



# Legacy Land Conservation Program

Hawai'i Department of Land and Natural Resources



# Land Acquisition Grant Guide

*The purpose of this guide is to assist grant applicants and grant recipients in complying with the requirements of the Legacy Land Conservation Program; however, this guide is informal and the contents are subject to change. **All awards issued through the Legacy Land Conservation Program are subject to the availability of funds.** Requests for applications may be cancelled and any or all proposals rejected in whole or in part, without liability, when it is determined to be in the best interest of the State. Final awards are subject to the availability of funds and are also subject to budget restrictions and procedures implemented under the Executive Biennium Budget Instructions.*

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Please visit the Legacy Land Conservation Program website at <http://dlnr.hawaii.gov/ecosystems/llcp/> for additional information and forms. Questions and comments regarding the Legacy Land Conservation Program may be directed to the Program Assistant at (808) 587-0061.

# 1 HOW TO APPLY AND INSTRUCTIONS FOR FORMS

## 1.1 Read these instructions and guidelines and preview the forms

Please read this guide and review forms and requirements thoroughly prior to completing any forms. Requests for funding must be consistent with instructions and this guide.

## 1.2 Submit Form 1: Agency Consultation, by July 29, 2016

Any applicants (or prospective applicants) to Legacy Land must fill out **Form 1: Agency Consultation** with basic information about the proposed project and submit it by deadline.

The online consultation form can be found at <http://dlnr.hawaii.gov/ecosystems/llcp/apply/>

Complete Form 1: Agency Consultation and submit the consultation form online to Legacy Land Conservation Program. Please remember to save a copy for your records. Print the consultation form three (3) times, address it to each of the following agencies, and send each by mail to the respective addresses:

James Nakatani, Executive Director  
Agribusiness Development Corporation  
State Office Tower, Room 205  
235 South Beretania Street  
Honolulu, HI 96813

Scott Enright, Chairperson  
Hawaii Department of Agriculture  
Office of the Chairperson  
1428 South King Street  
Honolulu, HI 96814

Suzanne D. Case, Chairperson  
Department of Land and Natural Resources  
(c/o: DOFAW / Legacy Land)  
1151 Punchbowl Street, Room 325  
Honolulu, HI 96813

Results of the consultation must be returned by the agencies to the applicant, and submitted along with the application package by the annual grant application form deadline.

Please note that a lack of response from an agency (where the applicant has submitted the Consultation Request Form by deadline) will not negatively impact the consideration of the project application by the Legacy Land Conservation Commission. However, providing a full record of comments helps the Commission in its deliberations.

### 1.3 Submit Form 5: Grant Application, by September 30, 2016

Sign up to use the online application service, using an email address and password. Please be advised of the following:

1. *Accurate and complete information*

All applications will be reviewed for accuracy and completeness. Any missing required information or inaccurate information may result in the rejection of an application.

2. *Public record*

All applications and any subsequent information provided by grant applicants relating to the Legacy Land Conservation Program shall be of public record except as may be excluded pursuant to Hawaii Revised Statutes, Chapter 92F.

#### 1.3.1 Submission of Form 5: Grant Application online

Fill out the online Grant Application Form and attach the following Required Preliminary Documentation (spaces are provided within the online form):

Table 1. **Required Preliminary Documentation**

Forms	
<i>Form 1: Agency Consultation</i>	Three separate agency consultation form responses and any accompanying consultation provided to the applicant by the Department of Land and Natural Resources, the Department of Agriculture, and the Agribusiness Development Corporation.
<i>Form 2: Land Acquisition Grant</i>	Form certifying that statements and information in the application are true and accurate. Must be completed by person authorized to sign on behalf of the agency or

