

MEMORANDUM

TO: All Superintendents
FROM: *BRR/vlc* Bradley R. Reed, Chief
DATE: June 2, 2022
SUBJECT: Updated Foundation Policy & Matching Grants Guidelines

Attached are updated guidelines for foundation policy and matching grants. Please review and immediately share with your area foundation.

Thank you for your cooperation with this matter.

BRR:vlc

Attachment

cc: Paul Redford
Matt Yeager
Clinton Cochran

almost heaven

MEMORANDUM

TO: Brett McMillion, Director
FROM: Brad Reed, Chief
DATE: May 25, 2022
SUBJECT: Park Foundations Policy & Matching Grants

Attached for your signature please find our new Parks and Recreation Section Policy on the management of Park Foundations and associated grant requests. You will recall that this policy was recently changed under our previous administrations. This new version has been provided to all foundations present at our annual meeting in draft form and issues noted and subsequently addressed.

Thank you in advance for your consideration.

BRC:vlc

Attachment

Approved: 
Brett McMillion, Director

Date: 5/26/22

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POLICY, GUIDELINES, AND PROCEDURES FOR WEST VIRGINIA STATE RECREATION AREA FOUNDATIONS

Set forth below are the policies, guidelines, and procedures governing 501(c)(3) foundations chartered by the West Virginia Division of Natural Resources (DNR) for the purposes of benefit to state parks, state forests, and Parks Section managed rail trails and natural areas. For the purposes of this document, all such benefitting foundations will hereafter be labeled as "Foundations" and DNR managed areas as "Parks." Adherence to these policies, guidelines and procedures are necessary for a foundation to create and retain a charter as an "official" West Virginia State Park foundation and to be eligible for the DNR foundation matching grant program. Only one foundation shall be recognized for each individual state park or forest.

CHAIN OF COMMAND

The primary and initial contact for all Foundation business benefiting a respective park/forest is the area Park Superintendent. The Park Superintendent or his designee is to be a non-voting ex-officio member of the foundation and be advised of all foundation business which may impact the respective park/forest.

If a question with meritorious immediate need must be answered or a problem arises that requires emergency attention and the Park Superintendent or his designee is not available, the foundation may contact the assigned District Administrator directly or others within the Parks management hierarchy as necessary.

In the event that disputes arise which put the interests of the Foundation at odds with the Park Superintendent, a mediation conference may be held by the District Administrator and with all parties present to resolve the issue.

PURPOSE OF FOUNDATIONS

Foundation Articles of Incorporation under Article III Primary Purpose state in part that:

The primary activity of the Foundation shall be to solicit, receive and accept contributions, gifts, grants, devises and bequests of real or personal

property, or both, from individuals, foundations, partnerships, associations, governmental bodies and public and private corporations, and to hold, administer, maintain, invest, use, disburse and apply the whole or any part of such funding or property and of the income therefrom and the principal thereof for the primary purpose of supporting, contributing to and cooperating with Parks, in carrying out their existing purposes, power, duties and activities. Individual park/forest may be singled out under this mandate.

In summary the purpose of foundations is to support the mission of the State Parks and Recreation Section and the operational vision of the Park Superintendent.

Of the numerous activities set forth in the chartered purpose, it is the position of Parks that the primary focus of the Foundation is to collect funds toward park/forest projects, facilities, and equipment which immediately benefit the citizens of the State, local communities and park/forest visitors. Such projects might include but not be limited to small land acquisitions that will become the property of Parks, building renovation and major maintenance; purchase of equipment; and development of picnic shelters, playground equipment, trails, interpretive centers, campground improvements, grounds improvements and so forth. Projects of local interest are particularly encouraged. All projects shall be consistent with State laws pertaining to Parks and the rules promulgated to govern it; and no project may be undertaken on a park/forest or in the name of the Foundation without the approval of Parks. Volunteerism from foundation personnel is also encouraged.

SPECIFIC REQUIREMENTS OF FOUNDATIONS

1. All Foundation activities and endeavors shall be in furtherance of the goals, purposes, actions and activities of the Parks and Recreation Section of DNR as described in WV Code 20-5-3, "The purposes of the Section of Parks and Recreation shall be to promote conservation by preserving and protecting natural areas of unique or exceptional scenic, scientific, cultural, archaeological, or historic significance, and to provide outdoor recreational opportunities for the citizens of this state and its visitors" and nothing the Foundation does or undertakes may conflict with or be opposed to this in any manner.
2. Prior to undertaking any effort to solicit real property or accepting or receiving any real property for a specific parks/forest, any Foundation shall obtain the written approval of the Parks Chief to assure that the acquisition is in conformance with its long-range plans, master plans, and design, construction, operations and use criteria. Such requests are to be routed through the Park Superintendent. No vehicles may be obtained for use or storage at a park/forest without approval of Parks.

3. Foundations may be permitted to operate certain concessions such as gift shops or snack stands on park/forest property for the purposes of fundraising. All such arrangements must first be approved by and through a concession contract agreement with Parks. All profits derived from such endeavors must be fully committed to on-park/forest projects, with details reported annually. No such foundation concession may interfere with, duplicate or supersede existing park operations.
4. All projects planned and carried out by Foundations must have the approval of the Park Superintendent prior to their commencement.
5. Funds collected in the name of the chartered Foundation may not be transferred to other organizations or entities and are intended solely for on-park/forest spending as detailed above. This does not pertain to charitable donations in which the purpose of funds collected is made known and properly documented in the minutes of a foundation meeting and communicated to the agency accordingly.
6. All Foundations shall compile and present an annual report to the Park Superintendent detailing all foundation projects and expenditures from the prior calendar year. Volunteer hours from foundation personnel contributed to projects and park/forest operations shall be included in the report.
7. Foundations shall not accept donations of artifacts or materials to be stored in the park/forest without the written permission of the Park Superintendent. All such artifacts and materials stored on state property may be permanently considered under the ownership of Parks, if specific arrangements for return are not made in advance.

LOBBYING BY FOUNDATIONS

The Internal Revenue Service has specific guidelines on lobbying by 501(c)(3) Organizations. It is the expectation of DNR that chartered foundations adhere to these guidelines which are summarized below:

- 1) In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as *lobbying*). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.
- 2) *Legislation* includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. Lobbying does not include actions by executive, judicial, or administrative bodies.
- 3) An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation. Organizations may, however, involve themselves in certain issues

of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status.

- 4) Whether an organization's attempts to influence legislation, i.e., *lobbying*, constitute a SUBSTANTIAL part of its overall activities is determined on the basis of all the pertinent facts and circumstances in each case. The IRS considers a variety of factors, including the time devoted (by both compensated and volunteer workers) and the expenditures devoted by the organization to the activity, when determining whether the lobbying activity is substantial. Source: <https://www.irs.gov/charities-non-profits/lobbying>.

FOUNDATIONS INDEPENDENT OF STATE AND STATE INDEPENDENT OF FOUNDATIONS

Under Article IX Directors the Articles of Incorporation provide that:

The real and personal property of a Foundation shall be under the complete control of the Board of Directors, which is charged with the responsibility of administering and expending said property in accordance with the purposes for which the corporation was organized and exists, and in accordance with terms and conditions placed upon the use of any contributions, gift, grant, devise or bequest received by the Foundation.

FOUNDATION MATCHING GRANTS

In March 1990, a matching grant program for Parks' Foundations was established. Annually funds are made available for the grants depending upon budget constraints at the time. The grants will be limited to \$25,000 (changed by legislation in 2020) for each park/forest area within a calendar year.

There are two requirements to qualify for the grants: 1) each foundation must be a 501C-3 chartered foundation with the state in good standing and be dedicated to a respective park/forest by formal adoption. The adoption must have been formally recognized by DNR prior to grant consideration. This is required by Enrolled Committee Substitute for House Bill 2241 enacted by the West Virginia Legislature at its 1989 Regular Session; 2) the Foundation must be a registered

vendor. If it is not, then the foundation must complete the appropriate application to become a registered vendor. Each Foundation must officially adopt the park/forest, a motion properly made, seconded, and affirmatively voted upon by a quorum present to the following effect (this is a specific example):

The Holly River State Park Foundation, Inc. hereby officially adopts Holly River State Park as its area of concern in accordance with Chapter 20, Article 1A, Section 7 of the official Code of West Virginia, 1931, as amended. (Attachment 2).

The adoption of the motion must be recorded in the Foundation's minutes and copies of them provided to the Park Superintendent and to the Parks Chief for their records and files. There is a formal application and approval process associated with such requests as well as a reporting process which follows:

The state matching foundation grants program was established primarily to encourage the foundations to raise money for projects and to encourage them to attempt bigger projects than would otherwise be possible. Projects and other activities can only be completed by Foundations on Parks when there is mutual agreement and cooperation between Foundations and Parks.

All matching grant funding must be used effectively. Labor may be used only for 25% of the grant match. Further, the rate allowed for the labor shall be the minimum rate set forth in trade and industry standards. A record of hours of all such matching labor shall be kept current with the time the labor is performed and the record shall be certified by the signature of an officer of the foundation. A copy of the certified copy shall be given to the area superintendent, who in turn shall send a copy to the Parks Chief for the central matching grants files.

INFORMATION REQUIRED IN A GRANT PROPOSAL

1. Cover letter should be on the Foundation letterhead addressed to the Park Superintendent.
2. Letter for recommendation for the project authored by the Park Superintendent.

3. The grant proposal should be brief, concise, to the point, written in plain English and easy to read.
4. The grant proposals should clearly detail the reason for the proposal, the project to be completed, what will be accomplished by the project, how the project will be completed, the total cost of the project, the amount of the matching grant requested, the project budget, estimated completion date, president and treasurer's names.
5. Summary that clearly and concisely summarizes the request:
 - a. Introduction describes the foundation's qualification or credibility.
 - b. Problem Statement or Needs Assessment documents the needs to be met or problems to be solved by the proposed funding.
 - c. Objectives establish the benefits of the funding in measurable terms.
 - d. Methods describe the activities to be employed to achieve the desired results.
 - e. Evaluation presents a plan to determine the degrees to which objectives are met and methods are followed.
 - f. Future or other necessary funding describes a plan for continuation beyond the grant period and/or the availability of other resources necessary to implement the grant.
 - g. Budget clearly delineates costs to be met by the funding source and those to be provided by the foundation or other parties and an estimated completion date.
 - h. Submit the matching grant proposal to Parks Chief, 324 4th Avenue, South Charleston, WV 25303.

PROPOSAL EVALUATION FORM

The merits of grant proposals from Foundations will be made by the District Administrator so assigned by the Parks Chief and a recommendation made to the Parks Chief.

Each grant application should contain and will be evaluated on its summary, introduction, problem statement/needs assessment, program objects, method of accomplishing the objectives, evaluation plan to determine if the objects are being met, how the project will be funded to assure operation and maintenance in the future, project budget and an expected completion date of the project. Most importantly, the application must describe the project in keeping with the overall goals and mission of Parks. The responsible district administrator will make a recommendation based upon this information.