

DIRECTOR'S ORDER #32: COOPERATING ASSOCIATIONS

Approved: /s/ Fran P. Mainella, Director

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1. Purpose and Objectives

This is an interim re-issue of Director's Order #32: Cooperating Associations, that was approved March 17, 1998, sunset March 17, 2003, and renewed through December 31, 2003. Director's Order #32 describes the policy and procedural requirements for relationships between the National Park Service and Cooperating Associations.

Cooperating Associations (Associations) are private nonprofit corporations established under state law. They support the educational, scientific, historical, and interpretive activities of the National Park Service (Service) in a variety of ways, under the provisions of formal agreements with the Service. For many years, Associations have been among the Service's most effective supporters. This Director's Order is intended to help ensure the success of the relationship between the Service and Associations by specifying operational policies and procedural requirements governing relationships between the Service and Associations. In combination with the Cooperating Association Reference Manual (RM-32), it supersedes and replaces the Cooperating Associations Guideline (NPS-32) and instructional memoranda that has been issued in years past.

This "Level 2" Director's Order is not intended to document all the procedures, practices and requirements applicable to the Service's relationship with Associations. For a comprehensive compilation of those procedures, practices and requirements, employees must refer to the "Level 3", Cooperating Association Reference Manual, issued by the Associate Director, Park Operations and Education. The "Level 1," NPS Management Policies remain applicable and serve as the basic foundation for the "Level 2" and "Level 3 documents."

2. Authority to Issue This Director's Order

16 U.S.C. Sec 1-3, 6, 17j-2(e).

3. Policies/Instructions/Requirements

3.1 The Associate Director, Park Operations and Education is delegated the responsibility to issue a reference manual outlining specific procedures that support policy, mandatory requirements and operational procedures.

3.2 Authority To Designate and Terminate Associations

Where an Association serves one or more park areas within a region, authority to designate an Association is delegated to the regional director and may not be re-delegated to superintendents. Where an Association serves park areas in more than one region, designation authority resides with the Director, National Park Service. Authority to terminate or sign an Agreement including supplemental agreements with an Association, resides with the same respective officials.

3.3. Tax Exempt Status

Associations must obtain and maintain recognition by the Internal Revenue Service of tax exemption under Section 501(c)(3) of the Internal Revenue Code to operate in areas of the National Park System.

3.4 Service Employees' Role

3.4.1 Ethical Conduct

In dealing with Associations, all Service staff must comply with 5 CFR Part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch."

3.4.2 Relation to Boards

3.4.2a Service employees may not serve on Association boards, even in an ex-officio capacity, may only offer advice on Association decisions concerning the relationship of the Association to the Service, and may not represent the Association in business transactions or operations. However, as authorized by Public Law 79-633, Service employees may assist Association operations.

3.4.2b Service representatives may attend Association meetings in an advisory, non-voting capacity, but may not participate in executive sessions of an Association board unless invited.

3.5 Cooperating Association Agreement

The Associate Director, Park Operations and Education will develop a standard, non-negotiable Cooperating Association Agreement in 1999 that will replace the current Memorandum of Agreement and will be signed by all Associations in partnership with the Service. The Agreement will be for five years with automatic renewal for another five years unless reasonable notice of cancellation is given by either party before the date of renewal. The effective date of the Agreement is the day after it is signed. The Service reserves the right to terminate the Agreement or any part thereof, for the convenience of the government or for cause, but must give reasonable notice of its intent to do so and must meet with the Association to present its reasons. This Agreement will incorporate the policy and procedural requirements set forth in this Director's Order, the provisions listed below, and any additional requirements imposed by higher authorities or by the Associate Director, Park Operations and Education, where specifically authorized by this Director's Order. Service-related activities performed by Associations not addressed in the Agreement must be addressed in supplemental agreements that are governed by the same provisions and procedures of the Agreement and the Director's Order.

3.5.1 Association Responsibilities

3.5.1 a Association boards of directors will notify the Service of board meetings and will invite appropriate Service representatives to board meetings and to appropriate committee meetings.

3.5.1b Association employees are not authorized to undertake any government function or activity on behalf of the Service beyond routine visitor information services or other activities authorized by the Cooperating Association Agreement, supplements to the agreement, or agreements for voluntary services.

3.5.1c Associations may not use the "Agreement for Voluntary Services" to circumvent any requirements for insurance coverage included in the Cooperating Association Agreement or in this Director's Order.

3.5.1d Association employees who engage in public contact must wear some readily identifiable indication of Association affiliation, but Association employees may not wear Service or other government uniforms.

3.5.2 Sales Activities

3.5.2.1 General Requirements

3.5.2.1a Associations must have a signed Agreement to sell goods and services in areas of the National Park System. Friends groups are not authorized to sell goods and services in these areas except through a special agreement with an Association and approval of the park superintendent.

3.5.2.1b Sales must support the purposes of Associations as stated in their articles of incorporation.

3.5.2.1c Associations must display a sign that identifies the sales outlet as a nonprofit activity of the officially approved Association for the site.

3.5.3 Sales Item Approval

3.5.3a Items sold in park areas, through mail order catalogs, and at off-site sales outlets (excluding those sales outlets operated by an Association in partnership with other government entities) must be approved in advance by the superintendent for appropriateness, price, quality, interpretive value, and accuracy. For additional information refer to RM-32.

3.5.3b The sales of visitor convenience items must be conducted under the authority of the Concessions Policy Act and must be managed in the same manner as concession permits/contracts issued to concessioners. However, Associations must relinquish any preferential right to the renewal of those permits. For additional information refer to RM-32.

3.5.3c Associations may not sell material that violates conservation principles of the Service. The sale of original prehistoric or historic artifacts or paleontological specimens is prohibited. Replicas of such artifacts and specimens must be clearly labeled as such.

3.5.3d Craft items represented as being Indian-made shall be sold in accordance with the Indian Arts and Crafts Act of 1990 (Public Law 101-644 [104 Stat. 4662], November 29, 1990).

3.5.3e Paid advertising in sales items (i.e., journals with advertising) must be incidental to the interpretive value or message of an item. Advertising or vendor information may not imply endorsement by the Service.

3.5.4 Off-site Sales Operations

3.5.4a Associations must obtain approval from the superintendent(s) before commencing business operations in off-site sales outlets that do not serve other governmental entities.

3.5.4b An Association must consult with the superintendent(s) when considering operating an off-site sales outlet for another governmental entity.

3.5.4c The superintendent will periodically review the off-site sales activities of Associations to ensure that Service interests are protected.

3.5.5 Interpretive Activities

3.5.5a Interpretive activities conducted by Associations in support of parks must be approved in advance and annually thereafter by the Service.

3.5.5b The Association and the superintendent of the affected park area will establish standard operating procedures for conducting interpretive programs and activities.

3.5.5c All interpretive programs conducted by Associations on behalf of the Service will be audited by the Service for content, accuracy, and effective delivery.

3.5.5d The Service will assist the Association in providing training to Association staff appropriate to their interpretive activities. Association employees conducting interpretive activities will possess and demonstrate the same core competencies as Service interpreters.

3.5.5e Any fees charged must first be approved by the park superintendent.

3.5.5f Collections of fees for fee interpretation must meet Service standards for accountability and security of funds.

3.5.6 Facilities and Equipment

3.5.6a The Service will provide Associations with suitable sales areas and other facilities to conduct business. The Service reserves the right to relocate or withdraw any such facilities (upon reasonable notice) in order to meet the needs of the Service.

3.5.6b The Service will reserve the right to conduct inspections of provided facilities whenever it deems necessary.

3.5.6c The Service will provide Associations with routine maintenance and repair services and utilities such as water, electricity, heat, and air conditioning at each assigned facility, to the extent these services and utilities are required for the operation of the building for governmental purposes. Other maintenance and repair services and utilities will be provided by the Association or provided to the Association by the Service on a reimbursable basis.

3.5.6d The Service and Association will negotiate a maintenance and operations plan for those facilities governed by a supplemental agreement.

3.5.6e All Association plans for construction, redesign, or renovation of in-park facilities must be approved in advance by the Service, and must be implemented in accordance with the Service's normal design and construction procedures.

3.5.6f If buildings are constructed on Service property by Associations, the buildings must be transferred to the Service upon completion.

3.5.6g When the Service designs and constructs new facilities that will house Association activities, the Association will be included in the planning and design and will be given the opportunity to review and comment on preliminary and final design plans.

3.5.6h With prior approval from the superintendent, Associations are permitted incidental use of government-owned or leased vehicles, provided that the use is solely for work authorized under the Cooperating Association Agreement or associated supplemental agreements.

3.5.7 Postage

Associations may not use government postage.

3.5.8 Administrative Requirements

3.5.8a Annual Audit. A financial statement audit is required for Associations with annual gross revenue of \$1,000,000 or more; a financial statement review is required for Associations with gross revenue of \$250,000 to \$1,000,000. For additional information refer to RM-32.

3.5.8b Annual Report. Each Association must submit an annual financial report consisting of the NPS Form 10-40, IRS Form 990 (or 990EZ and 990T, if appropriate), a copy of the year's audited or reviewed financial statement, and a brief narrative of the year's activities and accomplishments. For additional information on submission of these required reports refer to RM-32.

3.5.8c Insurance. Each Association must carry adequate liability insurance with a minimum of \$100,000.00 protection unless more is prescribed by the Service. In addition, The United States of America will be named as an additional insured on all such policies.

3.6 Future Cooperating Association Agreements

The following provisions are effective immediately, and will be incorporated into the standard Cooperating Association Agreement when it is revised in 1999:

3.6.1 Donations to Associations

3.6.1a Donations will be governed by Director's Order # 21 - Donations and Fundraising.

3.6.1b Associations will accept donations only for the purposes described in their articles of incorporation.

3.6.1c When an Association accepts a donation on behalf of the Service, the Association is accountable to the donor for the use of the funds.

3.6.2 Donations from Associations

3.6.2a The level of aid to the Service appropriate to each Association must be determined jointly by the Association and the Service based upon the nature and extent of the Association's activities and the needs of the Service. Consulting with superintendents

and regional and WASO staff is appropriate in this process if necessary to reach an equitable level.

3.6.2b Regional Directors are delegated the authority and responsibility to approve donations in the following categories before they are accepted:

1. Major research projects
2. Land acquisitions
3. Interpretive/educational facilities
4. Historic preservation/restoration projects

3.6.2c Service managers will not accept donations from Associations to fund any government personnel salaries or benefits with the exceptions of support for temporary employees working on special interpretive, educational, or research projects that are funded by donations and the reimbursement of the salaries and benefits of employees of Harpers Ferry Center working directly on media projects or plans donated to the Service by an Association.

3.6.2d When the Service accepts a donation from an Association, timely completion of the funded project and fund accountability are required, and a report made to the Association upon request.

3.6.3 Fundraising by Cooperating Associations

3.6.3a Fundraising by Associations will be governed by Director's Order # 21 - Donations and Fundraising.