	<i>Application Certification</i>	organization.  <b>Where the applicant is not the intended holder of the property:</b> The intended holder of the property interest must sign the application form as a co-applicant and provide any forms required of applicants (e.g., if the holder is a Nonprofit Land Conservation Organization, see Required Preliminary Documentation below)
	<i>Form 3: Project Costs Worksheet</i>	Excel worksheet detailing project costs.
	<i>Form 4: Matching Funds Worksheet</i>	Excel worksheet detailing matching funds.  Please note that requirements and or/provisions of other funding sources used for matching funds may differ from those of the LLCP and may require additional documentation or actions.
<b>Additional Attachments</b>		
1.	<i>Landowner Letter</i>	Letter from current landowner acknowledging project and indicating willingness to sell <b>OR</b> Explanation of why applicant is not able to obtain this letter.
2.	<i>Holder Letter</i>	<b>Where the applicant is not the intended holder of the property:</b> The intended holder of the property must provide a letter indicating willingness to participate as holder.
3.	<i>Maps</i>	General location map <b>AND</b> Parcel map
4.	<i>Site photographs</i>	At least one (1), but no more than three (3) photographs of the property.
5.	<i>Proof of Nonprofit status</i>	<b>Nonprofit Land Conservation Organizations ONLY:</b> Copy of mission statement <b>AND</b> IRS 501 (c) (3) <b>OR</b> (c) (1) Nonprofit Status Determination Letter.
6.	<i>Preliminary Title Report</i>	A preliminary title report. Include documentation for any exceptions listed in Schedule B and Schedule C. An updated report may be required for any projects that are approved for award.

Submit the completed the Grant Application Form along with the Required Preliminary Documentation by **September 30, 2016**, 4:30 p.m., Hawaii-Aleutian Time (HST).

### 1.3.2 *Submission of Form 5: Grant Application in hard copy*

Print hard copy from the online application and send to:

DLNR Legacy Land Conservation Program  
1151 Punchbowl Street, Room 325, Honolulu, HI 96813

**All materials must be submitted in both hard copy and online.** The application will not be considered complete until both formats have been received. Please size all photographs, maps, and other required documentation to fit 8.5" by 11" pages. Large or irregularly-sized documents will only be accepted if 12 or more hard copies are submitted.

After submitting the application, applicants should be available to answer any requests for information. Applicants may be asked to submit other supporting documentation (see examples below) during the review process. Applicants are encouraged to submit these documents with the application if they are available, in order to assist the evaluation. The inclusion of this information and any additional concise and relevant appended/supplementary materials is optional. All materials must be submitted in both hard copy and Portable Document Format (PDF). Please provide an index for these materials and size all documentation to fit 8.5" by 11" pages. Large or irregularly-sized documents will only be accepted if 12 or more copies are submitted. Examples of other supporting documentation include:

Table 2. **Other Supporting Documentation**

Additional Attachments		
1.	<i>Appraisal report</i>	For the purposes of applying, any available appraisals concerning the subject property may be included with the application, however, an appraisal report that has been approved by the Department of Land and Natural Resources will be required from applicants that have been approved for awards.
2.	<i>Verification of sources and status of matching funds</i>	Verification could be copies of grant applications submitted to other sources (and the status of these applications), contact information, or award letters.
3.	<i>ESA or CIA</i>	Environmental Site Assessment(s) or Cultural Impact

		Assessment(s).
4.	<i>Other Nonprofit documents</i>	Non-profit organizations may be required to submit copies of their bylaws, tax clearances, budgetary information, or other information in order to determine their non-profit status.
5.	<i>Other</i>	Other documentation verifying information included in application or deemed necessary by the Legacy Land Conservation Commission and the DLNR for evaluation.

## 2 GUIDELINES FOR LAND ACQUISITION GRANTS

Applicants to the Legacy Land Conservation Program should be aware of the following policies and requirements (based on Chapter 173A, Hawai'i Revised Statutes and Chapter 13-140, Hawai'i Administrative Rules):

### 2.1 Eligible applicants

State agencies, county agencies, and nonprofit land conservation organizations may apply for land acquisition grants. Please contact staff regarding any questions on the eligibility of nonprofit land conservation organizations.

### 2.2 Holders

The entity that will hold title to the interest in land must be the applicant and supply all required documentation for application.

### 2.3 Eligible lands

Funding is available for the acquisition of lands (fee title, conservation easements, and agricultural easements) for the preservation of the following:

- Watershed protection;
- Coastal areas, beaches, and ocean access;
- Habitat protection;
- Cultural and historical sites;
- Recreational and public hunting areas;
- Parks;
- Natural areas;
- Agricultural production; and
- Open spaces and scenic resources.

