United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

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Policy Memorandum 08-01

To: National Leadership Council

From: Director Mary A. Bomar

Subject: Revised Policy regarding review requirements for procurement contracts, grant agreements, and cooperative agreements

Due to changes to the Department of the Interior Manual (DM) section relating to procurement contracts, grant agreements, and cooperative agreements, we must make corresponding changes to National Park Service policy and procedure. The necessary changes will be incorporated into Director's Order #20: Agreements, and the Agreements Handbook, as soon as practicable. Additional implementation guidance may be provided, as well. In the interim, the changes are hereby adopted through this policy memorandum for your immediate implementation.

The guidance provided in this memorandum pertains specifically to the role of the Office of the Solicitor (SOL) in providing legal review and advice regarding grants, and cooperative agreements. As stated in the January 10, 2008, cover memo from Deputy Secretary Scarlett, other key changes made by the Department include:

- Incorporating the single source exception, provided in OMB guidance, to posting cooperative agreements on Grants.gov.
- Providing new criteria for justifying single source awards without competition.
- Providing for more accountability and transparency through periodic compliance reviews and better documentation to justify awards.

Background

Federal financial assistance policy is provided by the Department through a variety of chapters in the DM. Part 505, Chapter 2, of the DM (Procurement Contracts, Grant and Cooperative Agreements) provides Departmental guidance to implement provisions of the Federal Grant and Cooperative Agreement Act, the Federal Financial Assistance Management Improvement Act, and related guidance issued by the Office of Management and Budget (OMB). Part 505 has been revised to better enable Bureaus and offices to work in partnerships while ensuring that the appropriate instruments are used in procuring goods and services and providing funding opportunities. A key change to the policy was in redefining SOL's role to provide legal review where it is most needed for Federal financial assistance programs.

Role of the Solicitor's Office

In accordance with the revised 505 DM 2, the Director's Order #20 threshold of $750,000 for required review by SOL has been eliminated. SOL will assist bureaus and offices with legal questions which may arise as the result of implementing the Federal Grant and Cooperative Agreement Act, the OMB guidance contained in Circular A-123 and other circulars, and the provisions of 505 DM 2, normally within seven (7) workdays. Cooperative agreements and grant awards, issued under well-established programs, do not require SOL review, unless requested. However, SOL will assist bureaus in review or development of new programs or policies affecting future allocations of financial assistance awards, including grants and cooperative agreements. SOL will review and advise the bureau or office, upon request, if a proposed cooperative agreement or grant is of such complexity or novelty or exhibits intellectual property issues or potential conflicts of interest, or other such concerns to warrant legal review.

Additional Requirements for the Implementation of the Revised 505 DM 2

Bureaus are required to identify the actions required to carry out the policies, procedures, and guidelines established in the revised DM and submit their policy alignment and action plan to the Department by April 4, 2008. A working group consisting of program office staff and acquisition staff has been assembled to respond to this requirement. Additional policy changes will be issued upon approval of the working group's effort by NPS leadership and the Department. The working group will submit to NPS leadership in March 2008 a draft of the additional policy guidance and response to the Department.

Upon approval of the policy alignment, work will begin on the necessary revisions to Director's Order #20: Agreements, the Agreements Handbook, and any other implementation guidance that may be necessary. In the meanwhile, the NPS will comply with all requirements of 505 DM 2. One of the things I want to emphasize is the importance of contracting officers, program officers, and field managers working as a team in interpreting 505 DM 2 as it pertains to their particular projects.

This policy memorandum will expire when its subject matter is incorporated into one or more of those other documents. If you have questions related to this revised policy, please contact Ms. Heidi Ernst, Bureau Procurement Chief, at (303) 987-6714.

Attachment—505 DM 2