



NATIONAL PARK SERVICE

National Scenic Byways Guide

May 2002

I. INTRODUCTION

The purpose of this guide is to help park personnel gain a basic understanding of the National Scenic Byways (NSB) Program. This guide has been divided into two sections. The first section is for those parks considering nominating a park road as a Scenic Byway or an All-American Road (AAR). The second section is for those parks that currently have a designated NSB or AAR and would like to apply for grant money for projects to be funded by the NSB Program. While this guide is meant to be comprehensive, more detailed information along with the online nomination forms and grant applications, are found on the NSB website at: www.byways.org.

II. HISTORY OF THE NATIONAL SCENIC BYWAYS PROGRAM

In 1991, the United States Department of Transportation established the NSB Program. The NSB Program and the Byways Resource Center were authorized as part of the Transportation Equity Act for the 21st Century, Public Law 105-178, Sections 1101(a)(11) and 1215(b). Under the NSB Program, the Secretary of the Department of Transportation recognizes certain roads as NSB or AAR based on their archaeological, cultural, historic, natural, recreational, and scenic qualities. There are 72 such designated byways in 32 states. The Federal Highway Administration (FHWA) promotes this collection of roads as America's Byways. The National Park Service (NPS) has 31 Scenic Byways which are entirely within or are adjacent to a national park unit.

Scenic byways can be designated at the local, State or national level. Some are called "heritage routes." Others may be called "rustic roads" or "backcountry byways," although some of these designations differ slightly. These designations are different in that Bureau of Land Management calls their scenic byways "backcountry byways." Some of these byways are not paved and require 4 wheel drive vehicles. The "heritage routes" and "rustic roads" are most often part of a State program. Some of these roads can be designated NSB. However, one of the requirements found in the attached Federal Register Notice on the NSB Program (Attachment 1) "a road or highway must safely and conveniently accommodate two-wheel drive automobiles with standard clearances to be considered for designation as a NSB or an AAR."

A. What Are America's Byways?

America's Byways are a distinctive collection of American roads that tell a story and provide the visitor a unique experience. They are roads to the heart and soul of America. Byways are exclusive because of their outstanding qualities, not because they are confined to a select group of people. There are two types of designations: 1) National Scenic Byways must contain one of the six intrinsic qualities and 2) All-American Roads must possess multiple intrinsic qualities that are nationally significant and contain one-of-a-kind features that do not exist elsewhere.

The NSB Program recognizes and supports outstanding roads. It is a voluntary, grassroots program that is founded upon the strength of the leaders for individual byways. It provides resources to help manage intrinsic qualities within the broader byway corridor to be treasured and shared. Perhaps one of the underlying principles for the program has been articulated best by a byway leader who said, "the program is about recognition, not regulation."

B. What are Intrinsic Qualities?

Intrinsic Quality means **archaeological, cultural, historic, natural, recreational, or scenic features** that are considered representative, unique, irreplaceable, or distinctly characteristic of an area.

Archaeological quality involves those characteristics of the scenic byway corridor that are physical evidence of historic or prehistoric life that are visible and capable of being inventoried and interpreted.

Cultural quality is evidence and expressions of the customs or traditions of a distinct group of people. Cultural features include, but are not limited to, crafts, music, dance, rituals, festivals, speech, food, special events, and vernacular architecture.

Historic quality encompasses legacies of the past that are distinctly associated with physical elements of the landscape, whether natural or manmade, that are of such historic significance that they educate the visitor of a past event and stir an appreciation of the past.

Natural quality applies to those features in the visual environment that are in a relatively undisturbed state. These features predate the arrival of human populations, and may include geological formations, fossils, landforms, water bodies, vegetation and wildlife.

Recreational quality involves outdoor recreational activities directly associated with, and dependent upon, the natural and cultural elements of the corridor's landscape.

Scenic quality is the heightened visual experience derived from the view of natural and manmade elements of the visual environment.

C. Types of Designations

National Scenic Byway

To be designated as a NSB, a road must possess at least one of six intrinsic qualities: archaeological, cultural, historic, natural, recreational, scenic, or features. The significance of the features contributing to the distinctive characteristics of the corridor's intrinsic qualities must be recognized throughout the multi-state region. An example of an existing NSB is Death Valley Scenic Byway which is located in Death Valley National Park, California.



Death Valley Scenic Byway

National Scenic Byway

Spectacular Desert Scenery

Death Valley National Park is the lowest point in the Western Hemisphere. It has 3.3 million acres of spectacular desert scenery, interesting and rare desert wildlife, complex geology, undisturbed wilderness, and sites of historical and cultural interest.

Gateway to Death Valley

Located in one of the most remote parts of California, travelers from all over the world use Route 190 as the gateway to Death Valley. International visitors see Death Valley as part of the grand tour of California. Over 75 percent of the summer visitors in this area come from abroad. Not only does this destination attract tourists from everywhere; scientists and researchers also come to study and explore the park's unique resources.

All-American Road

To receive an AAR designation, a road must possess multiple intrinsic qualities that are nationally significant and contain one-of-a-kind features that do not exist elsewhere. The road or highway must also be considered a 'destination unto itself.' That is, the road must provide an exceptional traveling experience so recognized by travelers that they would make a drive along the highway a primary reason for their trip. An example of an AAR is Natchez Trace Parkway in Mississippi.



Natchez Trace Parkway – Alabama/Mississippi/Tennessee *All-American Road*

The Natchez Trace Parkway tells the story of people on the move, the story of the age-old need to get from one place to another. It is a story of Natchez, Chickasaw, and Choctaw Indians following traditional ways of life, of French and Spanish people venturing into a new world, and of people building a new nation.

At first, the trace was probably a series of hunters' paths that slowly came together to form a trail that led from the Mississippi River over the low hills into the Tennessee Valley. By 1785, Ohio River Valley farmers searching for markets had begun floating their crops and products down the rivers to Natchez or New Orleans. Because they sold their flatboats for lumber, returning home meant either riding or walking. The trail from Natchez offered the most direct route for them to follow.

The parklands along the Trace preserve important examples of our nation's natural and cultural heritage. Since the late 1930's, the NPS has been constructing a modern parkway that closely follows the course of the original trace. Today, the parkway gives present-day travelers an unhurried route from Natchez to Nashville. It is a subtle driving experience. Motorists and bicyclists alike enjoy the scenery, from the rock-studded hills of Tennessee, past the cotton fields of Alabama, to the flat and meandering southern extremes shaded by trees and Spanish moss. The Natchez Trace Parkway winds along 445 scenic miles through three states, including Alabama, Mississippi, and Tennessee.

The Alabama segment of the Natchez Trace Parkway is the middle leg of a byway that covers the entire length of the Natchez Trace. The Old Trace is still closely followed by the parkway, which is preserved and administered today by the National Park Service. A lovely tree-lined drive through woods and fields, the byway offers a wealth of early pioneer history at well-maintained historic sites like Colbert Ferry Park, Freedom Hills, and Buzzard Roast Springs. Views are particularly pretty on crossing the Tennessee River midway through Alabama.

III. NOMINATION GUIDANCE

Anyone may nominate a road for possible designation by the Secretary of Transportation, but the nomination must be submitted through a State's official scenic byway agency in the State's Department of Transportation. All nominations must include a corridor management plan designed to preserve and enhance the unique qualities of the byway. **(Please note that parks are not required to submit a separate stand alone Corridor Management Plan. In lieu of a Corridor Management Plan, parks may use their General Management Plan or the National Park Service's Management Policies where applicable in the nomination process. However, the park's document still needs to meet the 14 requirements found in a Corridor Management Plan.)**

The byways are typically supported through a network of individuals who volunteer their time and effort. Local citizens and communities create the vision for their byway, identify the resources comprising the intrinsic qualities, and form the theme or story that stirs the interest and imagination of visitors about the byway and its resources. Parks should work in conjunction with local communities and other stakeholders if the road to be designated continues outside the park boundaries. If the road to be designated is solely within the park boundaries, then parks should work with their stakeholders to ensure support. Together, parks, local citizens and communities decide how best to balance goals, strategies, and actions for promoting the byway and preserving its intrinsic qualities and jointly develop the corridor management plan or, if possible, use the park's General Management Plan for the nomination. Please keep in mind that all nominations must be sponsored/approved by the State.