## 2.4 Match

Where the intended recipient of a grant is a county agency or nonprofit land conservation organization, matching funds of at least 25% of the total project costs are required. Matching funds may be in the form of direct monies, a combination of public and private funds, land value donation, in-kind contributions, or any combination thereof. Matching funds may be expended on the following:

- Land or conservation easements at or below fair market value as determined by a department-accepted appraisal;
- Appraisals;
- Land surveys;
- Title insurance and title report;
- Environmental inspections and assessments;
- Escrow fees, excluding taxes;
- Baseline documentation for conservation easements; and
- Attorneys' fees for the review and drafting of acquisition-related documents.

Evidence of the matching funds shall be made available prior to any distribution of grant funds. An entity may apply to the Legacy Land Conservation Program while other applications are pending. Matching fund expenditures must be reasonable and necessary for accomplishing project objectives and the purpose of the program. Lands being donated as matching funds shall be subject to the same requirements and restrictions as lands that are being acquired with grant funds.

## 2.5 Matching funds proportion

In cases where the actual total project costs at time of grant disbursement are less than the estimated total project costs stated in the project application, the department shall require awardees to maintain the same proportion of matching funds to awarded funds that is set forth in the project application.

## 2.6 Eligible costs

For land acquisition grants, advance payments may be provided for land, conservation easements, or agricultural easements at or below fair market value as determined by a department-accepted appraisal. Additionally, reimbursement for the following costs may be requested:

- Appraisals;
- Land surveys;
- Title insurance and title report; and
- Environmental inspections and assessments.

Reimbursement for costs must be clearly requested in the Grant Application in Section F. Evidence of the expenditure and the basis for valuation will be required prior to reimbursement.

## **2.7 Project area**

Switching, adding, or dropping parcels of land from a project application will not be allowed past the deadline. Applicants anticipating a change in the project area may submit multiple applications, however, any withdrawal of projects should be done before the Commission meets to receive testimony on projects, usually in early December.

## **2.8 Deed restrictions, covenants and/or agricultural and conservation easements**

To ensure protection of the property, the BLNR may require that deed restrictions, covenants, conservation easements, or agricultural easements be placed on the property as a condition of the receipt of funds. The Grant Application Form, Section J., requests information regarding this requirement.

## **2.9 Appraised fair market value**

Funds from the Legacy Land Conservation Program may not be used to fund any acquisition where the property is being acquired for a price that is higher than the fair market value of the property as determined by a DLNR-accepted appraisal.

## **2.10 Title**

No award shall be granted for acquisitions of lands having encumbrances or defects of title that the department determines are in conflict with the purposes of the grant.

## **2.11 Regulatory approvals**

Prior to the disbursement of funds, all legal and regulatory approvals (i.e. subdivision, etc.) required for the conveyance to the grantee shall be completed.

## **2.12 Federal partnership**

Any permanent easement established that includes partnership with a federal land conservation program may be transferred only as provided by rules of the federal program.

## **2.13 Public record**

Applications and any subsequent information provided by grant applicants relating to the Legacy Land Conservation Program shall be of public record except as may be excluded pursuant to Hawaii Revised Statutes, Chapter 92F.

## **2.14 Expenditure deadline**

Should grant funds be awarded, such monies must be expended within two years of receipt of funds unless the Chairperson of the BLNR approves of an extension in writing prior to expiration. Should awarded funds not be expended within the allotted time, a new application must be submitted for future consideration.

## **2.15 Voluntary landowner**

If the Board of Land and Natural Resources (BLNR) awards a land acquisition grant to an awardee that had submitted evidence of the landowner's potential willingness to sell, and the land is transferred to another landowner prior to acquisition by awardee, the awardee must provide evidence that the original landowner and new landowner support acquisition of the land by the awardee.

## **2.16 Final awards**

Final funding awards are at the discretion of the BLNR, the Attorney General, the Governor, and the Senate President and Speaker of the House of Representatives of the Hawaii State Legislature. Awards are subject to the availability of funds and are also subject to budget restrictions and procedures implemented under Executive Biennium Budget Instructions.

## **2.17 Sale, lease, transfer, or other disposal of land**

Land acquired with State funds from the Legacy Land Conservation Program and subsequently sold or leased will be subject to pay back provisions and the approval of the BLNR.

## **2.18 Gratis transfers**

Gratis transfers of lands, including Conservation Easements (CE), that have been acquired with LLCP funding are subject to Chapter 173A, Hawaii Revised Statutes. BLNR approval must be given either at the time of grant award or afterward. If approval is granted:

- The new holder of the land or CE must take over all existing commitments and duties of the former holder;
- An assignment of the grant agreement may be required;
- Restrictions may be placed in the deed of transfer; and
- The deed of transfer or assignment must be reviewed by the Attorney General's office.

