Partnership is an initiative in which Federal agencies, in cooperation with State and local agencies, community groups, and non-governmental organizations endeavor to be more effective, responsive, and efficient in working together to protect, improve, and rehabilitate the environment in urban areas of the Nation. The Forest Service and Natural Resources Conservation Service implement the Urban Resources Partnership initiative under the “Urban Resources Partnership National Guidance for U.S. Department of Agriculture Personnel” and applicable agency and departmental procedures for Federal grants and cooperative agreements. Copies of the Guidance may be obtained from the Cooperative Forestry Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

## Subpart C—Forest Land Enhancement Program

SOURCE: 68 FR 34314, June 9, 2003, unless otherwise noted.

### § 230.30 Purpose and scope.

(a) The regulations in this subpart govern the operation of the Forest Land Enhancement Program (hereafter, FLEP) as provided in Section 4 of the Cooperative Forestry Assistance Act (16 U.S.C. 2101 *et seq.*), as amended by title VIII of the Farm Security and Rural Investment Act of 2002 (Pub. L.