



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

The National Park Service Did Not Oversee Its General Agreements

This is a revised version of the report prepared for public release.

In recognition of Secretarial Order No. 3380, we are providing estimated costs associated with certain work products. Applying a formula involving prior salary and benefit expenses, we estimate the cost of preparing this report to be \$222,000.



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

SEP 23 2020

To: Margaret Everson
Counselor to the Secretary, Exercising the Delegated Authority of the Director
National Park Service

From: Mark Lee Greenblatt 
Inspector General

Subject: Final Evaluation Report – *The National Park Service Did Not Oversee Its General Agreements*
Report No. 2019-CR-035

This memorandum transmits our final evaluation report on the National Park Service's (NPS') oversight of its general agreements (GAs). We determined that the NPS did not oversee its GAs to ensure compliance with policies and governing laws. Specifically, we found the NPS was misusing GAs at all three parks we reviewed, which puts the NPS at risk of unauthorized commitments.

We make five recommendations to help the NPS improve oversight of its GAs. Based on the NPS' response to our draft report, we consider one recommendation unresolved, one recommendation resolved and implemented, and three recommendations resolved but not implemented. We will refer the recommendations to the Assistant Secretary for Policy, Management and Budget for resolution and to track implementation.

If you have any questions regarding this memorandum or the subject report, please contact me at 202-208-5745.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

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Results in Brief

We evaluated the National Park Service's (NPS') general agreements (GAs) to determine if the NPS oversees its GAs to ensure compliance with policies and governing laws.

The NPS describes a GA as a nonbinding written agreement used to document a wide range of policies, procedures, objectives, understandings, or relationships among Federal and non-Federal entities. Policies and laws prohibit these agreements from committing the NPS to providing financial assistance in any form or transferring NPS goods or services to Federal and non-Federal entities.

We found that the NPS did not oversee its GAs to ensure compliance with policies and governing laws. We initially requested national information on the NPS' GAs. The NPS, however, was unable to provide that information. We found that the NPS was unaware of the number of active GAs because it did not maintain a central inventory for its GAs. We then requested the same information from the NPS Intermountain Region, which was also unable to provide it. We found the NPS administered and tracked its GAs at only the program level within each national park. Therefore, we selected three parks to review in the Intermountain Region: Yellowstone, Grand Teton, and Rocky Mountain.

We found the NPS was misusing GAs at all three parks we reviewed, which is likely a result of the informal review process associated with these instruments. During our evaluation, we determined that the NPS used the GAs to provide financial assistance or transfer goods or services to non-Federal entities, in apparent contravention of policies and laws. Further, we noted that personnel who were not authorized to commit NPS resources signed the GAs that inappropriately transferred something of value, which puts the NPS at risk of unauthorized commitments. The NPS has neither provided clear, consistent guidance, nor provided training on how to develop and use GAs at the national level.

We make five recommendations to help the NPS improve oversight of its GAs. The NPS responded to all five recommendations in its response to our draft report. Based on the NPS' response, we consider one recommendation unresolved, one recommendation resolved and implemented, and three recommendations resolved but not implemented. We will refer the recommendations to the Assistant Secretary for Policy, Management and Budget for resolution and to track implementation.

Introduction

Objective

Our objective was to determine if the NPS oversees general agreements to ensure compliance with policies and governing laws.

Appendix 1 contains the scope and methodology for this evaluation.

Background

The NPS establishes relationships with multiple nonprofits, partners, stakeholders, and Federal agencies through a variety of legal instruments. Each legal instrument comes with its own set of policies and governing laws. In 2003, the NPS started using the term general agreement (GA) to replace memoranda of understanding (MOUs) or agreement (MOAs) in Director's Order #20 (DO 20) in an attempt to reduce the confusion in selecting legal instruments at the suggestion of the U.S. Department of the Interior's (DOI's) Office of the Solicitor. According to DO 20, a GA is a generic instrument used to document a wide range of policies, procedures, objectives, understandings, or relationships among Federal and non-Federal entities. DO 20 prohibits the NPS from using a GA to provide financial assistance in any form or transfer NPS goods or services to Federal and non-Federal entities. The NPS can use other legal instruments to procure or transfer goods or services, such as a procurement contract¹ or grant or cooperative agreement.²

¹ A procurement contract, which must adhere to the Federal Acquisition Regulation, reflects the legal relationship the NPS has with another entity when the principal purpose is to acquire property, goods, or services that directly benefit the NPS.

² A grant or cooperative agreement is a financial assistance agreement that can be used to transfer something of value from the NPS to a recipient to carry out a public purpose (see Section 31 U.S.C. Chapter 63).