Approved transfers of land must be transferred gratis (for no value), or grant funds shall be returned to the Land Conservation Fund pursuant to §173A-10, Hawaii Revised Statutes.

## **3 THE AWARD SELECTION PROCESS**

### **3.1 Submit application**

Applicants will complete and submit, at a minimum, the Grant Application form and Required Preliminary Documentation (see Section 1.3 for Grant Application Instructions) on or by the published deadline, to be announced. Applicants must also complete a consultation process with certain State agencies by the deadline stated in the Grant Application.

### **3.2 Award nominees**

The Legacy Land Conservation Commission will review applications and announce award nominees. Applicants may be asked to submit additional documents, such as updated appraisals, title reports, verification of status of matching funds, status of permits, and details of acquisition process or cost descriptions. The Grant Application Instructions include a list of "Other Supporting Documentation" that may be required at this stage of the awards process.

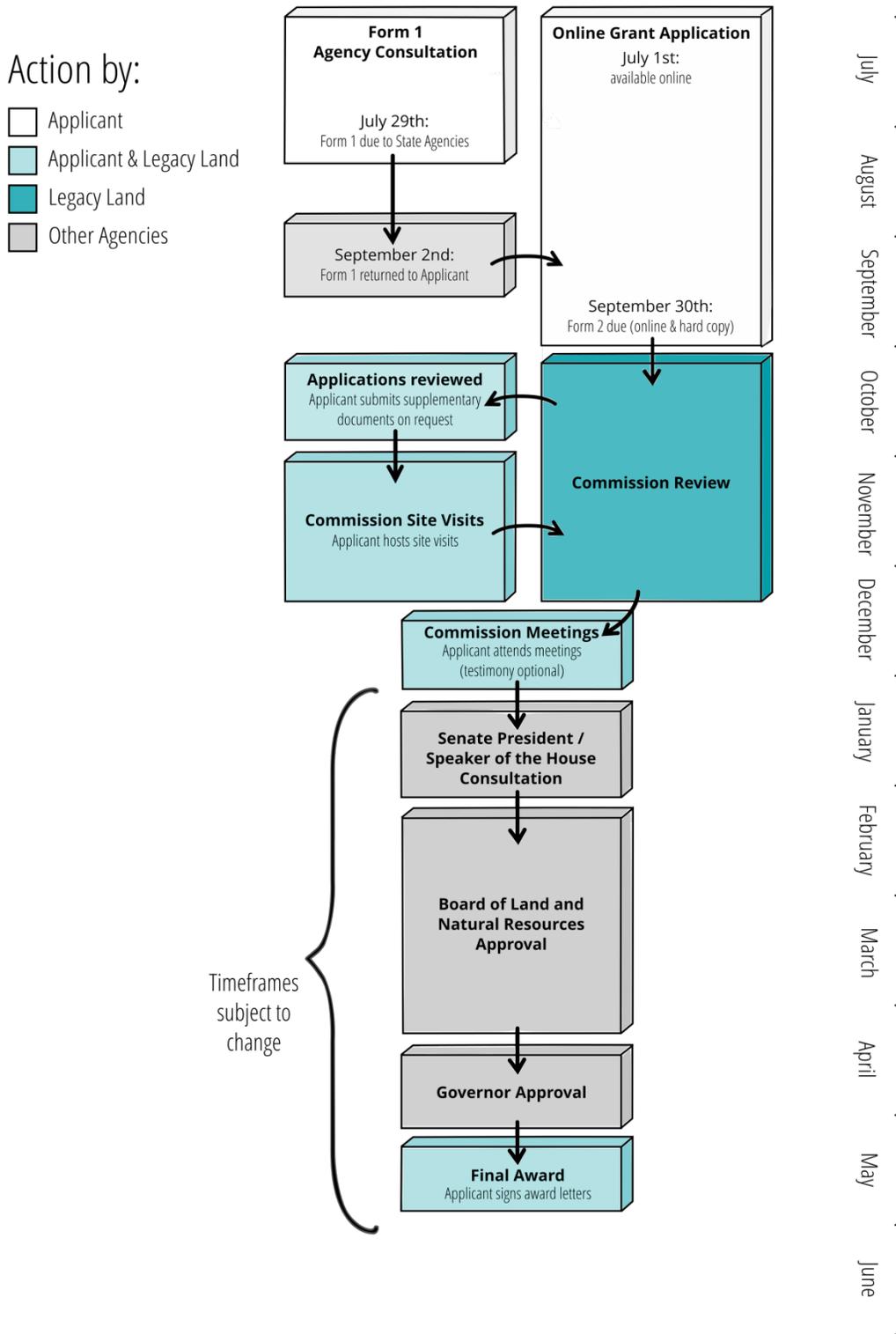
### **3.3 Commission review and awards**

