

PARTNERSHIP LEGAL PRIMER

By

**Department of the Interior
Office of the Solicitor**

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INTRODUCTION—WHAT IS THE PURPOSE OF THE PRIMER?

The Department believes that developing partnerships is a very important way to effectively accomplish its various missions of managing, conserving, and protecting America's natural, cultural, and historic resources. For this reason, working with partnerships is a very significant component of the Secretary's 4 C's – Conservation through Cooperation, Communication, and Consultation. In response to this emphasis on the use of partnerships, the Office of the Solicitor has developed this Partnership Legal Primer ("Primer") to help the Department develop effective and appropriate partnerships.¹

As the Department focuses on increasing partnerships in support of its mission, the questions naturally arise: What is a partnership? What are appropriate ways in which the Department may engage in partnerships? What is the legal framework -- both in terms of authorities as well as boundaries -- for partnerships? The Primer should be used only as a starting point in setting the context for, and for thinking about, these questions. It is not intended to be a definitive statement on what partnerships are or may be, or to limit the creativity of Department employees in establishing partnerships. Most importantly, the Primer must not be used as a substitute for frequent consultation with the Solicitors Office about partnership issues.

Part A explains what the term "partnership" means in the Primer, and identifies the basic requirements for partnership activity. Part B explains a variety of tools that are available for partnership activities. Part C discusses the legal framework in which partnerships must operate. Part D contains a detailed list of the authorities that may enable partnerships. Part E provides a summary of the various ethics rules that govern the conduct of Federal employees as they engage in partnership activity.

The Partnership Legal Primer is intended to be an evolving document and is subject to change. The Department will periodically publish subsequent editions, which will be available on the Department's Partnership website. Readers are encouraged to verify that they have the most current version of the Primer by checking the website often.

¹This Primer is for internal management purposes only. Nothing in the Primer is intended to create any right or benefit, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, officers, or any other person.

PART A: BASIC PARTNERSHIP CONCEPTS

I. *What is meant by the term “partnership” as used in this Primer?*

Partnerships have the potential to take a wide variety of forms. The Department recognizes that the term “partnership” could encompass the relationship that is formed almost any time a Federal or non-Federal individual or entity works together with the Department. However, many of these relationships, such as procurements and contracts, intergovernmental personnel assignments, and individual volunteer relationships, are covered by well-defined and well-established sets of rules. These topics are too broad to be effectively addressed in the Primer. As a result, the Primer uses the term “partnership” to refer to situations when the Department or its bureaus work together with non-Federal groups or entities in a cooperative manner to foster the objectives of both parties, in circumstances other than those listed above.²

This definition of partnership is intended to allow the Primer to focus on how the Department may work with others in an area in which few guidelines exist. It is meant to exclude many relationships that are easy to recognize and are subject to a well-defined set of rules, for example:

- *Procurements and Contracts:* When the Department buys either goods or services for the benefit of the Government from an outside source under the Federal Acquisition Regulation and/or other contracting authorities.
- *Tribal Self-Governance and Self-Determination “638” Contracts:* When the Department enters into relationships with tribes under specific authorities relating to tribal self-governance and self-determination.
- *Concessions Contracts:* When the National Park Service enters into an agreement to authorize concessioners to provide services to park visitors in accordance with the specific laws and regulations governing these agreements.
- *Individual Volunteers:* When the Department’s bureaus that have authority to accept volunteer services use such authority to accept volunteer services from individuals; those bureaus generally have established programs and thorough guidelines for working with volunteers.
- *Part-time employment:* When the Department employs (with or without compensation and either full or part-time) private individuals as temporary officers or employees of the Department, for a period not exceeding 130 days of a 365 day period, they are known as “Special Government Employees.” Special

²The use of the term “partnership” is not meant to include partnerships in the corporate/business sense because Federal agencies may establish or acquire a corporation to act as an agency only under specific statutory authority. *See* 31 U.S.C. § 9102.

Government Employees are subject to certain laws and regulations applicable to Federal employees.

- *Intergovernmental Personnel Assignments:* When the Department uses authority under 5 U.S.C. §§ 3371-3376 (the “Intergovernmental Personnel Act”) to assign employees to states, local governments, Indian tribes, or other organizations, and also to accept assignments to the agencies of employees of those entities.
- *International Agreements:* When the Department uses the authorities identified in Part D that authorize international activities or international agreements. These activities implicate additional considerations and approval processes that must be fully coordinated both with the Department’s international affairs offices and within the bureau itself.
- *Economy Act Agreements or Reimbursable Agreements:* When the Department uses the Economy Act to transfer funds to another Federal agency in return for goods or services, or when another agency “buys” good or services from the Department using the Economy Act.³

Department employees should evaluate partnership proposals to determine whether one of the above mechanisms would be more appropriate, or even required, to accomplish the proposed partnership activity.

II. When can the Department enter into partnerships?

The Department, like all Federal agencies, may enter into partnerships when it is acting in accordance with authorities expressly provided by Congress and supported by the Constitution. Along with providing authorities under which the Department may act, Congress has enacted a number of statutes that either limit the actions of the Department or require it to perform certain tasks before it takes action. Additionally, partnership activities are permissible only when funds are expended in a manner consistent with the purpose(s) for which the funds were appropriated. Finally, the partnership activities must conform to applicable Government ethics requirements. Therefore, organizations within the Department may partner when:

- The organization has appropriate partnership tools (*See Part B*);
- No authority either limits the specific activity or places any prerequisites on it (unless the prerequisites are satisfied) (*See Part C*);
- The organization has statutory authority (*See Part D*);
- Funding is available (*See organization’s Budget and Appropriation*); and
- Ethics requirements are satisfied (*See Part E*).

³The Economy Act is often cited as a basis for a “partnership” between Federal agencies, despite the primary purpose of the Economy Act being the transfer of goods or services between Federal agencies.

Once these requirements are met, the only additional requirement is a positive attitude and willingness to work with others to achieve Conservation through Cooperation, Communication, and Consultation.

PART B: PARTNERSHIP TOOLS

When it is considering entering into partnership relationships, the Department must determine how best to carry out the contemplated partnership activity. In other words, the Department must use the most appropriate mechanisms, or “tools,” for the partnership. In an effort to provide structure to the numerous specific ways in which partnership activities may be carried out, the Primer is organized around four specific mechanisms, or “tools:”

- (1) Providing things of value: grants or cooperative agreements.
- (2) Working with partners: memoranda of understanding.
- (3) Receiving assistance from partners: donations to the Department.
- (4) Partnering under specific authority: statutory partnerships.

I. *Providing things of value to partners: grants and cooperative agreements*

The Department may transfer a thing of value to a partner when there is specific authority to do so and when the transfer accomplishes a public purpose. The thing of value is most often money, but can also be property, depending on the authorizing legislation. Although Federal agencies generally have inherent authority to contract to procure items for their own use, there is no comparable *inherent* authority to transfer the Government’s money or property. Accordingly, any partnership that involves providing a thing of value to a partner must be supported by either the bureau’s authorizing (general) legislation, its appropriation statute,⁴ or by program-specific (limited) legislation. Readers may refer to Part D as a starting point to determine whether, and for what purposes, their bureau has authority to provide grants or enter into cooperative agreements. However, readers should keep in mind that any transfers of things of value must be signed by a bureau official specifically authorized for such purposes. These officials must be consulted early in the process to ensure that the proposed assistance is in the proper format and supported by appropriate authority.

There are essentially two ways in which the Department may provide a thing of value to a partner, and these are distinguished according to the *degree* of Federal involvement:

- A *grant agreement* is used where the Department is supporting a public purpose and does not anticipate any substantial involvement with the recipient after the funds are transferred, for instance, where the agency grants funds to an organization that will use the funds for a specified purpose.
- A *cooperative agreement* is similar to a grant agreement, but is used where the Department seeks to transfer something of value to a non-Federal entity in order to carry out a public purpose and where the Department anticipates that it will have

⁴For example, Congress recently enacted a legislative rider in the Interior FY 2004 Appropriations Act granting NPS authority to expend funds on the Oklahoma City Memorial, being built by a private organization. The Act directed that a specific amount of NPS funds be used for the memorial. This process is referred to as a congressional earmark of funds.

substantial involvement with the recipient in carrying out the public purpose. An example of this is where a National Wildlife Refuge provides money to a local firefighting station to buy equipment, and both agree to help each other fight fires in the local area (the substantial involvement component).

- A *challenge assistance agreement* or *challenge cost-share agreement* is an alternative form of grant or cooperative agreement that requires recipients to obtain additional funds from non-Federal parties. An example of this is a grant to an environmental organization for wetlands conservation, in which the organization is required to match the amount of the grant with its own funds (or the funds of the organization's partners).

The specific criteria for when to use a grant or a cooperative agreement are explained in the Federal Grant and Cooperative Agreement Act at 31 U.S.C. § 6305.

When Federal funds or property are transferred to a non-Federal partner through a grant or cooperative agreement, Departmental regulations published at 43 CFR Part 12 apply to all aspects of that financial transaction. These regulations apply in addition to any relevant provisions of the legislative authority for the partnership, the appropriations language, or the specific agreement entered into by the parties. Part 12 covers a wide array of issues, from financial management, pre-award costs, and the acquisition of real and personal property, to the disposition of real and personal property, use of income generated by a grant or cooperative agreement, providing Government furnished property, and the close-out of such financial assistance. In accordance with Part 12, applicants for grants and cooperative agreements shall submit a written application that, among other things, describes the specific goals and objectives of the project and how to measure the expected results. These applications become part of the assistance agreements. The Department uses Standard Form 424 (SF-424) for this purpose.

Two somewhat similar sets of rules apply to different potential partners, one being state and local governments and the other certain non-profit entities. The *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, is found at 43 CFR Subpart 12-B, and the *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations*, is found at 43 CFR Subpart 12-F. Along with these regulations are cost principles established by the Office of Management and Budget ("OMB"), which set out appropriate criteria for determining acceptable costs under a grant or cooperative agreement. OMB Circular No. A-87 contains cost principles for State, Local and Indian Tribal Governments; OMB Circular A-122 contains cost principles for Non-Profit Organizations.

A significant issue regarding the transfer of appropriated funds under a grant or cooperative agreement is the timing for transferring funds. When partnership arrangements are funded through a grant or cooperative agreement, very specific rules dictate the appropriate timing for providing the Federal funds to the partner. One paramount rule regarding such funds is that the funding recipient may not accrue interest on Federal funds while holding them prior to payment of specifically allowed costs. If such interest is accrued by a recipient, it must be returned to the Federal government. Employees should ensure that they and the partner

understand and plan for the administrative and timing requirements associated with grants and cooperative agreements.

II. *Working with partners: memoranda of understanding*

In situations in which the Department works cooperatively with a non-Federal partner on an issue of mutual interest, but in a manner that does *not* involve a transfer of funds, property, services, or human resources, a Memorandum of Understanding (“MOU”) would be an appropriate and effective way to structure the partnership.⁵ While there may be some partnerships that are of such limited scope and minimal complexity that no written agreement is necessary, the vast majority should be conducted under an MOU or similar written instrument.

After the bureau identifies the statutory authority for the partnership, it should use the MOU to set out the details of the partnership. Essentially, the MOU should explain, in general terms, the procedures for cooperation between the parties. An MOU can be structured as appropriate to the contemplated partnership, but usually should include each of the following elements:

- *Heading*: The heading should identify as concisely as possible the subject of the MOU and each party to the MOU.
- *Background (optional)*: When necessary, this section can explain the context of the relationship in greater detail.
- *Statement of purpose*: This should be a *single* section, preferably confined to one or two paragraphs. It should concisely summarize the mutual interest of the parties, the nature of their cooperation, i.e. what the parties will do, and the procedures and responsibilities that are set out in the MOU.
- *Identification of statutory authorities*: This section is simply a list of applicable statutory authorities. This list should identify the statutory authority both to enter into a cooperative endeavor under an MOU and the statutory authority to engage in the substantive activities contemplated by the MOU.
- *Procedures to be followed and responsibilities of the parties*: This is the main substantive section of an MOU. It should begin by explaining the mutual interests of the parties and the origins and reasons for their cooperation, unless these topics have already been sufficiently addressed in the Statement of Purpose. It should

⁵Some bureaus and offices have guidance and policies addressing MOUs. For example, BLM Manual 1786 and the NPS Agreements Handbook both set out formats for the various agreements used by these two bureaus. While specific bureau or office guidance may set out different formats and terminology for MOUs, we use the term “MOU” to refer to a document that establishes a cooperative relationship not involving a grant, cooperative agreement, or other arrangement discussed in this Part.

also clearly set out what tasks the bureau is committing to perform (and with what resources) and what the other parties are agreeing to do.

- *Administrative provisions:* These provisions cover the details of the cooperation, including matters such as duration, modification, dispute resolution, conformance to Federal law. Every MOU must expressly state that it does not obligate agency funds, property, or services and that separate agreements or documents are necessary for such purposes. The use of logos and issues associated with recognition or endorsement should also be addressed.

A Bureau employee considering entering into an MOU should consult with the Solicitors Office to ensure that the MOU is an appropriate mechanism for the intended purpose(s), as well as to ensure that it complies with applicable statutory, regulatory, and policy guidance.

III. *Receiving assistance from partners: donations to the Department*

The classic partnership (in which the Department is working with an outside entity) usually does not involve a direct transfer of property *to* the Department. However, there are certain to be situations in which an outside party wants to donate money, property, or services to the Department in support of a partnership. This will be permissible in many circumstances, and such donations will often serve partnership purposes. This Primer, accordingly, will briefly discuss the issue of the Department's authority to accept gifts from outside entities. For these purposes, a "gift" is a gratuitous conveyance of ownership in property without anything being given by the Department in return. Gifts are distinguished from required payments, such as fees, and from payments in satisfaction of an obligation, such as the provision of services to satisfy a "matching" requirement under a grant program.

First, the bad news: the general rule regarding donations to the Department is that the Department may not accept donations of money, property, or services, unless there is specific statutory authority to accept such gifts. To accept a gift without authorization would be either an improper augmentation of the Department's appropriations (for gifts of money and property) or would be an improper acceptance of voluntary services (for gifts of services). *See Part C* for a more detailed discussion of these limitations.

Now the good news: most of the Department's bureaus have gift acceptance authority. The authorities listed at Part D will usually provide a means to accept a gift. Nonetheless, with respect to any suggested donation, the list must be consulted to determine whether the Department has the requisite statutory authority to accept the proffered gift from outside entities under the circumstances. The statutory authority needs to be clear and specific enough to provide a basis to conclude:

- that the type of gift is permissible (e.g., authority to accept "funds" does not include authority to accept "property");
- that the gift furthers authorized Department/bureau purposes; and

- that no conditions or terms of the gift would make the gift unacceptable, (e.g., a gift that requires the Department to perform some future activity when Congress has not specifically authorized performance of the activity in the future).

Finally, the circumstances of the gift must not violate the ethics rules addressed in Part E, including that the gift must not create the appearance of impropriety.

A gift of money may usually be accepted for a specific limited purpose, provided it is consistent with the statutory authority under which the gift is accepted. The donated funds are accounted for as Federal funds and must be deposited into an appropriate account in the U.S. Treasury, to be disbursed in accordance with the terms of the gift. A gift of real property (e.g. land) or personal property (e.g., computers, tools) must be accepted and accounted for according to the bureau's authority and procedures. A gift of services may generally be accepted under a bureau's authority to accept volunteers.

Recognition of donors may be accomplished in a variety of ways, but in no case may such recognition rise to the level of an official endorsement of the donor, except in compliance with applicable ethics rules. Readers should refer to Part E for more discussion.

IV. Partnering under specific authority: statutory partnerships.

This section serves as a reminder that partnership tools may be found in specific statutes. The list of authorities at Part D sets forth a substantial number of general statutory (programmatic) authorities that may be broadly thought of as tools for partnerships because they enable Department partnership action. A bureau's authority to enter into cooperative agreements is an example of such general authority. Congress also, however, often enacts statutes that authorize specific partnerships or partnership activities; in other words, Congress provides the tools for partnerships specifically in the statutes. These partnership tools often define a relationship in which the Department will work with non-Federal entities, including state, local and tribal governments. In these situations, Congress determines the scope of the partnership and usually provides specific authority in addition to the bureau's general statutory authorities. Therefore, Department employees need simply to refer to the statute for the permissible activities associated with the partnership, and ensure that any applicable legal requirements, either from the statute itself or from the general discussion in Part C, are satisfied.

An example of a specific statutory partnership is the Central Valley Improvement Project, created in the Central Valley Improvement Act. The Act created a wide-ranging system of Federal-state-local cooperation to address water supply issues in California's Central Valley. Another example is the protection of the one-million-acre Pinelands area of southern New Jersey, accomplished by a unique Federal-state partnership established by Federal law but implemented primarily by state and local participants. Additional examples of two successful statutorily-based partnerships are highlighted in Part D: Lowell National Historical Park and Preserve and Santa Monica Mountains National Recreation Area.

Along with creating specific partnerships, statutes may provide specific tools or authorities for undertaking certain activities not normally within a bureau's mandate. For

example, Congress may on occasion specifically grant statutory authority for the Department to conduct activities involving lands or resources other than those that it manages—i.e., activities involving non-Federal land or resources. For example, under the Wild and Scenic Rivers Act, the Secretary of the Interior is authorized to provide limited financial assistance or other assistance to benefit river resources. This assistance is permissible regardless of whether the river resources are located on or off Federal lands, and regardless whether the resources are associated with a component of the national wild or scenic rivers system. Another example is the express authority granted to the National Park Service to enter into cooperative management agreements with state or local governments that have parks bordering or near national parks.

Legislation to implement a particular partnership activity may always be proposed to Congress, using appropriate official channels. Department employees who have ideas for specific legislation to facilitate partnership activity or to develop specific legislative partnerships should consult with their bureau's congressional liaison staff regarding how to pursue such legislation.

PART C: THE LEGAL FRAMEWORK

This Part describes in broad terms the legal landscape in which partnerships operate, providing a general analysis of legal requirements that often affect the Department's partnerships. Although the term "partnership" may be defined and discussed, it is important to remember that the term primarily reflects an approach to effective accomplishment of the Department's mission – an approach that emphasizes working cooperatively with outside entities. It is not, however, a commonly defined legal concept in the Federal arena; that is, there is no separate body of law governing the Department's partnerships. Partnerships, like all activities of the Federal government, must operate within the framework created by Congress in governing statutes and found in applicable regulations and policy guidance. These requirements may impose additional hurdles for Department employees to navigate before accomplishing a given task, but, once understood, they may also offer significant opportunities.

As noted above, partnerships must operate within the same legal framework as all other Federal activities. To legally enter into a partnership, The Department must have both statutory authority and appropriated funds (or non-appropriated funds, when applicable) to be available for the partnership activity. Once these requirements are met, employees should next consider the underlying activity to determine whether any legal strictures affect the implementation of the partnership. It is important to keep in mind that the statutes that govern the Department's partnership activity may apply differently to different scenarios, even scenarios that appear closely related. As a result, each partnership must be considered separately with respect to the statutes that prescribe acceptable Federal activity. Once again, such consideration should be accomplished in close coordination with the Solicitors Office.

The legal framework and limitations for partnerships may be categorized into four general topics:

- (1) Statutory and funding authority.
- (2) Federal status.
- (3) Use of Federal property and equipment by partnering organizations.
- (4) Exchange and management of information.

Basic issues associated with these topics are addressed below. An additional consideration is the ethical responsibilities of Federal employees engaged in partnership activities, which is addressed in Part E.

I. What is important about statutory and funding Authority for partnerships?

The first place to look for the boundaries of a particular partnership activity is in the statutory program or appropriations authority that supports the partnership. The variety and complexity of the Department's statutory structure means that very few useful generalizations about statutory limitations can be made in this Primer. Nonetheless, the significance of identifying the underlying authority cannot be overstated, so this brief discussion should simply

remind employees working on partnership activities to clearly understand the authority under which they are entering into the partnership.

Substantive Statutory Authority. If a particular statute authorizes the partnership activity, that authority may also contain specific limitations. For example, a statute that authorizes the Secretary to establish a wildlife refuge in cooperation with the State may also require the Secretary to ensure that state laws apply on the refuge. Conversely, Congress may enact specific statutes that forbid a particular partnership activity. For example, Congress has forbidden Federal agencies from creating business corporations, as noted in footnote 2, above. The Department must comply with any such limitations.

Annual Appropriations Acts and Funding. No partnership activity may take place without available funds allocated for the partnership purpose. Occasionally, Congress may insert specific limitations (beyond the normal limits related to the amount and allocation of the funding itself) in the annual appropriations acts for the Department that impact partnership activities. For example, Congress may enact a provision stating that no Federal funds may be spent to map natural gas deposits off the coast of California; any partnership effort to map such deposits would be impermissible, even if the partner donated the necessary resources and/or data for the mapping.

II. *How does Federal status affect how the Department engages in partnerships?*

While engaging in partnership activities, Department employees must keep in mind that their status as employees of the Federal government carries with it a general responsibility to act in the national public interest in accomplishing the Department's mission. It also implicates a number of specific requirements under Federal law. This section discusses those requirements in broad terms. Remember, the Primer is intended only to be an introduction to these requirements to allow employees to become aware of possible limitations on their activities and to alert employees of potential areas of concern.

Inherently Governmental Activities (OMB Circular A-76). Employees must be careful not to engage in a partnership activity that provides any partner with the authority to perform any inherently governmental activities. Although the concept of inherently governmental activities is most commonly used in the process that determines whether a particular Federal function may be contracted out, its principles are applicable in the partnership arena, as partners are analogous to contractors when carrying out Federal activities. The crux of this principle is that employees must retain inherently Federal functions when they deal with private parties. In other words, employees must take care not to transfer official responsibility inappropriately to third parties when entering into partnerships.

As defined in OMB Circular A-76, an "inherently governmental activity" is "[a]n activity that is so intimately related to the public interest as to mandate performance by Government personnel." These functions include those activities that require the exercise of substantial discretion in applying Government authority and/or in making decisions for the Government. Inherently governmental activities normally fall into two categories: the exercise of sovereign government authority or the establishment of procedures and processes related to

the oversight of monetary transactions or entitlements. An inherently governmental activity involves:

- (1) binding the United States to take or not to take some action by contract, policy, regulation, or otherwise;
- (2) determining, protecting, and advancing the United States's economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;
- (3) significantly affecting the life, liberty, or property of private persons; or
- (4) exerting ultimate control over the acquisition, use, or disposition of United States property (real or personal, tangible or intangible) including establishing policies or procedures for the collection, control, or disbursement of appropriated or other Federal funds.

The “inherently governmental activity” limitation sets an outside boundary on what functions may be given up in support of a partnership. For example, a partnership that allows an outside group to make the final decision whether to grant or deny a permit or application would be an improper delegation of an inherently Federal activity. Similarly, a choice to set the operating hours of a park or refuge must remain with a Government official. Also, allowing an outside group to determine to whom a parcel of Federal land may be sold would violate the restriction on delegations of inherently Governmental activity. Nonetheless, a significant amount of latitude remains in which partnerships may appropriately support Government operations without involving an inappropriate transfer of Government authority. For instance, the inherently governmental activity limitation would not prohibit a partnership from developing an exhibit on geological sites within a BLM National Monument to be placed in the Monument's visitor center. It also would not violate the inherently government activity limitation if a partner determines, consistent with USGS guidelines, the precise location of a USGS stream gage station.

Doctrine of Unlawful Subdelegation (“non-delegation doctrine”). This doctrine, related to the inherently governmental activity limitation, prohibits an agency from completely shifting a responsibility that has been placed on the agency by statute to a non-Federal party (unless Congress clearly indicates that such responsibility is to be given to such non-Federal party). Nonetheless, delegations by Federal agencies to private parties are valid so long as the Federal agency or official retains final reviewing authority. The “final reviewing authority” must be more than the option to withdraw from the relationship granting authority to the non-Federal entity; it must be a meaningful retention of control over the activity of the private party, through oversight, veto, or otherwise. In this way, the Federal agency may ensure that the actions it takes support the national interest, and that the Federal role is not subordinated inappropriately to parochial interests. The non-delegation doctrine, for example, would prohibit the National Park Service from turning over the management of a National Scenic River to a local council of private persons, even though the National Park Service retained the ability to terminate the council.

Provisions should be included in partnership agreements to ensure that they do not inadvertently run afoul of non-delegation requirements. For example, partnership agreements must make clear that the Federal partner (usually the bureau) is ultimately responsible for making decisions affecting resources under its charge. Also, all agreements should contain provisions granting the bureau authority to review and approve all partner activities affecting agency resources or programs. As part of this review, the bureau should evaluate whether proposed partner actions comply with the agency's legal and policy obligations. Further, all partner activities must meet standards that would apply if the responsible bureau were to conduct the activity itself. The bureau should create an appropriate record documenting its review and approval decisions. It is important to note that the incorporation of a provision granting an agency the right to terminate an agreement for cause or convenience is unlikely to cure an agreement that is otherwise invalid under non-delegation principles.