Findings

During our evaluation, we found that the NPS did not oversee its GAs to ensure compliance with policies and governing laws. Specifically, we found the NPS did not maintain an inventory of the total active GAs, the NPS did not use a standard review process for its GAs, parks incorrectly used GAs to commit NPS resources, and the NPS did not provide training or consistent guidance on how to develop and use GAs. As a result, the NPS is at risk for unauthorized commitments.

The NPS Did Not Maintain a GA Inventory or Use a Standard Review Process

During our evaluation, we found that the NPS did not know how many active GAs it had in place across the Nation. In our initial data request, we asked for a universe of all active NPS GAs, including active MOUs and MOAs. The NPS notified us that it did not have a central inventory for the GAs at the Washington Area Support Office or the individual park level. Through discussions with NPS Intermountain Region (IMR) Major Acquisition Buying Office and Financial Assistance personnel, we learned that the IMR also did not track the GAs. Rather, the NPS administered the GAs at the program level within each park. As a result, we directly asked three IMR parks—Yellowstone, Grand Teton, and Rocky Mountain—for a list of their GAs. While none of the three IMR parks we sampled had a list of active GAs readily available, each park produced one in a timely manner over the course of our evaluation.

In addition, we found that NPS officials did not consistently review the GAs beyond the authorizing park prior to implementation. Park officials noted that while they occasionally asked the Office of the Solicitor or IMR personnel for help when developing agreements, they primarily used previously developed GAs as a template when drafting new or updated GAs. Because the GAs are intended for nonbinding agreements, the NPS does not require any official to review them at a higher level than the park itself. In contrast, the NPS requires tracking and review at the regional or national level for other legal instruments, such as financial assistance agreements or contracts, due to the inherent commitment of NPS resources.

Because the NPS does not track its active GAs, nor require higher level review, the parks may incorrectly use GAs in place of financial assistance agreements or contracts. In our review, we identified GAs that committed NPS resources, similar to a financial assistance agreement or contract, that did not go through a review process at the regional or national level. Additional oversight would help ensure that the NPS is appropriately and consistently using the GAs for their intended purpose in accordance with applicable policies and governing laws.

Recommendations

We recommend that the NPS:

1. Develop a process to track all nonfinancial assistance agreements, such as the GAs, so they can be easily monitored, reviewed, and updated, as necessary
2. Implement a higher level review process for all future GAs to ensure parks use the correct legal instrument

Parks Incorrectly Used GAs to Commit Resources

We found that the NPS used five GAs at three different parks to provide financial assistance or transfer goods or services to a non-Federal entity, in contravention of DO 20 (see Figure 1). For example, a multiyear GA at Rocky Mountain National Park committed the NPS to reimburse a non-Federal entity \$10,932 in 2018 for maintenance and custodial services at a visitor center. Likewise, GAs at Yellowstone National Park and Grand Teton National Park provided NPS property to non-Federal entities free of charge. Other GAs at the parks committed funds for services or supply reimbursements.

Figure 1: GAs Identified at Yellowstone, Grand Teton, and Rocky Mountain National Parks

National Park	GAs	GAs Committing Resources	NPS Commitments
Rocky Mountain	40	3	<ul style="list-style-type: none">• Payments for services• Park passes for resale
Grand Teton	10	1	<ul style="list-style-type: none">• Free rent
Yellowstone	10	1	<ul style="list-style-type: none">• Free rent• Supply reimbursements
Total	60	5	

In addition, for all five of these GAs, NPS employees who signed the agreements were not warranted contracting officers or appointed agreements officers. For instance, a park program head and a superintendent signed the GAs that committed funds for services and supplies at Rocky Mountain National Park and Yellowstone National Park, respectively. According to regulations,³ DOI policy,⁴ and the NPS' *Financial Assistance Handbook*, only NPS contracting officers or agreements officers may enter into legally binding agreements that transfer anything of value on behalf of the NPS.

³ FAR § 4.101 states that only contracting officers shall sign contracts on behalf of the United States.

⁴ The DOI's *Financial Assistance Certification and Certificate of Appointment Programs Policy* states that only financial assistance experts with training and certification can sign financial assistance awards.

We also found the NPS did not provide clear or consistent guidance on how to develop and use a GA. DO 20, which has not been revised since its inception in July 2003, states that the NPS would develop an agreements handbook to provide further guidance on the GAs. We learned that the NPS developed chapters on agreements; however, the draft guidance conflicted with DO 20, and the NPS never formally published it. For example, a 2006 version of Chapter 7 titled “Agreements” defines an MOU as a GA while defining an MOA as an instrument to accept donations. In contrast, DO 20 clearly states that the GAs would replace both the MOUs and the MOAs and does not draw a distinction between the two. In 2014, the NPS initiated an Agreements Improvement Plan to clarify agreement types and uses. The NPS published a *Financial Assistance Handbook* in 2015 as part of the Agreements Improvement Plan, but never developed official guidance clarifying the use of the GAs.

Additionally, the NPS used conflicting templates and agreement decision trees when developing its GAs (including MOUs and MOAs). For example, the decision tree on the NPS’ Office of Policy Agreements Portal shows that the NPS should use an MOU or an MOA to solidify agreements that do not transfer anything of value, while the decision tree located in the *Financial Assistance Handbook* refers to an MOA as a legal instrument that can be used to account for funding provided to the NPS. The decision trees we reviewed were not dated, which may add to the confusion of which decision trees to use.

The absence of training for NPS staff on their roles and responsibilities surrounding the GAs further complicates this issue. During our evaluation, we did not identify any training related to the GAs at any level within the NPS. Further, NPS personnel identified as the point of contact for the GAs we reviewed told us they had not received training on the GAs. The employees also noted that training would be beneficial for both themselves and for any other personnel who develop and execute the GAs.

Outdated and inconsistent guidance allowed parks to enter into agreements that did not comply with existing policies and governing laws. According to officials we interviewed, the NPS did not prioritize updating DO 20 and providing supplemental GA guidance because the GAs establish nonbinding partnerships and should not transfer anything of value. Incorrectly using a GA for financial assistance or to transfer goods and services increases the NPS’ risk of making unauthorized commitments. With consistent guidance and training on agreement types and purposes, each park would be better equipped to enter into agreements with outside entities using the correct legal instrument.

Recommendations

We recommend that the NPS:

3. Identify, review, and update the current GAs that commit the NPS to provide financial assistance or transfer goods or services to ensure the correct legal instrument is used
4. Review and update existing GA policy and guidance (including templates, handbooks, and decision trees) to ensure consistency and clarification across the NPS
5. Develop and deliver agreements training to all staff working with the GAs

Conclusion and Recommendations

Conclusion

During our evaluation, the NPS was unable to provide information on its GAs at the national level, so we selected three parks in the NPS Intermountain Region to review. We found that the NPS did not oversee its GAs to ensure compliance with policies and governing laws. Specifically, we found that the NPS did not have an inventory of active GAs or a standard review process to ensure that it uses its GAs for their intended purpose in accordance with applicable policies and governing laws. We also found that the NPS incorrectly used its GAs to transfer property, funds, goods, or services to its non-Federal partners.

The NPS committed more than \$20,000 of funding per year and provided free rent of NPS facilities through five agreements at the three parks we reviewed. Given that the NPS manages more than 400 national park sites, if additional sites use similar agreements, the NPS is at risk of significant unauthorized commitments across the Nation.

Increased GA oversight, including a tracking and review process, would help the NPS ensure that parks follow financial agreement processes and do not use GAs for financial assistance or to transfer goods and services. With consistent guidance and training on agreement types and purposes, each park would be better equipped to enter into agreements with outside entities using the correct legal instrument.

Recommendations Summary

The NPS responded to our draft report on June 9, 2020, providing target dates and responsible officials for implementation (see Appendix 2 for the full NPS response). Prior to its response, the NPS issued a Memorandum, *Regional Director Review and Signatory Authority on all General Agreements*, dated February 26, 2020, requiring all GAs to be signed by the regional director or their regional office designee (see Appendix 3). Based on the memorandum and the NPS' response, we consider one recommendation unresolved, one recommendation resolved and implemented, and three recommendations resolved but not implemented (see Appendix 4 for the status of recommendations).

We recommend that the NPS:

1. Develop a process to track all nonfinancial assistance agreements, such as the GAs, so they can be easily monitored, reviewed, and updated, as necessary

NPS Response: The NPS stated that it does not intend to create a database or other system to track its GAs. The NPS stated that all regional offices have ready access to these agreements because of the newly implemented requirement that all regional directors or their designees must sign all GAs within their regions starting March 1, 2020.

The NPS said that this new process will ensure that it can track its GAs. The NPS also noted, however, this process may change as it implements other recommendations.

OIG Comment: Based on the NPS' response, we consider this recommendation unresolved. Even assuming that the signature requirement will promote better awareness, ensuring GAs are tracked at the regional level going forward does not address existing inventories of nonfinancial agreements, including GAs. Further, keeping an inventory of all existing and future nonfinancial assistance agreements will allow the NPS to easily search and maintain accountability of its GAs and will also ensure compliance with DO 20. As the NPS implements the recommendations in this report, our staff is available to further discuss the benefits of tracking these agreements. We will refer this recommendation to the Assistant Secretary for Policy, Management and Budget (PMB) for resolution.

2. Implement a higher level review process for all future GAs to ensure parks use the correct legal instrument

NPS Response: As set forth in the February 26, 2020 memorandum, regional directors or their designees must sign all GAs starting March 1, 2020.

OIG Comment: Based on the NPS' response and our understanding that the person signing the GA has conducted a review of the document, we consider this recommendation resolved and implemented.

3. Identify, review, and update the current GAs that commit the NPS to provide financial assistance or transfer goods or services to ensure the correct legal instrument is used

NPS Response: The NPS agreed to identify, review, and resolve all DO 20 agreements with financial assistance commitments.

OIG Comment: Based on the NPS' response, we consider this recommendation resolved but not implemented. We will refer this recommendation to the PMB to track implementation.

4. Review and update existing GA policy and guidance (including templates, handbooks, and decision trees) to ensure consistency and clarification across the NPS

NPS Response: The NPS concurred with our recommendation and agreed to undertake a review of DO 20 and update appropriate policies and guidance.

OIG Comment: Based on the NPS' response, we consider this recommendation resolved but not implemented. We will refer this recommendation to the PMB to track implementation.

5. Develop and deliver agreements training to all staff working with the GAs

NPS Response: The NPS concurred with our recommendation and agreed to develop training after it consults with the Office of the Solicitor and updates its GA guidance.

OIG Comment: Based on the NPS' response, we consider this recommendation resolved but not implemented. We will refer this recommendation to the PMB to track implementation.

Appendix 1: Scope and Methodology

Scope

We evaluated the National Park Service’s (NPS’) general agreements (GAs), as defined by Director’s Order #20, that were active as of May 16, 2019. During our evaluation, we could not determine the universe of active GAs because the NPS did not have a centralized inventory for its GAs—including its memoranda of understanding (MOUs) and memoranda of agreement (MOAs)—at the national, regional, or park levels. As a result, we directly obtained lists of GAs from three parks in the NPS Intermountain Region: Yellowstone, Grand Teton, and Rocky Mountain.

Methodology

We conducted our evaluation in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

To accomplish the objective, we:

- Reviewed the universe of the active GAs, MOUs, and MOAs from Rocky Mountain National Park (40), Grand Teton National Park (10), and Yellowstone National Park (10)
- Identified and interviewed NPS staff at the park, regional, and national levels
- Identified, analyzed, and documented policies and governing laws pertaining to the GAs, MOUs, and MOAs, including NPS websites
- Identified and interviewed appropriate NPS staff associated with the selected sample of the GAs, MOUs, and MOAs
- Identified, analyzed, and documented activities and services associated with a judgmentally selected sample of the GAs, MOUs, and MOAs
- Reviewed documents related to oversight and monitoring processes, including Director’s Orders, policies, and procedures

We visited the following NPS sites:

- Rocky Mountain National Park, Estes Park, CO
- Intermountain Regional Office, Lakewood, CO
- Washington Support Office, Lakewood, CO

We also contacted or interviewed personnel from:

- Yellowstone National Park
- Grand Teton National Park
- NPS Intermountain Region Contracting, Financial Assistance, Property and Requisition Program
- U. S. Department of the Interior, Office of the Solicitor, Salt Lake City, UT
- NPS Partnership and Civic Engagement Office, Washington, D.C.
- NPS Office of Policy, Washington, D.C.
- NPS Washington Contracting Office

Our evaluation included obtaining an understanding of the administration and internal controls surrounding the GAs, testing and evaluating the design and operating effectiveness of internal controls, and performing such other procedures as we considered necessary under the circumstances. NPS park personnel provided the lists of the GAs, which we used but could not test for completeness and accuracy.

Appendix 2: Bureau Response

The National Park Service's response follows on page 13.



United States Department of the Interior

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

Memorandum

To: Office of Inspector General

From: Deputy Director, Operations
Exercising the Authority of Director

RAYMOND
VELA

Digitally signed by
RAYMOND VELA
Date: 2020.06.08
13:51:29 -04'00'

Subject: National Park Service Response to Office of Inspector General Report entitled. *The National Park Service Did Not Adequately Oversee Its General Agreements*, Report No. 2019-CR-035

The National Park Service (NPS) has reviewed the Office of Inspector General report entitled, *The National Park Service Did Not Adequately Oversee Its General Agreements* (Report No. 2019-CR-035 dated April 2020). Thank you for the opportunity to respond to the referenced report.

The NPS has reviewed the reference draft report. We take these matters seriously and are working to ensure that General Agreements comply with statutes and regulations and with applicable policies.

Attached are the responses to the specific recommendations, including steps the NPS has taken or will be taking to address the concerns raised.

If you should have any questions or need additional information, contact Vera Washington, NPS Audit Liaison Officer at 202-354-1960.

Attachments

National Park Service Response to Office of Inspector General Report entitled *The National Park Service Did Not Adequately Oversee Its General Agreements*, Report No. 2019-CR-035

OIG Recommendation	NPS Response	Target Date	Responsible Official
Develop a process to track all nonfinancial assistance agreements, such as the GAs, so they can be easily monitored, reviewed, and updated, as necessary	NPS will not create a database or other system to track these non-binding agreements. NPS currently requires all DO-20 GAs to be signed by the Regional Director or their designee. Under that process, all Regional Offices have ready access to these agreements. This process ensures GAs are tracked. NPS advises OIG that as they implement other recommendations, this process may change.	Completed	Shawn Benge, Acting Deputy Director for Operations
Implement a higher level review process for all future GAs to ensure parks use the correct legal instrument	NPS requires all DO-20 GAs to be signed by the Regional Director or their designee.	Completed	Shawn Benge, Acting Deputy Director for Operations
Identify, review, and update the current GAs that commit the NPS to provide financial assistance or transfer goods or services to ensure the correct legal instrument is used	NPS will conduct a data call for DO-20 agreements that meet certain criteria indicating that financial assistance was committed or that transfers goods or services beyond what SOL deems allowable in a DO-20 agreement. Those identified agreements will be reviewed and resolved.	May 1, 2021	Chief of Staff
Review and update existing GA policy and guidance (including templates, handbooks, and decision trees) to ensure consistency and clarification across the NPS	The NPS concurs and intends to undertake a review of DO-20 to determine whether it should be rescinded, updated, or replaced. NPS will then create the appropriate policies and guidance.	August 1, 2022	Chief of Staff
Develop and deliver agreements training to	The NPS concurs and will consult with the Officer of the Solicitor	Clarification memo regarding GAs was sent to	Chief of Staff

<p>all staff working with the GAs</p>	<p>on appropriate use of GAs. NPS will then send a notice to all Regional Directors, Superintendents, and Administrative Officers clarifying what GAs cannot be used to commit to in terms of funding and transfer of goods and services. Once NPS has completed the review and update of our GA guidance, we will prepare a training on that guidance to reside on DOITalent and the NPS Common Learning Portal.</p>	<p>RDs, Superintendents, and Administrative Officers on February 26, 2020. Full training on new GA guidance will be operational within 9 months of the finalization of our updated guidance. Tentatively May 1, 2023.</p>	
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Appendix 3: NPS Signatory Memorandum

The National Park Service's February 26, 2020 Memorandum, *Regional Director Review and Signatory Authority on all General Agreements*, follows on page 17.



United States Department of the Interior

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

Memorandum

FEB 26 2020

To: Regional Directors

From: Deputy Director, Management and Administration 

Subject: Regional Director Review and Signatory Authority on all General Agreements

The purpose of this memo is to update the signatory authority on all General Agreements, as defined under DO-20, and commonly referred to as Memorandum of Understanding (MOU) and Memorandum of Agreement (MOA). As of March 1, 2020, all General Agreements must be signed by the Regional Director, or their Regional Office designee.

The Office of Inspector General is undertaking a review of General Agreements and has provided NPS leadership with preliminary findings that indicate a lack of clarity regarding their proper use. As a reminder, 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. By raising the signatory authority to the Regional Director's level, we will be able to ensure that NPS complies with these restrictions and addresses OIG's preliminary findings. We also believe that this change will help us address the OIG concerns without overly burdening the field. We are committed to taking a series of actions to ensure clarity and proper use of General Agreements and will continue to communicate on this topic. Please communicate this change to all parks and programs in your region.

If you have any questions, please contact Caitlin Rogalski at [REDACTED] or [REDACTED]@nps.gov.

Thank you for your attention to this matter.

Appendix 4: Status of Recommendations

Based on the National Park Service’s response to our draft report (see Appendix 2), we consider one recommendation unresolved, one recommendation resolved and implemented, and three recommendations resolved but not implemented. We will refer the recommendations to the Office of Policy, Management and Budget (PMB) for resolution and implementation tracking.

Recommendation	Status	Action Required
1	Unresolved	We will refer this recommendation to the PMB for resolution.
2	Resolved and implemented	No action needed.
3 – 5	Resolved but not implemented	We will refer these recommendations to the PMB to track their implementation.

