

USDA FOREST SERVICE
COMMUNITY FOREST
AND OPEN SPACE
CONSERVATION PROGRAM:

**TRIBAL
USER
GUIDE**

ACKNOWLEDGEMENTS

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ABOUT THE COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM

The Community Forest and Open Space Conservation Program (Community Forest Program or CFP) was authorized in 2008 by Section 8003 of the Food, Conservation, and Energy Act, and is administered by the USDA Forest Service. The Community Forest Program provides grant funding to tribes, local governments, and qualified non-profit organizations to purchase forested land to establish a community forest. The program is competitive, with limited awards offered nation-wide each year.

The program grants up to 50% of the project costs up to \$600,000 and requires a 50% non-federal match. Public access to the community forest is required along with the provision of defined community benefits, which include economic benefits through active forest management, clean water, wildlife habitat, educational opportunities, and public access for recreation.

PURPOSE OF THE CFP TRIBAL USER GUIDE

In the fall of 2020, First Nations Development Institute (First Nations) entered into an agreement with the USDA Forest Service to support tribal outreach for the Community Forest Program. The purpose of the outreach is to expand awareness and understanding of the USDA Forest Service's Community Forest Program among tribal governments and Native-led organizations, and to provide technical assistance to develop competitive Community Forest Program project proposals.

To improve outreach, First Nations developed this CFP Tribal User Guide to provide direct guidance on the CFP program to tribes and Native-led organizations. The guide is intended to provide reference regarding eligibility and key program requirements that may affect tribal interest. For a more complete overview of CFP requirements and application process, please visit: <https://www.fs.usda.gov/sites/default/files/community-forest-program-roadmap-20231127.docx>

Community forests provide a multitude of environmental, social, economic, and cultural benefits for tribal communities, including:

- Protection of cultural resources
- Regaining control and access to ancestral lands
- Restoring traditional stewardship and uses
- Forest management demonstration and public education
- Improving community access to traditional foods/resources (acorns, mushrooms, cedar, etc.)
- Developing economic opportunities for hunting, timber, fishing, etc.

APPLICANT ELIGIBILITY

To be eligible for consideration, an applicant must be a:

- Federally recognized Indian tribe or Alaska Native Corporation as defined by Indian Self-Determination and Education Assistance Act.
- Local government – Any city or county government, or other local government with jurisdiction over local land use decisions.
- Qualified nonprofit organization – this is a nonprofit organization with a conservation purpose. The organization’s conservation purpose must focus on one of the following:
 - 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.
 - The preservation of a historically important land area or certified historic structure.

A qualified applicant must also 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 CFP.

PROPERTY ELIGIBILITY

An eligible property with a willing seller must be identified and described in an application. The property must be:

- Private land that is threatened by conversion to non-forest use.
- Available for full fee purchase, also known as a fee simple acquisition.
- Conveyed with all rights, title and interest in the property. The property cannot have any conservation easements or other encumbrances that would be contrary to the program's purpose.
- At least five acres in size and suitable to sustain natural vegetation.
- At least 75 percent forested – forests are determined by both the presence of trees and the absence of non-forest uses.

In addition, the property must provide community benefits, which can be one or more of the following:

- Economic benefits, such as timber and non-timber products resulting from sustainable forest management, recreation, and tourism.
- Environmental benefits, including clean air and water, stormwater management, wildlife habitat, and cultural resources.
- Benefits from forest-based experiential learning, including K-12 conservation education programs, vocational education programs in disciplines such as forestry and environmental biology, and environmental education.
- Benefits from serving as replicable models of effective forest stewardship for private landowners.
- Recreational benefits such as hiking, hunting, and fishing secured through public access.

TRIBAL CONSIDERATIONS

There must be accommodations for public access

How public access will be provided and managed must be addressed in the CFP proposal. For funded projects, the management of public access must be outlined and discussed in the community forest plan. 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*).” While this requirement is aligned with tribal interests to improve community access for hunting, fishing, and gathering, there must be considerations regarding liability and provisions for general public access. Given that the lands will be held in fee, legal jurisdiction would fall under state/county jurisdiction.

Public access can be restricted to protect cultural and natural resources on the property and limited closures are allowable to accommodate tribal ceremonies. However, the limitations on closures must be emphasized. Several reasons the CFP was created include slowing private forestland development nationally, increasing public access for recreational opportunities, and combating rising obesity rates linked to decreased outdoor recreation. Consequently, significant public access limitations could render a project ineligible or have an impact on the competitiveness of a project.