Administrative Procedure Act (Rulemaking). The Administrative Procedure Act ("APA") requires Federal agencies to follow certain steps in rulemaking (i.e., formulating, amending, or repealing a "rule"). The APA defines a rule as "the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency." In other words, for purposes of this Primer, a rule is essentially an agency action that regulates the future conduct of the public. The APA also imposes procedural requirements on adjudications that result in "orders," which are essentially determinations of past and present rights or liabilities.

Partnership activities have the potential to result in either rules or adjudications, even if unintentional. For example, a partnership between local users of BLM rangelands and the BLM field office that develops rules of use for the rangeland, such as access times and permissible activities, may be simultaneously creating a rule under the APA. Similarly, a determination by the same partnership that an individual had violated the local rules and should be denied access to the rangeland may be an adjudication under the APA. Both circumstances would require adherence to the procedural steps of the APA.

Department employees engaging in partnerships should continually evaluate the specifics of the activity to determine whether the partnership is in fact engaging in rulemaking or adjudication. Note that the negotiated rulemaking procedures at 5 U.S.C. §§ 561-570 may be a helpful way to engage outside parties in developing rules, and should be used when appropriate.

Administrative Procedure Act (Challenges to Department Actions). The APA provides a procedure by which Federal agency actions may be challenged in court. Although there are several potential bases for a challenge to agency action, the most commonly employed is the claim that an agency action is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." This standard applies equally to the Department's partnership activities as to its other activities. As a result, the decision to enter into a partnership (particularly when a perceived benefit is to be conferred on a partner to the exclusion of similar groups), and the substantive activities of the partnership, may ultimately be reviewed by a court. To survive a

court challenge, partnership decisions must therefore be rational and reasonable, as well as able to be articulated.

Another consideration is that APA challenges are usually decided on the basis of the administrative record (the materials upon which the Department relied in taking action). Challenges to partnership activities are no different. Department employees must therefore ensure that their partnership decisions and actions are based on, and supported by, a complete and thoroughly documented administrative record.

Finally, note that the APA may also provide the basis for challenges under the National Environmental Policy Act (“NEPA”), the Endangered Species Act, and other statutes.

National Environmental Policy Act (Environmental Analysis). The NEPA requires a detailed statement of the environmental consequences of any proposed “major Federal actions significantly affecting the quality of the human environment.” This statement is called an Environmental Impact Statement (“EIS”). An EIS must include an analysis of alternatives to the proposed action. The activities resulting from a partnership may rise to the level of a major Federal action requiring an EIS, and will, in any event, need to be analyzed for NEPA compliance. For example, a partnership between the BLM and an environmental nonprofit that purports to allow the nonprofit to conduct habitat improvement for a protected species may be a major Federal action. Because Federal actions may be challenged in court over NEPA compliance, it is imperative that partnership activities that result in a Federal action covered by NEPA appropriately comply with NEPA’s requirements. Additionally, to the extent possible, partners should be made aware of the possibility of litigation inherent in Federal actions.

Antideficiency Act (Control of Federal Funds). The Antideficiency Act contains a series of controls over the use of Federal appropriated funds, resulting in the general requirement that Federal agencies must “pay as they go.” Government officials are prohibited (without specific authority) from making payments, or committing the United States to make payments, at some future time, unless there is enough money currently available in their agency’s funds to cover the cost in full. The Antideficiency Act applies to partnerships as it does to all other Federal activities. Employees should be mindful that their partnership activities need to stay within the bounds of fiscal year funding. Therefore, no partnership agreement should be entered into that purports to bind the Department to the payment of funds in the future, in advance of any appropriations available in terms of time, purpose, and amount. For example, a partnership agreement that says that the Department commits to provide \$100,000 in grant funds to a particular organization for each of the next five years will probably be improper under the Antideficiency Act, unless there are sufficient funds that are specifically available for more than one year.

Federal Advisory Committee Act (“FACA”)(Receiving Advice). Under FACA, Department officials may not receive advice from a group (as a group) that the Department has established or that it utilizes, i.e., manages or controls, unless the Department complies with FACA. The FACA is a procedural statute that requires certain actions to set up and operate a committee or similar group to provide group-based (rather than individual) advice to Federal

officials. These actions include filing a charter, providing public notice in the *Federal Register*, and making advisory committee information publicly available.

Department officials who receive advice from partners should be aware of FACA's potential applicability. However, FACA does not apply to every situation in which a Department official receives advice, only to those situations in which the advice comes from a group that the Department has established or utilized. This means that FACA does not apply to advice received from individuals, even in a group setting (such as "town hall" meetings); advice received from preexisting groups; or advice from groups that the Government neither manages nor controls. It also does not apply to groups that simply exchange facts or information; groups consisting of only Federal, state, local, and tribal government employees exchanging views, information, or advice on programs with shared intergovernmental responsibilities; or groups that are authorized to carry out operational functions. For more information on FACA, employees should consult FACA regulations at 41 C.F.R. Part 102-3.

Lobbying Activities. Under 18 U.S.C. § 1913 and related authorities, most Department employees may not expend appropriated funds to generate "grass roots" lobbying designed to influence a member of Congress or official of any government (Federal, state, local, tribal) regarding his or her position on legislation—that is, they may not engage in lobbying. This restriction prohibits encouraging a partner to undertake lobbying activities in support of the Department. *See* Part E for more information.

Governmental Integrity. In carrying out partnership activities, Department employees should act in an unbiased, fair, and equitable manner to ensure that the public will not have cause to question the integrity of the Federal government. Accordingly, employees should always consider whether there is an appearance of impropriety raised by a partnership situation. The decision to partner with a particular organization should be based on a fair and rational evaluation of the strengths of the organization and the benefits it may bring to the partnership, especially when similarly situated organizations exist. Employees should endeavor to act impartially and to avoid giving preferential treatment, or the appearance of such preferential treatment, to any private entity. As noted above, partnership decisions may be challenged and overturned if they are arbitrary and capricious, so the Department must ensure that such decisions are supportable. More information is available in Part E.

III. *What is the appropriate use of Government property and equipment in partnerships?*

This section discusses issues associated with allowing non-Federal partnerships to conduct activities on Federal land, to use Federal buildings, or use Federal equipment. It does not address the transfer of these things to non-Federal parties through the use of grants and cooperative agreements, which is addressed in Part B, Partnership Tools.

Use of Governmental Equipment. The general rule is that Government-furnished equipment is for the use of the Government and that its use is limited to official purposes only. There is no independent authority for the Department to loan a "group" Government facilities or equipment to use in supporting the Department's mission. However, the individual volunteer authorities provide the basis for allowing individual volunteers to occupy Government office

space, use Government equipment, or operate Federal vehicles. A group, however, may appropriately be treated as a collection of individual volunteers when determining the parameters of appropriate use of equipment, with the group acting as a managing and facilitating entity through a blanket agreements covering its volunteer members. This is not to be taken to mean that the group is not volunteering as a group, but is simply a way of applying the relevant authorities to determine appropriate limitations.

The rules governing individual volunteers result in some general principles that may be applied to providing equipment to groups. First, a Department employee must be assigned to supervise the volunteer activities of the group. The supervision should include ensuring that volunteers are qualified to do the work performed, issuing any necessary instructions and guidance, and maintaining any necessary records. It also should involve making sure that the group's volunteers who use Federal equipment have sufficient experience or training to safely operate the equipment (e.g., operators of Government vehicles must have a valid Government operators license). When properly trained and/or qualified, a group and its members may be provided the available equipment, including office space, necessary to accomplish their role in supporting the Department. The Department, however, should be careful not to provide equipment to a volunteer group in a manner that displaces existing employees. Also, although groups may volunteer in support of general compliance and regulatory functions of the Department, they must not perform law enforcement functions, including carrying firearms or being assigned to duties that would place them in life-threatening situations.

Construction on Governmental Land. Generally, construction projects on Federal land must be authorized by specific statutory authority. Construction projects are most often accomplished through the use of a procurement contract on the theory that such an activity is "for the benefit" of the Government. However, construction projects on Department land may be performed through a partnership with a non-Federal group in limited circumstances. Bureau employees should be aware that construction projects raise a number of significant concerns and should be careful to ensure that they diligently perform all necessary analyses and obtain all appropriate approvals. Employees also must ensure that they consult with the Solicitors Office before entering into a partnership involving construction on Federal lands.

Inability to Offer Permanent Occupancy. The Department does not have authority to grant permanent rights to occupancy of Federal land or buildings.

Use of Government "logos," "marks," and "symbols." Government logos, marks, and symbols, such as seals, are generally for official use only. The Department may approve a partner's use of its "logos," "marks" and "symbols" in appropriate circumstances. The use of the Department's seal can only be approved by the Director, National Business Center, in accordance with the Departmental Manual at 310 DM 4.1. This section also states that bureaus and offices that have a seal shall issue directives regarding the policy, custody, and use of such seal. Employees should refer to their bureau's policy regarding appropriate uses of the seal, as well as to determine the process needed to authorize a partner to use the seal.

Intellectual Property and Partnerships. The creation, use, and/or transfer of intellectual property may be the intended or unintended consequence of a partnership. Intellectual property is generally defined as intangible assets, either in the form of copyrights, trademarks, or patents.

A partnership that involves the creation of a copyright, patent, or trademark will require consultation with the Solicitors Office early in the process. The most common circumstance for the creation of intellectual property in partnerships is copyrights. A simple definition of a copyright is the protection of the expression of ideas against unauthorized copying by others. The expression of an idea may be in the form of visual art, architecture, computer programs, written text, content on websites, and the like. For instance, a copyright would be involved when the Department and its partner develop a slogan for the partnership that they both wish to protect.

Partnerships may also implicate patents and trademarks. A patent is defined as a grant of right to exclude others from making, using or selling one's invention. A trademark is any word, name, symbol (e.g., the "artist formerly known as Prince"), or device (e.g., shape of the Honeywell thermostat) that is used in commerce to identify and distinguish the goods of one manufacturer or seller from those of another.

When a partnership encompasses the creation of intellectual property *and* the Federal government is paying for the cost of the creation of the copyright, trademark, and/or patent, the Government must receive at least a "government purpose" license. A government purpose license provides the Department the right to use the intellectual property, including to disclose, reproduce, prepare derivative works, distribute copies to the public, perform and display publicly (in any manner and for any purpose), and to have or permit others to do so. If the partnership is creating intellectual property and the costs associated with the asset are shared between the Government and the partner, the issue of ownership and use can become very complicated. Again, the Government should almost always seek to receive a government purpose license. However, there may be instances where Federal ownership would further the governmental interest. Unfortunately, due to the complexity of the subject matter, the Primer cannot provide a full discussion. Therefore, we recommend promptly contacting the Solicitors Office if you have any questions about ownership and licensing of intellectual property.

If the proposed partnership involves the use of trademarks, service marks, copyrighted materials, or patents, the supporting partnership agreement most likely functions as a license. A license is an agreement between party A and party B where party A permits B to use its patents, trademarks, copyrights, and/or other technology for a limited time and usually for a limited use.

If a partnership involves the use of any Federal agency insignia, logo, or designs, the following information should be obtained prior to any agreement. First, what is the purpose of the use of the insignia, logo, or design by the partner? Second, what is the duration of such use? Third, is it suggesting an endorsement of the partner or its products or services? Once these basic questions are appropriately answered, these basic guidelines for use of any Federal agency insignia, logo, or design should be followed:

1. Use of any Federal agency insignia, logo, design, or service marks must be consistent with the statutory purpose of the program.

2. Any other use of any Federal agency insignia, logo, or design by any partner must be authorized in writing.

3. The use of any variation of a Federal agency insignia, logo, or design (including its use in connection with additional logos or designs) must be approved in writing.

4. The agreements should contain a clause that allows for the termination of the agreement with reasonable notice, without cause, and without cost.

If the partnership involves the use of copyrighted material that is owned by the partner, then the partner will determine the terms of use. For copyrighted material owned by a Federal agency, please contact the Solicitors Office for help with either the review or drafting of agreements regarding the terms of its use. Also, for use of patents, please contact the Solicitors Office for help with either the review or drafting of agreements regarding their use.

Finally, the transfer of a trademark, copyright, or patent from the Federal government to a partner will usually mean the sale or assignment of these rights. An assignment is defined as an agreement between party A and party B where A transfers all or part of its ownership of its patent, trademark, copyright, and/or other technology to B. The result will be that the Federal Government no longer owns and/or has any rights to use the property. An agreement that envisions such an arrangement should occur in only very limited circumstances and will require consultation from the Solicitors Office early in the process.

Insurance and Liability Issues. A variety of liability issues should be considered before entering into a partnership. For example, a partner may desire that the Government “indemnify” and/or “hold it harmless” (that is, protect it from third-party liability or other loss) for certain actions. In general, the Department would violate the Antideficiency Act if it agreed, in the absence of specific statutory authority, to indemnify another for actions that may injure a third party where the amount of the liability is indefinite, indeterminate, or potentially unlimited. Accordingly, indemnification or hold harmless clauses are generally not permissible arrangements in a partnership. There may be instances, however, where it is appropriate to the partnership activity or relationship for the Government to offer a level of protection to partners (for example, with respect to the actions or omissions of the Government’s *own* employees). It is important, however, that such language avoid Antideficiency Act concerns. Accordingly, no agreement offering a level of protection to a partner may be entered into without approval of the Solicitors Office.

Regarding volunteering, a group’s members are generally protected by the Federal Tort Claims Act from liability for negligent acts occurring within the scope of their volunteer activities under a bureau’s statutory authority. Further, most Department volunteer statutes provide for compensation for injuries that occur during volunteer status, usually through the Federal Employee Compensation Act. These statutes should be consulted regarding the scope of their liability coverage, and both employees and partners should be clear regarding whether or not the partners’ members are operating under the volunteer authorities.

Regardless of whether their members are covered by a volunteer statute for a given activity, partner organizations themselves generally remain responsible for their own arrangements concerning liability and insurance. Partnership activities may vary by the amount

of risk of injury or loss they pose. Therefore, the levels of insurance needed by a partner may vary. Employees should consult their bureau's policies regarding whether, and in what amount, to require that a partner have insurance in place prior to beginning the partnership activity. Employees may wish to contact their bureau's risk assessment office for assistance with evaluating risk and insurance issues. Finally, employees should keep in mind that agencies of state governments may "self-insure" in a manner similar to the Federal government, which may raise different considerations.

IV. What are the issues associated with management and control of information in partnerships?

Freedom of Information Act. The Freedom of Information Act ("FOIA") provides outside parties potential access to any information (regardless of format) created or obtained by the Department and under the Department's control at the time of a FOIA request. Department personnel should keep in mind that documents generated during partnership activities will generally be agency records that are subject to release under the FOIA. However, the Department may withhold (i.e., not release to the public) documents that fall within one of nine specified FOIA exemptions. Exemption 5 of the FOIA (covering, among other things, internal documents that are both predecisional and deliberative) is the exemption most likely to be used to withhold partnership-related documents requested under the FOIA that have not been shared with a non-Federal partner. For this exemption to support withholding, however, the documents have to be "inter-or intra-agency." This means that documents, in most circumstances, may only be withheld under this Exemption when they are generated within the Department (or come from another Federal agency).

A related issue is "waiver" of the applicability of exemptions otherwise available to withhold a particular document under the FOIA. Waiver generally occurs when there has been an earlier disclosure of a document to an outside party, such as a non-Federal partner organization. Such disclosures may prevent the Department from asserting a FOIA exemption, should the documents be requested by another person. As a result, employees should carefully consider whether they may wish to withhold a particular document in the future, and avoid providing partners any such documents.

Privacy Act. The Privacy Act imposes certain requirements on how Federal agencies handle information under the control of the agency that is identifiable to a specific individual and that is retrieved from files using a personal identifier. It requires maintaining a system of records in accordance with a published Federal Register notice and generally allowing the subject individuals to access and amend their records. It also requires a notice specifying when information the Department collects will be placed in a Privacy Act system of records. Department employees should consider whether information is being collected and/or used in a partnership activity (for example, lists of volunteers from a particular organization) in a manner that brings it within the Privacy Act. This is important because the Privacy Act limits the permissible uses of information and it restricts the release of information outside of the Department, such as to a non-Federal partner.

Federal Records Act. The Federal Records Act requires Federal agencies to preserve as Federal records any recorded information, regardless of media, made or received by a Federal agency in accordance with law or in the conduct of business, that is valuable as evidence of the organization, functions, policies, decisions or other activities of the Federal government, or because of the value of information it contains. Once a document is determined to be a Federal record, it must be maintained according to established records disposition schedules. Partnership-related Federal records must be managed in accordance with the Federal Records Act. Additionally, employees should be aware that documents created by partners that are obtained by the Department may fall within the definition of a Federal Record, such as a document prepared by a National Park's Friends group describing its activities under a cooperative relationship with the Park to conduct research into the Park's archaeological resources.

Paperwork Reduction Act. The Paperwork Reduction Act ("PRA") applies when Federal agencies conduct or sponsor a collection of information that involves identical questions posed to 10 or more individuals. The PRA requires Office of Management and Budget approval of such collections of information. The PRA may apply, for example, to a partnership in which the partner develops and implements a customer satisfaction survey of visitors to a National Monument—the survey may trigger the PRA if it is determined to be a Department "sponsored" collection of information.

PART D: PARTNERSHIP AUTHORITIES

In this Part, readers will find a compilation of authorities that enable the Department's participation in partnership activities. The authorities are organized according to the bureau or agency to which they typically apply, with the exception of the first list which contains Department-level authorities and broad authorities for federal agencies. The authorities are listed with a short descriptive heading to provide easy accessibility, and contain a summary of the authority. If a particular authority appears helpful, the reader should review the actual text of the statute to ensure that there are no additional limitations or qualifications that may affect the ability to use that authority for the desired purpose.

When possible, the authorities are grouped into broad categories for ease of reference. In some cases, legal authorities that are specific to a site or region will be grouped according to region and listed after the general authorities. Neither the categorization nor the summary is intended to limit the applicability of the authority, nor to imply that it will always provide the authority indicated. The lists are only a starting point to identify helpful authority; the authorities must be applied in each instance in light of the circumstances of the proposed partnership activities. Any questions regarding the use of any of these authorities should be directed to the Solicitors Office. Consultation early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of the agency's partnership goals.

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AUTHORITIES AVAILABLE TO THE DEPARTMENT

Under the American legal system, government officials may perform official acts only if they have the legal authority to act. Such authorities are derived from the Constitution. The bulk of the statutory authorities that allow Department of the Interior (Department) bureaus to work with outside parties and engage in partnerships in accomplishing their missions are specifically granted by Congress – or delegated by the Secretary – to the bureau level. However, a small number are granted to the Secretary and appear to have broad application across the Department. We refer to these as Department-level authorities. Delegation of one of these authorities from the Secretary for use by a specific bureau depends on whether the authority fits within the bureau’s mission. Before using one of the Departmental-level authorities to support a bureau’s partnership activity, it is important to ascertain whether the authority has been delegated to the bureau. We list a number of Department-level authorities in Section A, below. In addition, there are several authorities that apply to the Department as well as to other federal government agencies and that may support partnership activities. These government-wide authorities are listed in Section B, below.

The Solicitors Office can help the Departmental bureaus determine the most appropriate ways of using these authorities to accomplish their partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of these goals.

A. Department-level Authorities

Department Organization and Delegation of Functions. (Reorganization Plan No. 3 of 1950, 5 U.S.C. App. 1). Reorganization Plan Number 3 of 1950 vests the Secretary of the Interior with all the authorities involving the various components of the Department. This authority allows the Secretary to designate subordinate officials to perform the functions of the Secretary. Because many of the authorities of the Secretary are not limited by their text to a single bureau (though they may have been delegated to a particular bureau), the Secretary could redelegate such authorities to other bureaus to support partnership goals. This authority is only used sparingly and, in any event, delegations under the Reorganization Plan must occur at the Department’s most senior levels, through either Secretary’s Order or the Departmental Manual.

- 1. Outdoor Recreation Authority (16 U.S.C. § 460I):** This law often is referred to as the Outdoor Recreation Act. The Act authorizes the Secretary to cooperate with and provide technical assistance and advice to the states, political subdivisions, and private interests, including non-profit organizations, with respect to outdoor recreation. The Act also authorizes the Secretary to sponsor, engage in, and assist in research relating to outdoor recreation, directly or by contract or cooperative agreements and to make payments for such purposes; undertake studies and assemble information concerning outdoor recreation; and cooperate with educational institutions and others in order to assist in establishing education programs and activities and to encourage public use and benefits from outdoor recreation. Finally, the Act also authorizes the Secretary to accept and use donations of money, property, personal services, or facilities to support outdoor recreation.

2. **Cooperative Authority to Restore and Enhance Watersheds (16 U.S.C. § 1011(a)):** Under authority provided in the Wyden Amendment the Secretary may use “appropriations made for the Bureau of Land Management including appropriations for the Wildland Fire Management account allocated to the National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs” to enter into cooperative agreements with tribes and public and private entities to protect, restore, and enhance fish and wildlife habitat and other resources, and for other purposes, on public or private lands within a watershed if appropriate criteria are met. Note
3. **Agreements for the Acquisition, Protection, and Management of River Resources Both Within and Outside Federally Administered Areas (16 U.S.C. § 1282(b)):** This subsection of the Wild and Scenic Rivers Act provides that the Secretary shall assist States and their political subdivisions, land owners and private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through cooperative agreements or otherwise. This authority applies within or outside a federally administered area and applies both to rivers that are components of the National Wild and Scenic River System and to other rivers. Any agreement under this subsection of the Act may include provisions for limited financial assistance to encourage participation in the acquisition, protection, and management of river resources. Also, the Secretary may make available Federal facilities, equipment, tools, and technical assistance to volunteers and volunteer organizations.
4. **Grants for Research (42 U.S.C. § 1900):** This law is often referred to as the Research Grants Act. The Act authorizes the Secretary to enter into contracts with educational institutions, public or private agencies or organizations, or persons, to conduct scientific or technological research “into any aspect of the problems related to the programs of the Department of the Interior , are authorized by statute.”
5. **Funding of Research Agreements (43 U.S.C. § 1471f):** This law provides authority for the Department to use its own appropriations, and any received from other Federal agencies, to incrementally fund research projects that may last more than one fiscal year, using work orders under cooperative agreements with colleges and universities, State agencies, and non-profit organizations.
6. **Acceptance of Contributions to Prosecute Cooperative Projects (43 U.S.C. § 1473a):** This law provides authority for the Secretary to accept land, buildings, equipment and other contributions and fees, and to use them to prosecute projects in cooperation with other federal, State, or private agencies.
7. **Nonmonetary Awards to Private Individuals and Organizations for Contributions to Department of the Interior Programs (43 U.S.C. § 1473b):** This law allows the expenditure of any appropriations or funds available to the Department to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to the Department’s programs.

8. **Payment of Costs Incidental to Services Contributed by Volunteers (43 U.S.C. § 1473c):** This law provides authority for the Secretary to pay costs incidental to the utilization of services contributed by individual volunteers in aid of Departmental work. This authority may be utilized only by bureaus that have clear statutory authority to accept the services of volunteers and may be used to pay for incidental expenses of individuals working in a group of volunteers.
 9. **Stewardship of Federal, State and Local Lands (16 U.S.C. §§ 4601-4608 – “Take Pride in America”):** The Take Pride in America (TPIA) Program statute provides the Department with very broad authority to establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals, in order to instill in the public the importance of the appropriate use of, and appreciation for, Federal, State, and local lands, facilities, and natural and cultural resources; to promote an attitude of stewardship toward them; and to promote participation in caring for them. This statute also provides the Secretary the authority to accept volunteer services; to solicit, accept, hold, and use donations of money and personal property; to distribute pamphlets and other appropriate items to promote TPIA; and to enter into contracts and cooperative agreements, as well as to do any lawful acts necessary to further the TPIA purposes. The TPIA Program office should be contacted with any questions as to the appropriate use of the authority provided in the TPIA statute. (Visit www.TakePride.org.)
 10. **Problem Solving through Cooperation and Consensus (Office of Collaborative Action and Dispute Resolution):** The Department’s Office of Collaborative Action and Dispute Resolution, working with the Interior Dispute Resolution Council, promotes the appropriate and effective use of alternative dispute resolution processes, and collaborative, consensual approaches to problem-solving and decision-making, to prevent, manage and resolve conflicts in the Department’s work. Though not technically an authority, this Office may be a useful resource to help employees develop partnerships as a means to resolve disputes (or potential disputes) involving the activities of the Department. Additionally, this office also may be a useful resource for obtaining dispute resolution language that may be included in partnership agreements. Such provisions often are appropriate and may be very helpful in streamlining the dispute resolution process.
- B. Government-wide Authorities:** The following authorities generally are applicable to government agencies and may be used in appropriate circumstances. Some will be utilized only by particular agencies or bureaus because the subject matter pertains to a particular type of program.
1. **Cooperative Research and Development Agreement (CRADA) (15 U.S.C. § 3710a):** Created as a result of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986, a CRADA allows the Federal government, through its laboratories, to provide personnel, services, facilities, equipment, intellectual property or other resources with or without reimbursement to non-Federal parties (but no funds to non-Federal parties) and the non-Federal parties to provide similar resources toward the conduct of specific research or development efforts consistent with the missions of the labs.