The Commission will review all complete grant application packets and then recommend funding awards to the BLNR. Final awards are subject to a consultation process with members of Hawaii Legislature and to the approval of the BLNR, Attorney General and the Governor. The estimated timeframe for this process is shown in Figure 1).

Final awards are also subject to the availability of funds.

Figure 1.

# Guide to the Legacy Land Conservation Program Awards Process



## **4 AWARDEE REQUIREMENTS**

### **4.1 Nonprofits and Counties**

Successful nonprofit and county applicants that are approved for awards by the BLNR and the Governor will be subject to the requirements listed below:

#### *4.1.1 Offer letters*

Awardees may be asked to sign letters of offer, indicating acceptance of an award. These letters allow the LLCP to encumber funds prior to the end of the fiscal year.

#### *4.1.2 Contract*

The Awardee must enter into a LLCP Grant Agreement (contract) with the BLNR. The contract clarifies the conditions under which BLNR grants and the Awardee accepts the LLCP funding. Awardees will also be required to submit federal and State tax clearances, DLIR certification, and sufficient evidence of the authority of the signing representative to enter into a Grant Agreement on behalf of the organization.

#### *4.1.3 Holders*

All intended holders of the land must enter into the LLCP Grant Agreement; that is, any entity that will be purchasing the land simultaneously with the Awardee must enter into the LLCP Grant Agreement. Any such holders that have not been identified in advance on the Grant Application will not be permissible.

#### *4.1.4 Title report review*

A current title report of the property interest to be acquired must be obtained and submitted to the LLCP. An internal review will be conducted of the title report and title must be deemed sufficient to the satisfaction of the Department. Awardees may be required to oversee the removal of various exceptions to coverage.

#### *4.1.5 Appraisal certification*

Awardees shall supply the LLCP with a current appraisal of the property interest to be acquired; and must also provide a professional appraisal review. The appraisal and review are subject to review by the Department, with final approval by the Chairperson of the

BLNR. Awardees must contact program staff regarding appraisal requirements and review requirements prior to contracting a new appraisal, appraisal update, or appraisal review.

#### *4.1.6 Reduction of award*

The portion of an award that is to be directly used for purchase of the interest in property may be reduced to reflect any difference between the initial estimated value of the property and the appraised fair market value of the property as reported by a DLNR-certified appraisal. Funds will not be disbursed to awardees acquiring property at a price greater than the fair market value of the property, as determined by a DLNR-certified appraisal.

#### *4.1.7 Escrow*

The use of escrow is required. Funds that are to be used for the purchase of property may be deposited directly into escrow by LLC. Awardees must provide a copy of the escrow instructions, the account number, and a tentative buyer's statement to the LLC. In projects where an Awardee is receiving matching funds from a county funding source, the Awardee should consult with the Program Coordinator regarding any special instructions for closing that may be required.

#### *4.1.8 Title insurance*

Awardees must obtain title insurance in the full amount of the purchase price, insuring that the title to the Property is vested in the Awardee. Awardees must provide a copy of the policy to the LLC.

#### *4.1.9 Environmental inspection*

Awardees must conduct an environmental inspection to determine whether there is any environmental contamination or potential for contamination on the property. A Phase 1 Environmental Site Assessment (ESA) may be required if the property is of a type that is likely to be contaminated, or if the inspection indicates there may be contamination on the property. If an environmental condition is found, a Phase II and appropriate remediation (at the cost of awardee) will be required prior to disbursement of funds. See the Environmental Inspection Form on website for details. Awardees must complete this form and return to the LLC before funds may be disbursed.

#### *4.1.10 H.R.S. Ch. 343 compliance*

Environmental or cultural reports may be required pursuant to H.R.S., Chapter 343. In instances where environmental or cultural reports are required, awardees meet all reporting requirements before funds may be disbursed.

#### **4.1.11**      *Matching funds & project accounting*

The "Accounting and Matching Funds Form" must be completed and returned to the LLCP. Additionally, documented evidence of all matching funds (source and expenditure) LLCP grant funds (expenditure) must be submitted with this form. Awardees will be required to maintain the proportion of matching funds that is stated in the project proposal.

#### **4.1.12**      *Deed*

Awardees must provide a copy of the deed, in final draft form, prior to execution, to the LLCP. The AG's office must review and approve the proposed deed prior to execution. Baseline documentation and other supporting documentation may be required.

#### **4.1.13**      *Resource value documentation*

Using the form provided by LLCP, Awardees shall submit a written statement and photographs that reflect the status and condition of the resources for which the land is to be protected at the time of acquisition. The statement shall be certified by Awardee and the photographs shall be taken from identifiable locations on the Property. Resources cited in sections "C," "D," and "E" of the Grant Application must be included, along with either aerial or panoramic views of the entire parcel.

#### **4.1.14**      *Post-closing checklist and requirements*

Using the form provided by the LLCP, Awardees shall submit a copy of the executed and recorded deed to LLCP within 30 days of closing. A copy of the documentation of the escrow transaction, along with other information requested via the form must be sent to LLCP within 30 days of closing.

## **4.2 State Agencies**

Successful State agency applicants that are approved for awards by the BLNR and the Governor will work with DLNR's Land Division (LD) to complete the acquisition, and are subject to any documentation or reviews required by LD. State agencies that do not conduct acquisitions through DLNR LD will be subject to the requirements listed above for nonprofit and county awardees. Please be advised that the following will be required:

#### *4.2.1 Compliance*

All State acquisitions approved by BLNR shall be done in compliance with Sections 107-10, 171-11 and 171-30, H.R.S., as amended, and Chapter 101, HRS, as may be necessary.

#### *4.2.2 Fair Market Value*

Pursuant to H.R.S. §171-30(e), total consideration paid in any Legacy Land Conservation Program project shall not be greater than the fair market value of the interest to be acquired as determined by an independent professional appraisal.

#### *4.2.3 EA/EIS*

Pursuant to H.R.S. Chapter 343, an Environmental Assessment (EA) or Environmental Impact Statement (EIS) may be required.

#### *4.2.4 Warranty deed*

Any conveyance of fee title in private lands to the State of Hawaii DLNR shall be via the State's standard warranty deed document form, as may be amended from time to time, which contains hazardous waste testing provisions and indemnity language.

#### *4.2.5 Executive Order*

The issuance of a Governor's Executive Order to the Applicant or cooperating governmental agency may be recommended.

#### *4.2.6 Conveyance tax*

Any conveyance tax is the responsibility of the seller of the real property.

#### *4.2.7 Escrow*

If escrow services are used, then all fees shall be the sole responsibility of the seller; moreover, the seller shall be responsible for providing escrow instructions subject to DLNR review and approval.

#### 4.2.8 Revenue

Pursuant to §173A-5(c), any net proceeds or revenue from the operation, management, sale, lease, or other disposition of land or the improvements on the land acquired or constructed by the BLNR through the Legacy Land Conservation Program shall be deposited in or credited to the State Land Conservation Fund.

## 5 MONITORING AND LONG-TERM REQUIREMENTS (ALL AWARDEES)

After the acquisition is complete, all awardees are required to ensure that resource values are being protected in accordance with the Grant Agreement, Chapter 173A, H.R.S., and any applicable deed restrictions and/or conservation easements. The following requirements will apply:

### 5.1 Self-report form

Starting two years after the close of the acquisition, awardees must self-report on a biannual basis using the "Grant Recipient Self-Report Form." Please refer to the form for details.

### 5.2 Monitoring

The State may monitor the awardee and any additional holders to ensure that resource values are being protected according to the terms of the Grant Agreement, Chapter 173A, H.R.S., and any applicable deed restrictions and/or conservation easements. This monitoring may include requests for related records and materials and site visits to the property.

### 5.3 Site visits

The State may enter the property to ensure that resource values are being protected according to the terms of the Grant Agreement, Chapter 173A, H.R.S., and any applicable deed restrictions and/or conservation easements.