

 NEW YORK <small>STATE OF OPPORTUNITY.</small> Parks, Recreation and Historic Preservation Section: Governance	Policy Title: Public/Private Partnerships Directive: GOV-POL-002 Effective Date: 05/27/2015
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Summary

The New York State Office of Parks, Recreation and Historic Preservation (State Parks, the Agency, or OPRHP) has a long and successful history of partnerships. These mutually beneficial public/private partnerships have resulted in substantial contributions to the diversity and excellence of recreational, stewardship, and preservation activities within the State Park and Historic Site System.

This policy articulates guidelines to assist the agency in its internal management and decision-making concerning public/private partnerships. The guidelines are general; the facts and circumstances of each partnership proposal shall be considered in determining whether a particular public/private partnership is appropriate.

Policy

The primary intent of partnerships is to assist State Parks in meeting its mission of providing the public with diverse recreational opportunities and high quality interpretation programming, while protecting the natural and cultural resources found in the State Park System. Partners with State Parks include but are not limited to: not-for-profit organizations that provide operational support for Parks and Historic Sites and undertake fund raising activities on their behalf; donors whose contributions are dedicated to supporting specific activities or capital improvements; volunteers who supplement staffing; concessionaires selected through a competitive procurement process to provide services, products or programs; individual or corporate event sponsors; private entities investing in capital improvements that help preserve and reuse agency facilities for programs/services; and individuals or groups that further educational, interpretative, and research activities in State Parks and Historic Sites.

First and foremost, State Parks is mandated to provide responsible stewardship of the resources placed under its jurisdiction. In furtherance of this mandate, State Parks will continue to seek compatible, creative, and innovative partnerships to maintain and enhance park and historic site facilities and address increased recreational and interpretative

demands. State Parks will meet this challenge without relinquishing ownership, control, or responsibility for the integrity and protection of the land and facilities under its stewardship. Partnerships are designed to supplement—not supplant—resources provided to the agency through the state budget process.

Note: State Parks also enters into agreements with public partners, including other state agencies, local governments, and federal agencies. While these multi-agency partnerships share many similarities with "public/private" agreements, they also differ in certain aspects, and therefore are not governed by this policy document.

Public/Private Partnerships

- Partnership activities shall provide a public benefit consistent with State Parks' mission, goals, and objectives.
- Partnership activities shall be compatible with the involved State Park or Historic Site and shall take into account the protection of the facility's recreational, natural, historic, and cultural resources.
- Partnership activities being considered for a specific Park or Historic Site shall be evaluated within the context of ongoing management planning for that property.
- Generally, partnership activities should be self-sustaining. Any increased maintenance and operational responsibility to State Parks shall be evaluated within the context of the agency's budget and the enhanced delivery of services.
- Partnership activities shall not exceed the determined carrying capacity of State Parks and Historic Sites, including their facilities, landscapes, and natural and historic resources.
- Partnership activities shall include reasonable public access, use, and enjoyment.
- Partnership recognition shall be commensurate with the enhancement to the Park or Historic Site and compatible with the facility's resources.
- Activities associated with alcoholic beverage sponsorships may be allowed, provided that the sponsored event or activity is targeted primarily at an adult audience and includes messages advocating for the legal and responsible consumption of alcohol. Alcoholic beverage sponsorships require prior written approval from the Commissioner of OPRHP (the Commissioner).
- Partnerships or sponsorships with the New York Lottery, as well partnerships with gaming industry sponsors, may be allowed provided they have received prior written approval from the Commissioner.
- Partnerships or sponsorships associated with tobacco products are prohibited.

- Partnership activities that increase scientific understanding of the ecological resources in State Parks for stewardship and educational programs are encouraged.

Types of Partnership Projects

Other than situations similar to the Camper Assistance Program (see below), most public/private partnership projects should be formalized by an agreement that establishes the purpose of the partnership project and the implementation of the project.

These agreements take several forms depending on the nature of the project:

1. Concession Agreements

As authorized by Section 3.09(2) of the Parks, Recreation and Historic Preservation Law (Parks Law), concession partnerships generally involve for-profit entities. State Parks determines a need for services and solicits proposals from the private sector. The solicitation is called a "Request for Proposals" (RFP) and the solicitation, as well as the selection of the concessionaire, is implemented in accordance with the guidelines of the Office of the State Comptroller (OSC). The concession agreement is a formal contract. Agreements involving consideration with a value greater than \$10,000 require approval by the Attorney General and OSC.

The objective of State Parks' Concessions Bureau is to encourage competition for private sector investment and operation of public service facilities at State Parks and Historic Sites. These partnerships are achieved in a manner that ensures the best value for the state and its customers. "Best Value" within State Parks' RFP process is the basis for awarding concession licenses and consists of optimizing quality, returned revenue to the state, and efficiency among responsive and responsible proposers. Concession agreements are awarded based on an analysis of objective and quantifiable criteria as required by the State Finance Law and OSC.

Generally, under Section 3.09 of the Parks Law, the Agency may enter into concession agreements for terms of up to 20 years. In cases enabled by special legislation, State Parks may enter into agreements for terms of up to 40 years, typically upon a finding by the Commissioner that the project: is compatible with public enjoyment and participation in adjacent park facilities; and in the case of structures listed on or eligible for the State Register of Historic Places, will encourage investment by the private sector in restoring, preserving, and maintaining such properties.

2. Agreements with Not-For-Profit Organizations

Sections 3.09(6) and (16) of the Parks Law encourage and authorize the agency to enter into mutually beneficial partnerships with not-for-profit organizations and foundations.

