United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, NW
Washington, DC 20240

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Policy Memorandum 20-01

To: Regional Directors
Superintendents

From: Deputy Director, Operations **/s/ Raymond Vela, 07/09/2020**
Exercising the Authority of the Director

Subject: Use of Prison Work Details in Units of the National Park System

Purpose

This Policy Memorandum (Memorandum) sets forth National Park Service (NPS) policies and procedures regarding the use of prison work details within units of the National Park System. This Memorandum will remain in effect until such time as it is amended or superseded.

Background

The NPS has successfully utilized prison work details for decades. Prison work details have served as a critical resource in wildland fire crews, and landscaping, maintenance and public work projects crews, across the National Park System. In addition to aiding the conservation mission of the NPS, these details have the added societal benefit of preparing prison laborers for post-incarceration life by teaching them important, marketable job skills. However, lax oversight of prison laborers resulted in an investigation by the Department of the Interior (DOI) Inspector General. Acting on the Inspector General's resulting Management Advisory, the Secretary of the Interior ordered the NPS to immediately stop all use of prison labor in a memorandum dated April 2, 2020. In addition, the Secretary's memorandum ordered the NPS, working with the Assistant Secretary, Fish and Wildlife and Parks, to develop Service-wide policies on this topic within 60 days. This Memorandum is the result of those efforts.

In order to continue the successful use of prison work details, and avoid future problems, this Memorandum requires the use of standardized agreement templates and language between the NPS and Federal, State, tribal, or local prisons,[1] and that these agreements are reviewed and approved at the headquarters level.[2] These standard agreements will establish processes for,

[1] In the context of this Memorandum, there is no distinction between the use of prison labor from public versus private prisons since a prisoner is still legally in the custody of the Federal, State, tribal or local entity no matter the actual place of confinement.

[2] Past NPS experience with prison work details has involved direct interaction with the Federal Bureau of Prisons (BOP) or State correctional institutions. At no time have prison work details been provided by private contractors. Indeed, the pay requirements of 18 USC 3622(c) and Executive Order 11755 make such arrangements financially prohibitive. Accordingly, this Memorandum anticipates that, going forward, the NPS will continue to

among other things, NPS employee training, the transportation of prisoners to and from NPS units, the oversight of work performed, and other important considerations necessary to facilitate these arrangements. Example agreements utilizing current templates for prison work details, along with guidance to NPS employees for monitoring inmates, are attached as appendices. Any deviation from the use of the standard language specifically as it pertains to prison work agreements must be approved by either the Associate Director, Visitor and Resource Protection (AD, VRP) (in the case of wildland fire crews) or the Associate Director, Park Planning, Facilities and Lands (AD, PPFL) (in the case of landscaping, maintenance, and public work projects), in writing in advance. Mandatory template language for financial assistance agreements in general supported by DOI and/or NPS policy must be updated as changes are made over time; the AD, VRP and AD, PPFL are authorized to update these standard agreements as necessary.

Policy

1. It is the policy of the NPS that any use of prison work details[3] be initiated and governed by either a valid (1) cooperative agreement as authorized by 54 USC 101702(a) (in the case of State, tribal, or local prisoners), or (2) an interagency agreement as authorized by 18 USC 4125(a) (in the case of Federal prisoners).[4]

2. Cooperative agreements (and subsequent task agreements) and interagency agreements for the use of prison details must obtain approval by the superintendent with the written concurrence of the regional director. Additionally, NPS Financial Assistance Policy and Procedures (FAP&P) 1443-2015-04 requires that all cooperative agreements be signed by a certified Financial Assistance Awarding Officer. Further, Director's Order #20: Agreements requires all interagency agreements be reviewed and signed by a contracting officer.

3. Part 505, chapter 2 of the DOI Manual (505 DM 2) recommends bureaus seek Solicitor input on an as-needed basis for cooperative agreements. Due to the concerns arising from past agreements involving prison labor, Solicitor review will be obtained prior to issuing any new cooperative agreements involving prison labor. In addition, this Memorandum requires all interagency agreements for the use of prison labor must also be reviewed by the Office of the Solicitor.

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obtain prison work details directly from the BOP and State correctional institutions, and not through private contractors.

[3] This Memorandum is only concerned with prison work details, i.e., groups of prisoners selected by prison authorities to work in the parks while incarcerated. Individual prisoners performing community service in the parks as a part of court-approved probation, work release or alternative sentencing is governed by Director's Order #7: Volunteers-in-Parks (see, in particular, section 5.2).

[4] Some previous interagency agreements for the use of prison labor have cited as authority the Economy Act, 31 USC 1535. However, section (e)(i) thereof explicitly states that it "does not . . . authorize orders to be placed for goods or services to be provided by convict labor . . . ."

4. All cooperative or interagency agreements for the use of prison work details must specify requirements and operational standards for their effective use, including, but not limited to, effective oversight thereof, necessary NPS employee training, and responsibility for transportation of the prisoners to and from the relevant NPS unit, etc.

5. All cooperative or interagency agreements must specify that any inmate to be utilized on a prison work detail will be a minimum security inmate selected by the appropriate Federal, State, tribal or local prison authorities with due regard for their safe custody, mental and physical competence, and suitability for the work assignment. Further, such prison authorities will eliminate from selection any inmate with a history of serious violence, escape, arson, or sexual offenses.

6. Any cooperative or interagency agreement for the use of prison work details executed prior to the approval of this Memorandum may remain in effect provided that (1) the regional director concurs, in writing, and (2) the AD, VRP or AD, PPFL, as appropriate, determines that it meets the requirements specified in sections 4 and 5 above, and should remain in effect. Regional directors should transmit any such agreement(s) to the AD, VRP or AD, PPFL for safekeeping (see section 7, below); the AD, VRP or AD, PPFL will then make the notations called for in this section on the copies thus transmitted to them.

7. All cooperative or interagency agreements for the use of prison work details as wildland fire crews will be approved by the AD, VRP. The AD, VRP will retain copies of all such agreements in his/her possession. All cooperative or interagency agreements for the use of prison work details in landscaping, maintenance and public work projects will be approved by the AD, PPFL. The AD, PPFL will retain copies of all such agreements in his/her possession.

Further Information

For further information regarding the use of prison work details as wildland fire crews, please contact the AD, VRP at <npsadvisitor_resourceprotection@nps.gov>. For further information regarding the use of prison work details in landscaping, maintenance and public work projects, please contact the AD, PPFL at <nps_ad_park_planning_facilities_and_lands@nps.gov>.

No Third Party Enforceability; Not a Guidance Document

This Memorandum is intended only to improve the internal management of the NPS, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

This Memorandum lacks the force and effect of law. Moreover, as it is (1) directed only to the NPS, and (2) not intended to have any effect on any regulated parties, it is not a "guidance document" within the meaning of Executive Order 13891. See, section 2(h)(v) of the Executive Order.

Attachments

Interagency Master Agreement Template (Federal Inmates)

Guidance to NPS Employees Monitoring Federal Inmates

Cooperative Master Agreement Template (State, Tribal and Local Inmates)

Task Agreement Template (State, Tribal and Local Inmates)

-------*End of Policy Memorandum*-------