Nomination is not about filling out an application. It's all about telling the byway's story. This is the premise that drives the FHWA work on requesting nominations for possible national designation. Nominees might want to think of their byway's nomination as a combination of a community's guide and a visitor's guide for the byway. **The online nomination form can be found on www.byways.org/nominations/index.html.**

A. Nomination Checklist

- ✓ Find out the State's byway nomination submission calendar and application process;
- ✓ Seek the early guidance and endorsement of your State Scenic Byway Coordinator, or equivalent;
- ✓ Make sure to include all elements of the nomination the State requests and as many intrinsic qualities that apply;
- ✓ Explain how the community or stakeholders would benefit from the project;
- ✓ Include letters of support, minutes from public meetings and newspaper clips about the project;
- ✓ If available, include photographs of the site, preliminary sketches or plans; and,
- ✓ Prepare a Corridor Management Plan or, if possible, ask whether the park's General Management Plan can be substituted in lieu of the Corridor Management Plan.

IV. GRANT PROGRAM/APPLICATION PROCESS

Once a Scenic Byway obtains designation it is able to apply for grant monies available under the National Scenic Byways Program. There is approximately \$22 million in FHWA funds made available annually for scenic byways projects. Project applications are submitted through the State in priority order to the FHWA (See Positioning Your Project for Selection of this guide for further details on how States Prioritize projects.) The online grant application can be found at: <http://www.byways.org/grants/application.html>. Parks will need to work closely with their State Scenic Byways Coordinator to make sure that grant applications are submitted according to the State deadline. Applications for FY 2003 were available starting **January 15, 2002**. Each State has a different deadline. In order to find out what that deadline is go to: www.byways.org/grants/schedule.html and click on the down arrow to find your particular State. Applications are due to the FHWA Division Office by **June 30, 2002**. Final applications are due to the FHWA Headquarters by **August 1, 2002**.

V. FUNDING

The Federal Highway Administration provides 80 percent of funding for eligible projects along NSBs and AARs to support technical assistance, planning, design and development of State Scenic Byways Programs. Funds are allocated administratively each year and not by formula. During the life of TEA-21, approximately \$25 million has been allocated each year.

A. Matching Requirements

There must be a minimum of 20 percent in matching funds for all projects applying for grant monies. This matching requirement can be satisfied in whole or in part with State, local government, private sector, or Federal land management agency funds. Additionally, third party in-kind donations can be credited toward the State's share of the project cost.

The law guiding implementation of the NSB Program is in Section 162, Title 23 of the United States Code; 23 U.S.C. 162. Subsection (f) governs the matching share:

(f) Federal Share – The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for the use by the agency as the non-Federal share.

Thus, a federal agency like the NPS can use appropriated funds, other NPS program funds and/or Federal Lands Highways Program funds as their match.

B. Other Sources for the 20 percent matching funds

1. State Government

State funds are defined under 23 U.S.C. 101(a):

(33) State Funds. B The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State transportation department. (State funds other than transportation funds may be used.)

2. Local Government

As counties, parishes, cities, towns, townships and other units of local government are subdivisions of a State, the definition of State funds is apropos for local funds. Thus, local funds include funds raised under the authority of a unit of local government and made available for expenditure under the direct control of a local agency or department.

3. Private Sector

Private funds that have been donated to the State pursuant to State law for general transportation purposes are considered to be "State funds" for Title 23 purposes and may therefore be applied to the State's matching share.

4. Federal Land Management Agency

Funds authorized for use by a Federal land management agency can be used as the State's matching share for a project that is located along a public road that provides access to or is within Federal or Indian land. These funds may include funds appropriated to a Federal land management agency. They may also include funds made available to a Federal land management agency under the Federal Lands Highways Program, 23 U.S.C 204 and paragraph 1101 (a)(8) of the Transportation Equity Act for the 21st Century, P.L. 105-178. The NPS can use appropriated funds from a variety of NPS programs such as: the Line Item Construction Program, the Recreational Fee Demonstration Program, or the Federal Lands Highway Program.

5. In-Kind Donations

The value of third party in-kind donations may be accepted as the State match when they are directly associated with the scenic byway project during the period which it is undertaken. The park will need to work with their State Scenic Byways Coordinator regarding in-kind donations. Third party in-kind donations include services, property, materials, and equipment. The in-kind donations must not have been used as a match for any other federally funded project. Donated services may be accepted from private sources but not government agencies; 23 U.S.C. 323:

| | Private Entity | Local Government | State Government | Federal Agency |
|--|-----------------------|-------------------------|-------------------------|-----------------------|
| Property or materials | Allowed | Allowed | Allowed | Not allowed |
| Services (Labor & Salaries) | Allowed | Not allowed | Not allowed | Not allowed |

While government services (labor) and property (in the case of Federal agencies) may not be donated or credited toward the match, a government agency can be reimbursed for up to 80 percent of its expenses, including salaries, directly related to the scenic byways project.

C. Documenting the Breakdown of the 20 percent Match for a Project

Section J of the 2003 National Scenic Byways grant application provides space to include information on the description, source, type, and amount of the match. All parts of the match must be identified in this section.

- **Source:** Who is providing the in-kind donations?
- **Type:** Select the type of match for each line item. Is it cash, materials, property, and/or non-government services.
- **Description:** What cash, materials, property, and/or non-government services are being provided? What is the valuation of the in-kind donations and how was the value determined?

The value of in-kind donations is determined as follows:

- **Services** – Donated services must be valued at a rate equivalent to that rate ordinarily paid for work in the project application’s organization. If the project applicant does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work.
- **Materials** – The donation will be valued at the market value of the materials and/or supplies at the time of the donation.
- **Property** – The current market value of property donated may be counted as a matching share. The title of the land passes to the State in which the project is located. If any part of the donated property was purchased with Federal funds, only the non-Federal share of the property may be counted as the donation.

VI. ELIGIBLE ACTIVITIES

A. Eight Categories

In order for scenic byways to apply for grant money, they must submit projects that meet one of the eight categories of eligible activities. These eight categories of eligible National Scenic Byways Activities, as defined in TEA-21, follow basic steps from planning to implementation and are listed below. For more detailed information on each category please refer to the **National Scenic Byways Program Guidance for FY 2003 Grant Applications at: www.byways.org/grants/docs/Guidance_2003.pdf**.

1. State Programs

Planning, design and development of a State scenic byway program, 23 U.S.C. 162(c)(1).

2. Corridor Management Plan

Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities, 23 U.S.C. 162 (c) (2) (Scenic Byways may receive grant money for Corridor Management Plan before being designated a National Scenic Byway. In order to apply for this grant money, they byway must be designated a State Byway. Please note not all States require byways to have a Corridor Management Plan to become a State designated byway.)

3. Safety Improvements

Safety improvements to a State scenic byway, National Scenic Byway (NSB), or All-American Road (AAR) to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road, 23 U.S.C. 162 (c)(3).

4. Byway Facilities

Construction along a scenic byway of a facility for pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretative facilities, 23 U.S.C. 162 (c)(4).

5. Access to Recreation

Improvements to the scenic byway that will enhance access to a recreation area, including water-related recreation, 23 U.S.C. 162 (c)(5).

6. Resource Protection

Protection of scenic, historical, recreational, cultural, natural, and archeological resources in an area adjacent to a scenic byway, 23 U.S.C. 162 (c)(6).

7. Interpretative Information

Developing and providing tourist information to the public, including interpretative information about the scenic byway, 23 U.S.C. 162 (c)(7).