Acquired property cannot be converted into trust lands

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 CFP can be converted to land held in trust by the United States on behalf of any Indian Tribe.

Property must remain in a forested condition in perpetuity

The intent of the program is to establish community forests 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 CFP, 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.

Cultural Resources

A Forest Service rule issued in 2021 amended the program to have environmental benefits include cultural resources, and specifically mentions both “tangible and intangible resources.” Tangible resources include physical places and objects while intangible resources include traditions, knowledge, and practices concerning nature.

CFP Projects require a 50% non-federal match (i.e., a 1:1 match)

All applicants must demonstrate a 50% non-federal match. The total match must be at least equal to the amount of the funding requested from CFP. The match can include cash, in-kind services, or donations, which must be from a non-Federal source. For example, if a private landowner is willing to donate a portion of the property’s appraised value, this could be considered a partial match.

Non-allowable costs

Costs not allowed as reimbursable or cost-share expenses include: conservation easement purchases; long-term operation, maintenance, and land management; construction of buildings or recreational facilities; research; existing liens or taxes owed; costs associated with preparation of the application, except any allowable project costs specified in 36 CFR 230.6(b).

A loan or lien cannot be taken on the property

Title must not be subject to encumbrances or agreements of any kind that would be contrary to the purpose of the CFP.

CFP is a competitive grant, with one RFP released per year

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 amount of funding available for the Community Forest Program each year is not known until Congress appropriates a fiscal year budget for the Forest Service. In Fiscal Years 2015, 2016, and 2017 Congress appropriated \$2 million of funding. In Fiscal Years 2018-2021 Congress appropriated \$4 million. The amount of funding available for a project through the Community Forest Program is specified in the request for applications (RFA). In Fiscal Years 2012-2017 the maximum amount of CFP funds for a single project was \$400,000. In Fiscal Years 2018-2021 the maximum amount of CFP funds for a single project was \$600,000.

EXAMPLES OF TRIBAL PROJECTS

Eastern Band of Cherokee Indians, North Carolina

In 2012, Eastern Band of Cherokee Indians received \$302,305 in funding through the CFP to purchase Hall Mountain, a 108-acre parcel of forested land along the Little Tennessee River in North Carolina, which holds significant cultural and historical value for the Tribe. In 2020, the Tribe received a second CFP grant of \$119,022 to purchase an additional 21.31 acres of forested land adjacent to Hall Mountain to protect it from residential development. The project generates the following community benefits:

- A scenic hiking trail system that exhibits native plants and their uses
- Educational programming for public schools and youth development programs
- Demonstration of traditional and western forest management practices
- Access for Native artisans to obtain the resources (non-timber forest products) needed to make their crafts
- Preservation of waterways, soil, and rare and threatened species
- Protection of a culturally significant area
- Restoration and management of white oak forests and rivercane stands for cultural use



View from the top of Hall Mountain down to Cowee Mound, Little Tennessee River, and surrounding Cowee Mountains and Nantahala National Forest.

Photo credit: Ralph Preston

Kalispel Tribe of Indians, Washington

In 2012, with funding support from the CFP, the Kalispel Tribe of Indians acquired 350 acres of forested land to establish the Indian Creek Community Forest 60 miles north of Spokane, Washington. The project generates the following community benefits:

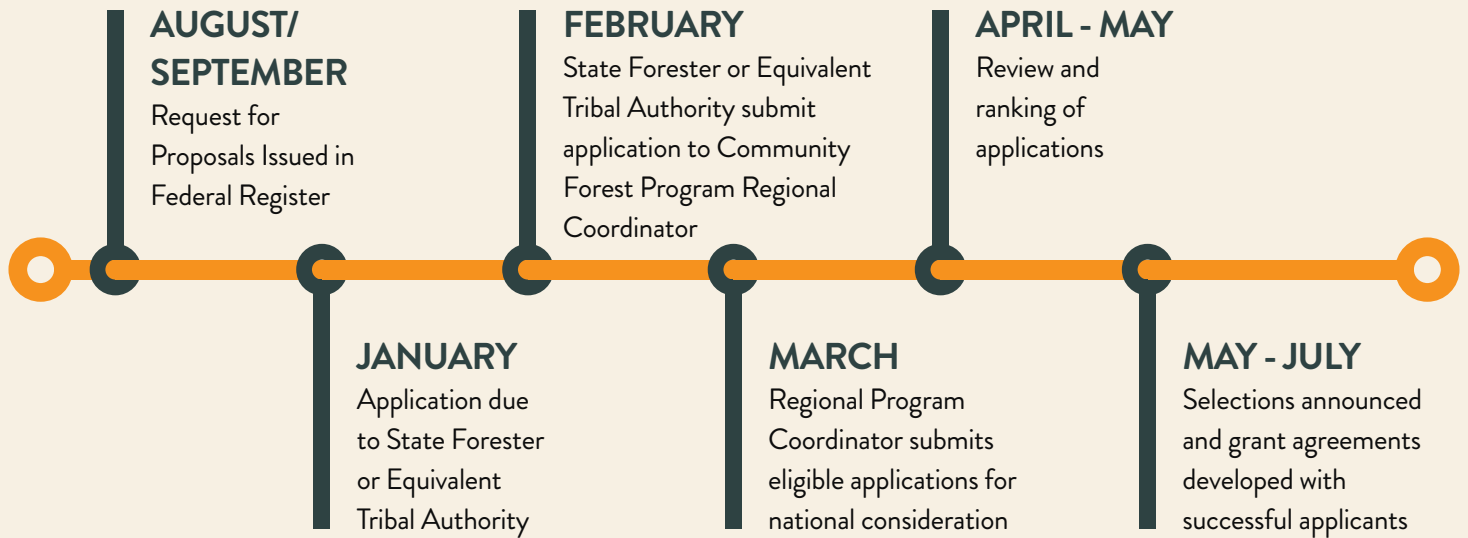
- Recreational opportunities for community members, including a fishing pond, archery range, and interpretive trail
- A native plant nursery to support tribal forestry needs
- An active demonstration forest showcasing good forest stewardship in response to climate change and increasing wildfire threats
- Harvest festivals for local vendors to sell handcrafted wares

Recreational fishing pond opportunity, Kalispel Tribe of Indians



APPLICATION TIMELINE

Application timeline is illustrative and typical, but timelines may vary. Check the annual Request for Applications for exact dates.



APPLICATION TIPS

Early-on reach out to your USFS regional coordinator to confirm eligibility and share proposal for feedback and improvements. It has been found that entities that reach out and work with the Forest Service regional coordinator have stronger proposals. Contact information for regional coordinators can be found here: <https://www.fs.usda.gov/aboutagency/contact-us/community-forest-regional-coordinators>

Feedback from past tribal applicants emphasized that partnerships were instrumental in developing a successful CFP application, and often these partnerships were leveraged beyond the application process. Applicants are encouraged to think broadly about partnership opportunities, such as leveraging in-kind services as matching support. To learn more about tribal partnerships, a webinar entitled “Leveraging Partnerships to Support Tribal Land Acquisition and Restoration” can be found on First Nation’s website: <https://www.firstnations.org/webinars/community-forest-webinar-series/>

Matching funds need to be identified in the application, and must be from a non-federal source. Technical assistance from First Nations can be requested to help identify and evaluate options. Matching funds can include in-kind donations leveraged through partnerships, donations from a private foundation, value of a land donation or bargain sale, or from a state grant program. A tribe can provide the matching funds directly, however, the property cannot be used as collateral to secure a loan.

The community benefits and how they will be enhanced on the property will be evaluated in the application, so it is important to identify an eligible property that strongly aligns with the following community benefits: recreation, watershed protection, wildlife habitat protection, timber and non-timber products, and cultural resource protection, both tangible and intangible. All these benefits do not have to exist on a property, and even if they do, they do not have to occur on the entire property, as some of these uses may not be compatible. For instance, if cultural resources are being protected, public recreation may need to be restricted in that area.

Aligning the application timeline with a real estate transaction is a big obstacle due to the length of the application process. An ideal project would involve a seller committed to working with a tribe on the land sale. However, more often a property is listed with an immediate desire to sell. In such cases, identifying a partner to serve as an intermediary to purchase and hold the property until sufficient funds are acquired, could be an effective strategy.





AVAILABLE TECHNICAL ASSISTANCE

Due to the complexities of the grant, First Nations has been contracted to provide direct technical assistance to tribes and Native-led organizations. This technical assistance is offered pre-proposal, during proposal development, and after proposal selection.

Pre-proposal Technical Assistance

- Identifying eligible property
- Communicating with real estate broker

Proposal Technical Assistance

- Grant writing/proposal development
- Project management/tracking sale
- Property research

Post Award Technical Assistance

- Due Diligence/Real estate transaction and negotiations
- Project management
- Partnership support
- Support identifying and applying to matching funds

In addition, tribes may contact First Nations regarding direct small grant to help support staff costs associated with the development of a CFP proposal. Limited funding is available for small grant awards – inquire with First Nations at info@firstnations.org for more information.



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