

## **Key Planks Removed for NPS Corporate Fundraising Director's Order 21**

The draft of revised Director's Order (DO) #21: Philanthropic Partnerships posted on March 30, 2016 for public comment was substantially revised when it was finalized on December 28, 2016. Several major provisions to which PEER objected were either removed in their entirety or substantially restricted. Among these are the following:

### **1. Restores Policy That Donations are Supplemental, Not Base Budget**

The prior DO #21 provided that –

“Donations are not to be used as offsets to appropriated funds or to meet recurring operational requirements.” (§1.1)

This stipulation was not retained in the proposed DO revisions. This omission, which is not mentioned in any of the NPS explanatory material concerning its revised DO, would have represented a fundamental (albeit unheralded) philosophical shift. It signals that the NPS intends to derive a significant and perhaps vital portion of its future operating budgets from corporate and other private donations.

The concern about this omission was that it would move NPS away from its posture as a purely public agency and attempt to refashion it as a private-public joint venture. There is no statutory authority for such a fundamental shift in agency mission. PEER believes that if such a shift were to occur it should be sanctioned by statute and not accomplished on a stealth basis by a rewriting an obscure Director's Order.

However, the final policy adds language that –

“Philanthropic support for parks and programs continues to be an important supplement – not a replacement –for Federal appropriations.” (§1.1)

### **2. Limits Logos and Advertising Slogans**

The prior DO limited display of corporate logos to a “credit line on printed or electronic material, audio/video/fil products and temporary construction/restorations signs.” (§10.2.1)

The proposed DO revisions dropped that restriction and instead stated:

“The use of corporate name scripts or logos may be a proper form of donor recognition in some circumstances.” (§8.7)

However, the final policy bans any “advertising or marketing slogan.” (§8.1) It also restricts corporate “scripts or logos ... except as part of a credit line (and only as part of a credit line)” (§8.7)

### **3. Prohibits Civil Servants from Soliciting Donations**

The prior DO stated that “It is NPS policy that its employees not solicit donations” which is defined as “any request by an NPS employee to a non-federal entity, group or individual for donations to be made directly or indirectly to the NPS in support of its programs.” (§2.2)

By contrast, the proposed DO revisions declare:

“As a matter of policy, NPS employees generally may not solicit donations.” (§3.1.2)

It did not specify what the exceptions are to this “general prohibition.” Thus, it is unclear how much time senior NPS officials would be spending soliciting private contributions. This section further stated that the “Director and Deputy Directors... may solicit donations directly or indirectly from private individuals or organizations for the NPS and its programs.” Thus, the upper echelons of NPS leadership whose salaries are paid with appropriated funds would have been able to spend official time soliciting gifts from private individuals, corporations, and organizations.

The final policy limits solicitation only by the Director (using backhanded language: “This general prohibition does not fully apply to the Director...” §3.1.2) and references the Director’s role on the Board of the National Park Foundation, the Congressionally-authorized fundraising arm of the NPS. NPS now takes the position that there are no other exceptions to the ban against soliciting donations.

The final policy also explicitly states that “superintendents and program managers may not solicit donations.” In addition, the final policy drops language that park “superintendents are encouraged to participate with philanthropic partners in ‘donor cultivation’ meetings with prospective donors.” (§3.1.11)

### **4. Drops Specified Fundraising Activities for Superintendents**

One of the major changes in the proposed DO revisions was to significantly expand the role of NPS superintendents in obtaining private donations to support their park operations. The proposed revised DO laid out thirteen separate fundraising duties which superintendents and other “authorized employees” “must” perform, including to –

- Accept donations;
  - Develop “philanthropic partnership agreements”; and
  - Review “all” donor “solicitation” and other materials about every proposed donation.
- (§3.1.3).

In addition to these multiple mandatory duties, superintendents would have been encouraged to engage in another eleven listed fundraising activities, including to –

- Identify philanthropic opportunities;
- Liaison with fundraisers; and
- Work with and support funding partner programs.

The final DO drops references to mandatory and encouraged fundraising activities by superintendents.

### **5. Fundraising Prowess No Longer a Prerequisite for Career Advancement**

The proposed DO revisions identified developing “successful philanthropic partnerships” as a “core” competency for superintendents and other NPS managers. These authorized employees “will be required to complete a training certification program to develop the knowledge base and skills for success in philanthropy and partnerships.” (§3.1.4)

This language strongly suggested that competence in fundraising would become a minimum requirement to become a park superintendent or above.

The final DO eliminates this language. It instead provides that philanthropic training will be “available for all NPS employees and partners.” It further allows NPS managers to seek “certification” if they are “seeking a higher delegation of authority” to receive larger monetary donations. (§3.1.4) It also states that:

“To be successful today, NPS employees should (1) have a general understanding of philanthropy, (2) be able to engage with potential philanthropic partners, and (3) practice an impartial and inclusive approach to philanthropy at all giving levels and from diverse sources.” (§1.1)

Thus, donor cultivation has moved from a mandatory requirement to a suggestion for career fulfillment in the modern Park Service.

### **6. Ban on Commercialism Restored**

The prior DO posited an “NPS policy that parks be free of commercialism...” (§10.2) This language disappeared from proposed DO revisions.

The draft further directed NPS managers to meet “the needs of donors.” (§8) This appeared to be implicit concession that donor recognition would be a thing of value conveyed in exchange for the donation, in effect, selling public space to corporations for display of their names and corporate symbols. Under this revision, the difference between widespread donor recognition and paid advertising would be elusive.

The final DO urges that steps be taken to ensure that “national parks and NPS programs are not commercialized” (§4.3) but does not specify what those steps are. The final policy also replaces the “needs” of the donor to the “interests of the donor” as a consideration for donor recognition. (§8)

### **7. Concessionaire Donation Ban Tightened But Not Closed**

The new rule declares that “NPS policy is to decline donations for its parks, projects and programs from: Concessioners or those seeking a concession contract...” (§5.1.1) The final DO closes a loophole in its draft which would have authorized superintendents to “Accept offers to support park activities through co-sponsorship of events by concessioners and others.” (§ 3.1.3)

But the final DO leaves another loophole containing this parenthetical proviso:

“(this does not prohibit an authorized philanthropic partner from accepting donations from these sources for NPS projects, nor does it prohibit an authorized philanthropic partner with a Category III Concession Contract for convenience items from donating to a park).” (§5.1.1)

In other words, concessioners, vendors, and others either doing business or seeking business from a park may channel donations through the park’s “friend” group or other partner. While the final DO requires philanthropic partners to review their donors, including indirect donors, general donations to philanthropic partners “are not subject to NPS donor review policies.” (§5.4) Consequently, while this loophole has been narrowed it still remains open.

### **8. Crowdfunding Restricted**

The proposed revisions encouraged use of crowdfunding (at §4.7.1) but the final policy stipulates that “crowdfunding is not available to the NPS or its employees as a way of funding projects or programs.” (§4.6.1)

### **9. Questionable Corporate Identity Language Removed**

The proposed DO revisions were suffused with language about bonding with donors and a commingling of purpose. It used language stating that these partnership arrangements should strive to “create community of practice and shared understanding, bringing the NPS and its partners closer together” to align “each other’s organizational and ethical ‘cultures.’” (§3.1.4)

This language has been stricken from the final DO.

### **9. Details to Follow**

The new policy promises that “detailed procedures” will be developed. (§3.1.6) This additional guidance will be in the form of a Reference Manual which must be updated frequently. (§6.4.1).

The policy requires written Philanthropic Partnership Agreements (§6) as well as Philanthropic Support Agreements. (§6.3)

In addition, NPS promises to develop a template for donor recognition plans. The policy stipulates that these plans must be approved by “Regional, associate and assistant directors.” Moreover, any “plans that deviate from the [national] template” require Headquarters sign-off. (§8.2.1) All of these plans also are supposed to be updated annually. (§6.4.1)

The net result is that this new policy is not self-executing. It requires numerous and frequent bureaucratic hoops to jump through. If this paperwork is not made a priority, many of this new policy’s provisions could become moribund.

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