Individuals who are interested in and dedicated to specific facilities often form "Friends Groups" which support the agency's efforts at a specific park or historic site. In other instances, not-for-profit organizations support natural resource stewardship, environmental, and historical interpretive programs, or provide general support for multiple State Parks and Historic Sites. The agency memorializes arrangements with not-for-profit organizations by entering into a Friends Group Agreement to better coordinate the activities of the Friends Group with the goals of the agency. Where the partnership is more formal, such as where the not-for-profit provides for operations or other services at a park or historic site, or the agreement provides for exchange of consideration, the agency may enter into a more detailed Cooperative Agreement. Friends Group Agreements and Cooperative Agreements are approved by the Commissioner. In some instances, a Friends Group may enter into corporate sponsorships or other partnerships to benefit the operations of parks or historic sites. Such indirect sponsorships—secured by Friends Groups—shall comply with the spirit and terms of this policy.

3. Natural Heritage Trust

The Natural Heritage Trust (the "Trust") is a state public benefit corporation established by Article 55 of the Arts & Cultural Affairs Law. It has tax exempt status under Section 501 (c)(3) of the Internal Revenue Code. The purpose of the Trust is to support the work of State Parks, the Department of Environmental Conservation, and the Department of State. Individuals, corporations, foundations, and organizations donate money or property to the Trust for this purpose. By statute, the Trust is governed by the Commissioner of Parks, Recreation and Historic Preservation, the Commissioner of Environmental Conservation, the Secretary of State, and the Chair of the State Council of Parks. State Parks often utilizes the Trust to receive private contributions and corporate sponsorship funds to support projects and activities in parks and historic sites.

4. Gifts to the Agency

The Commissioner is authorized to accept gifts as set forth in Section 3.17 of the Parks Law. Conditional gifts must be approved by the Director of the Budget.

5. Sponsors

State Parks has had a long history of securing sponsorship of events in parks and historic sites by private businesses and other entities. Sponsored events advance the goals of these entities while providing additional activities for the public. Sponsorship arrangements are often handled at the regional or facility level through the issuance of permits in accordance with the agency's regulations and policies. Recognition of the sponsor shall be event-related and temporary in nature. In addition, Section 3.09(19) of the Parks Law authorizes the agency to obtain advertising and corporate sponsorship for its publications and promotional materials.

6. Volunteers

In addition to more formal arrangements with not-for-profit organizations as described above, State Parks engages in numerous informal arrangements with volunteers at many of its facilities, which usually are handled at the facility or regional level. In addition, the agency promotes its own Camper Assistance Program in which volunteer participants provide services to those camping in parks.

7. Beach Stewardship

The Adopt-a-Beach Stewardship Program, as set forth in Section 3.25 of the Parks Law, describes the nature of activities that certain volunteers may undertake in stewardship agreements. Participants in this program may be recognized by appropriate signage as set forth in the statute.

8. Research Partnerships

State Parks shall continue to seek public/private partnerships to enhance research and inventorying the agency's facilities. Research activities provide information to protect natural, recreational, and cultural resources. This information is also used to develop environmental education and interpretive programs. In most instances, research in parks and historic sites does not result in any change or disturbance to the natural setting or resources under study. Research may, however, require collections of specimens or establishment of research plots. These proposals will be reviewed on a case-by-case basis. Research partnerships shall be approved by the Environmental Management Bureau (EMB) and/or the Bureau of Historic Sites and agreements or permits will include conditions to avoid or minimize adverse impacts to the environment.

Research findings shall be available to the agency. State and federal grant programs often provide opportunities for research partnerships at parks and historic sites.

The Agency Review of Partnership Proposals

State Parks will review partnership proposals under the State Environmental Quality Review Act (SEQRA), the State Historic Preservation Act, other regulations and Agency policies pertaining to funding allocations and resource protection.

Public Participation and Partnerships

The extent of public participation in reviewing proposed partnerships will depend on the type of partnership being considered. Certain types of partnerships have built-in procedures for public participation. For example, the Economic Development Law provides that notices of proposed bids and Requests for Proposals for contracts in excess of \$15,000 be published in the Contract Reporter.

SEQRA provides different types of public notice and participation depending on the nature of the project and the required environmental review. State Parks follows these procedures when reviewing partnership projects that may affect the environment. Additionally, the agency may hold informal, non-mandated public meetings to solicit public opinion on proposed projects.

Public Access

Partnerships are often designed to improve and enhance recreational and interpretive opportunities and resource protection in parks and historic sites. Standards of access with respect to public/private partnerships will be consistent with standards of access applied to normal State Parks operations.

In addition, there are certain legal restrictions on the Agency's activities concerning public use of our facilities. For example, certain State Parks have benefited from federal support through the Land and Water Conservation Fund (LWCF). Federal law limits the ability of the agency to "convert" covered parkland to other than outdoor recreation use, unless the agency replaces the parkland that received LWCF funding with lands of equal recreational and fair market value. Any such substitution is subject to approval by the National Park Service. These provisions apply regardless of whether the Agency's actions are being implemented by the agency alone, or as part of a public/private partnership.

In addition, there are instances where public access must be carefully managed. For example, public access may be limited where patron safety is at risk, or to protect environmentally sensitive areas.

Forms

No applicable forms

Other Related Information

No other related information

History

03/12/2009 This policy is effective immediately and replaces (a) the former policy entitled, "Guidelines for Public/Private Partnerships in the New York State Office of Parks, Recreation and Historic Preservation" that was adopted December 14, 1998, (b) the former policy entitled, "Monuments and Statues in State Parks and Historic Sites" adopted March 20, 1990; and (c) the former policy entitled,

“Sponsorships by Tobacco and Alcoholic Beverage Companies” adopted March 15, 1990.

05/27/2015 The 2009 policy was reviewed and reissued with formatting and minor language changes. Additionally, a section regarding the recognition of donations was separated into its own policy. No other substantive changes were made.