8. Marketing

Development and implementation of scenic byway marketing program, 23 U.S.C. 162(c)(8).

B. Selection Criteria:

The following statutory criteria are found in Section 1219 of TEA-21:

- 1) Projects on routes designated as either an AAR or a NSB.
- 2) Projects that would make routes eligible for designation as either an AAR or a NSB
- 3) Projects associated with developing State scenic byway programs.

The following criteria also are considered in the evaluation of candidates for this program:

- 1) State & byway priorities;
- 2) Project benefits;
- 3) Timely expenditure of previously awarded scenic byway funds; and,
- 4) Leveraging of private or other public funding.

C. Grant Application Checklist

- ✓ Find out the State's byways submission calendar for the grant application process;
- ✓ Seek the early involvement and endorsement of your State Scenic Byway Coordinator, or equivalent;
- ✓ Make sure to include all elements of the application the state requests;
- ✓ Identify the source of the matching funds with a letter verifying their availability;
- ✓ Explain how the community would benefit from the project;
- ✓ Include letters of support, minutes from public meetings and newspaper clips about the project;
- ✓ If available, include photographs of the site, preliminary sketches or plans; and,
- ✓ Work with state and Metropolitan Planning Organization staffs involved with the preparation of the Transportation Improvement Process.

D. Example of a Successful Grant Application

Mississippi

Natchez Trace Visitor Center Exhibit Rehabilitation

Byway(s): Natchez Trace Parkway-Mississippi

Eligible Category: Interpretive Information

Abstract: This project will fund Phase I of the rehabilitation of interpretive exhibits, "Orientation and History of the Trace." The focus of Phase I is a comprehensive history of the Trace in a peripheral style design, including Natchez Trace's designation as an All-American Road designation. The interpretive information will be updated to reflect the Parkway's current interpretive themes. Projects which directly benefit byway travelers and visitors by developing and providing them interpretive information about the byway are a high priority under the selection criteria.

Work Type(s): Facilities: Interpretive, Tourist Information

Region: Lee County

Location Along Byway: Tupelo Mississippi

Congressional Districts: 1 - Wicker, Roger F.

Project #: SB-2001-MS-1

Year Grant Awarded: 2001

Project Coordinator: Henry M Anderson <mike_anderson@nps.gov> - Phone: 662-680-4014

Project Sponsor: Natchez Trace Parkway

State Coordinator: Jim Moak

Mississippi

Rebuild parking lot at Visitors Center in Tupelo, MS

Byway(s): Natchez Trace Parkway

Abstract: The project will fund the re-design and construction of the Tupelo Visitor Center Parking Lot on the Natchez Trace Parkway. The modifications will accommodate recreational visitors using motor homes (RV's), passenger & school buses, vehicles with trailers and other park users to safely drive into and exit from the Park Headquarters and Visitor Center parking lot. Byway rest area improvements are a priority under the selection criteria.

Work Type(s): State Programs, Safety Improvements

Region: Tupelo, Lee County, MS

Congressional Districts: 1 - Wicker, Roger F.
Project #: SB-2000-MS-2
Year Grant Awarded: 2000
Project Coordinator: Stennis Young <Stennis_Young@nps.gov> - Phone: 662-680-4020
Project Sponsor: Natchez Trace Parkway
State Coordinator: Jim Moak
\$200,000

VII. RELEVANT ITEMS TO BOTH THE NOMINATION AND THE GRANT APPLICATION PROCESS

The main thing to remember about both the nomination and grant application process is that parks need to work closely with their State Coordinators. Both the nomination and grant application forms are easily completed online at www.byways.org.

A. State Transportation Improvement and Metropolitan Planning Organization Transportation Improvement Program

NPS planners are encouraged to participate in the local, State, and Metropolitan Planning Organizations (MPO) transportation planning processes. This can be done through the metropolitan and statewide annual or bi-annual development of the Transportation Improvement Program (TIP). To be funded, NSB activities must be included in the appropriate metropolitan and statewide TIPs. MPOs are designated planning groups for urbanized areas of at least 50,000 residents and they conduct transportation planning for their metropolitan region. Since most NPS roads that would be eligible for Scenic Byways designation are in less urbanized areas, most of the transportation coordination and planning activities will be done on a statewide rather than regional or metropolitan basis. It is important to note that a State must sponsor any NPS byways project in their State TIPs. The State is responsible for coordinating byways project listings with the MPO TIP.

The metropolitan and statewide planning processes should occupy a central role in the identification, planning, and funding of byways activities. In particular, the planning processes are the appropriate mechanisms for determining funding priorities among competing byway activities.

The TIP development process involves considerable coordination with public agencies, transportation providers, and members of the public. TEA-21 requires State plans and TIPs to include strategies that address a number of broadly defined transportation policy areas, such as economic vitality, safety and security, and environmental protection.

While it is the responsibility of the State to sponsor a byway project, after the NPS seeks their sponsorship, it should be emphasized that projects funded out of the Federal Lands Highway Program (FLHP) should be coordinated and included with appropriate State and MPO plans and TIPs [23 USC §204(a)(5)].

B. Positioning Your Project for Selection

As noted earlier, State and byway priorities, project benefits, timely expenditure of previously awarded scenic byway funds, and leveraging of other funds are important criteria in FHWA's evaluation of projects. Competition is tough. In FY 2002, for example FHWA received 286 grants applications from 41 States, requesting a total of \$65 million, compared to \$23 million available nationwide.

All grant applications, including those from the NPS, must be submitted through the State scenic byway agency, typically the department of transportation in most States. If multiple projects are advanced for a particular byway, FHWA requests that the byway identify their priority for each project to the State. Likewise, FHWA expects each State to rank all of the projects from the State. The Federal Highway Administrator and the Secretary of Transportation select projects for funding.

Throughout TEA-21, grant applications have been due from the State to the respective FHWA division office by June 30 in advance of the fiscal year; e.g., FY 2003 grant applications are due to FHWA by June 30, 2002 (or July 1, since June 30 falls on Sunday). The State usually has an earlier deadline in order to review and rank projects. States are able to post their deadline under the schedule on the grant section on www.byways.org, or park representatives may check with the State scenic byway coordinator.

Regardless, it is wise to check with the State scenic byway coordinator before starting work on any scenic byways grant application. Some States set a maximum dollar amount for a scenic byways project. The State coordinator also may be able to inform park representatives about how many projects (and the total requests) that might be expected from byways throughout the State in the upcoming year, and advise park representatives about any factors the State takes into consideration when ranking projects that are submitted to FHWA.

When preparing a grant application, always keep in mind that individuals who review the project are not as likely to be familiar with the park, the byway, and the surrounding area as is the park or byway representative who prepares the application. Write clearly and concisely, explain the relationship of the project to the byway, mention how byway visitors and travelers (not just park visitors) will benefit from the project, and include maps, site or conceptual plans, and other illustrations of the proposed project (as appropriate) with the hard copy of the application. Letters of support from the byway organization and communities along the byway are useful if they demonstrate broader ownership, involvement, and support for the project – not just standard endorsement. Leveraging of funds from other sources – public or private – reflect the ultimate in broader participation in the project – especially if it reduces the scenic byways funding share below the maximum 80 percent that is allowed.

C. Cooperative Agreements

Park personnel are strongly encouraged to develop an interagency cooperative agreement for byway project. NPS is a strong advocate of cooperative agreements to transfer money, property,

services, or anything else of value from the NPS to a partner. Developing a cooperative agreement for byway projects can achieve the following:

- Provide the purpose and foundation of the partnership;
- Establish obligations, responsibilities, and funding requirements;
- Anchor legislative requirements;
- Cover project termination and liability; and,
- Reaffirm standard clauses such as non-discrimination.

The format and requirement for such agreements are provided by Director's Order #20. (See Attachment 2)

D. Conclusion

The NPS is encouraged to take advantage of the NSB Program. A successful byways program shares one essential component: partnership. While national parks are public lands, they are at the same time extensions of local communities. The program provides an opportunity for national parks to collaborate with partners, such as State and local governments, gateway communities, and other stakeholders and allows the NPS to tap into the skills of a larger community, extend its mission outside park boundaries, while working towards a common goal.

The NPS seeks to provide transportation improvements “that lies lightly on the land” in and around park units, while balancing the protection of the cultural and natural resources and providing for public enjoyment. Designating a NPS road as a NSB or AAR can be a connection between resource protection and visitor enjoyment, and aid in achieving the NPS dual mandate. The byways program addresses a wide range of needs within park units, including recognition of roads that are traveled because of their intrinsic qualities. This program enables the NPS to take advantage of a grassroots program that focuses on enhancing the traveling and visitor experience and managing, restoring and preserving scenic or historic roads.

E. For Further Information

To learn more about the NSB Program, please use the following resources:

- National Park Service Park Facility Management Division's Transportation website at www.nps.gov/transportation/alt.
- National Scenic Byways Program website at www.byways.org.
- National Scenic Byways Resource Center at www.byways.org/community/center.
- National Scenic Byways Program Contact list. (This site includes State and field Coordinators (**State coordinators should be contacted before other contacts**), FHWA headquarter contacts, and Resource Center contacts.) www.byways.org/community/contacts/index.html
- Nomination and designation of a byway at www.byways.org/nominations/index.html
- What is Designation All About? at www.byways.org/nominations/docs/once_designation.pdf
- Once You Have Been Designated www.byways.org/nominations/docs/once_designated.pdf
- Online Grant Applications at www.byways.org/grants/index.html.
- Federal Highway Administration website at www.fhwa.dot.gov/

- **NPS WASO National Scenic Byways Contact:** Jennifer Getz - 202/565-1253
(jennifer_getz@nps.gov)
- **WASO Transportation Planners:**
 Mary Devine – Intermountain & Midwest Regions - 303/969-2175 mary_devine@nps.gov
 Susan Grosser – Northeast, National Capital and Southeast Regions - 202/501-8926
susan_grosser@nps.gov
 Amy Van Doren – Pacificwest & Alaska Regions - 510/817-1382 amy_van_doren@nps.gov
- **NPS Regional Federal Lands Highways Program Coordinators**
 John Chekan – Alaska Region - 907/257-2676 john_chekan@nps.gov
 David Keough – Intermountain Region - 360/696-7764 david_keough@nps.gov
 Wayne Vander Tuin – Midwest Region - 402/221-3491 wayne_vandertuin@nps.gov
 Dave Hammers – National Capital Region - 202/619-7270 dave_hammers@nps.gov
 Bob Holzheimer – Northeast Region - 617/223-5137 bob_holzheimer@nps.gov
 Dave Kruse – Pacificwest Region - 510/817-1379 dave_kruse@nps.gov
 Kent Cochran – Southeast Region – 404/562-3124 kent_cochran@nps.gov

ATTACHMENTS

Attachment 1

26759 Federal Register / Vol. 60, No. 96 / Thursday, May 18, 1995 / Notices
[FHWA Docket No. 95-15]
National Scenic Byways Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of FHWA interim policy.

SUMMARY: In response to the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) mandate to establish a national scenic byways program, the FHWA announces its interim policy for the National Scenic Byways Program. This interim policy sets forth the criteria for the designation of roads as National Scenic Byways or All-American Roads based upon their scenic, historic, recreational, cultural, archeological, and/or natural intrinsic qualities.

DATES: Comments must be received on or before July 17, 1995.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 95-15, Federal Highway Administration Room 4232, HCC-10, Office of the Chief Counsel, 400 Seventh Street, SW, Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene Johnson, Intermodal Division, Office of Environment and Planning, HEP-50, (202) 366-2071; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Beginning as early as 1966, the FHWA has participated in several studies relating to establishing national scenic byways programs. The most recent study was completed in 1991 and was conducted in response to a request in the 1990 Department of Transportation Appropriations Act. This study included recommendations for establishing a national scenic byways program, including recommended techniques for maintaining and enhancing the scenic, recreational, and historic qualities associated with each byway. The ISTEA incorporated many of the recommendations from this study and called for the establishment of a national scenic byways program. Section 1047 of the ISTEA, Pub. L. 102-240, 105 Stat. 1914, set up an advisory committee to assist the Secretary of Transportation in establishing a national scenic byways program. The advisory committee was composed of seventeen members: the designee of the Administrator of the FHWA; appointees from the U. S. Forest Service, the National Park Service, the Bureau of Land Management, the Bureau of Indian Affairs, and the U.S. Travel and Tourism Administration of the Department of Commerce; and individuals representing the interests of the recreational users of scenic byways, conservationists, the tourism industry, historic preservationists, highway users,

State and local highway and transportation officials, the motoring public, scenic preservationists, the outdoor advertising industry, and the planning professions. The advisory committee was charged with developing minimum criteria for designating highways as scenic byways or all-American roads for purposes of a national scenic byways system. After meeting four times, the advisory committee produced a report that made recommendations on all the facets of a national scenic byway program. The National Scenic Byway Program outlined in this notice follows those recommendations.

The FHWA has awarded grants to States for scenic byway projects under the interim scenic byways program established by ISTEA. The grant funds for the interim program ran out in fiscal year 1994. This notice specifies the type of projects eligible for funding and lists the funding priority for providing grants to the States under the National Scenic Byways Program.

Through this notice, the FHWA is establishing the interim policy for the National Scenic Byways Program. This interim policy sets forth the criteria for the designation of roads as National Scenic Byways or All-American Roads based upon their scenic, historic, recreational, cultural, archeological, and/or natural intrinsic qualities. To be designated as a National Scenic Byway, a road must significantly meet criteria for at least one of the above six intrinsic qualities. For the All-American Roads designation, criteria must be met for multiple intrinsic qualities. Anyone may nominate a road for National Scenic Byway or All-American Road status, but the nomination must be

submitted through a State's identified scenic byway agency and include a corridor management plan designed to protect the unique qualities of a scenic byway. The FHWA solicits comments on any part of the policy.

The National Scenic Byways Policy is as follows:

1. Applicability

The policy and procedures of this document apply to any State or Federal agency electing to participate in the National Scenic Byways Program by seeking to have a road or highway designated as a National Scenic Byway or an All-American Road and for any State seeking funds for eligible scenic byways projects. Participation in the national program shall be entirely voluntary.

2. Definitions

a. *Corridor* means the road or highway right-of-way and the adjacent area that is visible from and extending along the highway. The distance the corridor extends from the highway could vary with the different intrinsic qualities.

b. *Corridor Management Plan* means a written document that specifies the actions, procedures, controls, operational practices, and administrative strategies to maintain the scenic, historic, recreational, cultural, archeological, and natural qualities of the scenic byway.

c. *Federal Agency* means the U.S. Forest Service, Bureau of Land Management, National Park Service, and the Bureau of Indian Affairs, and their scenic byways programs.

d. *Federal Agency Scenic Byway* means a road or highway located on lands under Federal ownership which has been officially designated by the responsible Federal agency as a scenic byway for its scenic, historic, recreational, cultural, archeological, or natural qualities.

e. *Intrinsic Quality* means scenic, historic, recreational, cultural, archeological, or natural features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area.

f. *Local Commitment* means assurance provided by communities along the scenic byway that they will undertake actions, such as zoning and other protective measures, to preserve the scenic, historic, recreational, cultural, archeological, and natural integrity of the scenic byway and the adjacent area as identified in the corridor management plan.

g. *Regional Significance* means characteristics that are representative of a geographic area encompassing two or more States.

h. *Scenic Byways Agency* means the Board, Commission, Bureau, Department, Office, etc., that has the responsibility for administering the State's scenic byways program activities. Unless otherwise designated, FHWA will assume that the State Scenic Byways Agency is the State Department of Transportation or State highway agency as recognized in the administration of title 23, United States Code.

i. *Scenic Byway* means a public road having special scenic, historic, recreational, cultural, archeological, and/or natural qualities that have been recognized as such through legislation or some other official declaration. The terms "road" and "highway" are synonymous. They are not meant to define higher or lower functional classifications or wider or narrower cross-sections. Moreover, the terms State Scenic Byway, National Scenic Byway, or All-American Road refer not only to the road or highway itself but also to the corridor through which it passes.

j. *State Scenic Byway* means a road or highway under State, Federal, or local ownership that has been designated by the State through legislation or some other official declaration for its scenic, historic, recreational, cultural, archeological, or natural qualities. An Official Declaration is an action taken by a Governor or that of an individual, board, committee, or political subdivision acting with granted authority on behalf of the State.