2. **Work on Federally-owned Highways (Act of August 27, 1958, 23 U.S.C. § 308(a), Pub. L. 90-577):** This Act authorizes the Federal Highway Administration to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other government agencies.
3. **Tax Deductions for Conservation Easements (26 U.S.C. § 170):** The U.S. Tax Code allows taxpayers to take a deduction for a “qualified property interest” contributed to a charitable organization (including the Department’s land managing bureaus), exclusively for conservation purposes protected in perpetuity. **Note:** 26 U.S.C. 170 is not a Department or bureau specific partnership authority *per se*; rather it authorizes a tax deduction by the donor provided that the recipient federal agency or bureau has donation authority and agrees to accept a property donation.
4. **Agency Requests for Goods or Services to be Provided by Another Federal Agency (31 U.S.C. § 1535A – Economy Act; see also Federal Acquisition Regulation 48 CFR 17.5):** The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services under certain conditions. Such orders are made on a reimbursable basis. This authority may be particularly helpful when an Interior agency is partnering with both federal and non-federal parties to achieve a common goal.
5. **Authority to Determine Whether a Transaction or Partnership Activity Involves Procurement and/or Federal Assistance (31 U.S.C. §§ 6301-6308 – Federal Grant and Cooperative Agreement Act of 1977):** This law does not provide bureaus or agencies the authority to enter into partnerships *per se*, regardless of whether the relationship is contractual or federal assistance-related. Under this law, however, Congress outlined the distinctions among procurement contracts, grants, and cooperative agreements and directed agencies to utilize the appropriate instrument depending upon the nature of the transaction or circumstances involved.
6. **Authority to Vest Title to Tangible Personal Property for Research (31 U.S.C. § 6306):** When a federal agency provides funds to a nonprofit institution of higher education or a nonprofit organization whose primary purpose is conducting scientific research, and does so under contracts, grant agreements, and cooperative agreements for the purpose of conducting basic or applied research, this act authorizes the agency to vest title to tangible personal property acquired with the federal funds in such institution or organization.
7. **Agreements to Provide Specialized or Technical Assistance on a Reimbursable Basis to Requesting State or Local Governments (31 U.S.C. § 6505 – Intergovernmental Cooperation Act of 1968):** The President may prescribe statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and other similar services that an executive agency is especially competent and authorized by law to provide. The head of

an executive agency may provide services prescribed by the President under this section to a State or local government on a reimbursable basis when a written request is made by the State or local government.

8. **Mutual Aid and Support Agreements for Fire Protection (42 U.S.C. § 1856):** The head of any agency with the duty of providing fire protection to property of the United States is authorized to sign cooperative agreements with any nearby fire protection agencies for mutual aid and support.
9. **Partnerships Involving Restoration by Natural Resource Trustees (42 U.S.C. § 9601 *et seq.*; 33 U.S.C. 2701 *et seq.*):** The Comprehensive Environmental Response, Compensation and Liability Act and the Oil Pollution Act provide authority for federal, state and tribal natural resource trustees to work together to identify and quantify injuries resulting from the release of hazardous waste or oil spills. Trustees then determine the appropriate restoration measures to restore injured resources and are authorized to recover the costs associated with the restoration of injured resources from responsible parties. Funds recovered from responsible parties may be used without further appropriation to restore, replace or acquire the equivalent of injured resources. Trustees may enter into agreements with other entities to assist in implementing all or parts of natural resource restoration plans under the direction of the natural resource trustees.

BUREAU OF INDIAN AFFAIRS

Office of the Assistant Secretary – Indian Affairs

The Department is responsible for delivering a broad range of services to Federally recognized Indian tribes and their members, mostly through the Bureau of Indian Affairs (BIA) and other offices reporting to the Assistant Secretary – Indian Affairs. Much of the law that these officials and offices rely upon ultimately is designed to support both tribal governments and efforts by tribes to attain a certain quality of life for their members. Use of these authorities presupposes discussion from the outset with any impacted Indian tribe. Assuming such discussions yield partnership opportunities, the authorities listed below are generally available to achieve goals that are consistent with the Department’s responsibilities and objectives. Also, Part D begins with a list of Department-level and government-wide partnership authorities that should be consulted.

The following list of authorities, or partnership tools, is organized first in terms of “The Ability to Provide Money and Services,” “The Ability to Receive Money and Services,” and “The Ability to Share Responsibility.” Each of these main categories is then sub-categorized by types of authority. For instance, “The Ability to Provide Money and Services” is further divided into “Broad Spending Authority,” “The Authority to Detail Federal Workers,” “The Authority to Train or Provide Technical Assistance,” etc. All sub-categories are then further divided by subject matter, such as “Education,” “Law Enforcement,” and “Energy.”

Note that the authorities listed here are not the only authorities that might exist to help with a specific partnership. This compilation specifically omits five kinds of authorities. First, the list does not include authorities relating to the ability of the Secretary to modify ownership or rights relating to Indian trust and restricted properties. Changing the status of trust or restricted property is a highly formalized process, and receives intense scrutiny from a number of Federal officials. That is, while it might be appropriate to initiate a change in the status of trust or restricted property to achieve a “stand alone” objective independently raised by the affected tribe or tribal member, it would be inappropriate to do so to accomplish most partnership goals. Second, the list does not include authorities that specifically apply to a single tribe, or a small group of tribes, due to their limited applicability. For example, 25 U.S.C. 640b authorizes the Secretary to issue grants to the Navajo Tribe associated with the Navajo Community College. Similarly, 25 U.S.C. 698 authorizes the Secretary to transfer Federally-owned property to certain tribes in western Oregon. Tribes affected by such specific laws are keenly aware of their existence and application and will use these authorities when appropriate without referring to this document. Thus, they are not included here. Third, the list does not include authorities for which there is a sustained history of inadequate funding, or none at all, because these are not considered truly viable mechanisms for achieving partnership goals. Fourth, the authorities relating to highly structured programs are not listed, because they do not offer the sort of flexibility most partnerships require. An example would be the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450 *et seq.* (ISDEA), which contains numerous authorities of the sort listed below, but which is so structured and narrowly applied that its provisions typically are unavailable for use in any new or novel situation. Finally, any authorities that are believed to be

unuseable at present for any other reason are not listed. For example, the authorities relating to the BIA Office of Tribal Justice Support under the Indian Tribal Justice Act, 25 U.S.C. 3601 *et seq.*, are not listed, because that Office does not currently exist.

In summary, readers should use the following list as a unique and helpful starting point, but should not consider it to be the final word on any authority. This list may be in some cases overly broad, for example, because an authority may have restrictions that are not described here. In some cases, however, the list may not mention an authority that is in fact available, but only to a particular tribe, or because an ISDEA contract triggers it. In either of those instances, it is assumed the affected tribe already will know of the authority and put it to use. The Solicitors Office can help determine the most appropriate way to use the authorities listed below to accomplish a given partnership goal. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of those goals.

The following outline is intended to assist readers looking for any specific type of BIA authority in the following pages. Also, Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that may be consulted.

I. ABILITY TO PROVIDE MONEY AND SERVICES

A. Broad Spending Authority

1. General
2. Agriculture
3. Construction
4. Economic Development
5. Education
6. Employment
7. Health
8. Law Enforcement
9. Social Services

B. Authority to Award Grants

1. Education / Forestry
2. Energy
3. Environmental Protection
4. Law Enforcement
5. Natural Resources
6. Social Services

C. Authority to Detail Federal Workers

1. Economic Development
2. Education

3. Law Enforcement

D. Authority to Allow the Use of Federal Property

1. General
2. Education
3. Law Enforcement
4. Transportation

E. Authority to Train or Provide Technical Assistance

1. General
2. Economic Development
3. Education
4. Employment
5. Energy
6. Environmental Protection
7. Forestry
8. Health
9. Law Enforcement
10. Social Services

II. ABILITY TO RECEIVE MONEY AND SERVICES

A. Authority to Charge Fees

1. General
2. Use of Federal Property

B. Authority to Accept Gifts and Donations

1. General
2. Agriculture
3. Education

C. Authority to Use Non-Federal Workers or Volunteers

1. Economic Development
2. Law Enforcement

III. ABILITY TO SHARE RESPONSIBILITY

A. Authority to Share or Transfer Federal Management

1. General
2. Agriculture

3. Education
4. Employment
5. Environmental Protection
6. Law Enforcement
7. Social Services

B. Authority to Enter into Cooperative Agreements

1. Agriculture
 2. Education
 3. Employment
 4. Forestry
 5. Law Enforcement
 6. Natural Resources
 7. Social Services
-

I. ABILITY TO PROVIDE MONEY AND SERVICES

A. Broad Spending Authority

1. General

- a. **25 U.S.C. § 13 *et seq.* (the Snyder Act)** allows BIA to spend appropriations for a broad array of purposes “for the benefit, care, and assistance of the Indians throughout the United States. . . .”
- b. **25 U.S.C. § 452 *et seq.* (the Johnson-O’Malley Act)** allows the Secretary to enter into contracts with any State, Territory, political subdivision thereof, State university, college, school, or any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare of Indians, and to spend appropriations under such contracts.
- c. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for social workers, law enforcement personnel, and legal and medical professionals. In addition, the Secretary is specifically allowed to use program funding for “such other innovative and culturally relevant programs and projects as the Secretary may approve. . . that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.”

2. Agriculture

- a. **25 U.S.C. § 452 *et seq.* (the Johnson-O'Malley Act)** allows the Secretary to enter into contracts with any State, Territory, political subdivision thereof, State university, college, school, or any appropriate State or private corporation, agency, or institution, for the agricultural assistance of Indians, and to spend appropriations under such contracts.

3. Construction

- a. **25 U.S.C. § 318a** allows the Secretary to appropriate otherwise unappropriated Treasury funds to purchase materials and Indian labor to survey, build, and maintain roads on Indian reservations when (1) such roads are not otherwise eligible for funding under the Federal Highway Act, and (2) no other appropriated funds are available.
- b. **25 U.S.C. § 458 *et seq.*** allows the Secretary to help State education agencies and school districts fund the construction and renovation of school facilities serving Indians residing on Indian lands.
- c. **25 U.S.C. § 1544** allows Federal agencies to award contractors who hire Indian subcontractors and suppliers a 5% bonus as additional compensation for doing so.

4. Economic Development

- a. **25 U.S.C. § 1851 *et seq.*** allows the Secretary to award grants to tribally controlled colleges or universities already receiving certain other kinds of grants, in order to establish and support tribal economic development and education institutes.

5. Education

- a. **25 U.S.C. § 13-1** allows appropriations for basic educational support, through parent committees, to public schools educating Indian students, where other funding sources are “insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students in the public schools in which they are enrolled. . .”
- b. **25 U.S.C. § 13b** allows BIA to spend appropriations to pay for the care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools.
- c. **25 U.S.C. § 452 *et seq.* (the Johnson-O'Malley Act)** allows the Secretary to enter into contracts with any State, Territory, political subdivision thereof, State university, college, school, or any appropriate State or private corporation, agency, or institution, for the education of Indians, and to spend appropriations under such contracts.

- d. **25 U.S.C. § 458 *et seq.*** allows the Secretary to help State education agencies and school districts fund the construction, acquisition, and renovation of school facilities serving Indians residing on Indian lands.
- e. **25 U.S.C. § 458d** allows the Secretary to provide funds to a tribe or tribal authority , controls and manages any previously private school.
- f. **25 U.S.C. § 1831 *et seq.*** allows the Secretary to award grants to encourage the creation of endowment funds at tribally controlled colleges or universities.
- g. **25 U.S.C. § 1851 *et seq.*** allows the Secretary to award grants to tribally controlled colleges or universities already receiving certain other kinds of grants, in order to establish and support tribal economic development and education institutes.
- h. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for social workers, law enforcement personnel, and legal and medical professionals. In addition, the Secretary is specifically allowed to use program funding for “such other innovative and culturally relevant programs and projects as the Secretary may approve. . .that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.”

6. Employment

- a. **25 U.S.C. § 13e** allows BIA to spend appropriations to pay for (among other things) exhibits and various sorts of job training and training-related transportation and subsistence expenses (as provided in 25 U.S.C. 309).

7. Health

- a. **25 U.S.C. § 452 *et seq.* (the Johnson-O’Malley Act)** allows the Secretary to enter into contracts with any State, Territory, political subdivision thereof, State university, college, school, or any appropriate State or private corporation, agency, or institution, for the medical attention of Indians, and to spend appropriations under such contracts.
- b. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for medical professionals. In addition, the Secretary is specifically allowed to use program funding for “such other innovative and culturally relevant programs and projects as the Secretary may approve. . .that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.”

8. Law Enforcement

- a. **25 U.S.C. § 13b** allows BIA to spend appropriations to pay for rewards for information or evidence concerning violations of law on Indian reservation lands or treaty fishing rights use areas.
- b. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for law enforcement personnel and legal professionals. In addition, the Secretary is specifically allowed to use program funding for “such other innovative and culturally relevant programs and projects as the Secretary may approve. . .that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.”

9. Social Services

- a. **25 U.S.C. § 452 *et seq.* (the Johnson-O’Malley Act)** allows the Secretary to enter into contracts with any State, Territory, political subdivision thereof, State university, college, school, or any appropriate State or private corporation, agency, or institution, for the social welfare of Indians, and to spend appropriations under such contracts.
- b. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for social workers, law enforcement personnel, and legal and medical professionals. In addition, the Secretary is specifically allowed to use program funding for “such other innovative and culturally relevant programs and projects as the Secretary may approve. . .that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.”

B. Authority to Award Grants

1. Education / Forestry

- a. **25 U.S.C. § 2019** requires the Secretary to provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs.
- b. **25 U.S.C. § 2020** requires the Secretary, subject to appropriations, to provide grants and technical assistance to tribes for the development and operation of tribal departments or divisions of education, to plan and coordinate all educational programs of the tribe.

- c. **25 U.S.C. § 3113(a)** directs the Secretary to establish a program for “forester interns.” The act directs the Secretary to pay all costs for tuition, books, fees and living expenses incurred by Indian and Alaska Native students in the Forester Intern Program who are enrolled in an accredited post-secondary or graduate school in a full-time forestry-related curriculum. The program is the Forestry Education Outreach Program and is conducted in consultation with appropriate local, State and Federal agencies. The program also is conducted in consultation and coordination with Indian tribes. Grant recipients are required to enter into an obligated service agreement with the BIA, an Indian tribe, or a tribal forestry-related enterprise.
- d. **25 U.S.C. § 3113(c)** authorizes the Secretary to grant forestry scholarships to Indians and Alaska Natives in the Scholarship Program who are enrolled in accredited programs for post-secondary and graduate forestry and forestry-related programs of study as full-time students. Scholarship recipients are required to enter into an obligated service agreement with the Secretary.
- e. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of tribal energy resources. Grant funding may be used for a broad range of related activities, including training and education.
- f. See also I. E. 3. b. and c., below, regarding grants for education, technical assistance and training.

2. **Energy**

- a. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of tribal energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws.
- b. **25 U.S.C. § 3506** allows the Secretary to award grants to Indian tribal governments or private sector persons working with them, for the purpose of studying the adoption of energy efficiency and renewable energy projects on Indian reservations. The grants may cover the costs of technical assistance.

3. **Environmental Protection**

- a. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of tribal energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal

legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws.

4. Law Enforcement

- a. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of tribal energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws.

5. Natural Resources

- a. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of tribal energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws.

6. Social Services

- a. **25 U.S.C. § 2412** allows the Secretary to provide grants to Indian tribes for technical assistance in the development of a Tribal Action Plan to combat alcohol and substance abuse among its members (25 U.S.C. 2412(d)), and for implementing and developing community and in-school training, education and prevention programs on alcohol and substance abuse, fetal alcohol syndrom, and fetal alcohol effect (25 U.S.C. 2412(f)).

C. Authority to Detail Federal Workers

1. Economic Development

- a. **25 U.S.C. § 3417** allows the Secretary to assign Federal personnel to State programs targeted to Indian tribal economic development.

2. Education

- a. **25 U.S.C. § 458bbb et seq.** require the Secretary to establish the American Indian Education Foundation, a non-profit, federally-chartered charitable corporation whose mission is to encourage, accept and administer private gifts of real and personal property in support of the BIA's Office of Indian Education Programs. The Secretary may provide personnel to the Foundation for the first 5 years of its existence (25 U.S.C. 458bbb-1). [Note: The Foundation, though in some respects organized and operating, has not yet been formally incorporated. The name

“American Indian Education Foundation” is already in use by another entity, so before the Foundation can incorporate, Congress will need to change the proposed name.]

3. Law Enforcement

- a. **25 U.S.C. § 2801 *et seq.* (the Indian Law Enforcement Reform Act)** allows the Secretary to help any other Federal, tribal, State, or local law enforcement agency with its law enforcement efforts (25 U.S.C. 2803), and enter into agreements for the use of personnel or facilities of a Federal, tribal, State, or other governmental agency to aid in the enforcement in Indian country of Federal or tribal laws (25 U.S.C. 2804).

D. **Authority to Allow the Use of Federal Property**

1. General

- a. **25 U.S.C. § 17** allows the Secretary to permit tribal governments and organizations and student organizations to use BIA equipment, land, buildings, and other structures if that use does not interfere with BIA’s activities and when the use is beneficial to the Indians or Federal programs.
- b. **25 U.S.C. § 443a** allows the Secretary to convey to an Indian tribe, band or group title to any federally owned buildings, improvements or facilities located on Indian lands and no longer needed by BIA.
- c. **25 U.S.C. § 453** allows the Secretary to let parties, contracting under the Johnson-O’Malley Act, use government buildings and equipment in furtherance of contract purposes.

2. Education

- a. **25 U.S.C. § 17** allows the Secretary to permit tribal governments and organizations and student organizations to use BIA equipment, land, buildings, and other structures if that use does not interfere with BIA’s activities and when the use is beneficial to the Indians or Federal programs.
- b. **25 U.S.C. § 458bbb *et seq.*** require the Secretary to establish the American Indian Education Foundation, a non-profit, federally-chartered charitable corporation whose mission is to encourage, accept and administer private gifts of real and personal property in support of the BIA’s Office of Indian Education Programs. The Secretary may provide facilities and other administrative support services to the Foundation on a cost reimbursement basis (25 U.S.C. 458bbb-1). [Note: The Foundation, though in some respects organized and operating, has not yet been formally incorporated. The name “American Indian Education Foundation” is

already in use by another entity, so before the Foundation can incorporate, Congress will need to change the proposed name.]

3. Law Enforcement

- a. **25 U.S.C. § 2801 *et seq.* (the Indian Law Enforcement Reform Act)** allows the Secretary to enter into agreements for the use of personnel or facilities of a Federal, tribal, State, or other governmental agency to aid in the enforcement in Indian country of Federal or tribal laws (25 U.S.C. 2804).

4. Transportation

- a. **25 U.S.C. § 16** allows BIA to transport Indians in Government-owned passenger vehicles.

E. Authority to Train or Provide Technical Assistance

1. General

- a. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of their energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws. The Secretary also is authorized to provide other forms of assistance to Indian tribes, such as technical assistance and training, and help with preparing and maintaining an inventory of tribal resources.

2. Economic Development

- a. **25 U.S.C. § 305 *et seq.*** requires the Secretary (through the Indian Arts and Crafts Board) to research, provide technical assistance, register and issue trademarks, and otherwise promote Indian arts and crafts.
- b. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of their energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws. The Secretary is also authorized to provide other forms of assistance to Indian tribes, such as technical assistance and training, and help with preparing and maintaining an inventory of tribal resources.

3. Education

- a. **25 U.S.C. § 309** allows the Secretary to establish various sorts of job training programs, and enter into contracts with other Federal, State, and local agencies, or private schools, corporations or associations, to fulfill program goals.
- b. **25 U.S.C. § 2020** requires the Secretary, subject to appropriations, to provide grants and technical assistance to tribes for the development and operation of tribal departments or divisions of education, to plan and coordinate all educational programs of the tribe.
- c. **25 U.S.C. § 2412** allows the Secretary to provide grants to Indian tribes for technical assistance for implementing and developing community and in-school training, education and prevention programs on alcohol and substance abuse, fetal alcohol syndrom, and fetal alcohol effect (25 U.S.C. 2412(f)).
- d. **25 U.S.C. § 3113(d)** directs the Secretary to conduct a forestry education outreach program to stimulate interest in all aspects of Indian forest land management and careers in forestry. The program is the Forestry Education Outreach Program and is conducted in consultation with appropriate local, State and Federal agencies. The program also is conducted in consultation and coordination with Indian tribes.
- e. **25 U.S.C. § 3114(c)** directs the Secretary to maintain a continuing education program for orientation training, continuing technical forestry education, and developmental training with program components for BIA, Alaska Native, and Indian forestry personnel.
- f. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for social workers, law enforcement personnel, and legal and medical professionals.

4. **Employment**

- a. **25 U.S.C. § 309** allows the Secretary to establish various sorts of job training programs, and enter into contracts with other Federal, State, and local agencies, or private schools, corporations or associations, to fulfill program goals.

5. **Energy**

- a. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of their energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws. The Secretary is also authorized to provide other forms

of assistance to Indian tribes, such as technical assistance and training, and help with preparing and maintaining an inventory of tribal resources.

- b. **25 U.S.C. § 3506** allows the Secretary to award grants to Indian tribal governments or private sector persons working with them, for the purpose of studying the adoption of energy efficiency and renewable energy projects on Indian reservations. The grants may cover the costs of technical assistance.

6. **Environmental Protection**

- a. **25 U.S.C. § 3112(a)** directs the Secretary to establish in consultation with Alaska village and regional corporations a technical assistance program that promotes sustained yield forest management and local processing of forest products. The program is the Alaska Native Technical Assistance Program.
- b. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of their energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws. The Secretary is also authorized to provide other forms of assistance to Indian tribes, such as technical assistance and training, and help with preparing and maintaining an inventory of tribal resources.

7. **Forestry**

- a. **25 U.S.C. § 3112(a)** directs the Secretary to establish in consultation with Alaska village and regional corporations a technical assistance program that promotes sustained yield forest management and local processing of forest products. The program is the Alaska Native Technical Assistance Program.
- b. **25 U.S.C. § 3113(d)** directs the Secretary to conduct a forestry education outreach program to stimulate interest in all aspects of Indian forest land management and careers in forestry. The program is the Forestry Education Outreach Program and is conducted in consultation with appropriate local, State and Federal agencies. The program also is conducted in consultation and coordination with Indian tribes.
- c. **25 U.S.C. § 3114(a)** directs the Secretary to establish and maintain an employment recruitment program to attract Indian and Alaska Native professional foresters and forester technicians who have already graduated from postsecondary or graduate school to work in either the BIA forestry programs or, subject to the approval of the tribe, in tribal forestry programs.
- d. **25 U.S.C. § 3114(b)** directs the Secretary to establish and maintain a program of postgraduate intergovernmental internships for training, skill development, enhancement of BIA and tribal forestry programs, and other purposes.

- e. **25 U.S.C. § 3114(c)** directs the Secretary to maintain a continuing education program for orientation training, continuing technical forestry education, and developmental training with program components for BIA, Alaska Native, and Indian forestry personnel.

8. Health

- a. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for medical professionals.

9. Law Enforcement

- a. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for law enforcement personnel and legal professionals.
- b. **25 U.S.C. § 3504** allows the Secretary to award grants to Indian tribes to develop and enforce tribal laws governing the development of their energy resources. Grant funding may be used for a broad range of related activities, including training, education, developing inventories of tribal resources, developing tribal legal and governmental infrastructure to regulate environmental quality, and enforcing and monitoring Federal laws. The Secretary is also authorized to provide other forms of assistance to Indian tribes, such as technical assistance and training, and help with preparing and maintaining an inventory of tribal resources.

10. Social Services

- a. **25 U.S.C. § 2412** allows the Secretary to provide grants to Indian tribes for technical assistance in the development of a Tribal Action Plan to combat alcohol and substance abuse among its members (25 U.S.C. 2412(d)), and for implementing and developing community and in-school training, education and prevention programs on alcohol and substance abuse, fetal alcohol syndrom, and fetal alcohol effect (25 U.S.C. 2412(f)).
- b. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. These programs can include community education and training for social workers, law enforcement personnel, and legal and medical professionals.

II. ABILITY TO RECEIVE MONEY AND SERVICES

A. Authority to Charge Fees

1. General

- a.** 25 U.S.C. § 14b allows the Secretary to accept payments from the public for goods and services provided by BIA. Payments are credited to the appropriations account funding the goods and services.
- b.** 25 U.S.C. § 305a-1 allows the Indian Arts and Crafts Board to charge admission fees at its museums; charge rent and/or franchise fees for shops located in its museums; publish and sell publications; sell, rent or license images; license the use of designs; and charge for consulting. All fees collected must go to a special fund to help the Indian Arts and Crafts Board carry out its mission.
- c.** 25 U.S.C. § 413 allows the Secretary to collect reasonable fees to cover the cost of work performed for tribes or individual Indians.

2. Use of Federal Property

- a.** 25 U.S.C. § 17 allows the Secretary to permit tribal governments and organizations and student organizations to use BIA equipment, land, buildings, and other structures if that use does not interfere with BIA's activities and when the use is beneficial to the Indians or Federal programs. The Secretary may charge a use fee, which is to be credited to the appropriations account funding the cost the fee is designed to defray (*e.g.*, utilities).

B. Authority to Accept Gifts and Donations

1. General

- a.** 25 U.S.C. § 451 allows the Secretary to accept donations of funds or other property for Indian advancement and use the donations in accordance with their terms.

2. Agriculture

- a.** 25 U.S.C. § 500c allows the Secretary to receive gifts on behalf of Alaska natives to promote the reindeer industry.

3. Education

- a.** 25 U.S.C. § 458bbb *et seq.* require the Secretary to establish the American Indian Education Foundation, a non-profit, federally-chartered charitable corporation whose mission is to encourage, accept and administer private gifts of real and

personal property in support of the BIA's Office of Indian Education Programs. The Secretary may transfer to the Foundation funds held under 25 U.S.C. 451, if not prohibited by the terms of the donation. [See the program-related note, set forth above in C., 2., a., regarding the need for Congressional consideration of the name of the foundation.]

- b. **25 U.S.C. § 2006(f)** allows the Director of the Office of Indian Education to accept gifts and bequests for the benefit and use of certain Indian schools or BIA education programs.

C. **The Authority to Use Non-Federal Workers or Volunteers**

1. **Economic Development**

- a. **25 U.S.C. § 305a-1** allows the Indian Arts and Crafts Board to accept volunteers to carry out its mission.

2. **Law Enforcement**

- a. **25 U.S.C. § 2801 *et seq.* (the Indian Law Enforcement Reform Act)** allows the Secretary to enter into agreements for the use of personnel or facilities of a Federal, tribal, State, or other governmental agency to aid in the enforcement in Indian country of Federal or tribal laws (25 U.S.C. 2804).

III. **ABILITY TO SHARE RESPONSIBILITY**

A. **Authority to Share or Transfer Federal Management (other than through the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*))**

1. **General**

- a. **25 U.S.C. § 48** allows the Secretary to give a tribe supervisory authority over persons the Secretary hires for the tribe's benefit.

2. **Agriculture**

- a. **25 U.S.C. § 500h** allows the Secretary to delegate to Alaska native corporations, associations, or other organizations any or all of the Secretary's powers relating to the administration of the reindeer industry.
- b. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains provisions that allow the Federal government and

tribal governments to exercise concurrent jurisdiction over trespass to agricultural lands (25 U.S.C. 3713(c)), and authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including the development and publication of cooperative education and resource planning materials, the improvement of land and facilities, and natural resource (*sic*) management and development (25 U.S.C. 3733).

3. Education

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains a provision that allows cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including job training, and development and publication of cooperative environmental education materials (25 U.S.C. 3115).
- b. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains provisions that authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including job training, and development and publication of cooperative agricultural education materials (25 U.S.C. 3733).

4. Employment

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains a provision that allows cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including cooperative manpower and job training and development programs (25 U.S.C. 3115).
- b. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains provisions that authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including cooperative manpower and job training (25 U.S.C. 3733).

5. Environmental Protection

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains provisions that allow the Federal government and tribal governments to exercise concurrent jurisdiction over forest trespass matters (25 U.S.C. 3106(c)), provide for Secretarial compliance with tribal laws pertaining to Indian forest lands (including laws regulating the environment or historic or cultural preservation) (25 U.S.C. 3108), and authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes (25 U.S.C. 3115).

6. Law Enforcement

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains provisions that allow the Federal government and tribal governments to exercise concurrent jurisdiction over forest trespass matters (25 U.S.C. 3106(c)), provide for Secretarial compliance with tribal laws pertaining to Indian forest lands (including laws regulating the environment or historic or cultural preservation) (25 U.S.C. 3108), and authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes (25 U.S.C. 3115).
- b. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. In addition to a transfer of these functions through the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Secretary also may enter into intergovernmental or interagency agreements to provide for the coordination and cooperation of law enforcement agencies, courts, and other agencies.
- c. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains provisions that allow the Federal government and tribal governments to exercise concurrent jurisdiction over trespass to agricultural lands (25 U.S.C. 3713(c)), and authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes (25 U.S.C. 3733).

7. **Social Services**

- a. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. In addition to a transfer of these functions through the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Secretary also may enter into intergovernmental or interagency agreements to provide for the coordination and cooperation of law enforcement agencies, courts, and other agencies.

B. **Authority to Enter into Cooperative Agreements**

1. **Agriculture**

- a. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains a provision that allows cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including cooperative manpower and job training, development and publication of cooperative agricultural education and resource planning materials, and land and facility improvements (25 U.S.C. 3733).

2. **Education**

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** directs the Secretary to establish a BIA cooperative education program that

provides financial assistance for tuition, books, and fees under cooperative agreements with educational institutions and entails an obligated service agreement with the BIA, an Indian tribe, or a tribal forestry-related enterprise. The program is the Cooperative Education Program (25 U.S.C. § 3113(b)).

- b. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains a provision that allows cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including job training, and development and publication of cooperative environmental education materials, forestry, and education materials (25 U.S.C. 3115(a)).
- c. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains provisions that authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including job training, and development and publication of cooperative agricultural education materials (25 U.S.C. 3733).

3. **Employment**

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains a provision that allows cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including cooperative manpower and job training and development programs (25 U.S.C. 3115).
- b. **25 U.S.C. § 3701 *et seq.* (the American Indian Agricultural Resource Management Act)** contains provisions that authorize cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including cooperative manpower and job training (25 U.S.C. 3733).

4. **Forestry**

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** directs the Secretary to establish a BIA cooperative education program that provides financial assistance for tuition, books, and fees under cooperative agreements with educational institutions and entails an obligated service agreement with the BIA, an Indian tribe, or a tribal forestry-related enterprise. The program is the Cooperative Education Program (25 U.S.C. § 3113(b)).
- b. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** authorizes the Secretary to enter into cooperative agreements with Indian tribes for certain purposes, including job training and development programs, production of cooperative environmental education and natural resource planning materials, land and facility improvements, including forestry and other natural

resources protection, fire protection, reforestation, and other activities related to land and natural resource management. (25 U.S.C. 3115(a)).

5. Law Enforcement

- a. **25 U.S.C. § 2801 *et seq.* (the Indian Law Enforcement Reform Act)** allows the Secretary to enter into agreements for the use of personnel or facilities of a Federal, tribal, State, or other governmental agency to aid in the enforcement in Indian country of Federal or tribal laws (25 U.S.C. 2804).
- b. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. The Secretary may enter into intergovernmental or interagency agreements to provide for the coordination and cooperation of law enforcement agencies, courts, and other agencies.

6. Natural Resources

- a. **25 U.S.C. § 3101 *et seq.* (the National Indian Forest Resources Management Act)** contains a provision that allows cooperative agreements between the Department of the Interior and Indian tribes for certain purposes, including cooperative manpower and job training and development programs, development and publication of cooperative environmental education and natural resource planning materials, and land and facility improvements (25 U.S.C. 3115).

7. Social Services

- a. **25 U.S.C. § 3210** requires the Secretary to establish and fund Indian child protection and family violence prevention programs on Indian reservations. The Secretary may enter into intergovernmental or interagency agreements to provide for the coordination and cooperation of law enforcement agencies, courts, and other agencies.

BUREAU OF LAND MANAGEMENT

As shown by the following list of authorities, the Bureau of Land Management (BLM) has opportunities to implement a variety of partnerships. The Solicitors Office can help BLM determine the most appropriate way to use this list of statutory authorities to accomplish BLM's partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals. Also, Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that may be consulted.

A. AUTHORITY TO COOPERATE WITH PARTNERS

1. **State Regulatory and Law Enforcement Officials (43 U.S.C. § 1733(d)):** Section 303(d) of the FLPMA authorizes the Secretary to cooperate with the regulatory and law enforcement officials of any State or political subdivision of a State in connection with administration and regulation of the use and occupancy of public lands.
2. **Investigations, Studies and Experiments (43 U.S.C. § 1737(a)):** Section 307(a) of FLPMA authorizes the Secretary to cooperate "with others" in conducting investigations, studies, and experiments involving the protection, development, acquisition, and the conveying of public lands.
3. **Experimental Stewardship Program (ESP) for Grazing Permittees and Lessees (43 U.S.C. § 1908):** The Public Rangelands Improvement Act directs the Secretaries of the Interior and Agriculture to develop an ESP that provides incentives to, or rewards for, the holders of grazing permits and leases whose stewardship results in an improvement of the range condition of lands under permit or lease. Each Secretary may offer "incentives as he may deem appropriate" for permittee / lessee participation in the ESP. § 1908(3). Such incentives include, but are not limited to, a grazing fee credit of up to 50 percent in return for labor or equipment that the permittee or lessee may provide in furtherance of range improvement work. § 1908(2).
4. **Stewardship Contracting for Tree Thinning and Other Services (16 U.S.C.A. § 2104 note):** Legislation that was enacted in 2003 includes BLM in a stewardship contracting program that originated in 1999 with the Forest Service. The legislation authorizes BLM to enter into stewardship contracts with individuals or public and private entities to remove trees from federal lands, and sell them, in return for performing services that reduce fire hazards or achieve other land management goals. This authority is effective through September 30, 2013.

B. AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS

1. **Watershed Restoration and Enhancement (16 U.S.C. § 1011(a)):** The Wyden Amendment authorizes BLM to use appropriated funds to enter into and implement

cooperative agreements with public and private entities to restore and enhance watersheds, including those outside public lands if appropriate criteria are met. 16 U.S.C. § 1011(a), as modified by the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Pub. L. 105-277, Div. A, Title I, § 136, 112 Stat. 2681-266 (Oct. 7, 1998).

2. **Management, Protection, Development, and Sale of Public Lands (43 U.S.C. § 1737(b)):** Subject to the provisions of applicable law, Section 307(b) of FLPMA authorizes the Secretary to enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.
3. **Fire Protection (42 U.S.C. § 1856):** Section 2 of the Reciprocal Fire Protection Agreements Act authorizes the head of any agency, which provides fire protection to property of the United States, to sign cooperative agreements with nearby fire protection agencies for mutual aid and support. Other authority that can be used for fire-protection purposes is described in A. 4., above, under “Stewardship Contracting.”
4. **Range Improvements (43 U.S.C. § 315c):** Section 4 of the Taylor Grazing Act authorizes the Secretary to enter into cooperative agreements, or grant permits, for the construction of fences, wells, reservoirs, or other improvements necessary to the care and management of livestock that are permitted to graze on public lands managed by BLM.
5. **Challenge Cost-Share Authority (31 U.S.C. § 6305 note):** Under this authority BLM implements a challenge cost-share program that enables the bureau to provide payments to public and private agencies, organizations, institutions, and individuals who provide cash, materials, or in-kind work in furtherance of a public purpose. Activities of partners under this program typically include resource monitoring, habitat improvement, and enhancement of recreational experiences.

C. **AUTHORITY TO ACCEPT GIFTS, DONATIONS AND VOLUNTEER SERVICES**

1. **Contributions 43 U.S.C. § 1737(c):** Section 307(c) of FLPMA authorizes the Secretary to accept contributions or donations of money, services, and property for the management, protection, development, acquisition, and conveying of public lands.
2. **Volunteers (43 U.S.C. §1737(d)):** Section 307(d) of FLPMA, authorizes the Secretary to recruit individual volunteers to assist BLM, “without regard to the civil service classification laws, rules, or regulations.” Volunteers shall not be permitted to perform hazardous duty, law enforcement or policymaking functions, and shall not be deemed employees of the United States except for purposes of the Federal Tort Claims Act and Workers’ Compensation. 43 U.S.C. §1737(e) and (f).

D. **BLM REGIONAL AND SITE-SPECIFIC AUTHORITIES**

1. **King Range (Pub. L. 91-476, § 5(8)):** The King Range Act authorizes the Secretary to enter into cooperative arrangements with the State of California, local governmental

agencies, and nonprofit organizations as the Secretary deems necessary or desirable concerning the King Range.

2. **Santa Rosa and San Jacinto Mountains (Pub. L. 106-351, § 4(c)):** The Santa Rosa and San Jacinto Mountains National Monument Act of 2000 authorizes the Secretaries of the Interior and Agriculture to enter into cooperative agreements and shared management arrangements with any person to manage, interpret, research, and to provide education regarding the resources of the National Monument.
3. **Authority to Recruit Volunteers for the Carrizo Plain National Monument:** Implementation of the BLM Management Plan for the Carrizo Plain National Monument, which was established by Presidential Proclamation January 17, 2001, is dependent upon the cooperative efforts of the managing partners, Native Americans, the U.S. Fish and Wildlife Service, docents, volunteers and the public.

BUREAU OF RECLAMATION

Following are examples of legal authorities of the Bureau of Reclamation (BOR) for entering into partnerships, some of which include authority to enter into cooperative agreements and grants. Regional and site-specific authorities also are listed at the end of this section. Also Part D of the Primer begins with a list of Department-level and Government-wide partnership authorities that may be of assistance. The Solicitors Office can help the BOR determine the most appropriate ways of using these authorities to accomplish its partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of the agency's partnership goals. Also, Part D begins with a list of Department-level and government-wide partnership authorities that should be consulted.

A. AUTHORITY TO COOPERATE WITH PARTNERS

1. **Investigation, Research and Demonstration of Opportunities for Reclamation and Reuse of Wastewater and Naturally Impaired Ground and Surface Waters (43 U.S.C. §§ 390h to h-14):** The Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 authorizes the Secretary to investigate opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface water. This authority is limited to the Reclamation states plus the State of Hawaii. The Secretary is required to consult and cooperate with appropriate state, regional, and local authorities to conduct an initial appraisal. Those costs are specifically non-reimbursable. Further, the Secretary is authorized to participate with appropriate Federal, State, and local authorities in studies to determine the feasibility of water reclamation and reuse projects under cost-share agreements. Finally, the Secretary is authorized to conduct research and construct, operate, and maintain cooperative demonstration projects for the research and development of appropriate treatment technologies under cost-share agreements.
2. **Use and Improvement of Existing Public Roads during Construction of Water Resource Projects (33 U.S.C. § 701r-1(b)):** This law provides that “[w]henever in connection with the construction of any authorized flood control, navigation, irrigation, or multiple purpose project for the development of water resources, the head of the Agency concerned determines it to be in the public interest to utilize existing public roads as a means of providing access to such projects during construction, such Agency may improve, reconstruct, and maintain such roads and may contract with the local authority having jurisdiction over the roads to accomplish the necessary work.”

B. AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS AND GRANTS

1. **Grants to Facilitate Development, Management, and Protection of Indian Water Resources (Pub. L. 108-7):** Section 201 of the Consolidated Appropriations Resolution,

2003, Section 2, Division D, Title II (Department of the Interior) authorizes the Secretary, acting through the Commissioner of Reclamation, to enter into grants and cooperative agreements with any Indian tribe, institution of higher education, national Indian organization, or tribal organization, pursuant to 31 U.S.C. §§ 6301-6308, in order to increase opportunities for Indian tribes to develop, manage, and protect their water resources, in FY 2003 and thereafter.

2. **Habitat Restoration Associated with Reclamation Projects (16 U.S.C. §§ 661 *et seq.*):** Section 1 of the Fish and Wildlife Coordination Act provides authorization to the Secretary to provide assistance to, and cooperate with, Federal, State and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes. . .and in carrying out other measures necessary to effectuate the purposes of the law.

While the authority is delegated primarily to the Fish and Wildlife Service, the Secretary in 1996 provided to the Commissioner of Reclamation a limited delegation of Section 1 authority “as is necessary to provide assistance, through grants or cooperative agreements, to public or private organizations for the improvement of fish and wildlife habitat associated with water systems or water supplies affected by Reclamation projects.” *See also* 255 Departmental Manual 14.1.

3. **Preparation of Drought Contingency Plans (43 U.S.C. § 2215):** This law authorizes Secretary to provide financial assistance in the form of cooperative agreements in States that are eligible to receive drought assistance “under this subchapter to promote the development of drought contingency plans under subchapter II of this chapter.”
4. **Recreation Facilities at Reclamation Projects (16 U.S.C. §§ 460/-12 to -21):** The Federal Water Project Recreation Act authorizes agreements with non-federal public bodies to investigate, plan, construct, operate, maintain, modify, or otherwise provide for recreation and fish and wildlife enhancement facilities at Reclamation projects. Cost sharing is mandatory under the act.
5. **Security and Law Enforcement (43 U.S.C. § 373b):** This law authorizes BOR to enter into contracts and cooperative agreements in order to provide security and law enforcement for Reclamation dams and other property and facilities. 43 C.F.R. 422.9 outlines the requirements for such contracts and cooperative agreements with local and state law enforcement agencies for the purposes of protecting dams, facilities, property and the public.
6. **Soil Conservation Programs (16 U.S.C. § 590a):** This law authorizes the Secretary of Agriculture to cooperate or enter into agreements with or to furnish financial or other aid to any agency or person to prevent soil erosion. Section 6 of Reorganization Plan No. IV (1940) transferred authorities of the Secretary of Agriculture under the Soil and Moisture Conservation Act of 1935 to the Secretary with respect to soil and moisture conservation operations conducted on lands under the jurisdiction of Interior. The delegation from the

Secretary to the Commissioner of Reclamation provides that the BOR is “responsible for performing soil and moisture conservation operations on or for the benefit of lands under [its] jurisdiction.” *See* 606 DM 1.2.

7. **Water Resource Education and Research (42 U.S.C. § 10303(h)(1)c):** This law authorizes the Secretary to enter into cooperative agreements for purposes of water resource education and research. Also, **42 U.S.C. §§ 10303(c), (g)** authorizes matching grants for reimbursement of expenditures for conduct of water resources research programs; **42 U.S.C. § 10304** authorizes grants to educational institutions, other private parties, and state and local governments for research concerning any water resource-related problem that the Secretary finds is in the National interest; and **42 U.S.C. § 10305** authorizes grants for technology development concerning any aspect of water resources.

C. **AUTHORITY TO ACCEPT NON-FEDERAL FUNDS AND VOLUNTEER SERVICES**

1. **Acceptance of Non-Federal Funds (43 U.S.C. § 395):** The Contributed Funds Act provides that “all funds paid by states, municipalities, districts, or private parties for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law, are covered into the reclamation fund and available for expenditure by Reclamation for the purposes for which contributed, without the need for further appropriation.”
2. **Acceptance of Volunteer Services (43 U.S.C. § 1475, Pub. L. 101-101):** The 1990 Energy and Water Development Appropriations Act provides authority for Reclamation to accept the services of volunteers and to provide for their incidental expenses to carry out any activity of the Bureau of Reclamation.

D. **BOR REGIONAL AND SITE-SPECIFIC AUTHORITIES**

1. **California’s Central Valley Project (Pub. L. 102-575, 106 Stat. 4706):** Section 3407(e) of the Central Valley Project Improvement Act authorizes the Secretary to provide funding to the State of California or any agency or subdivision of the State, an Indian tribe, or nonprofit entity if the Secretary determines that the entity is able to assist in implementing any action authorized under the act in an efficient, timely, and cost effective manner.
2. **Deschutes River Partnerships in Oregon (Pub. L. Nos. 104-208, 104-333 (Sept. 30 and Nov. 12, 1996), 110 Stat. 3009-534 to 3009-536, 110 Stat. 4226-4228):** The Deschutes Basin Ecosystem Restoration Projects Act of 1996, amended by the Deschutes Resources Conservancy Reauthorization Act of 2000, Pub. L. 106-270, Sept. 22, 2000, authorizes a local "Working Group" by consensus to propose land or water ecological restoration projects to be 50 percent cost shared by the Bureau of Reclamation. BOR, BIA, BLM, FWS, U.S. Forest Service, NRCS, FSA, National Marine Fisheries Service and BPA are all authorized to provide technical assistance and representatives to the Working Group.

3. **Detroit River International Wildlife Refuge (Pub. L. 107-91, 115 Stat. 894):** Section 4 of this law provides that one of the purposes for which the Refuge was established and must be managed is to facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and in Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the Detroit River. Section 6(c) of statute provides that the Secretary is authorized to enter into cooperative agreements with State and private parties for the management of lands owned by the State or private parties within the boundaries of the Refuge.
4. **Elwha River Restoration Project (Pub. L. 102-495):** This law provides for restoration of native fish populations through removal of Elwha and Glines Canyon Dams near Olympic National Park, Washington. Mitigation measures designed to protect downstream residents and water users from the impacts of dam removal will be constructed prior to dam removal. Secretarial Order No. 3212, dated February 29, 2000, delegated implementation responsibilities to the Park Service and directed BOR to assist NPS in carrying out the terms of the law. Additional Federal support has been provided by the U.S. Army Corps of Engineers and the USGS under interagency agreements authorized by the Economy Act. Relationships / partnerships have been formed with the Lower Elwha Klallam Tribe, the City of Port Angeles, Dry Creek Water Association, Elwha Place Homeowners Association, and others to identify and implement necessary mitigation measures.
5. **Umatilla River Partnerships in Oregon (Pub. L. 100-557, 102 Stat. 2791- 2795):** The Umatilla Basin Project Act authorizes specific federal actions (including now completed pumping plant and pipeline construction) to improve streamflow and fish passage conditions to restore the anadromous fishery resource in a river system heavily influenced by the Umatilla Federal Reclamation Project. It authorizes "conjunctive use" of any federal pumping capacity in excess of that needed to provide fishery benefits for irrigation of lands eligible upon its passage for service within irrigation districts that participate in the project. It authorizes acquisition from willing parties of land, water rights, or interests in land for the benefit of fishery resource restoration.
6. **Yakima River Partnerships in the State of Washington (Pub. L. 103-434, 108 Stat. 4550-4565):** The Yakima River Basin Water Enhancement Project Act authorizes a program to improve streamflow and fish passage conditions to restore the anadromous fishery resource in a river system heavily influenced by the Yakima Federal Reclamation Project. It establishes a multi-party "conservation advisory group" to make recommendations to both the Secretary and the State of Washington for a wide range of measures to be part of a Basin Conservation Program with costs to be shared between Federal, State, and local participants. It authorizes acquisition from willing parties of land, water rights, or interests in land for the benefit of fishery resource restoration.

U.S. FISH AND WILDLIFE SERVICE

Listed below are statutory references and short summaries of specific acts that authorize the U.S. Fish and Wildlife Service (FWS) to enter partnership arrangements with other federal agencies, States, and public or private organizations. With respect to many of these statutes authority is delegated from the Secretary of the Interior to the FWS. These authorities are categorized into four groups: broad partnership authorities, which are cited as authority for a myriad of partnership arrangements; specific authorities, which designate particular programs for which partnership arrangements are contemplated; grant statutes, which provide for assistance programs to advance fish and wildlife objectives; and donation authorities, which are included in the broader partnership statutes and described separately for ease of reference. Also, Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that should be consulted.

The Solicitors Office can help the FWS determine the most appropriate ways of using these authorities to accomplish its partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of these goals.

A. BROAD PARTNERSHIP AUTHORITIES

- 1. Partnerships for Fish and Wildlife Purposes (16 U.S.C. § 661 *et seq.*):** The Fish and Wildlife Coordination Act provides authority for the Secretary to enter into agreements with Federal and State agencies, as well as public and private organizations, to assist in the protection of fish and wildlife and their habitats. This broad authority includes provisions for the Secretary to receive donations of lands and funds, as well as to enter into grants and cooperative agreements for the benefit of fish and wildlife species and their habitat.
- 2. Partnerships to Benefit Fish and Wildlife Resources (16 U.S.C. § 742a. *et seq.*):** The Fish and Wildlife Act of 1956 grants the Secretary broad authority to, “take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources. . .” The statute specifically authorizes the acceptance of gifts and the services of volunteers for programs and projects that benefit the mission of the U.S. Fish and Wildlife Service. Further, the Act specifically authorizes the Secretary to enter into cooperative agreements for programs and projects to benefit specific units of the National Wildlife Refuge System.
- 3. Partnerships for Wildlife Program (16 U.S.C. § 3741):** The Partnerships for Wildlife Act establishes the Wildlife Conservation and Appreciation Fund, to receive appropriated funds and donations from the National Fish and Wildlife Foundation and other private sources to assist the State fish and game agencies in carrying out their responsibilities for the conservation of non-game species. Funds are provided to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under the statute.

B. SPECIFIC PARTNERSHIP AUTHORITIES

- 1. Cooperation with States for Threatened and Endangered Species (16 U.S.C. § 1531 *et seq.*):** Section 6 of the Endangered Species Act directs the Secretary to cooperate with the States to the greatest extent practicable in the conservation of threatened and endangered species of fish and wildlife and plants.
- 2. Cooperation in the Exchange and Use of Refuge System Lands (16 U.S.C. § 668dd *et seq.*):** The National Wildlife Refuge System Administration Act allows agreements for the exchange of lands, of equal values, for inclusion in the refuge system. Also, the Act allows FWS to enter into Memoranda of Understanding (MOU's) with federal agencies for the creation of overlay refuges, where another federal agency has administrative authority over lands. The Act allows for the permitting of uses within the refuges that are compatible with the major purposes for which a given refuge was established.
- 3. Agreements and Assistance for Research and Development of Aquaculture (16 U.S.C. §§ 2801-2810):** The National Aquaculture Act of 1980 directs the Secretary to participate in the development of a National Aquaculture Development Plan and authorizes research, development, and other activities to encourage the development of aquaculture in the United States.
- 4. Cooperation with State and Local Governments Regarding Migratory Birds (16 U.S.C. § 715 *et seq.*):** The Migratory Bird Conservation Act authorizes the Secretary to cooperate with State and local governments in law enforcement activities. The Act also provides that any lands to be acquired by the FWS, with the approval of the Migratory Bird Commission, must be approved by the Governor of the State where the lands are to be acquired.
- 5. Cooperation with the National Fish and Wildlife Foundation (16 U.S.C. § 3701 *et seq.*):** The National Fish and Wildlife Foundation Establishment Act established the National Fish and Wildlife Foundation as a federally chartered charitable, non-profit corporation to administer donations of real or personal property, or interests therein, in connection with FWS programs and conservation activities on the United States. The Secretary appoints the members of the Foundation's board, and the Director of the FWS serves as an ex-officio, non-voting member of the board.
- 6. Cooperation with States on Non-Game Species (16 U.S.C. § 2901 *et seq.*):** The Fish and Wildlife Conservation Act authorizes the Secretary to give financial and technical assistance to the States for development, revision, and implementation of conservation plans and programs for non-game fish and wildlife.
- 7. Cooperation with States for Law Enforcement (16 U.S.C. § 7421):** The Fish and Wildlife Improvement Act of 1978 authorizes the Secretary to establish, conduct and assist with national training programs for State fish and wildlife law enforcement

personnel. The Act provides authority for the Secretary to enter law enforcement cooperative agreements with State or other federal agencies.

8. **Fish and Wildlife Resources Research and Training Cooperative Agreements (16 U.S.C. § 753a):** The Fish and Wildlife Improvement Act of 1978, as amended by Pub. L. 95-615, authorizes the Secretary to enter into cooperative agreements with colleges and universities, State fish and game agencies, and nonprofit organizations for the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources.
9. **Recreational Uses on Refuges (16 U.S.C. § 460k *et seq.*):** The Refuge Recreation Act authorizes the Secretary to administer refuges, hatcheries and other conservation areas for recreational uses, subject to a determination that such uses will not interfere with the areas' primary purposes.
10. **Cooperation on Federal Energy Regulatory Commission (FERC) Licensed Projects: (16 U.S.C. § 661 *et seq.*):** Pursuant to the Fish and Wildlife Coordination Act the Secretary is authorized to cooperate with project licensees, other federal agencies, state agencies and non-governmental organizations in carrying out the purposes of the Act. Certain provisions of the Federal Power Act, 16 U.S.C. 791 *et seq.*, authorize the Secretary, as part of a licensing proceeding, to request or mandate that FERC include such cooperative efforts in a project license.
11. **Partnerships Involving Fish and Wildlife Resources on Military Reservations (16 U.S.C. § 670a *et seq.*):** The Sikes Act provides for cooperation by the Departments of Interior and Defense, along with State agencies, in the planning, development and maintenance of fish and wildlife resources on military reservations throughout the United States.
12. **Partnerships Involving Anadromous Fish (16 U.S.C. § 757a. *et seq.*):** The Anadromous Fish Conservation Act authorizes the Secretary to enter into cooperative agreements with States and other non-federal interests for the conservation, development and enhancement of anadromous fish.
13. **Partnerships with States to Preserve Coastal Barriers (16 U.S.C. § 3501 *et seq.*):** The Coastal Barrier Resources Act provides consultative role for States in the designation of coastal areas to be enrolled in program prohibiting federal permits from being issued for the development of such lands.
14. **Cooperation with States in Conserving Estuaries (16 U.S.C. § 1221 *et seq.*):** The Estuary Protection Act requires the Secretary to encourage State and local governments to consider the importance of estuaries in their planning activities related to federal natural resources grants.

C. **AUTHORITY FOR PARTNERSHIPS THROUGH GRANTS**

1. **Grants to States for Wildlife Restoration Projects (16 U.S.C. § 669 *et seq.*):** The Federal Aid in Wildlife Restoration Act provides federal aid to States for projects that include land acquisition, improvements of wildlife habitat, the introduction of wildlife into suitable habitat, research into wildlife problems, surveys and inventories of wildlife, along with wildlife educational programs.
2. **Grants to States for Sport Fish Restoration Projects (16 U.S.C. § 777 *et seq.*):** The Federal Aid in Sport Restoration Act provides federal aid to States for management and restoration of fish having “material value in connection with sport or recreation in the marine and/or fresh waters of the United States.” In addition, amendments to the Act provide funds to States for aquatic education, wetlands restoration, boat safety, clean vessel sanitation programs, and recreational boating programs.
3. **Grants to States for Endangered and Threatened Species (16 U.S.C. § 1531 *et seq.*):** Section 6 of the Endangered Species Act authorizes the establishment of cooperative agreements and grants-in-aid to States that establish and maintain active and adequate programs for threatened and endangered species of fish and wildlife and plants.
4. **Grants for Wetlands (16 U.S.C. § 4401 *et seq.*):** The North American Wetlands Conservation Act provides funding through recommendations by the North American Wetlands Conservation Council, with the approval of the Migratory Bird Commission, for projects that acquire and or restore wetlands habitat.
5. **Grants for “Recreational” Land Programs (16 U.S.C. § 4601 *et seq.*):** The Land and Water Conservation Act authorizes funding for grants out of the Land and Water Conservation fund to provide recreation activities. Funding has traditionally been appropriated through the FWS, for lands to be included in the National Wildlife Refuge System. But more recently, pursuant to specific statutory language, funding has been appropriated for specifically targeted fish and wildlife grant programs, to not only States, but private landowners.
6. **Grants for Coastal Wetlands Planning, Protection and Restoration (16 U.S.C. § 3951 *et seq.*):** The Coastal Wetlands Planning, Protection and Restoration Act designated the FWS as the lead agency in administration of the National Coastal Wetlands Grant Program, which authorizes the awarding of grants to States for coastal wetlands projects.
7. **Grants to Promote “Clean Vessels” (33 U.S.C. § 1322):** The Clean Vessel Act, an amendment to the Wallop-Breaux Federal Aid in Sport Fish Restoration Act, gives authority for the Secretary to make grants to both inland and coastal states for pumpout stations and waste reception facilities to dispose of sewage associated with recreational boating.

8. **Grants for Neotropical Migratory Bird Conservation (Pub. L. 106-247):** The Neotropical Migratory Bird Conservation Act of 2000 authorizes the Secretary to make grants to countries in Latin America and the Caribbean, and entities within the United States for the conservation of neotropical migratory birds that winter south of the border and summer in North America.
9. **Grants for Asian Elephant Conservation (16 U.S.C. § 4261):** The Asian Elephant Conservation Act authorizes the Secretary to make grants from the Asian Elephant Conservation Fund to provide financial assistance for projects for the conservation of Asian elephants.

D. AUTHORITY TO ACCEPT GIFTS, DONATIONS AND VOLUNTEER SERVICES

1. **Donations of Lands and Funds to Benefit Fish and Wildlife Species and Their Habitats (16 U.S.C. § 661 *et seq.*):** The authorities conveyed under the Fish and Wildlife Coordination Act, described in more detail in paragraph A. 1., above, include specific authority for the Secretary to receive donations of lands and funds for the benefit of fish and wildlife species and their habitats.
2. **Acceptance of Gifts and Volunteer Services to Benefit the Mission of FWS (16 U.S.C. § 742a. *et seq.*):** The authorities conveyed under the Fish and Wildlife Act of 1956, described in more detail in paragraph A. 2., above, specifically includes the authority to accept gifts and the services of volunteers for programs and projects that benefit the mission of the U.S. Fish and Wildlife Service.
3. **Appropriated Funds and Donations for the Wildlife Program (16 U.S.C. § 3741):** The Partnerships for Wildlife Act, described in more detail in paragraph A. 3., above, authorizes the Secretary to receive appropriated funds and donations from the National Fish and Wildlife Foundation and other private sources to assist the State fish and game agencies in carrying out their responsibilities for the conservation of non-game species. The donations are placed into the Wildlife Conservation and Appreciation Fund, for provision to designated State agencies.

E. SAMPLE FWS REGIONAL AND SITE-SPECIFIC AUTHORITIES, NORTHEAST REGION (not including general land acquisition authority)

1. **Partnerships to Benefit the New England River System (16 U.S.C. § 777e *et seq.*):** The New England Fisheries Resources Restoration Act of 1990 assigns the FWS with responsibility for formulating, establishing, revising and implementing a cooperative program to restore and maintain nationally significant interjurisdictional fishery resources in the New England River System.

2. **Tinicum National Environmental Center (Pub. L. 92-326, 86 Stat. 391):** Section 5 of this law authorizes the Secretary to enter into cooperative agreements with the Commonwealth of Pennsylvania, political subdivisions thereof, corporations, associations, or individuals to carry out the provisions of the Act.
3. **Great Dismal Swamp NWR (Pub. L. 93-402, 88 Stat. 910):** Section 2 of this law authorizes the Secretary and the Chief of Engineers, U. S. Army Corps of Engineers to enter in consultations and take such cooperative actions as they deem necessary and appropriate to insure that any navigational or other uses made of the Dismal Swamp do not adversely effect the Refuge.
4. **Sailors' Snug Harbor NWR (Pub. L. 96-315, 94 Stat. 957):** Section 2 of this law authorizes the Secretary to enter into cooperative agreements with the City of New York for the management of Sailors' Snug Harbor as a National Wildlife Refuge regarding the respective functions of each party if the 80 acre property is donated by the City of New York.
5. **Silvio O. Conte National Fish and Wildlife Refuge (Pub. L. 102-212, 105 Stat. 1657):** Section 107(b) of this law authorizes the Secretary to provide technical assistance, community outreach and educational programs for or with, or enter into cooperative agreements with private landowners, State and local governments, agencies, and conservation organizations to further the purposes for which the refuge is established. **Section 109(b)** authorizes the Secretary to enter agreements to share the construction of and land acquisition for the Silvio Conte National Fish and Wildlife Refuge Education Center with State and local governments and other public and private entities.
6. **Detroit River International Wildlife Refuge (Pub. L. 107-91, 115 Stat. 894):** Section 4 of this law provides that one of the purposes for which the Refuge was established and must be managed is to facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and in Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the Detroit River. Section 6(c) of statute provides that the Secretary is authorized to enter into cooperative agreements with State and private parties for the management of lands owned by the State or private parties within the boundaries of the Refuge.
7. **Partnerships to Benefit Great Lakes Fish and Wildlife Resources (16 U.S.C. § 941):** The Great Lakes Fish and Wildlife Restoration Act establishes goals for the FWS in conducting fisheries programs in the Great Lakes region, including inviting the Secretary of the Army, affected State directors, Indian tribes, the Great Lakes Fishery Commission, Canadian government entities, and others to enter into an MOU regarding the scope and focus of studies of Great Lake fisheries issues.

UNITED STATES GEOLOGICAL SURVEY

The following list summarizes and paraphrases many of the authorities that may be useful to United States Geological Survey (USGS) in forming partnership arrangements with the public and private sector. Should a particular authority appear helpful, the reader should review the actual text of the statute to ensure that no additional limitations or qualifications exist that may affect USGS's ability to use the authority. Also, Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that should be consulted.

The Solicitors Office can help the agency determine the most appropriate way to use these authorities to accomplish its partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals.

- 1. Surveys, Investigations and Research Both Inside and Outside the United States (43 U.S.C. § 31):** The Organic Act establishing the USGS authorizes surveys, investigations, and research, including such activities outside the national domain when the Secretary determines that work abroad is in the national interest.
- 2. Cooperative Agreement Authority:** The yearly Department of the Interior Appropriation Acts typically provide that activities funded by appropriations made in those acts for the USGS may be accomplished through the use of contracts, grants, or cooperative agreements. The USGS therefore generally has authority to use cooperative agreements and grants in carrying out its mission. Employees should nonetheless verify that this language is included in the appropriations act for the year in which they want to use such authority. See, for example, Pub. L. 108-108 (November 10, 2003), Department of the Interior and related agencies appropriations act for FY 2004.
- 3. Interagency Coordination Agreements on Climate-Related Activities (15 U.S.C. §§ 2901 to 2908):** The National Climate Program Act of 1978 established a national climate program to assist the Nation and the world in understanding and responding to natural and human-induced climate processes and their known and potential effects. The Department of the Interior has a mandated role in this program that is run primarily through the U.S. Commerce Department.
- 4. Global Change Research Activities and Agreements (15 U.S.C. §§ 2921-2953, Pub. L. 101-606):** The Global Change Research Act of 1990 established the United States Global Change Research Program aimed at understanding and responding to global change, including the cumulative effects of human activities and natural processes on the environment, to promote discussions toward international protocols in global change research, and for other purposes. The Interior Department has responsibilities under this Act.

5. **Agreements Regarding the Landsat Program (15 U.S.C. § 5652 5631):** The Land Remote Sensing Policy Act of 1992 assigns responsibility for the "National Satellite Land Remote Sensing Data Archive" to the Department of the Interior. The Act also authorizes and encourages the Department of the Interior and other Federal agencies to carry out research and development programs in applications of remote sensing. These programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.
6. **Fish and Wildlife Resources Cooperative Agreements (16 U.S.C. § 753 a):** The Fish and Wildlife Improvement Act of 1978, as amended by Pub. L. 95-615, authorizes the Secretary to enter into cooperative agreements with colleges and universities, State fish and game agencies, and nonprofit organizations for the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources.
7. **Agreements and Assistance for Research and Development of Aquaculture (16 U.S.C. §§ 2801-2810):** The National Aquaculture Act of 1980 directs the Secretary to participate in the development of a National Aquaculture Development Plan and authorizes research, development, and other activities to encourage the development of aquaculture in the United States.
8. **Geothermal Resources Research (30 U.S.C. § 1026):** Section 6 of the Geothermal Steam Act Amendments of 1988 requires the Secretary to (1) maintain a monitoring program for significant thermal features within units of the National Park System, and (2) establish a research program to collect and assess data on the geothermal resources within units of the National Park System with significant thermal features in cooperation with the USGS.
9. **Geothermal Energy Resources Cooperative Program (30 U.S.C. § 1028):** The Energy Policy Act of 1992 directs the USGS to establish a cooperative Government-private sector program with respect to hot dry rock geothermal energy resources on public lands, to convene a workshop of interested governmental and private parties to discuss the regional potential for hot dry rock geothermal energy in the Eastern United and to submit a report to Congress containing a summary of the findings and conclusions of the workshop. The USGS may enter into contracts and cooperative agreements with any public or private entity.
10. **Geothermal Resources Inventory and Assessment and Research and Development (30 U.S.C. §§ 1121 - 1125):** The Geothermal Energy Research, Development and Demonstration Act of 1974 provides that the USGS and other agencies are responsible for the evaluation and the assessment of the geothermal resource base, including the development of exploration technologies. The Act authorizes USGS to participate with Federal and non-Federal entities. The Department of the Interior, as well as other agencies specified in the Act, are authorized to detail or assign, on a reimbursable basis or otherwise, personnel to assist it in carrying out their responsibilities provided by the Act.

11. **Collection, Evaluation and Analysis of Information Concerning Mineral Occurrence, Production, and Use (30 U.S.C. §§ 1601-1604):** These provisions emphasize the USGS's responsibility to assess the mineral resources of the Nation. The provisions also require the President to coordinate departments' and agencies' promotion of cooperative research and development programs with other nations for the equitable and frugal use of materials and energy; promotion and encouragement of private enterprise in the development of economically sound and stable domestic materials industries; and facilitation of the availability and development of domestic resources to meet critical materials needs.
12. **Marine Minerals Research Cooperative Agreements and Grants (30 U.S.C. §§ 1901-1905):** The Marine Minerals Resources Research Act authorizes the Secretary to enter into cooperative agreements and grants to promote research and exploration of marine minerals.
13. **Methane Hydrate Research and Development Program (Pub. L. 106-193):** The Methane Hydrate Research and Development Act of 2000 authorizes appropriations to establish a methane hydrate research and development program within the Department of Energy (DOE). DOE is directed to carry out this program in consultation with U.S. Navy, USGS, Minerals Management Service, and the National Science Foundation through grants, contracts, and cooperative agreements with universities and industrial enterprises. The purpose is to study methane hydrate as an energy source. The Act sunsets the methane hydrate research and development program at the end of FY 2005.
14. **Water Quality Planning, Studies and Monitoring (33 U.S.C. § 1251 *et seq.*):** The Federal Water Pollution Control Act Amendments of 1972 and its successors, the Clean Water Act of 1977 and the Water Quality Act of 1987, authorize extensive water quality planning, studies, and monitoring under the direction primarily of the Environmental Protection Agency (EPA). The Geological Survey is called upon to participate in many of these activities, partly by EPA and partly by State agencies in the Federal-State Cooperative Program. The 1987 Act includes water quality work concerning Chesapeake Bay, the Great Lakes, Estuary and Clean Lakes Programs, and studies of water pollution problems in aquifers.
15. **Geohydrologic Research and Technology Regarding Low-level Radioactive Waste (42 U.S.C. § 2021b *et seq.*):** The Low-Level Radioactive Waste Policy Act required intra-State or multi-State (regional) arrangements for disposal of low-level radioactive waste by July 1, 1986. The USGS provides geohydrologic research and technology to Federal and State agencies developing plans for low-level waste management. The amending Act of 1985 included approval of seven interstate compacts.
16. **Disaster Warnings (42 U.S.C. § 5132):** This Act authorizes USGS, to the extent delegated by the Federal Emergency Management Agency, to provide disaster warnings for an earthquake, volcanic eruption, landslide, mudslide, or other geological catastrophes

and to provide technical assistance to State and local governments for effective warnings and to enter into other agreements.

17. **Earthquake Hazards Reduction (42 U.S.C. § 7701, Pub. L. 101-614):** The Earthquake Hazards Reduction Act of 1977 seeks to reduce the risks to life and property from future earthquakes in the United States through the establishment and maintenance of a balanced earthquake program encompassing prediction and hazard assessment research, seismic monitoring and information dissemination. The Act authorizes USGS to work with State and local governments and to participate in international cooperation.
18. **Predisaster Hazard Mitigation (Pub. L. 106-390):** Section 102 of the Disaster Mitigation Act of 2000 prescribed that “multi-hazard advisory” maps will be developed in consultation with States, local governments, and appropriate Federal agencies (e. g., USGS) and such maps will be made available to the appropriate State and local governments to inform the public about the risks of natural hazards.
19. **Interagency Coordination on Acid Precipitation (42 U.S.C. § 8901 *et seq.*):** The Clean Air Amendments of 1990 (Pub. L. 101-549) extended the National Acid Precipitation Assessment Program (NAPAP) established under the Acid Precipitation Act of 1980. The Secretary is a member of the task force that directs the NAPAP. The USGS is an active participant in the research program and coordinates interagency monitoring of precipitation chemistry. The USGS National Coal Resources Data System is the official data base on coal quality that the EPA, utilities, and coal mining companies use to estimate the amount of air pollution derived from coal combustion.
20. **CERCLA Contamination Investigations (42 U.S.C. § 9601 *et seq.*):** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) establishes a superfund to pay in part for the massive cleanup programs needed at sites that are heavily contaminated with toxic wastes. The USGS is called upon by EPA and State agencies to investigate and determine the extent of contamination and remedial measures at some of these sites.
21. **Water Resources Research Grants (42 U.S.C. § 10301):** The Water Resources Research Act of 1984, as amended, provides for water resources research, information transfer, and student training that will assist the Nation and the States in augmenting their science and technology to discover practical solutions to water shortage and quality deterioration problems. This Act authorizes the Secretary to make grants to water resources research and technology institutes at colleges or universities designated by States.
22. **Cooperative Geologic Mapping Program (43 U.S.C. § 31c, Pub. L. 102-285):** The National Geologic Mapping Act establishes in the USGS a national cooperative geologic mapping program.
23. **Cooperative Activities for Continental Scientific Drilling (43 U.S.C. § 31):** Section 4 of the Continental Scientific Drilling and Exploration Act of 1988 requires that “the

Secretary of the Department of Energy, the Secretary of the Department of the Interior through the United States Geological Survey, and the Director of the National Science Foundation assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States.”

- 24. Hydrological Data Collection for Interstate Water Compacts (Pub. L. 81-82 and Pub. L. 82-231):** Congress has granted its consent to many interstate water compacts. For such compacts, the Geological Survey provides administrative support for the Federal representative, usually appointed by the President. Also, the USGS collects hydrological data for 25 interstate compacts.
- 25-27. Gift and General Cooperation Authority (43 U.S.C. §§ 36a, 36b, and 36c):** The Department of the Interior Appropriation Act for FY 1987 created authority for USGS regarding the acceptance of contributions from public and private sources, and cooperation with other agencies in prosecution of projects. Section 36c provides “In fiscal year 1987 and thereafter the United States Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal State, or private.” Gift authority is also provided for scientific or technical books, manuscripts, maps and related materials for inclusion in the USGS library (§36a), and for lands and interests in lands for stream gaging stations and observation well sites (§36b).
- 28. Authority to Vest Title in Tangible Personal Property for Research (31 U.S.C. § 6306):** This act authorizes federal agencies to vest title to personal property acquired with funds provided under contracts, grant agreements, and cooperative agreements in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research.
- 29. Payment of Costs Incidental to Services Contributed by Volunteers (43 U.S.C. § 50c):** Appropriations made after December 22, 1987, shall be available to pay costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers to aid in the work of USGS. USGS may authorize either direct procurement of or reimbursement of the expenses incidental to the effective use of the volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment and supplies. However, the provision for services or expenses must be in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government.
- 30. Services of Students or Recent Graduates (43 U.S.C. §50d, Pub. L. 106-113):** Under the Department of the Interior and Related Agencies Appropriations Act for FY 2000, the USGS may contract directly with individuals or indirectly with institutions or nonprofit organizations for the temporary or intermittent services of students or recent graduates who shall be considered “Federal employees” for purposes specified under the laws relating to compensation for travel, work injuries, and tort claims, but not considered “Federal employees” for other purposes.

MINERALS MANAGEMENT SERVICE

The following list summarizes and paraphrases authorities that may be useful to the Minerals Management Service (MMS) in forming partnership arrangements with the public and private sector. Should a particular authority appear helpful, the reader should review the actual text of the statute to ensure that no additional limitations or qualifications exist that may affect MMS's ability to use the authority. Also, Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that should be consulted.

The Solicitors Office can help the agency determine the most appropriate way to use these authorities to accomplish its partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals

Various sections of the Outer Continental Shelf Lands Act, the Federal Oil and Gas Royalty Management Act, and others laws establish authorities for MMS to partner with other entities, particularly States. These include:

A. OUTER CONTINENTAL SHELF LANDS ACT (OCSLA)

1. **Congressional Policy of Cooperation with States and Local Governments (43 U.S.C. §§ 1332(4)(c) and 1334(a)):** In OCSLA, Congress declared it to be national policy that coastal States and, through such States, affected local governments are entitled to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf. OCSLA provides expressly that in administering its provisions, the Interior Secretary shall cooperate with relevant departments and agencies of affected States in the enforcement of safety, environmental, and conservation laws.
2. **General Cooperative Agreement Authority (43 U.S.C. § 1345(e)):** OCSLA authorizes the Interior Secretary to enter into cooperative agreements with affected States for purposes that are consistent with OCSLA. Such agreements may include, but need not be limited to, the sharing of information (in accordance with 43 U.S.C. 1352), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.
3. **Oil and Gas Information Program (43 U.S.C. § 1352):** OCSLA establishes an oil and gas information program under specified procedures. **Section 1352(b)(2)** requires the Secretary to make data summaries available to affected States and certain affected local governments. Section 1352(d) involves the transmittal of other information to affected States.

4. **Performance of Environmental Studies (43 U.S.C. § 1346(c)):** OCSLA requires the Secretary to plan and carry out her duties under section 1346 relating to environmental impact and other studies in full cooperation with affected States. **Section 1346(c)** authorizes the Secretary to utilize information obtained from any State or local government or any person for purposes of section 1346. For purposes of carrying out her responsibilities under that section, the Secretary may utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.
5. **Common Hydrocarbon-Bearing Areas (43 U.S.C. §§ 1337(g)(3) and 1334(j)(2)):** With regard to the leasing of lands within three miles of seaward boundaries of coastal States, OCSLA authorizes the Secretary and a Governor of a coastal State to enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. OCSLA also directs the Secretary to prevent the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying a Federal and State boundary through the cooperative development of the area.
6. **Agreements for Shore Protection, Beach Restoration, and Coastal Wetlands Restoration (43 U.S.C. § 1337(k)(2)):** OCSLA authorizes the Secretary to negotiate an agreement with any person for the use of Outer Continental Shelf sand, gravel, or shell resources for use for shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency. The Secretary may assess a fee based on an assessment of the value of the resources and the public interest served, except that no fee shall be assessed directly or indirectly against a Federal, State, or local agency.

B. FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT (FOGRMA)

1. **Federal and Indian Lands Oil or Gas Royalty Cooperative Agreements (30 U.S.C. § 1732(a)):** FOGRMA authorizes the Interior Secretary to enter into cooperative agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities and vehicle inspection activities.
2. **Delegations of Royalty Functions to States (30 U.S.C. § 1735):** FOGRMA authorizes the Secretary to delegate to a State royalty inspection, audit, and investigative and other royalty-related responsibilities with respect to Federal lands within the State.

C. OTHER LAWS

1. **Agreements to Resolve Jurisdictional Controversies (43 U.S.C. § 1336):** This provision authorizes the Secretary, with the concurrence of the U.S. Attorney General, to

enter into an agreement with a State, its political subdivision, or a grantee or lessee thereof, to resolve a controversy over whether lands are subject to OCSLA.

2. **Rigs to Reefs Program (30 CFR Part 1700):** Through its platform decommissioning regulations, MMS enables oil or gas operators to participate in the artificial reef program established under Title II of the National Fishing Enhancement Act of 1984 (Pub. L. 98-623), as implemented by the National Marine Fisheries Service National Artificial Reef Plan (NOAA Technical Memorandum NMFS OF-6, November, 1985, as amended).
3. **Additional Cooperative Agreement Authority:** The Department's yearly appropriation acts often provide that activities funded by appropriations made in the bill for MMS may be accomplished through the use of contracts, grants, or cooperative agreements. Employees should verify that the requisite authority to support partnership activity is included in the appropriations act for the year in which they want to use such authority. See, for example, the following: Public Law 101-121, the Department of the Interior Appropriations Act for FY90, appropriated funds the MMS could expend that year on matching grants or cooperative agreements. 103 Stat. 710. Public Law 102-154, the Department of the Interior Appropriations Act for FY 92, gave the Secretary continuing authority to enter into cooperative agreements with states and tribes to share information on royalty management. 105 Stat. 1001 (Nov. 13, 1991). Public Law 104-134, the Department of the Interior Appropriations Act for FY 1996, appropriated funds that the MMS could expend for matching grants or cooperative agreements. 110 Stat. 1321-166 (April 16, 1996).
5. **Funding of Research Agreements (43 U.S.C. § 1471f):** This law provides authority for the Department to use its own appropriations and any received from other Federal agencies to incrementally fund research projects that may last more than one fiscal year, using work orders under cooperative agreements with colleges and universities, State agencies, and non-profit organizations.
6. **Gift Authority (43 U.S.C. § 1473, Pub. L. 99-591):** This law provides authority for the MMS to accept "land, buildings, equipment and other contributions, from public and private sources, which shall be available for purposes provided for in this account."
7. **Acceptance of Contributions to Prosecute Cooperative Projects (43 U.S.C. § 1473a, Pub. L. 102-154):** This law provides authority for the Secretary to accept land, buildings, equipment and other contributions and fees, and to use them to prosecute projects in cooperation with other federal, State, or private agencies.
8. **Acceptance of Volunteer Services:** A yearly line item in the Department of the Interior appropriations acts (for example, Pub. L. 105-83, 111 Stat. 1553 (1998)) has authorized the MMS to expend funds for the promotion of volunteer beach and marine clean up activities. The inclusion of such a provision should be checked in the appropriations act for the particular year in question before relying upon this law for partnership purposes.

9. **Methane Hydrate Research and Development Program (Pub. L. 106-193):** The Methane Hydrate Research and Development Act of 2000 authorizes appropriations for the establishment of a methane hydrate research and development program within the Department of Energy (DOE). DOE is directed to carry out this program in consultation with U.S. Navy, USGS, Minerals Management Service, and the National Science Foundation through grants, contracts, and cooperative agreements with universities and industrial enterprises. The purpose is to study the use of methane hydrate as an energy source. This Act sunsets the methane hydrate research and development program at the end of FY 2005.

NATIONAL PARK SERVICE

The following list summarizes and paraphrases authorities and statutory tools that may be useful to the National Park Service (NPS) in forming partnership arrangements with the public and private sector. Major categories of authorities discussed below include general authority that allows NPS to enter into partnerships, authority to transfer appropriated funds, and authority to accept donations. When using this list the reader should keep in mind that more than one authority may be used in tandem to support a proposed action. In addition, the reader should not place great significance on the organizational headings set out below. Also, Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that should be consulted as well.

If a particular authority appears helpful, the reader should review the actual text of the statute to ensure that there are no additional limitations or qualifications that may affect NPS's ability to utilize the authority. The reader also should remember that NPS or departmental implementing regulations, Director's Orders, Reference Manuals and Handbooks, authorizing legislation for National Park System units, General Management Plans, appropriations, and prevailing law and policy may affect NPS's ability to utilize a particular authority in a given factual situation. The Solicitors Office can help NPS determine the most appropriate way to use these authorities in accomplishing its partnership goals. Consultation with the Solicitors Office early in initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals. Also, Part D begins with a list of Department-level and government-wide partnership authorities that should be consulted.

A. GENERAL PARTNERSHIP AUTHORITY

1. **General Authority to Take Actions That Promote and Regulate Units of the National Park System (16 U.S.C. § 1):** The NPS Organic Act directs the Secretary to promote and regulate National Park System lands by such means and measures as to conform to the fundamental purpose of such lands, namely, conservation of the scenery and the natural and historic objects and wildlife therein, and to provide for the enjoyment of these resources in a manner and by such means as will leave them unimpaired for the enjoyment of future generations.
2. **Agreements for the Transfer of Appropriated Funds to Carry Out NPS Programs (16 U.S.C. § 1g):** The National Park Service may in fiscal year 1997 and thereafter enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs.
3. **Cost Share Arrangements with Partners (16 U.S.C. § 1f):** The Secretary may enter into an agreement with a cooperator for the purpose of sharing costs or services in

carrying out authorized functions and responsibilities with respect to the National Park System, any affiliated area, or any designated National Scenic or Historic Trail. Cooperators are any State or local government, public or private agency, organization, institution, corporation, individual or other entity.

- 4. Agreements to Allow Exhibits and Interpretive Demonstrations in Parks (16 U.S.C. § 1a-2(g)):** The Secretary is authorized to enter into contracts, including cooperative arrangements, to conduct living exhibits and interpretive demonstration in areas of the National Park System. The Secretary is also authorized to sell at fair market value, without regard to the Federal Property and Administrative Services Act of 1949, products and services produced in the conduct of living exhibits and interpretive demonstrations and to credit any proceeds therefrom to the appropriation bearing the cost of such exhibits and demonstrations.
- 5. Promotion of Tourism in the National Park System (16 U.S.C. § 18a):** The Secretary is authorized to cooperate with private travel agencies to promote tourism within the National Park System.
- 6. Agreements to Operate, Develop, and Maintain Portions of National Trails (16 U.S.C. § 1246(h)(1)):** The National Trail System Act authorizes the Secretary to enter into agreements, including agreements providing limited financial assistance, to encourage acquisition, protection, operation, development, and maintenance, of national recreation, national scenic, or national historic trails located both within and outside the boundaries of federally administered areas. Such agreements may be with States or their political subdivisions, landowners, private organizations, or individuals.
- 7. Agreements for Cooperative Management Where Park System Lands are Near State or Local Parks (16 U.S.C. § 1a-2(l)):** Where a unit of the National Park System is located adjacent to or near a State or local park area, and cooperative management between the National Park Service and a State or local government agency of a portion of either park will allow for more effective and efficient management of the parks, the Secretary may enter into an agreement with a State or local government agency to provide for the cooperative management of Federal and State or local park areas (but may not transfer “administration responsibilities” for any unit of the National Park System under this authority). Under such an agreement, the Secretary may acquire from and provide to a State or local government agency goods and services to be used in the cooperative management of land. Also, assignment of Federal, State or local employees for the cooperative management activity may be for any period determined by the Secretary or the State or local officials to be mutually beneficial.
- 8. Leases of Buildings and Associated Property (16 U.S.C. § 1a-2(k)):** The Secretary may enter into a lease with any person or governmental entity for the use of buildings and associated property administered by the Secretary as part of the National Park System, provided that (1) the lease does not authorize the lessee to engage in activities that are

subject to authorization under a concessions contract, commercial use authorization, or similar instrument; and (2) use of the building and associated property shall not be (a) inconsistent with the law establishing the Park System unit in which the building or associated property is located, (b) shall not result in depreciation of the purposes and values of the unit, and (c) shall be compatible with National Park Service programs. For leases of historic structures see the description of 16 U.S.C. § 470h-3 below.

9. **National Trails Cooperative Agreements (16 U.S.C. § 1246(h)(1)):** This act authorizes the Secretary to enter into cooperative agreements with the States, their political subdivisions, landowners, private organizations, and individuals to operate, develop, and maintain any portion of a national trail within or outside of a federally administered area. Such agreements may provide for limited financial assistance to encourage participation and provisions for providing volunteer in the parks status.

B. AUTHORITIES THAT SPECIFICALLY ADDRESS HISTORIC RESOURCES

1. **Authority to Cooperate with Others on the Administration of Historic Sites (16 U.S.C. § 464):** The Secretary is authorized to cooperate with Federal, State, and municipal governments, any educational or scientific institution, any patriotic association, or any individual in administering historic sites.
2. **Agreements to Protect, Preserve, Maintain, or Operate Historic or Archeological Buildings, Sites, Objects, or Property (16 U.S.C. § 462(e)):** The Historic Sites Act authorizes NPS to contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archeological building, site, object, or property used in connection with public use. However, no contract or cooperative agreement can be made that obligates the general fund of the Treasury unless Congress has appropriated money for that purpose.
3. **Agreements with State Historic Preservation Officers (16 U.S.C. § 470a(b)(6)(A)):** The National Historic Preservation Act authorizes the Secretary to enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out: identification, preservation, determinations of National Register eligibility, preparation of National Register nominations, historical and archeological database maintenance, or evaluation of eligibility for Federal preservation incentives. Listed in the statute are several caveats and qualifications on this authority.
4. **Agreements for the Protection of American Battlefields (16 U.S.C. 469k):** The Secretary, using the established national historic preservation program to the extent practicable, is instructed encourage, support, assist, recognize, and work in partnership with citizens, Federal, and tribal governments, other public entities, educational institutions, and private non-profit organizations, in identifying, researching, evaluating,

interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

5. **Historic Preservation Research and Training Grants (16 U.S.C. § 470x-4):** The Secretary, in consultation with the National Preservation Technology and Training Board, shall provide preservation research and training grants to eligible applicants with a demonstrated institutional capability and commitment to the purposes of the National Center for Preservation Technology and Training, in order to ensure an effective and efficient system of research, information distribution and skills training in all the related historic preservation fields. Entities eligible for these grants are Federal and non-Federal laboratories, accredited museums, universities, nonprofit organizations, offices, units and cooperative park study units, state historic preservation offices, tribal preservation offices, and Native Hawaiian organizations.
6. **Authority to Enter Into Cooperative Agreements Promoting the National Underground Railroad Network to Freedom (16 U.S.C. § 469l-1(c)):** To ensure effective coordination between Federal and non-federal elements of the underground railroad network the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to (1) the heads of other Federal agencies, States, localities, regional governmental bodies, and private entities; and (2) in cooperation with the Secretary of State, the governments of Canada, Mexico, and any appropriate country in the Caribbean.
7. **Adaptive Use of Historic Property - Leases and Exchanges (16 U.S.C. § 470h-3):** Notwithstanding any other provision of law, any Federal agency, after consultation with the Advisory Council on Historic Preservation, is required, to the extent practicable, to establish and implement alternatives for historic properties, including adaptive uses, that are not needed for current or projected agency purposes. Agencies may lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

C. **RESEARCH, TRAINING, AND EDUCATION PARTNERSHIPS**

1. **Agreements Concerning Cooperative Research and Training on NPS Resources (16 U.S.C. § 1a-2(j)):** The Secretary may enter into agreements with public or private educational institutions, States and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate.

2. **Agreements For Educational Lectures and Work Respecting National Park System Resources (16 U.S.C. § 17j-2(e)):** Appropriations may be expended on educational lectures in or in the vicinity of, and with respect to, National Park System resources and the services of field employees may be utilized in cooperation with non-profit scientific and historical organization engaged in educational work on National Park System lands.
3. **Agreements with Federal, State, and Local Entities to Study Parks, Parkways, and Recreation (16 U.S.C. § 17k):** The Secretary is authorized to enter into cooperative agreements with other federal agencies as well as with State and local governments in order to study parks, parkways, and recreational areas, and to plan for providing adequate park and recreation areas for the people of the United States.
4. **Agreements to Engage in and Fund Outdoor Recreation Research and Educational Programs (16 U.S.C. § 460-l(f)(1)):** The Secretary is authorized to sponsor, engage in, and assist in research relating to outdoor recreation, directly or by contract or cooperative agreements, to undertake studies and assemble information concerning outdoor recreation, directly or by contract or cooperative agreement, and to cooperate with educational institutions and others in order to assist in establishing education programs to encourage public use and benefits from outdoor recreation.
5. **Agreements with Educational Institutions to Study National Park System Resources and Non-Park Service Resources (16 U.S.C. § 5933):** The Secretary is authorized and directed to enter into cooperative agreements with colleges and universities in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research and develop integrated information products on the resources of the National Park System or the larger region of which parks are a part.

D. AUTHORITY TO ACCEPT DONATIONS OF MONEY, GOODS, AND SERVICES

1. **General Authority for NPS to Accept Donations (16 U.S.C. § 6):** The Secretary is authorized to accept patented lands, rights-of-way over patented lands or others lands, buildings, or other property within the various national parks and national monuments, and moneys , may be donated for the purposes of the national park and monument system.
2. **Donations for Museum Purposes (16 U.S.C. § 18(a)):** The Secretary is authorized to accept donations of money or other personal property and to hold, use, expend and administer them for museum purposes.
3. **Acceptance of Volunteer Services (16 U.S.C. § 18g-j):** The Secretary is authorized to recruit, train, and accept the services of individuals without compensation as volunteers for or in the aid of interpretive functions, or other visitor services or activities in and related to areas of the National Park System. Such volunteers may not be used for hazardous duty or law enforcement work or in policymaking processes, or to displace any

employee. A special exception allows the acceptance of the services of individuals that the Secretary determines “are skilled in performing hazardous activities.”

- 4. Donations to the National Park Foundation for the Benefit of NPS (16 U.S.C. § 19e-o):** Congress established the National Park Foundation in order to encourage private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in connection with, the National Park Service, its activities, or its services, and to further the conservation of natural, scenic, historic, scientific, educational, inspirational or recreational resources for future generations. The Foundation may accept, receive, solicit, hold, administer and use any gifts, devises or bequests or any income therefrom or other interest therein for the benefit of the National Park Service, its activities or its services. Congress required the Foundation to design and implement a comprehensive program to assist and promote philanthropic programs of support at the individual national park unit level.
- 5. Donations and Bequests of Money, Personal Property and Less than Fee Interests in Historic Property (16 U.S.C. § 470w-2):** The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of historic preservation and to accepts gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties.
- 6. National Capital Region Arts and Cultural Affairs Grants Program (16 U.S.C. § 1e):** In order to support and enhance artistic and cultural activities in the National Capital region, grants of up to \$500,000 per year may be made to “organizations of demonstrated national significance” meeting at least two of the following criteria: an annual operating budget in excess of \$1 million; an annual audience or visitation of at least 200,000 people; a paid staff of at least one hundred persons; or an eligibility under the Historic Sites Act of 1935. Public or private colleges and universities are not eligible under this program.

NPS REGIONAL AND SITE-SPECIFIC AUTHORITIES

A. **NORTHEAST Region** (not including general land acquisition & boundary revision authority)

1. Acadia National Park – 16 U.S.C. 343 authorizes the Secretary to accept donations of property on Mount Desert Island, including lands, easements, buildings and money. Public Law 99-420, §§ 102(a), (h)(1), 16 U.S.C. 341, note also authorizes acceptance of donations of interests in land within park boundaries.

2. Adams National Historic Park – 16 U.S.C. § 410eee-3(b) authorizes the Secretary to enter into cooperative agreements with interested entities and individuals to provide for preservation, development, interpretation, and use of the park.

3. Allegheny Portage Railroad National Historic Site – Pub. L. 88-543, Aug. 31, 1964, § 4, 78 Stat. 753 authorizes the Secretary to enter into cooperative agreements with the State of Pennsylvania, political subdivisions, corporation or individuals to erect and maintain markers.

4. Assateague National Seashore – 16 U.S.C. § 459f-5(c) authorizes the Secretary to enter into cooperative agreements to coordinate research to ensure protection of natural and cultural resources of the Seashore and to provide technical assistance to local, State, and Federal agencies and educational institutions and non-profit entities to further such purposes.

5. Boston African American National Historic Site – Pub. L. 96-430, Title I, § 103, Oct. 10, 1980, 94 Stat. 1845 authorizes the Secretary to enter into cooperative agreements with the City of Boston, Commonwealth of Massachusetts, or any political subdivisions, or any private person or organization, to mark, interpret, restore, provide technical assistance, and other activities necessary for preservation of the identified sites.

6. Boston Harbor Island National Recreation Area – 16 U.S.C. §§ 460kkk(a)(2) and (d)(3) explicitly provide that the area is to be managed in partnership with the private sector, Commonwealth of Massachusetts, surrounding municipalities, and other organizations. Additionally, **16 U.S.C. §§ 460kkk(d)(3)** authorizes the Secretary to enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of the area.

7. Boston National Historic Park – 16 U.S.C. 410z-1(b) authorizes the Secretary to enter into cooperative agreements with the City of Boston, Commonwealth of Massachusetts, or any private organization to mark, interpret, restore or provide technical assistance for the preservation and interpretation of properties listed in § 410z.

- 8. Cedar Creek and Belle Grove National Historical Park – 16 U.S.C. § 410iii-10** authorizes the Secretary to enter into cooperative agreements with interested public and private entities through technical and financial assistance to encourage conservation of historic and natural resources in the park.
- 9. Chesapeake Bay – Chesapeake Bay Initiative Act, Pub. L. 105-312, Title V, §§ 501, 502, Oct. 30, 1998, 112 Stat. 2961** directs the Secretary to provide technical and financial assistance in cooperation with other Federal agencies, State and local governments, and the private sector to undertake a variety of activities related to conservation and interpretation of Chesapeake Bay.
- 10. Civil War – Civil War Battlefield Preservation Act of 2002, 16 U.S.C. § 469k, note., Pub. L. 107-357, 116 Stat. 3016** authorizes the Secretary to preserve and protect nationally significant Civil War battlefields and to create partnerships among State and local governments and the private sector to preserve, conserve and enhance Civil War battlefields.
- 11. Delaware and Lehigh Navigation Canal National Heritage Corridor – Pub. L. 100-692, §§ 10(c), (d), Nov. 18, 1988, 102 Stat.4557** authorizes the Secretary to assist the Commission in designing and producing interpretive materials and provide technical assistance in preparation and implementation of the Plan.
- 12. Delaware Water Gap National Recreation Area – 16 U.S.C. § 460o-2(b)** authorizes the Secretary to make adjustments in the boundary of the area by publication of the amended description in the Federal Register provided that the revised boundary does not exceed the acreage included in the original area boundary.
- 13. Eleanor Roosevelt National Historic Site – Pub. L. 95-32, § 2(b), May 26, 1977, 91 Stat. 171** authorizes the Secretary to carry out the acquisition, renovation, administration, and management of the Site under cooperative agreements with qualified public or private entities.
- 14. Erie Canalway National Heritage Corridor – Pub. L. 106-554, Dec. 21, 2000, § 807, 114 Stat. 2763A-302** authorizes the Secretary to enter into cooperative agreements with, provide technical assistance to, and award grants to the Commission to provide for preservation and interpretation of the natural, historic, recreational, scenic and cultural resources of the Corridor.
- 15. Essex National Heritage Area – Pub. L. 104-333, Div. II, Title V, Nov. 12, 1996, § 505, 110 Stat. 4259-60** authorizes the Secretary to assist the management entity in preparing studies and plans and implementing recommendations, provide technical assistance and make grants.
- 16. Fort Stanwix National Monument – 16 U.S.C. § 450m** authorizes the Secretary to accept donations of interests in land, buildings and other property within the Monument boundaries and funds for the purchase and/or maintenance thereof.
- 17. Gateway National Recreation Area – 16 U.S.C. § 460cc-2(c)** authorizes the Secretary to enter into cooperative agreements with the States of New York and New Jersey and their political

subdivisions, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services by nearby law enforcement and fire preventive agencies.

18. Gauley River National Recreation Area – 16 U.S.C. § 460ww-1(c) authorizes the Secretary to enter into cooperative agreements with the State of West Virginia and any political subdivision thereof, for rendering, on a reimbursable, of rescue, fire fighting, and law enforcement services by nearby law enforcement and fire preventive agencies. **16 U.S.C. § 460ww-1(e)** authorizes the Secretary to enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and rights-of-way within the boundaries to facilitate and improve access to the area.

19. Gettysburg National Battlefield Park – 16 U.S.C. § 430g-6 authorizes the Secretary to enter into agreements with owners of property in proximity to but outside the park boundary to make funds available for the maintenance, protection, and interpretation of historic monuments, and to acquire with consent of the owner by donation, purchase or exchange lands comprising such monuments within the Gettysburg Battlefield Historic District. **16 U.S.C. § 430g-7(b), (c)** authorizes the Secretary to make grants and provide technical assistance to assure development and use of natural and culture resources consistent with the conservation and maintenance of the district's historic character.

20. Hudson River Valley National Heritage Area – Pub. L. 104-333, Div. II, Title IX, Nov. 12, 1996, § 908(a), 110 Stat. 4179 authorizes the Secretary to provide technical and financial assistance to the Heritage Area to develop a management plan to assist in conservation natural, historic and cultural resources and provide educational, interpretive and recreational opportunities.

21. Independence National Historic Park – 16 U.S.C. § 407n authorizes the Secretary to enter into cooperative agreements with the City of Philadelphia to assist in the preservation and interpretation of the park and with the Carpenters Company of Philadelphia assist in the preservation and interpretation of Carpenters Hall. **16 U.S.C. § 407o** authorizes the Secretary to accept donations of property of national historic significance within the City of Philadelphia which the Secretary deems proper for administration as part of the park and to permit the American Philosophical Society to construct, operate and maintain in the park a building to house the library of the Society. **16 U.S.C. § 407bb** authorizes the Secretary to make grants and enter into cooperative agreements, contracts or leases with the National Constitution Center to carry out the purposes of the Center. **16 U.S.C. § 407dd(d)** authorizes the Secretary in coordination with the NCC to enter into cooperative agreements with historic sites closely associated with the Constitution to provide technical assistance in the preservation and interpretation of such sites.

22. John H. Chafee Blackstone River Valley National Heritage Corridor – Pub. L. 99-647, Nov. 10, 1986, § 8, 100 Stat. 3630 directs the Secretary to assist the Commission in preparing a Cultural Heritage and Land Management Plan and assist in design and fabrication of interpretive materials.

- 23. Lackawanna Valley National Heritage Area – Pub. L. 106-278, Title I, § 107, Oct. 6, 2000, 114 Stat. 818** authorizes the Secretary to provide technical and financial assistance to the management entity to develop and implement the management plan.
- 24. Lowell National Historic Park – 16 U.S.C. § 410cc-23** authorizes the Secretary to enter into agreements with the owner of property of historic or cultural significance within the park to provide for interpretive exhibits or programs, and provide technical assistance to the City of Lowell in establishing regulations for historic preservation. **16 U.S.C. § 410cc-25(b)** authorizes the Secretary to accept donations of funds, property or services for the purposes of implementing the park management plan. **16 U.S.C. § 410cc-25(c)** authorizes the Secretary to sponsor educational or cultural programs within the park.
- 25. Lower East Side Tenement National Historic Site – Pub. L. 105-378, Title I, Nov. 12, 1998, 112 Stat. 3396** authorizes the Secretary to enter in a cooperative agreement to mark, preserve and interpret the site.
- 26. Maine Acadian Culture Preservation Commission – Pub. L. 101-543, Nov. 8, 1990, 104 Stat. 2389** authorizes cooperative agreements to support the Acadian Culture Center.
- 27. Marsh-Billings-Rockefeller National Historic Park – 16 U.S.C. § 410vv-4** authorizes the Secretary to enter into cooperative agreements for the preservation, interpretation, management, and providing educational and recreational uses of properties in the park and scenic zone.
- 28. Minuteman National Historic Park – 16 U.S.C. § 410u** authorizes the Secretary to enter into cooperative agreements with the Commonwealth of Massachusetts, political subdivisions thereof, corporations or individuals to provide for the preservation and interpretation of historic sites, structures and properties lying along the entire route where significant events occurred on April 18 -19, 1775, and to erect and maintain markers.
- 29. Morristown National Historic Park – 16 U.S.C. § 409a** authorizes the Secretary to accept donations of interests in land, buildings, and other property within the boundaries of the park and donations of funds for the purchase and/or maintenance thereof, and may accept donations of other lands, easements and buildings in Morris and adjacent counties in New Jersey for the extension of the park.
- 30. National Coal Heritage Area – Pub. L. 104-333, Div. II, Title I, Nov. 12, 1996, § 104, 110 Stat. 4243** authorizes the Secretary to enter a contractual agreement with the Governor of West Virginia to assist the State, its local governments and nonprofit organizations in development and implementation of integrated cultural, historical, and land management policies to retain and interpret the significant values of the area, as well as preservation, restoration, maintenance operation of structures and points of interest, coordinate activities by all units of government to further historic preservation and economic revitalization, and development of standards for projects.

- 31. National Trails Act – 16 U.S.C. § 1246(h)(1)** authorizes the Secretary to enter into cooperative agreements with the States, their political subdivisions, landowners, private organizations, and individuals to operate, develop, and maintain any portion of a national trail within or outside of a federally administered area. Such agreements may provide for limited financial assistance to encourage participation and provisions for providing volunteer in the parks status.
- 32. New Bedford Whaling National Historic Park – 16 U.S.C. § 410ddd(e)(2)** authorizes the Secretary to enter into cooperative agreements with interested entities and individuals to provide for preservation, development, interpretation, and use of the park.
- 33. New River Gorge National River – 16 U.S.C. § 460m-16(b)** authorizes the Secretary to enter into cooperative agreements with organizations and individuals to mark or interpret historically significant properties on non-federally owned land. **16 U.S.C. § 460m-18** authorizes the Secretary to assist and consult with local government in establishing zoning ordinances that will assist in achieving the purposes of the act. **16 U.S.C. § 460m-26** authorizes the Secretary to enter into cooperative agreements with the State of West Virginia or any political subdivision thereof, for rendering, on a reimbursable or non-reimbursable basis, of rescue, fire fighting, and law enforcement services by nearby law enforcement and fire preventive agencies.
- 34. Petersburg National Battlefield – 16 U.S.C. § 423a** authorizes the Secretary to accept donation of interests in land for the Petersburg National Battlefield.
- 35. Quinebaug and Shetucket Rivers Valley National Heritage Corridor – Pub. L. 103-449, § 105(c), 108 Stat. 4754** authorizes the Secretary to assist State and local governmental entities and non-profit organizations in the preservation and interpretation of historic resources and development of recreational resources.
- 36. Richmond National Battlefield Park – 16 U.S.C. § 423k** authorizes the Secretary to accept donation of interests in land, buildings, structures or other property within the boundaries of the park and funds for the purchase and/or maintenance thereof. **16 U.S.C. §§ 423l-5(c), (d)** authorize cooperative agreements to protect historic resources within the park that would allow for continued private ownership and use, and technical assistance for development of plans, land use guidelines, studies and other activities for identification, protection, interpretation, and commemoration of historically significant Civil War resources.
- 37. Rivers of Steel National Heritage Area – Pub. L. 104-333, Div. II, Title IV, Nov. 12, 1996, § 407, 110 Stat. 4256** authorizes the Secretary to provide technical and financial assistance to the Heritage Area to develop a management plan to assist in conservation natural, historic and cultural resources and provide educational, interpretive and recreational opportunities.
- 38. Roger Williams National Memorial – 16 U.S.C. § 450pp-2** authorizes the Secretary to cooperate with the City of Providence, local historical societies and interested persons in the maintenance and operation of the memorial.

39. Saratoga National Historic Park – 16 U.S.C. § 159a authorizes the Secretary to accept donations of interests in land, buildings, and other property within the boundaries of the park and donations of funds.

40. Saint Gaudens National Historic Site – Pub. L. 88-543, Aug. 31, 1964, § 4(b), 78 Stat. 749 authorizes the Secretary to cooperate with the Saint Gaudens memorial, the American Academy of Arts and Letters, and other organizations in the presentation of art expositions, festivals and other appropriate events traditional to the site.

41. Schuylkill River Valley National Heritage Area – Pub. L. 106-278, Title II, §§ 204(d), 207(a), Oct. 6, 2000, 114 Stat. 820 - 823 requires the Secretary to enter into a cooperative agreement with the management entity to provide technical and financial assistance to develop and implement the management plan.

42. Shenandoah Valley Battlefield National Historic District – Pub. L. 104-333, Div. I, Title VI, Nov. 12, 1996, § 606(g), 110 Stat. 4177 authorizes the Secretary to award grants, provide technical assistance and enter cooperative agreements with the Commission, management entity other units of government, or other persons to provide for the preservation and interpretation of the natural, cultural and historic resources of the District.

43. Southwestern Pennsylvania Industrial Heritage Route – Pub. L. 100-698, Title II, § 202, Nov. 19, 1988, 102 Stat. 4623 authorizes the Secretary to enter cooperative agreements with respect to sites administered by other Federal, State, local, tribal or nonprofit entities to provide technical assistance in development of interpretive devices.

44. St. Croix Island International Historic Site – Pub. L. 106-529, § 4(b), 16 U.S.C. § 450hh, note. authorizes the Secretary to enter into cooperative agreements to provide exhibits, interpretive services, disseminate information, provide financial assistance for construction of a regional heritage center and assist in operation and maintenance.

45. Steamtown National Historic Site – Pub. L. 99-500, Oct. 18, 1986, § 2(b), 100 Stat.1783-248 directs the Secretary to administer the site through cooperative and grant agreements and authorizes technical and financial assistance in planning, interpretation, maintenance, preservation and public use of the site.

46. Theodore Roosevelt Inaugural National Historic Site – Pub. L. 96-607, Title VIII, December 28, 1980, § 802(b) directs the Secretary to enter into cooperative agreements with the Theodore Roosevelt Inaugural Site Foundation or other qualified entities for the operation, maintenance, management, development, and interpretation of the site.

47. Thomas Cole National Historic Site – Pub. L. 106-146 § 6(b), Dec. 9, 1999, 113 Stat. 1715 authorizes the Secretary to enter into cooperative agreements with the: 1) Greene County Historical Society to preserve the site and to assist with educational programs, and research and

interpretation; and 2) the State of New York, the Society, the Thomas Cole Foundation; and 3) other public and private entities to facilitate public understanding and enjoyment of the lives and works of Hudson River artists.

48. Valley Forge National Historic Park – Pub. L. 106-86, Title II, §§ 201 - 202, 16 U.S.C. § 410aa, note. authorizes the Secretary to enter into agreements with the Valley Forge Historical Society to construct, operate, and facilitate the planning, construction and operation of a museum within Valley Forge NHP.

49. Weir Farm National Historic Site – Pub. L. 101-485, § 6(b), Oct. 31, 1990, 104 Stat. 1172 authorizes the Secretary to consult and enter into cooperative agreements with the weir Farm Heritage Trust, State of Connecticut, American Academy of Arts and Letters, and other organizations in the development, presentation and funding of art exhibits, resident artist programs and other activities related to the preservation, development and use of the Site, and with The Nature Conservancy and towns of Ridgefield and Wilton to coordinate activities. **Pub. L. 105-363, § 1(d)(3), Nov. 10, 1998, 112 Stat. 3296** directs the Secretary to enter into agreements with the towns of Ridgefield and Wilton, Connecticut to develop parking, visitor and administrative facilities and manage bus traffic.

50. Wheeling National Heritage Area – Pub. L. 106-291, Title I, § 157(f), Oct. 11, 2000, 114 Stat. 966 authorizes the Secretary in consultation with the Wheeling National Heritage Corporation to make grants to, and enter into cooperative agreements with the Corporation, the State of West Virginia, City of Wheeling, or any person for interpretive, planning, educational, staffing, exhibits, and other material support for the area.

51. Wild and Scenic Rivers Act – 16 U.S.C. § 1281(e) authorizes the NPS to enter into cooperative agreements with the governor of a State, the heads of any State agency, or political subdivision of a State for participation in the administration of the component. **Pub. L. 95-625, Title VII, §§ 704(c)(4), (e)(3), and (g)** authorize provision of technical assistance to the States of New York and Pennsylvania and their political subdivisions to develop and implement programs for the Upper Delaware River, to provide professional services to review local plans, laws, and ordinances, and monitor the enforcement thereof by local governments, and financial assistance for enforcing State and local laws, and removing solid waste. **Pub. L. 106-20, § 2(c), Apr. 9, 1999, 113 Stat. 31** authorizes the Director of the NPS to enter cooperative agreements with the Commonwealth of Massachusetts, its relevant political subdivisions, the Sudbury Valley Trustees and Organization for the Assabet River for financial and other assistance to facilitate the protection, conservation and enhancement the authorized river segments. **Pub. L. 103-313, § 4(b), Aug. 26, 1994, 108 Stat. 1701** directs the Secretary to enter into cooperative agreements with the State of Connecticut and its relevant political subdivisions to provide financial and other assistance to facilitate the protection, conservation and enhancement the authorized Farmington River segment.

52. Women’s Rights National Historic Park – 16 U.S.C. § 410ll(e) authorizes the Secretary to enter into cooperative agreements with owners of properties designated as part of the park to mark, interpret, improve, restore and provide technical and financial assistance for preservation and interpretation of such properties.

B. SOUTHEAST REGION (not including general land acquisition & boundary revision authority)

1. Abraham Lincoln Birthplace National Historic Site – 16 U.S.C. § 218a(b) authorizes the Secretary to accept as a donation approximately 229 acres of land known as Knob Creek Farm in Larue County, Kentucky.

2. Andrew Johnson National Historic Site – 16 U.S.C. § 450p authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the historic park and donations of funds for the purchase and maintenance thereof.

3. Big South Fork National River and Recreation Area – 16 U.S.C. § 460ee(I) directs the Secretary to consult and cooperate with other departments and agencies of the United States and Tennessee and Kentucky in the development of measures and programs to protect and enhance water quality within the national area and to insure that such programs do not diminish other values that are to be protected.

4. Cape Hatteras National Seashore and Recreation Area – 16 U.S.C. § 459a authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the national seashore and donations of funds for the purchase and maintenance thereof.

5. Chattahoochee River National Recreation Area – 16 U.S.C. § 460ii-2(b) authorizes the Secretary to enter into cooperative agreements with the State of Georgia, political subdivisions of the State, and other entities to ensure standardized acquisition, planning, design, construction, and operation of the recreation area.

6. Chickamauga and Chattanooga National Military Park – 16 U.S.C. § 424a authorizes the Secretary to accept donated land, interests in land, easements, and buildings for an addition to the park lying within what is known as Chattanooga-Lookout Mountain Park. **16 U.S.C. § 424a-1** authorizes the Secretary to accept additional lands from Signal Mountain, near Chattanooga, Tennessee while **16 U.S.C. § 424a-4** authorizes the acceptance of donated land, not exceed one thousand and four hundred acres, situated generally within the Moccasin Bend of the Tennessee River.

7. Cumberland Gap National Historic Park – 16 U.S.C. § 263 authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the historic park and donations of funds for the purchase and maintenance thereof.

8. Fort Donelson National Battlefield – 16 U.S.C. § 428d-2 authorizes the Secretary to accept donations of land, interests in land, buildings, structures, or other property within a distance of one mile from the boundaries of the battlefield or funds for the purchase thereof.

9. Fort Caroline National Memorial – Pub. L. 95-625 Sec. 4 authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the national memorial and donations of funds for the purchase and maintenance thereof.

10. Fort Frederica National Monument – 16 U.S.C. § 433h authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the monument and donations of funds for the purchase and maintenance thereof. **16 U.S.C. § 433i** authorizes the Secretary to accept for installation articles offered as additions to the museum at Fort Frederica.

11. Gulf Islands National Seashore – 16 U.S.C. § 459h4(b)(1) authorizes the Secretary to enter into agreements with the State of Mississippi for the purpose of managing resources and providing law enforcement assistance.

12. Little River Canyon National Preserve – Pub. L.102-427 authorizes the Secretary to enter into cooperative agreements with the State of Alabama to acquire lands within De Soto State Park if necessary.

13. Mammoth Cave National Park – 16 U.S.C. § 404(e) authorizes the Secretary to accept donations of money for the acquisition of lands required to establish the park.

14. Natchez National Historic Park – 16 U.S.C. § 410oo2(b)(1) authorizes the Secretary to enter into an agreement with the City of Natchez under which the Secretary agrees to pay an amount not to exceed \$3,000,000 toward the planning and construction of a structure to be used as administrative headquarters, administrative site, and visitor center for the park. **16 U.S.C. § 410oo2(b)(3)** authorizes the Secretary to enter into a contract, lease, cooperative agreement or other form of agreement with the City of Natchez providing for the use and occupancy of a portion of the structure constructed under 16 U.S.C. § 410oo(b)(1).

15. Natchez Trace Parkway – 16 U.S.C. § 460a-1 authorizes the Secretary to approve and accept, on behalf of the United States, title to any lands and interests in land conveyed to the United States for the purposes of Blue Ridge or Natchez Trace Parkways, or for recreational areas in connection therewith.

16. New Orleans Jazz National Historic Park – 16 U.S.C. § 410bbb-2(b) authorizes the Secretary to accept and retain donations of funds, property, or services from individuals, foundations, corporations, or other public entities for the purpose of providing services, programs, and facilities that further the purposes of the subchapter. **16 U.S.C. § 410bbb-2(e)(1)** authorizes

the Secretary to enter to enter into cooperative agreements with owners of properties that are designated pursuant to section 410bbb-1(b)(3) and that provide outstanding educational and interpretive opportunities relating to the evolution of jazz in New Orleans. **16 U.S.C. § 410bbb-2(e)(2)** authorizes the Secretary to enter into cooperative agreements with the City of New Orleans, the State of Louisiana, and other appropriate public and private organizations under which the other parties to the agreement may contribute to the acquisition, construction, operation, and maintenance of the interpretive center and to the operation of the educational and interpretive programs to further the purpose of the chapter. **16 U.S.C. § 410bbb-2(f)** directs the Secretary to cooperate with schools, universities, ad organizations supporting jazz education to develop educational programs that provide expanded understanding of jazz and enhanced opportunities for public appreciation.

17. Ocmulgee National Monument – 16 U.S.C. § 447b authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the monument and donations of funds for the purchase and maintenance thereof.

18. Poverty Point National Monument – Pub. L.100-560 authorizes the Secretary to enter into cooperative agreements with institutions of higher education and professional societies to conduct further research on Poverty Point.

19. Salt River Bay National Historic Park & Ecological Preserve – 16 U.S.C. § 410 authorizes the Secretary to enter into cooperative agreements with the Virgin Islands or any political subdivision thereof, for the management of the park and for other purposes.

20. Shiloh National Military Park – 16 U.S.C. § 430f authorizes the Secretary to enter into agreements with former landowners or tenants of acquired land that desire to remain on the said land, whereby the department will lease the land to such persons to occupy and cultivate their then holdings upon condition that they will preserve existing buildings, roads, and outlines of field and forest, and that they will assist in the caring for and protecting all vegetation, tablets, monuments, or such other artificial works as may from time to time be erected by proper authority. **16 U.S.C. § 430f-10** authorizes the Secretary, in order to commemorate and interpret, for the benefit of visitors and the general public, the Siege and Battle of Corinth and other Civil War actions in the area, to enter into cooperative agreements with entities in the public and private sectors, including: colleges and universities, historical societies, State and local agencies, and nonprofit organizations.

21. Stones River National Battlefield – 16 U.S.C. § 426g authorizes the Secretary to enter into agreements with former landowners or tenants of acquired land that desire to remain on the land, whereby the Department will lease the land to such persons to occupy and cultivate their holdings on the condition that they will preserve existing buildings, roads, and outlines of field and forest, and that they will assist in caring for and protecting all vegetation, tablets, monuments, or such other artificial works as may from time to time be erected by proper authority. **16 U.S.C. § 426o** authorizes the Secretary to enter into an agreement with the City of Murfreesboro, Tennessee regarding expansion of the battlefield.

22. Tupelo National Battlefield – 16 U.S.C. § 429a-1 authorizes the Secretary to acquire by donation or with donated funds not to exceed one-half acre of land and interests in land for addition to the adjoining Tupelo National Battlefield site.

23. Vicksburg National Military Park – 16 U.S.C. § 430h-1 authorizes the Secretary to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the historic park, have been determined to be of historical interest in connection with the park. **16 U.S.C. § 430h-2** authorizes the Secretary to transfer to the city of Vicksburg, Mississippi, for school purposes, a tract of park land containing three and one-tenth acres.

C. SOUTHWEST REGION (not including general land acquisition & boundary revision authority)

1. Chaco Culture National Historical Park – 16 U.S.C. § 410ii-4 directs the Secretary to seek to enter into cooperative agreements with the owners of properties located entirely or partially within the park or the associated archeological protection sites to protect, preserve, maintain, and administer the archeological resources and associated site regardless of whether title to the property or site is vested in the United States.

2. Chaco Culture Archeological Protection Sites – 16 U.S.C. § 410ii-5(f) directs the Secretary to assist the Navajo Nation in the protection and management of Chaco Culture Archeological Protection Sites located on land under the jurisdiction of the Navajo Nation. Assistance may be provided through a grant, contract, or cooperative agreement entered into pursuant to the Indian Self-Determination and Education Act, 25 U.S.C. § 450 *et seq.* and may include, among other things, site planning, resource protection, interpretation and resource management actions.

3. Chamizal National Memorial – Section 4 of the Act of June 30, 1966, Pub. L. 89-479, 80 Stat. 232 authorizes the Secretary to cooperate and consult with the city and county of El Paso, Texas, Texas Western College [now the University of Texas at El Paso], local historical and preservation societies, and other interested government agencies, associations and persons in the utilization and preservation of the memorial.

4. Grand Canyon National Park – 16 U.S.C. § 228e authorizes and encourages the Secretary to enter into cooperative agreements with other federal, state, and local public departments and agencies and with interested Indian tribes providing for the protection and interpretation of the Grand Canyon in its entirety.

5. Oklahoma City National Memorial - Subsection (d) of the Oklahoma City National Memorial Amendments of 2003, section 544 of the Consolidated Appropriations Act, 2004 (H.R. 2673), to be codified at 16 U.S.C. subsection 450ss-3 authorizes the Secretary to enter into cooperative agreements with the Oklahoma City National Memorial Foundation to provide interpretive services related to the Memorial and such other assistance as may be agreed upon between the Secretary and the Foundation, the costs of such services and other agreed upon

assistance to be paid by the Secretary. The amendments repealed subsection 6(a) of the Oklahoma City National Memorial Act of 1997, Pub. L.105-58, 111 Stat. 1261, 1265.

6. Palo Alto Battlefield National Historic Site – Section 6 of the Palo Alto Battlefield National Historic Site Act of 1991, Pub. L. 102-304, 106 Stat. 256, 257 authorizes the Secretary to enter into cooperative agreements with the United States of Mexico, in accordance with existing international agreements, and with other owners of Mexican-American War properties within the United States of America for purposes of conducting joint research and interpretive planning for the historic site and related Mexican-American War sites.

7. Petroglyph National Monument – Section 105(c) of the Petroglyph National Monument Establishment Act of 1990, Pub. L. 101-313, 104 Stat. 272, 275 authorizes the Secretary to enter into cooperative agreements with the State of New Mexico or the City of Albuquerque under which the Secretary may manage and interpret any lands owned by the state or the city within the national monument. **Subsection 105(d)** authorizes the Secretary to enter into cooperative agreements with other federal, state, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of the resources of Petroglyph National Monument.

8. San Antonio Missions National Historical Park – 16 U.S.C. subsection 410ee(b) authorizes the Secretary to enter into cooperative agreements with the owners of any historic properties within the park in furtherance of the purposes for which the park was established.

9. Washita Battlefield National Historic Site – Subsection 607(c)(3) of the Act of November 12, 1966, Pub. L. 104-333, 110 Stat. 4093, 4181 directs the Secretary to consult with the Cheyenne-Arapaho Tribe, its subordinate boards, committees, enterprises, and traditional leaders to further the purposes of the act establishing the national historic site.

D. INTERMOUNTAIN REGION (not including general land acquisition & boundary revision authority)

1. Black Canyon of the Gunnison National Park – 16 U.S.C. § 410fff-2(e)(3) authorizes the Secretary to allow grazing by permittees under stated conditions.

2. Grand Teton National Park – 16 U.S.C. § 406d-2(a) authorizes and directs the Secretary to designate and maintain rights-of-way including stock driveways for movement of persons and property from State or private lands within the park to State or private lands outside the park; **(b)** maintain leases, permits and licenses authorized by other Federal agencies until terminated; and **(c)** maintain residential use and grazing of cattle on Federal lands within the park.

3. Grand Teton National Park – 16 U.S.C. § 406d-4 authorizes the Secretary to accept the donation of certain described lands for inclusion in the park.

- 4. Mesa Verde National Park – 16 U.S.C. § 111b** authorizes the Secretary to accept donations of land or to exchange land for right-of-way for the Point Lookout Road.
- 5. Mesa Verde National Park – 16 U.S.C. § 111b** authorizes the Secretary to permit examination, excavation or gathering of artifacts by reputable museums, universities, or recognized scientific or education institutions under regulations prescribed by the Secretary.
- 6. Mesa Verde National Park – 16 U.S.C. § 115** authorizes the Secretary to lease lands or permit the use of land or development of the resources. No prehistoric ruins are included in this authority.
- 7. Rocky Mountain National Park – Omnibus Parks and Public Lands Act of 1966, Section 810, 110 Stat. 4189 (Pub. L. 104-333)** authorizes the Secretary to collect and expend donated funds for the operation and maintenance of a visitor center to be constructed with private funds on privately owned lands adjacent to Rocky Mountain National Park.
- 8. Rocky Mountain National Park – 16 U.S.C. § 192b-10** authorizes the Secretary to enter into agreements with the owner(s) of certain described privately owned lands within the park that if the lands are used for single family dwellings and not for development such use will be ensured.
- 9. Rocky Mountain National Park – 16 U.S.C. § 195** authorizes the Secretary to execute leases of land not exceeding 20 acres or 20 years in length with persons or companies whenever the land is needed to erect establishments to accommodate visitors and may grant other privileges and concessions deemed wise for this purpose.
- 10. Rocky Mountain National Park – 16 U.S.C. § 196:** authorizes the Secretary to permit, license, lease or otherwise authorize the use of land in the park for the maintenance and operation of Arbuckle No. 2 Reservoir.
- 11. Yellowstone National Park – 16 U.S.C. § 32** authorizes the Secretary to lease 20 acres of land to persons, corporations or companies authorized to do business in the park for not to exceed 20 years.
- 12. Yellowstone National Park – 16 U.S.C. § 35** authorizes the Secretary to permit use of electricity generated by the power plant at Fort Yellowstone and Mammoth Hot Springs by persons, corporations or companies authorized to do business in the park.
- 13. Yellowstone National Park – 16 U.S.C. § 36** authorizes the Secretary to issue regulations to give surplus elk, buffalo, bear, beaver and predatory animals in Yellowstone to Federal, State, county and municipal authorities for zoos and parks. The act also authorizes the Secretary to sell surplus buffalo.

14. Yellowstone National Park – 16 U.S.C. § 36a authorizes the Secretary to sell or otherwise dispose of surplus elk from the park herd.

15. Yellowstone National Park – 16 U.S.C. § 37(a) authorizes the Secretary to accept donations of funds to acquire lands needed for protection, preservation and propagation of elk, antelope, and other game animals of Yellowstone National Park. **Subsection (b)** authorizes the Secretary to acquire by purchase or by donation or bequests of lands in private or State ownership for the purposes listed in (a), above.

16. Yellowstone National Park – 16 U.S.C. § 38 authorizes the Secretary to exchange private or state owned lands in specific townships for equal valued lands in National Forests in the State of Montana and specifies other terms.

17. Yellowstone National Park – 16 U.S.C. §§ 40a, 40b, and 40c authorize the Secretary to enter into agreements with appropriate school districts to provide education to children residing within the park. Such education is to paid for from available funds.

E. MIDWEST REGION (not including general land acquisition & boundary revision authority)

1. Apostle Islands National Lakeshore – 16 U.S.C. § 460w-2 authorizes the Secretary to acquire lands by donation, purchase with donated funds or exchange of lands outside the Lakeshore.

2. Badlands National Park – 16 U.S.C. § 441(d) authorizes the Secretary to permit examinations, excavations, and gathering of objects of interest within the park by properly qualified persons when undertaken for the benefit of reputable museums, universities, colleges or recognized scientific or educational institutions.

3. Badlands National Park – 16 U.S.C. § 441(I) authorizes the Secretary, with the concurrence of the Secretary of Agriculture, to accept title to lands or interests in within the park boundaries in exchange for specific types of patents or conveyances of lands set aside for the Badlands Fall River soil conservation project.

4. Buffalo National River – 16 U.S.C. § 460m-9(a) authorizes the Secretary, with certain provisos, to acquire lands within the boundaries of the river by donation, purchase or exchange.

5. Cuyahoga Valley National Park – 16 U.S.C. § 460ff-1(b) after consultation with the Governor of Ohio, the Secretary is authorized to acquire lands, water, or improvements with donated or appropriated funds or by exchange of lands.

6. Cuyahoga Valley National Park – 16 U.S.C. § 460ff-3(b) authorizes the Secretary to enter into cooperative agreements with the State of Ohio or any political subdivision for rendering on a

reimbursable basis rescue, firefighting and law enforcement services rendered by nearby law enforcement and fire preventive agencies.

7. Cuyahoga Valley National Park – 16 U.S.C. § 460ff-3(c)(2) directs the Secretary, in cooperation with the Secretary of Agriculture, the State of Ohio and affected local governments, to restore suitable vegetative cover to substantially eliminate erosion from all lands, public and private, within the park.

8. Cuyahoga Valley National Park – 16 U.S.C. § 460ff-3(d) requires the Secretary, in consultation with the Governor of Ohio, to inventory and evaluate all sites and structures having present or potential historical, cultural, or architectural significance and to provide for their preservation restoration, interpretation and utilization.

9. Cuyahoga Valley National Park – 16 U.S.C. § 460ff-3(e) authorizes the Secretary to accept donations of funds, property or services from individuals, foundations, corporations, or public entities to provide services and facilities deemed consistent with the park's purposes.

10. Cuyahoga Valley National Park – 16 U.S.C. § 460ff-3(f) authorizes the Secretary to assist and consult with appropriate officers and employees of local government in establishing zoning laws or ordinances that will assist in achieving the park's purposes.

11. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-1(a) authorizes the Secretary to acquire other properties within the four units of the park by donation, purchase with donated funds, exchange or transfer.

12. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-1(b) authorizes the Secretary to enter into cooperative agreements with other Federal agencies, State and local public bodies and private interests and organizations for the preservation development, use, and interpretation of the park.

13. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-2(b) directs the Secretary to identify partnership opportunities with other Federal, State, and local governments and the private sector for the development, use, and interpretation of properties with the park.

14. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-4(b) authorizes the Secretary to accept donations of funds, property or services from individuals, foundations, corporations, and other private entities and public entities for management of the park.

15. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-4(c) authorizes the Secretary to sponsor, coordinate, or enter in cooperative agreements for educational or cultural programs related to the park.

16. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-4(d) authorizes the Secretary to identify and mark other significant sites related to Wright brothers, the history of

aviation or Paul Laurence Dunbar that are related to the park with the consent of the owner or owners of such related sites.

17. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-7 authorizes the Secretary to provide technical and preservation assistance to owners of property within the park and to any organization that has a cooperative agreement with the park under 410ww-1(b).

18. Dayton Aviation Heritage National Park – 16 U.S.C. § 410ww-22(c) provides that the Dayton Aviation Heritage Commission in preparing a preservation and development plan for submission to the Secretary shall consult with local, State or Federal government officials, property owners, business, historic, professional, neighborhood and citizens organizations affected by actions proposed in the plan.

19. Grand Portage National Monument – 16 U.S.C. § 450oo-3 authorizes the Secretary to grant recognized members of the Minnesota Chippewa Tribe preferential privilege to provide visitor accommodations and services, including guide services.

20. Grand Portage National Monument – 16 U.S.C. § 450oo-8 authorizes the Secretary to provide consultative or advisory assistance to the Minnesota Chippewa Tribe and the Grand Portage Band of Chippewa Indians in planning of facilities or developments on lands adjacent to the monument.

21. Hopewell Culture National Historical Park – 16 U.S.C. § 410uu-2 authorizes the Secretary to enter into cooperative agreements with the Ohio Historical Society, the Archeological Conservancy and other public and private entities for consultation and assistance in the interpretation and management of the park.

22. Hot Springs National Park – 16 U.S.C. § 361 authorizes the Secretary to grant to hotels and bathhouses in the park rights to install, maintain, and use bathhouses, tubs and hot water. The act also directs the park's superintendent to provide and maintain a sufficient number of free baths for the use of the indigent.

23. Hot Springs National Park – 16 U.S.C. § 361e authorizes the Secretary to accept donations of lands or interests in such land within the city of Hot Springs, Arkansas.

24. Hot Springs National Park – 16 U.S.C. § 361 authorizes the Secretary to lease bathhouses and bathhouse sites in the park to various parties and if a surplus of hot water exists to furnish hot water to bathhouses, hotels, and families outside the park.

25. Hot Springs National Park – 16 U.S.C. § 369 authorizes the Secretary to assess and collect fees from physicians and bath attendant and masseurs operating in the bathhouses.

26. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-1(a) authorizes the Secretary to acquire lands, water, and other property by donation, purchase with donated or appropriated

funds, exchange, or otherwise. The act directs the Secretary to negotiate with the State of Indiana to acquire the Indiana Dunes State Park by donation. The act also authorizes the Secretary to acquire school lands or lands used for educational purposes by donation, purchase with donated funds or by exchange of lands.

27. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-7(e) directs the Secretary to consult with the Indiana Dunes National Lakeshore Advisory Commission regarding development of the lakeshore.

28. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-16 requires the Secretary to enter into a cooperative agreement concerning the construction of a roadway south of U.S. Route 12 to prevent erosion and visual impacts of construction and traffic from the Little Calumet River.

29. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-17(b) authorizes the Secretary to enter into a cooperative agreement with the State of Indiana or any political subdivision to develop, manage and interpret area I-E on Map numbered 626-91007.

30. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-18(a) directs the Secretary to provide for participation by the State of Indiana, local public officials, affected property owners and the general public in the preparation of a study of areas designated for transmittal to the Congress by July 1, 1977.

31. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-18(b)(1) requires the Secretary to enter into a memorandum of agreement with Northern Indian Public Service Company regarding access by NPS to the Greenbelt area for a variety of lakeshore purposes listed in the act.

32. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-24(a) authorizes the Secretary to enter into a cooperative agreement with the State of Indiana or any of its political subdivisions and the Little Calumet River Basin Development Commission for the planning, management, and interpretation of recreation facilities on specified land within the lakeshore along the Little Calumet and Burns Waterway.

33. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-25 authorizes the Secretary to enter into a cooperative agreement with the City of Gary, Indiana to provide technical assistance to the City concerning Marquette Park and Lake Street Beach.

34. Indiana Dunes National Lakeshore – 16 U.S.C. § 460u-26 requires the Secretary to consult with the Commissioner of the Indiana Department of Transportation to determine what lands are needed by the State for road construction.

35. Isle Royale National Park – 16 U.S.C. § 408c authorizes the Secretary to lease specific lands within the park for uses deemed not inconsistent with park purposes to persons, educational and religious institutions, private corporations, associations and partnerships previously occupying such land.

36. Jefferson National Expansion Memorial – 16 U.S.C. § 450jj-5 authorizes the Secretary to enter into agreements with State and local government agencies and the private sector for the management and development of the memorial consistent with the management plan.

37. Keweenaw National Historical Park – 16 U.S.C. § 410yy-3(a) authorizes the Secretary to acquire lands or interest in lands within park boundaries by donation, purchase with donated or appropriated funds, exchange or transfer.

38. Keweenaw National Historical Park – 16 U.S.C. § 410yy-6 authorizes the Secretary to enter into cooperative agreements with the owners of property within the park to provide interpretation, public access, and minor improvements to properties with nationally significant historic or cultural resources.

39. Keweenaw National Historical Park – 16 U.S.C. § 410yy-7(a) authorizes the Secretary to provide financial and technical assistance under cooperative agreements and grants with owners of property within the park containing nationally significant historic or cultural resources provided that certain public access requirements are met for interpretation purposes.

40. Keweenaw National Historical Park – 16 U.S.C. § 410yy-7(b) authorizes the Secretary to provide funding on a matching basis and to accept from non-Federal sources any monies so contributed. Donations of land or interests in land by the State of Michigan qualify for matching funds.

41. Keweenaw National Historical Park – 16 U.S.C. § 410yy-8 authorizes the establishment of the Keweenaw National Historical Park Advisory Commission to advise and assist the Secretary in policy direction for the park and to solicit, accept and dispose of gifts, bequests, money, personal property from any source, to acquire real property by donation or bequest or to purchase real property with donated funds.

42. Ohio & Erie Canal National Heritage Corridor – Ohio & Erie Canal National Heritage Corridor Act of 1996, 16 U.S.C. § 461 note, 110 Stat. 4267, 4274, Pub. L. 104-333, Division II, Title VIII, § 809(c) authorizes the Superintendent of the Cuyahoga Valley National Park to provide operational assistance to public and private organization within the corridor and to enter into cooperative agreements for implementing this assistance.

43. Ozark National Scenic Riverways – 16 U.S.C. § 460m-4(a) authorizes the Secretary to cooperate with the State of Missouri, its political subdivision, and other Federal agencies and organizations to develop comprehensive land use and development plans and preservation plans for the riverways and the related watershed of the Current and Jacks Fork Rivers in Missouri. The act also authorizes the Secretary to enter into agreements to implement the plans.

44. Ozark National Scenic Riverways – 16 U.S.C. § 460m-6 requires the Secretary to enter into an agreement with the Missouri Wild Horse League or a qualified nonprofit entity for cost-

effective management of free-roaming horses. The act also requires the Secretary to issue permits for adequate pastures to accommodate historic population levels of the herd.

45. Perry's Victory International Peace Memorial – 16 U.S.C. § 433(c) authorizes the Secretary to accept donations of land buildings structures and other property and donations of funds for purchase and maintenance of such property.

46. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-3(e) directs the Secretary to consult with the Pictured Rocks National Lakeshore Advisory Commission on matters relating to the development of the lakeshore.

47. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-4 directs the Secretary to permit hunting and fishing in the lakeshore and authorizes the Secretary, in consultation with the Michigan Department of Conservation, to set certain limits on such uses.

48. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-7(a) authorizes the Secretary to acquire land, water, and other property, and improvements thereon and interests therein, within the lakeshore, and may do so by donation, purchase with donated or appropriated funds, transfer from any Federal agency, or exchange.

49. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-7(c) authorizes the Secretary to acquire lands owned by the State of Michigan or political subdivision only by donation. With the concurrence of the Federal agency having custody of property within the lakeshore, the property may be transferred to Secretary for administration without payment of compensation.

50. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-7(f) authorizes the Secretary to acquire title to lands in the lakeshore by exchanging federal properties under the Secretary's jurisdiction located elsewhere in the State of Michigan.

51. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-10(c) authorizes the Secretary to acquire lands with cottages and hunting lodges and leased for that purpose subject to the lease. Following expiration of such leases in accordance with the terms of the lease, the Secretary is authorized to continue to lease the cottage or hunting lodge to lessee(s) for an additional 25 years.

52. Pictured Rocks National Lakeshore – 16 U.S.C. § 460s-11 authorizes the Secretary when requested to assist townships or counties in or adjacent to the lakeshore in establishing zoning bylaws including payments for technical aid.

53. Sleeping Bear Dunes National Lakeshore – 16 U.S.C. § 460x(b) requires the Secretary to place substantial reliance on cooperation among Federal, State and local governments to apply land use planning and zoning.

54. Sleeping Bear Dunes National Lakeshore – 16 U.S.C. § 460x-7(a) authorizes the Secretary to acquire lands by a variety of means, including donation, purchase with donated or appropriated funds, transfers or exchange of lands.

55. Theodore Roosevelt National Park – 16 U.S.C. § 243 authorizes the Secretary to exchange lands in the adjacent recreational demonstration project for title to lands privately owned or State owned lands within the park.

56. Voyageurs National Park – 16 U.S.C. § 160a-1(1)(E) and 160a-1(2) authorizes Secretary to delete from the park boundaries and convey 1,000 acres of land to the State of Minnesota upon the execution of an agreement whose terms are intended to preserve the natural resources of Black's Bay.

57. Voyageurs National Park – 16 U.S.C. § 160b authorizes the Secretary to acquire lands within the boundaries of the park by donation, by purchase with donated or appropriated funds or by exchange.

58. Voyageurs National Park – 16 U.S.C. § 160c authorizes the Secretary to recognize use and occupancy by former owners of “improved” residential property and lessees of State property conveyed to the United States.

59. Wind Cave National Park – 16 U.S.C. § 141c(a) authorizes the Secretary to sell or dispose of surplus buffalo and elk from the park in accordance with prescribed regulations.

F. PACIFIC SOUTHWEST REGION (not including general land acquisition & boundary revision authority)

1. Channel Islands National Park – 16 U.S.C. § 410ff-7 authorizes the Secretary to expend Federal funds for the cooperative management of The Nature Conservancy property and other private property for research, resources management, and visitor protection and use.

2. Golden Gate National Recreation Area – Pub. L. 108-7, Division F, Title II, Section 114 (February 20, 2003), 117 Stat. 239, 16 U.S.C. § 460bb-3, note authorizes the Secretary to enter into agreements and leases for property within Fort Baker, to retain the proceeds of such agreements or leases or any statutorily authorized fees, and to expend such proceeds for the preservation, restoration, operation, maintenance, interpretation, public programs and related expenses of the National Park Service and nonprofit park partners incurred with respect to the Fort Baker properties. **Pub. L. 106-291, Title I, Section 140, 114 Stat. 949** authorizes the National Park Service to authorize, through cooperative agreement, the Golden Gate National Parks Association to provide fee-based education, interpretive and visitor service functions within the Crissy Field and Fort Point areas of the Presidio.

3. Great Basin National Park – 16 U.S.C. § 410mm-1(I) authorizes the Secretary to enter into cooperative agreements with Federal, State and local public departments and agencies providing for the interpretation of the Great Basin physiographic region.

4. Kalaupapa National Historical Park – 16 U.S.C. § 410jj-4(b)(2) authorizes the Secretary to enter into cooperative agreements with the owners of property within the park pursuant to which the NPS may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural, and cultural significance.

5. Redwood National Park – 16 U.S.C. § 79c(e) authorizes the Secretary to enter into contracts and cooperative agreements with the owners of land on the periphery of the park and on watersheds tributary to streams within the park designed to assure that the consequences of forestry management, timbering, land use, and soil conservation practices conducted thereon, or of the lack of such practices, will not adversely affect the timber, soil, and streams within the park.

6. Rosie the Riveter/ World War II Home Front National Historical Park – 16 U.S.C. § 410ggg -1(b) - authorizes the Secretary to enter into cooperative agreements with the owners of the World War II Child Development Centers and the Kaiser-Permanente Field Hospital, among others, pursuant to which the Secretary may mark, interpret, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. This statute also authorizes the Secretary to enter into cooperative agreements with interested persons for the interpretation and preservation of, among others, the Ford Assembly Building, the Richmond Shipyard dry docks, the vessel S.S. RED OAK VICTOR, and the Whirley Cranes associated with World War II shipbuilding in Richmond, California.

7. Santa Monica Mountains National Recreation Area – 16 U.S.C. § 460kk-(j) authorizes the Secretary to enter into cooperative agreements with the State of California and its political subdivisions for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire prevention agencies.

G. PACIFIC NORTHWEST REGION (not including general land acquisition & boundary revision authority)

1. Elwha River Restoration Project - Pub. L. 102-495 provides for restoration of native fish populations through removal of Elwha and Glines Canyon Dams near Olympic National Park, Washington. Mitigation measures designed to protect downstream residents and waterusers from the impacts of dam removal will be constructed prior to dam removal. Secretarial Order No. 3212, dated February 29, 2000, delegated implementation responsibilities to the Park Service and directed BOR to assist NPS in carrying out the terms of the law. Additional Federal support has been provided by the U.S. Army Corps of Engineers and the USGS under interagency agreements authorized by the Economy Act. Relationships / partnerships have been formed with the Lower

Elwha Klallam Tribe, the City of Port Angeles, Dry Creek Water Association, Elwha Place Homeowners Association, and others to identify and implement necessary mitigation measures.

2. Mount Rainier National Park – 16 U.S.C. § 110c(c)(3) authorizes the Secretary to acquire from willing sellers by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise all non-Federal lands, waters, and interests therein included within the boundary of the Mount Rainier National Park pursuant to this act.

3. Nez Perce National Historical Park – 16 U.S.C. § 281b authorizes the Secretary, with certain provisos, to acquire by donation or with donated funds any lands, interests in land, and other property that will further the purpose of the act. The act also authorizes the use appropriated funds for such acquisitions when required for the administration of the park.

4. Nez Perce National Historical Park –(16 U.S.C. § 281c(a)): The Secretary may cooperate with the Nez Perce Tribe or the administering agency, in researching and interpreting the significance of any site designated for inclusion in the park, in providing desirable interpretive services and facilities and other facilities required for public access to and use and enjoyment of the site, and in conserving the scenic and other resources of the site.

5. Nez Perce National Historical Park – 16 U.S.C. § 281c(b) authorizes the Secretary to enter into cooperative agreements with the owners of property that, under the provisions of the act, may be designated for inclusion in the park as sites in non-Federal ownership, and may assist in the preservation, renewal, and interpretation of the properties, provided the cooperative agreements shall contain, but not be limited to, provisions ensuring that: (1) the Secretary has right of access at all reasonable times to all public portions of the property for the purpose of conducting visitors through the property and interpreting it to the public, and (2) no changes or alterations shall be made in the properties, including buildings and grounds, without the written consent of the Secretary.

6. Nez Perce National Historical Park – 16 U.S.C. § 281e(a) authorizes the Secretary, in carrying out the purpose of the act, to enter into contracts and cooperative agreements with the States of Idaho, Oregon, Washington, Montana, Wyoming, their political subdivisions or agencies, corporations, associations, the Nez Perce Tribe, or individuals, to protect, preserve, maintain, or operate any site, object, or property included within the park, regardless of whether title thereto is in the United States. However, no contract or cooperative agreement for these purposes shall be made or entered into that will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

7. North Cascades National Park – 16 U.S.C. § 90b(a) authorizes the Secretary to acquire lands, waters, and interests therein, within the boundaries of the park and recreation areas, and to acquire them by donation, purchase with donated or appropriated funds, or exchange with the consent of the owner, and provided that the lands are devoted to uses compatible with the purposes of this act.

8. Olympic National Park – 16 U.S.C. § 251i directs the Secretary to acquire in fee all other privately owned lands added to the park by and pursuant to this act, and to acquire within three years of adoption of this act as much of such lands as can be acquired by donation, exchange, or purchase, to the extent of available funds.

9. Olympic National Park – 16 U.S.C. § 251k authorizes the Secretary, in order to minimize economic dislocation in acquiring property within the park, to acquire from willing sellers any lands and interests in lands that are outside the boundaries of the park, but within the State of Washington. With the concurrence of the Secretary of Agriculture, the Secretary may use certain lands and interests within a national forest in the State of Washington for specified property exchanges in order to acquire property within the park.

10. San Juan Island National Historical Park – 16 U.S.C. § 282 authorizes the Secretary to acquire on behalf of the United States by donation, purchase with donated or appropriated funds, or by exchange, lands, interests in lands, and such other property on San Juan Island, Puget Sound, State of Washington, as the Secretary may deem necessary for the purpose of interpreting and preserving the sites of the American and English camps on the island, and of commemorating the historic events that occurred from 1853 to 1871 on the island in connection with the final settlement of the Oregon Territory boundary dispute, including the so-called Pig War of 1859. Lands or interests therein owned by the State of Washington or a political subdivision thereof may be acquired only by donation.

11. San Juan Island National Historical Park – 16 U.S.C. § 282b authorizes the Secretary to enter into cooperative agreements with the State of Washington, political subdivisions thereof, corporations, associations, or individuals, for the preservation of nationally significant historic sites and structures and for the interpretation of significant events that occurred on San Juan Island, in Puget Sound, and on the nearby mainland.

OFFICE OF SURFACE MINING

The following list summarizes and paraphrases authorities that may be useful to the Office of Surface Mining Reclamation and Enforcement (OSM) in forming partnership arrangements with the public and private sector. Should a particular authority appear helpful, the reader should review the actual text of the statute to ensure that no additional limitations or qualifications exist that may affect OSM's ability to use the authority. Also, Part D begins with a list of Department-level and government-wide partnership authorities that should be consulted.

The Solicitors Office can help the agency determine the most appropriate way to use these authorities to accomplish its partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals.

Various sections of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. § 1201 *et seq.*, authorize OSM to enter into cooperative and partnership arrangements with non-Federal entities. Such authorities include:

- A. GENERAL SMCRA AUTHORITIES (§ 201(c) of SMCRA, 30 U.S.C. § 1211(c)):**
This section of SMCRA sets forth a series of general authorities relating to cooperation with State and local entities. Under such authority, OSM is authorized to do the following:
1. Administer the State grant-in-aid program for the development of State regulatory programs under SMCRA (§ 201(c)(3)).
 2. Administer a program for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to title IV of SMCRA (§ 201(c)(4)).
 3. Administer the surface mining and reclamation research and demonstration project authority (§ 201(c)(5)).
 4. Assist States, local governments, and other eligible agencies in the coordination and development of programs related to the control and reclamation of surface mining operations (§§ 201(c)(6) and (9)).
 5. Develop and maintain an Information and Data Center on Surface Coal Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and the Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations (§ 201(c)(8)).

6. Assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of surface coal mining (§ 201(c)(10)).
7. Cooperate with State regulatory authorities to minimize duplication of inspections, enforcement, and administration of SMCRA (§ 201(c)(12)).

B. SPECIFIC SMCRA AUTHORITIES

1. **Grants and Agreements Related to Regulation of Surface Coal Mining Operations (§§ 101(f), 503, 523, and 705 of SMCRA, 30 U.S.C. §§ 1201, 1253, 1273, and 1295):** Under SMCRA, States may assume primary responsibility for the regulation of surface coal mining operations following Secretarial approval of a State regulatory program that meets minimum Federal standards for non-Federal lands, and, if they enter into a cooperative agreement, for Federal lands. States may receive grants reimbursing them for up to 50 percent of the costs of administering State regulatory programs on non-Federal lands. States also may receive 100 percent reimbursement for the cost of regulating coal mining on Federal lands pursuant to a cooperative agreement.
2. **State Assistance for Training and Inventories (§ 705(b) of SMCRA (30 U.S.C. § 1295(b)):** OSM is authorized to cooperate with and provide assistance to any State, for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance includes (1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and (2) assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. OSM may also fund certain aspects of the Interstate Mining Compact Commission, an organization of State regulatory authorities, to assist them in improving the quality of their regulatory programs.
3. **Reclamation of Abandoned Mine Lands and Waters (§§ 401(c)(1), (c)(8), and (c)(9), 402(g), 403, and 405 of SMCRA, 30 U.S.C. §§ 1231(c), 1232, and 1235):** SMCRA authorizes OSM to expend funds from the Abandoned Mine Reclamation Fund for the reclamation and restoration of land and water resources adversely affected by past coal mining. OSM may award grants to States and Indian tribes to reclaim abandoned mine lands left in an inadequately reclaimed condition prior to the adoption of SMCRA. These grants also may include projects such as establishment of subsidence insurance programs or construction or extension of public water systems to coalfield residents adversely impacted by mining.
4. **Cooperative Projects (30 U.S.C. § 1242(b)):** Section 413(b) of SMCRA authorizes OSM to engage in cooperative projects with any State for carrying out the purposes of abandoned mine reclamation.

5. **Studies, Research, and Demonstration (§§ 401(c)(6) and 721 of SMCRA, 30 U.S.C. §§ 1231(c)(6) and 1309(b)):** Section 721 of SMCRA authorizes OSM to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, SMCRA and to provide technical assistance to states for that purpose. Section 401(c)(6) of SMCRA authorizes OSM to expend monies from the Abandoned Mine Reclamation Fund for studies by the Department of the Interior to such extent or in such amounts as are provided in appropriation acts. OSM may expend such monies with public and private organizations to provide information, advice, and technical assistance, including abandoned mine land reclamation research and demonstration projects conducted in accordance with § 3501 of the Omnibus Budget Reconciliation Act of 1986.
6. **Research and Demonstration Projects of Alternative Coal Mining Technologies (§ 908 of SMCRA, 30 U.S.C. § 1328):** SMCRA section 908 authorizes the Secretary to enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons for the purpose of promoting the development and application of alternative coal mining technologies.
7. **Grants to Indian Tribes (30 U.S.C. § 1300(I)):** Section 710(I) of SMCRA, authorizes OSM to make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing programs for regulating surface coal mining and reclamation operations on Indian lands. