

Forest Legacy Program

Full Donation of Land & Bargain Sales
How do they work?

May 14, 2014

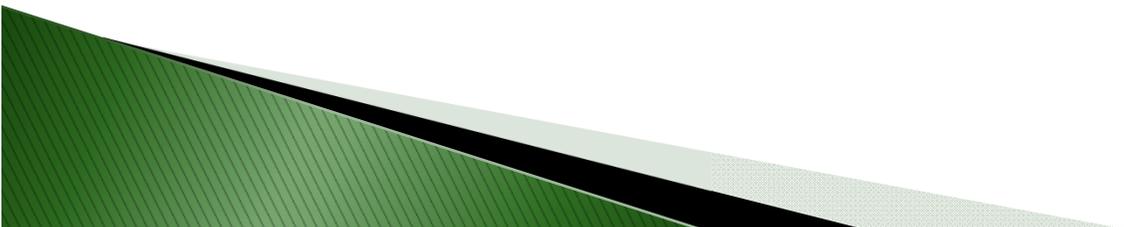
A decorative graphic at the bottom of the slide consists of a dark green area with a fine, diagonal hatched pattern. Above this is a solid black horizontal band. The top edge of the black band is wavy, following the contour of a light green, semi-transparent shape that tapers from left to right, resembling a stylized horizon or a wave.

Donation

.... a gift, a free contribution

.... given without return consideration*

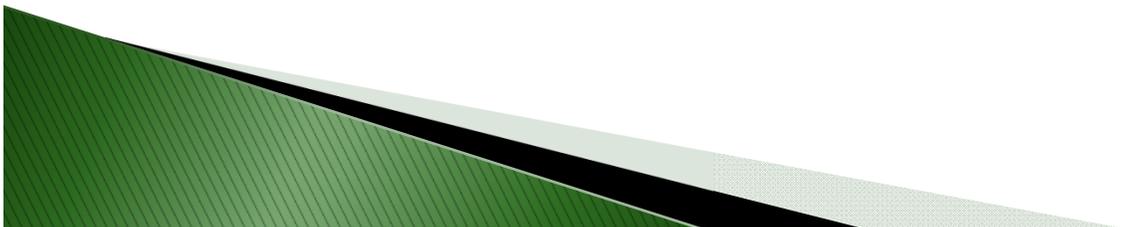
* Although the donor could still receive a benefit.



Bargain Sale

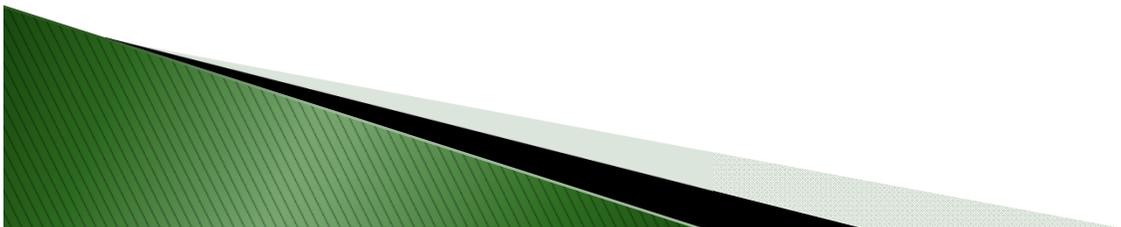
.... an intentional sale of an asset for less than its market value

.... usually for the seller's purpose of making a charitable donation



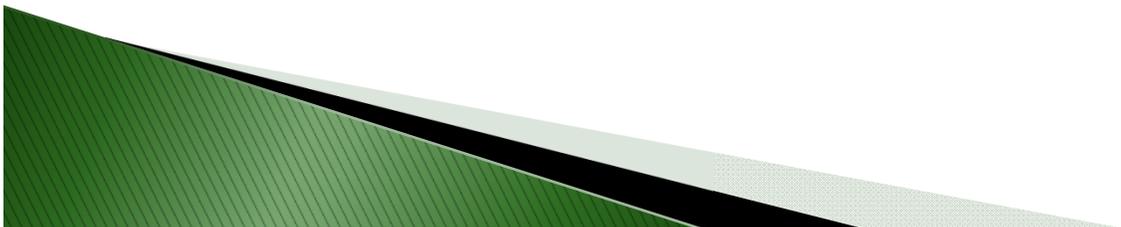
Donation v. Bargain Sale

- ▶ Not all donations involve bargain sales.
- ▶ However, most bargain sales are made for the purpose of making a donation.
- ▶ The bargain sale allows the seller to donate something of value other than cash, an additional asset, and/or services.
- ▶ Whether a full donation or bargain sale, the donor could still receive some type of benefit, such as a tax savings or good will.



Full Donation for Cost Share

- ▶ A 'cost share tract' is real property that has been donated for the purpose of helping the state meet its cost share requirements for a particular FLP project.
- ▶ Either fee simple tracts of land may be donated, or a conservation easement.
- ▶ The cost share tract is 'placed under' FLP conservation restrictions as a condition for being used as match for the FLP grant.



Donations of Land or Interest in Land

All donated land must meet certain criteria.

- ▶ Contribute to the objectives and priorities of the state's FLP as set forth in their Forest Acton Plan.
- ▶ All or part of the donated tract must be within the boundaries of a state's Forest Legacy Area (FLA).
- ▶ Be at least 75% forested & include 'compatible' uses.
- ▶ Contain perpetual easements or covenants to assure permanent protection, and managed in a manner compatible with the goals established for the FLA.
- ▶ The donee is a unit of government or non-profit conservation organization that meets IRS eligibility requirements and, with its purpose to manage lands consistent with Forest Legacy Program.



Donation for Non-Federal Cost Share

Additional criteria apply for these lands.

- ▶ The donor must document their desire that the value of the donation may be used as cost share for the FLP project.
- ▶ For a CE donation, the deed needs to contain a provision directing proceeds from a subsequent sale or exchange be used in a manner consistent with the conservation purposes of the FLP.
- ▶ The respective portion of the donation must not have been previously used for non-federal cost share.
- ▶ The state lead agency approves the donation as a contribution to the cost share.



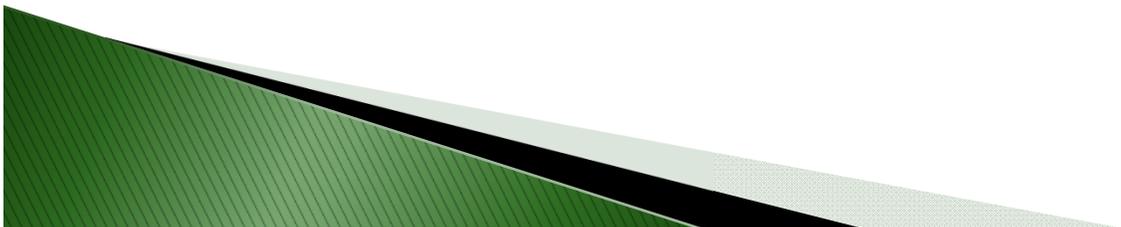
Other considerations for donations.

- ▶ Donations of land or interests in land must be documented in the State FLP records to count as part of the nonfederal cost-share. The title does not need to be transferred to the State or federal government in order for the donation to qualify as cost share.
- ▶ However, if in the future, the donated lands are conveyed, or the rights or title are modified in a way that is inconsistent with the purposes of the FLP, then the State must restore the cost share value dedicated in the grant agreement.



Appraisal and Documentation Issues for Bargain Sales

- ▶ Because the bargain sale represents the acquisition of a FLP project tract, a UASFLA (Yellow Book) appraisal & review is required.
- ▶ The seller must be notified of the appraised value and, that the sale is strictly voluntary. (i.e. the Amicable Agreement letter.)
- ▶ Because the bargain sale represents a partial donation, the seller should document their desire that the sale's discount may be used as cost share for the FLP project.
- ▶ The state approves the donated value as contributing toward the cost share.



Appraisal and Documentation Issues for Full Donations

- ▶ Because the property is not being acquired with federal funds, only a USPAP appraisal is required.
 - ▶ For an outright donation of land or a conservation easement, FLP program funds may not be used to pay for an appraisal.
 - ▶ However, FLP funds may be used to facilitate donations by paying for expenses directly related to the donation. (i.e. surveys, title work, drafting deeds, etc.)
 - ▶ The grantee must determine the value of the donation and may use an existing appraisal, a new appraisal, or another documented analysis to determine value.
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Summary

- This has been a brief summary of how land donations and bargain sales facilitate FLP projects.
- More information on donations of land and interest in land, and bargain sales can be found in your *Forest Legacy Program Implementation Guidelines*.
- Ask your Region/Area/IITF FLP Manager if you need further assistance.

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