3. Requirements

a. Any highway or road submitted for designation under the National Scenic Byways Program by State or Federal agencies should be designated as a State scenic byway. However, roads that meet all criteria and requirements for National designation but not State or Federal agencies' designation criteria may be considered for national designation on a case-by-case basis. Any road nominated for the National Scenic Byway or All-American Road designation will be considered to be a designated State scenic byway.

b. A road or highway must safely and conveniently accommodate two-wheeldrive automobiles with standard clearances to be considered for designation as a National Scenic Byway or an All-American Road.

c. Roads or highways considered for National Scenic Byways and All-American Roads designations should accommodate, wherever feasible, bicycle and pedestrian travel.

d. To be considered for the All-American Roads designation, roads or highways should safely accommodate conventional tour buses.

e. A scenic byways corridor management plan, prepared in accordance with Paragraph 9 of this policy, must be submitted in order for any road or highway to be considered for the National Scenic Byway of All-American Road designation.

f. For All-American Roads, there must be a demonstration of the extent to which enforcement mechanisms are being implemented by communities along the highway in accordance with the corridor management plan.

g. Before a road or highway is nominated for designation as an All-American Road, user facilities (e.g. overlooks, food services, etc.) should be available for travelers.

h. An important criteria for both National Scenic Byways and All-American Roads is continuity. Neither should have too many gaps but rather should be as continuous as possible and should minimize intrusions on the visitor's experience.

4. Nomination Process

a. A nomination process will be used as the means by which roads or highways may be recognized for their intrinsic qualities and designated as National Scenic Byways or as All-American Roads. All nominations for National Scenic Byways or All-American Roads must be submitted by the State Scenic Byways Agency (SSBA) to the FHWA. The States will receive written notification of the time period for submitting nominations for designation consideration.

b. Nominations may originate from any local government, including Indian tribal governments, or any private group or individual.

c. Nominations to the program of byways on public lands may originate from the U.S. Forest Service, the National Park Service, the Bureau of Land Management, or the Bureau of Indian Affairs, but must also come through the SSBA, with the State's concurrence.

d. A two-step process may be used for nominations originating with local sponsors to help alleviate unnecessary documentation, time, and expense.

The first step is for local sponsors to submit to the SSBA the documentation necessary for the State to determine if the scenic byway possesses intrinsic qualities sufficient to merit its nomination as a National Scenic Byway or an All-American Road.

The second step is for the remainder of the nomination package to be submitted once the State has determined that the byway is appropriate for nomination.

e. A corridor management plan, prepared in accordance with Paragraph 9 of this policy, must be included as part of all nominations made to the FHWA for National Scenic Byways or All-American Roads designations. The corridor management plan is not required for the preliminary intrinsic quality evaluation identified above in paragraph 4d.

f. A single application may be used by a State to seek the designation of a nominated highway as either a National Scenic Byway, an All-American Road, or as both. A highway nominated for, but failing to meet, the requirements for All-American Road designation will automatically be considered for designation as a National Scenic Byway unless the State requests otherwise.

5. Designation Process

a. Designations of National Scenic Byways and All-American Roads shall be made by the Secretary of Transportation after consultation with the Departments of the Interior, Agriculture, and Commerce, as appropriate.

b. A panel consisting of six to eight experts, designated by FHWA and reflecting a cross-section of the scenic byways community of interests (including experts on intrinsic qualities, tourism, and economic development), may assist in the review of highways nominated as National Scenic Byways and All-American Roads.

6. Designation Criteria

a. National Scenic Byways Criteria

To be designated as a National Scenic Byway, a road or highway must significantly meet at least one of the six scenic byways intrinsic qualities discussed below.

The characteristics associated with the intrinsic qualities are those that are distinct and most representative of the region. The significance of the features contributing to the distinctive characteristics of the corridor's intrinsic quality are recognized throughout the region.

b. All-American Road Criteria

In order to be designated as an All-American Road, the road or highway must meet the criteria for at least two of the intrinsic qualities. The road or highway must also be considered a destination unto itself. To be recognized as such, it must provide an exceptional traveling experience that is so recognized by travelers that they would make a drive along the highway a primary reason for their trip.

The characteristics associated with the intrinsic qualities are those which best represent the nation and which may contain one-of-a-kind features that do not exist elsewhere. The significance of the features contributing to the distinctive characteristics of the corridor's intrinsic quality are recognized nationally.

7. Intrinsic Qualities

The six intrinsic qualities are:

a. *Scenic Quality* is the heightened visual experience derived from the view of natural and manmade elements of the visual environment of the scenic byway corridor. The characteristics of the landscape are strikingly distinct and offer a pleasing and most memorable visual experience. All elements of the landscape—landform, water, vegetation, and manmade development—contribute to the quality of the corridor's visual environment. Everything present is in harmony and shares in the intrinsic qualities.

b. *Natural Quality* applies to those features in the visual environment that are in a relatively undisturbed state. These features predate the arrival of human populations and may include geological formations, fossils, landform, water bodies, vegetation, and wildlife. There may be evidence of human activity, but the natural features reveal minimal disturbances.

c. *Historic Quality* encompasses legacies of the past that are distinctly associated with physical elements of the landscape, whether natural or manmade, that are of such historic significance that they educate the viewer and stir an appreciation for the past. The historic elements reflect the actions of people and may include buildings, settlement patterns, and other examples of human activity. Historic features can be inventoried, mapped, and interpreted. They possess integrity of location, design, setting, material, workmanship, feeling, and association.

d. *Cultural Quality* is evidence and expressions of the customs or traditions of a distinct group of people. Cultural features including, but not limited to, crafts, music, dance, rituals, festivals, speech, food, special events, vernacular architecture, etc., are currently practiced. The cultural qualities of the corridor could highlight one or more significant communities and/or ethnic traditions.

e. *Archeological Quality* involves those characteristics of the scenic byways corridor that are physical evidence of historic or prehistoric human life or activity that are visible and capable of being inventoried and interpreted. The scenic byway corridor's archeological interest, as identified through ruins, artifacts, structural remains, and other physical evidence have scientific significance that educate the viewer and stir an appreciation for the past.

f. *Recreational Quality* involves outdoor recreational activities directly association with and dependent upon the natural and cultural elements of the corridor's landscape. The recreational activities provide opportunities for active and passive recreational experiences. They include, but are not limited to, downhill skiing, rafting, boating, fishing, and hiking. Driving the road itself may qualify as a pleasurable recreational experience. The recreational activities may be seasonal, but the quality and importance of the recreational activities as seasonal operations must be well recognized.

8. De-Designation Process

a. The Secretary of Transportation may de-designate any roads or highways designated as National Scenic Byways or All-American Roads if they no longer possess the intrinsic qualities nor meet the criteria which supported their designation.

b. A road or highway will be considered for de-designation when it is determined that the local and/or State commitments described in a corridor management plan have not been met sufficiently to retain an adequate level of intrinsic quality to merit designation.

c. When a byway has been designated for more than one intrinsic quality, the diminishment of any one of the qualities could result in de-designation of the byway as a National Scenic Byway or All-American Road.

d. It shall be the State's responsibility to assure that the intrinsic qualities of the National Scenic Byways and All-American Roads are being properly maintained in accordance with the corridor management plan.

e. When it is determined that the intrinsic qualities of a National Scenic Byway or All-American Road have not been maintained sufficiently to retain its designation, the State and/or Federal agency will be notified of such finding and allowed 90 days for corrective actions before the Secretary may begin formal de-designation.

9. Corridor Management Plans

a. A corridor management plan, developed with community involvement, must be prepared for the scenic byway corridor proposed for national designation. It should provide for the conservation and enhancement of the byway's intrinsic qualities as well as the promotion of tourism and economic development. The plan should provide an effective management strategy to balance these concerns while providing for the users' enjoyment of the byway. The corridor management plan is very important to the designation process, as it provides an understanding of how a road or highway possesses characteristics vital for designation as a National Scenic Byway or an All-American Road. The corridor management plan must include at least the following:

- (1) A map identifying the corridor boundaries and the location of intrinsic qualities and different land uses within the corridor.
- (2) An assessment of such intrinsic qualities and of their context.
- (3) A strategy for maintaining and enhancing those intrinsic qualities. The level of protection for different parts of a National Scenic Byway or All-American Road can vary, with the highest level of protection afforded those parts which most reflect their intrinsic values. All nationally recognized scenic byways should, however, be maintained with particularly high standards, not only for travelers' safety and comfort, but also for preserving the highest levels of visual integrity and attractiveness.
- (4) A schedule and a listing of all agency, group, and individual responsibilities in the implementation of the corridor management plan, and a description of enforcement and review mechanisms, including a schedule for the continuing review of how well those responsibilities are being met.
- (5) A strategy describing how existing development might be enhanced and new development might be accommodated while still preserving the intrinsic qualities of the corridor. This can be done through design review, and such land management techniques as zoning, easements, and economic incentives.
- (6) A plan to assure on-going public participation in the implementation of corridor management objectives.
- (7) A general review of the road's or highway's safety and accident record to identify any correctable faults in highway design, maintenance, or operation.
- (8) A plan to accommodate commerce while maintaining a safe and efficient level of highway service, including convenient user facilities.
- (9) A demonstration that intrusions on the visitor experience have been minimized to the extent feasible, and a plan for making improvements to enhance that experience.
- (10) A demonstration of compliance with all existing local, State, and Federal laws on the control of outdoor advertising.
- (11) A signage plan that demonstrates how the State will insure and make the number and placement of signs more supportive of the visitor experience.
- (12) A narrative describing how the National Scenic Byway will be positioned for marketing.
- (13) A discussion of design standards relating to any proposed modification of the roadway. This discussion should include an evaluation of how the proposed changes may affect on the intrinsic qualities of the byway corridor.
- (14) A description of plans to interpret the significant resources of the scenic byway.

b. In addition to the information identified in Paragraph 9a above, corridor management plans for All-American Roads must include:

- (1) A narrative on how the All-American Road would be promoted, interpreted, and marketed in order to attract travelers, especially those from other countries. The agencies responsible for these activities should be identified.
- (2) A plan to encourage the accommodation of increased tourism, if this is projected. Some demonstration that the roadway, lodging and dining facilities, roadside rest areas, and other tourist necessities will be adequate for the number of visitors induced by the byway's designation as an All-American Road.
- (3) A plan for addressing multilingual information needs.

Further, there must be a demonstration of the extent to which enforcement mechanisms are being implemented in accordance with the corridor management plan.

10. Funding

a. Funds are available to the States through a grant application process to undertake eligible projects, as identified below in Paragraph 10c, for the purpose of:

(1) Planning, designing, and developing State scenic byways programs, including the development of corridor management plans.

(2) Developing State and Federal agencies' designated scenic byways to make them eligible for designation as National Scenic Byways or All-American Roads.

(3) Enhancing or improving designated National Scenic Byways or All-American Roads.

b. The State highway agency (SHA) shall be responsible for the submission of grant requests to the FHWA. If the SHA is not the identified scenic byways agency, all grant requests must be forwarded from that agency to the SHA for submission to FHWA.

c. Eligible Projects

The following project activities are eligible for scenic byways grants:

(1) *Planning, design, and development of State scenic byway programs.*

This scenic byways activity would normally apply to those States that are about to establish or they are in the early development of their scenic byways programs. All related project activities must yield information and/or provide related work that would impact on the Statewide scenic byways program.

(2) *Making safety improvements to a highway designated as a scenic byway to the extent such improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway, due to such designation.*

Safety improvements are restricted to the highway that has been designated as a scenic byway and must be the direct result of increased traffic and/or changes in the types of vehicles using the highway. The safety improvements are only considered eligible when they arise as a result of designation of the highway as a scenic byway. Any safety deficiencies that existed prior to designation of the highway as a scenic byway are not eligible for funding considerations.

(3) *Construction along the scenic byway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.*

All the related facilities in this category must be constructed within or immediately adjacent to the right-of-way of the scenic byway. The facilities must also be directly related to the scenic byway.

(4) *Improvements to the scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.*

All eligible projects in this category must be construction alterations that are made to the scenic byway to enhance existing access to recreational areas. Improvements are generally confined to the right-of-way of the scenic byway. However, the acquisition of additional right-of-way along the byway is permitted when warranted to accommodate access improvements to the byway.

(5) *Protecting historical, archeological, and cultural resources in areas adjacent to the highways.*

Resource protection applies only to those properties that contribute to the qualities for which the highway has been designated as a scenic byway. The properties must be located directly adjacent to the scenic byway. Resource protection includes use restrictions that are in the form of easements. However, the purchase of the resource can be considered eligible only after it has been determined that all other protection measures are unsuccessful. Protection of a resource does not include rehabilitation or renovation of a property.

(6) *Developing and providing tourist information to the public, including interpretive information about the scenic byway.*

All information must be associated with the State's scenic byways. It may provide information relating to the State's total network of scenic byways or it may address a specific byway's intrinsic qualities and/or related user amenities. All interpretive information should familiarize the tourists with the qualities that are important to the highway's designation as a scenic byway. Tourist information can be in the form of signs, brochures, pamphlets, tapes, and maps. Product advertising is not permitted on tourist information that has been developed with grant funds received under the scenic byways program.

d. No grant shall be awarded for any otherwise eligible project that would not protect the scenic, historic, cultural, natural, and archeological integrity of the highway and adjacent area.

11. Scenic Byways and the Prohibition of Outdoor Advertising

As provided at 23 U.S.C. 131(s), if a State has a State scenic byway program, the State may not allow the erection of new signs not in conformance with 23 U.S.C. 131(c) along any highway on the Interstate System or Federal-aid primary system which before, on, or after December 18, 1991, has been designated as a scenic byway under the State's

scenic byway program. This prohibition would also apply to Interstate System and Federal-aid primary system highways that are designated scenic byways under the National Scenic Byways Program and All-American Roads Program, whether or not they are designated as State scenic byways.

(Sec. 1047, Pub. L. 102-240, 105 Stat. 1914, 1948, 1996; 23 U.S.C. 131(s); 23 U.S.C. 315; 49 CFR 1.48)

Issued on: May 11, 1995.

Rodney E. Slater,
Administrator, Federal Highway Administration.

[FR Doc. 95-12211 Filed 5-17-95; 8:45 am]

BILL

ATTACHMENT 2



National Park Service

DIRECTOR'S ORDER #20: AGREEMENTS

Approved: /s/ Robert Stanton (signed original on file)
Director, National Park Service

Effective Date: July 23, 1999

Sunset Date: July 23, 2003

The *Federal Assistance and Interagency Agreement Guideline, NPS-20, Release No. 3*, dated August 1986, and any other conflicting instructions which pre-date this Director's Order, are superseded and replaced by this Director's Order #20 and by the *National Park Service Agreements Handbook*.

1. PURPOSE AND BACKGROUND

1.1 The purpose of this Director's Order is to: (1) establish NPS policies and procedures for administering agreements; (2) identify and describe the types of agreements that the NPS enters into with Federal and non-Federal entities; (3) identify and describe the responsibilities and functions of NPS officials in administering agreements; and (4) affirm the NPS's commitment to comply with the regulations, policies and procedures imposed by the Office of Management and Budget (OMB) Circulars, the Code of Federal Regulations (CFR), the Federal Acquisition Regulation (FAR), Executive Orders (E.O.), the Department of the Interior (DOI) regulations and other applicable governmental laws and regulations.

1.2 The National Park Service (NPS) is authorized by law to enter into agreements with other agencies, organizations and individuals. These agreements establish formal relationships that allow the NPS to more efficiently and economically accomplish its mission. To some extent, applicable laws and regulations prescribe the manner or conditions under which agreements may be entered into. But NPS managers also have substantial latitude in crafting and entering into agreements. This combination of authority and latitude has resulted in a confusing proliferation of agreements that have often been more complicated than they needed to be. At the same time, the approval process has sometimes taken more time than should have been necessary, because basic elements or requirements have been overlooked by the agreement's author, or because there has been uncertainty as to roles and responsibilities in the approval process, or because an inappropriate agreement instrument has been selected. This situation indicates a need within the NPS to clarify the distinctions between various agreements, to standardize agreement formats, and to clarify roles and responsibilities.

1.3 This Director's Order is a "Level 2" document issued under the Director's signature. It does not contain detailed information and procedures or processes. However, the Associate Director for Administration will prepare and issue a *NPS Agreements Handbook* (a "Level 3" document), which will include detailed information regarding procedures and processes, and specific examples of the various agreement formats.

2. LEGAL AUTHORITY

2.1 This Director's Order is authorized by the National Park Service Organic Act (16 U.S.C. 1 through 4), and delegations of authority contained in Part 245 of the Department of the Interior Manual. In addition, there are other laws that authorize the NPS to enter into agreements and that prescribe the form and content of agreements. These other laws are referenced as appropriate within this Director's Order and, to a greater extent, within the *NPS Agreements Handbook*.

3. POLICIES/INSTRUCTIONS/REQUIREMENTS

3.1 NPS park and program managers should actively seek opportunities to efficiently and economically accomplish the NPS mission by entering into advantageous relationships with Federal and non-Federal entities. The NPS will formalize and document these relationships through Cooperative Agreements, Interagency Agreements, and **General Agreements** (formerly called Memoranda of Agreement and Memoranda of Understanding) which will explain how the relationships are managed.

3.2 All agreements in which the NPS is a party will be carried out in accordance with applicable laws, regulations and policies. The NPS will ensure, to the extent practicable, uniform implementation of procedures governing its agreements with Federal and non-Federal entities.

3.3 The terms *Memorandum of Understanding* (MOU) and *Memorandum of Agreement* (MOA) will no longer be used to describe an agreement in which the NPS is a party. The terms MOU and MOA will be replaced by the new term, *General Agreement*. An MOU or MOA which pre-dates this Director's Order may continue to be called MOU or MOA until it expires. If or when the agreement is renewed, it will be converted to a *General Agreement*¹. Exceptions to this nomenclature may be made for international agreements, or when the non-NPS party is required by their agency or institutional protocol to use MOU, MOA, or some other term.

3.4 In the past, Interagency Agreements were sometimes used to document an agreement or understanding between the NPS and another Federal agency to assist one another on a reciprocal basis. Henceforth, the NPS will use Interagency Agreements only to document arrangements that entail the transfer of funds, goods, property or services between the NPS and another Federal agency. When the purpose of the agreement is merely to document mutually-agreed-to policies, procedures, objectives and/or relationships, with no funds, goods, property or services exchanged, a General Agreement will be the instrument of choice.

3.5 The Associate Director, Administration, through the Contracting and Procurement Office, will issue the *NPS Agreements Handbook*. The handbook will provide a comprehensive compilation of detailed information and instructions that will assist NPS personnel in the development, implementation, and management of agreements. The handbook will also include legal authorities for entering into agreements and the responsibilities of NPS personnel for processing agreements. NPS personnel must comply with the mandatory elements contained in the *NPS Agreements Handbook*, which will be available through contracting offices at the regional level and through the WASO Contracting and Procurement Office.

4. COOPERATIVE AGREEMENTS

4.1 Congress has specifically defined in the Federal Grant and Cooperative Agreement Act (FGCAA--codified at 31 U.S.C. 6305) the term "Cooperative Agreement," and the circumstances under which a Cooperative Agreement must be used. In the past, the NPS has had limited authority to use cooperative agreements as a means of carrying out its mission because it had few legal authorities to undertake activities that met the FGCAA definitions. However, as a result of the Omnibus Consolidated

Appropriations Act of 1997 (P.L. 104-208), section 203 of the National Parks Omnibus Management Act of 1998 (P.L. 105-391), and section 818 of the Omnibus Parks and Public Lands Management Act of 1996 (P.L. 104-333), the NPS has three new statutory authorities that expand the opportunities to use cooperative agreements. These new authorities are 16 U.S.C. 1g for park programs, 16 U.S.C. 5933 for cooperative study units, and 16 U.S.C. 1a-2(j) for park research. These new authorities, in addition to the other existing specific authorities, allow the NPS to carry out any of the NPS's legally authorized activities through a Cooperative Agreement, as long as the following conditions are met:

(a) The agreement is used to transfer money, property, services, or anything else of value from the NPS to the partner; and

(b) The principal purpose of the NPS assistance is:

1. To carry out a public purpose of support or stimulation authorized by a law of the United States between the NPS and a state, local government, tribal government or other non-Federal partner. [A few examples of those laws include 16 U.S.C. 460(f) (research relating to outdoor recreation); 16 U.S.C. 462(e) (the Historic Sites Act of 1935); 16 U.S.C. 1246 (the National Trails System Act); 16 U.S.C. 1281(e) (the Wild and Scenic Rivers Act); 16 U.S.C. 3119 (Alaska National Interest Lands Conservation Act)]; or

2. To carry out the public purpose of any National Park Service program, authorized by law or by appropriation, with a state, local or tribal government, other public entity, educational institution, or private nonprofit organization. [This authority, 16 U.S.C. 1g, provides a very broad authority to use cooperative agreement instruments in support of park programs]; or

3. To develop adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System with a public or private educational institution, state, or a political subdivision of a State, as authorized by 16 U.S.C. 1a-2(j); and

(c) The NPS anticipates substantial involvement during performance of the contemplated activity. [Anticipated involvement during performance would exist and, depending on the circumstances, could be substantial where the relationship includes, for example: NPS involvement in program management decisions; NPS collaboration in the accomplishment of the activity; or NPS operational involvement or participation during the project. The *NPS Agreements Handbook* provides additional guidance on determining whether substantial involvement is anticipated.]

4.2 Although the NPS frequently "cooperates with" or participates in a "cooperative arrangement with" other Federal and non-Federal entities, unless the arrangement meets the criteria in paragraph 4.1, above, it will not be the subject of a "Cooperative Agreement." Instead, such arrangements will be the subject of a "General Agreement" or "Interagency Agreement."

4.3 Cooperative Agreement administration requires record keeping and compliance with any reporting requirements specified in the agreement and by regulations applicable to Cooperative Agreements. The *NPS Agreements Handbook* provides detailed information on these requirements.

4.4 Cooperative Agreements must be reviewed by a Contracting Officer and the Office of the Solicitor.

4.5 Cooperative Agreements must be signed by a Contracting Officer who possesses a Level IIB or higher warrant, and who has had Cooperative Agreement training from an accredited educational institution.

4.6 Cooperative Agreements are not to be used to circumvent applicable Federal acquisition laws and regulations. Competition should be encouraged, where deemed appropriate, in the award of cooperative agreements.

Note: If an end product will be delivered to the NPS, without substantial involvement by the NPS during performance, then a simplified purchase or a formal contract is the appropriate course of action, rather than a Cooperative Agreement.

5. INTERAGENCY AGREEMENTS

5.1 An Interagency Agreement is the appropriate instrument for:

(a) The acquisition or provision of goods or services between the NPS and another Federal agency, as authorized by the Economy Act (31 U.S.C. 1535, as amended); or,

(b) The acquisition or provision of services between the NPS and the District of Columbia government, as authorized by the Economy Act (31 U.S.C. 1537, as amended).

5.2 Interagency Agreements which obligate NPS funds must be reviewed and signed by a Contracting Officer who possesses a level IIB or higher warrant. Interagency Agreements that exceed \$250,000 must be reviewed for approval or disapproval by the Manager, Contracting and Procurement Program Office, WASO. If superintendents, program managers, or Contracting Officers have questions on a specific Interagency Agreement, they should contact the Office of the Solicitor for guidance.

5.3 Interagency Agreements which involve the receipt of funds by the NPS do not require the signature of the NPS Contracting Officer unless required by the other Federal agency. If the other Federal agency does not require the signature of the NPS Contracting Officer, the responsible NPS official will sign the Interagency Agreement.

5.4 An Interagency Agreement which does not meet the requirements of 5.1, above, and which pre-dates this Director's Order, may continue to be called an Interagency Agreement until it expires. However, if and when the agreement is renewed, it will be renamed *General Agreement*.

6. COOPERATIVE MANAGEMENT AGREEMENTS

[NOTE: Policy guidance on the use of Cooperative Management Agreements for the acquisition or provision of supplies and services between the NPS and a State or local government agency, as authorized by section 802 of the National Park Omnibus Management Act of 1998, 16 U.S.C. 1a-2(I), is being developed and will be inserted here when it is completed.]

7. GENERAL AGREEMENTS

7.1 A General Agreement is a generic instrument used to document a wide range of mutually-agreed-to policies, procedures, objectives, understandings and/or relationships with Federal and non-Federal entities. The term "General Agreement" may be applied to any agreement not defined above as a Cooperative Agreement or an Interagency Agreement. Examples include:

- (a) Agreements with "friends" organizations;
- (b) Programmatic agreements with other Federal agencies;
- (c) Planning and development agreements;
- (d) Cooperating association agreements;
- (e) Fund-raising or donation agreements;²
- (f) Reimbursable and non-reimbursable law enforcement assistance and fire-fighting agreements with state or local agencies;
- (g) Arrangements under which a non-governmental entity will reimburse the NPS for supplies or services authorized under 16 U.S.C. 1b(5).

7.2 While the generic term "General Agreement" will define the type of instrument, a more explicit

- (a) "General Agreement – to Document a Fund-raising Relationship between"
- (b) "General Agreement – to Document a Cooperating Association Relationship between...."
- (c) "General Agreement – to Document a Fire-fighting Assistance Relationship between...."

7.3 General Agreements must not commit the NPS to provide financial assistance in any form, nor transfer NPS goods or services to Federal or non-Federal entities. However, a General Agreement may establish an administrative framework under which a subsequent Cooperative Agreement or Interagency Agreement will be entered. When used this way, the General Agreement may be incorporated into and succeeded by the Cooperative Agreement.

7.4 General Agreements are not required to be reviewed or signed by a Contracting Officer. However, if a General Agreement establishes an administrative framework under which a subsequent Cooperative Agreement or Interagency Agreement will be entered into, it is recommended that a Contracting Officer review the General Agreement.

7.5 If NPS park or program managers have questions regarding the legal implications of their General Agreements (such as tort claim liability), they are encouraged to consult with the Office of the Solicitor. Solicitor's Office review is required for all fundraising agreements.

7.6 General Agreements may be reviewed and signed by the Director or by a deputy director, associate director, regional director, superintendent, or service/administrative program center manager. General Agreements intended for signature by the Director will be referred to the Office of Policy for prior review. Regional and associate directors may impose additional reviews and/or approval procedures for General Agreements within their jurisdiction.

8. CHALLENGE COST-SHARE PROGRAM

The criteria in sections 4 and 7 of this Director's Order should be applied to determine whether a Cooperative Agreement or a General Agreement is the appropriate instrument for documenting a Challenge Cost-Share Program (CCSP) activity. In some cases, a contract will be the appropriate instrument. Further guidance for the CCSP may be found in Director's Order #27, which is currently being developed. For additional information, contact the Washington Coordinator for the CCSP, or visit the following website: <http://www.nps.gov/legacy/ccsp.htm>.

9. RESPONSIBILITIES OF OFFICIALS

9.1 **Department of the Interior Office of Acquisition and Property Management.** Issues, through the Department of the Interior Manual, policies, procedures and regulations to implement Government-wide statutory or regulatory requirements for agreements.

9.2 **Office of the Solicitor.** Reviews agreements to ensure that the appropriate legislative authority is cited and the agreement is legally sufficient.

9.3 **Office of the Inspector General.** Conducts audits and negotiates cost rates for Cooperative Agreements.

9.4 **Director, Deputy Director, and Associate Directors.** Ensures that established policies, procedures, and requirements for agreements are met. On a case-by-case basis, each may sign General Agreements that have Service-wide impact.

9.5 **Associate Director, Administration.** Ensures that established servicewide policies and procedures for agreements are implemented.

9.6 **Regional Director.** Signs General Agreements which have regionwide impact.

9.7 Manager, Contracting and Procurement Program Office, WASO. Develops and issues Service-wide policies and procedures to comply with OMB Circulars, Federal Acquisition Regulation, Executive Orders, the Departmental Manual, and other sources of guidance on agreements; provides Service-wide oversight of Cooperative and Interagency Agreements; reviews NPS and office internal controls to ensure compliance as set forth in 43 CFR 12 and 505 DM .

9.8 Superintendents, Managers, Service Centers and Administrative Program Centers. Authorized to sign General Agreements that affect areas and matters over which they have jurisdiction.

9.9 Contracting Officers with Level IIB or higher warrant. Authorized to sign and administer Cooperative and Interagency Agreements.

9.10 Program Managers/Contracting Officer's Technical Representatives. Provide technical information, statements of work and technical assistance for agreements, and receipt of reports and other deliverables.

9.11 Property Office. Maintains accountable property records for property furnished under agreements and disposes of excess property acquired under agreements, in accordance with Director's Order #44.

9.12 Partnership Office. Reviews, and provides technical assistance with regard to, General Agreements relating to fundraising campaigns which require the Director's approval.

9.13 Office of Policy. Reviews, and provides technical assistance with regard to, General Agreements intended for signature by the Director (other than fundraising).

9.14 Accounting Operations Center. Ensures invoices are reviewed for accuracy and payments are processed in accordance with the terms and conditions of agreements.

Note: Although the authority to sign and administer cooperative agreements or interagency agreements which obligate funds rests with the appropriate level contracting officer, Regional Directors and/or park superintendents may co-sign agreements signifying their endorsement of the partnership arrangement.

¹ The terms MOU and MOA are being eliminated at the suggestion of the Office of the Solicitor, and in response to a recommendation from the Vail Partnership Committee to reduce the confusion in selecting agreement instruments. Both these terms--and the types of relationships they characterized in the past--will be encompassed within the more generic General Agreement. Although confusion will never be totally eliminated, the range of options should help simplify choices.

² A gift to the NPS from a grant-making foundation may be documented in whatever format is used by the foundation, provided that the document does not contain stipulations that are otherwise unacceptable to the NPS. (Consult with the Office of the Solicitor or the Partnerships Office if further guidance is needed.)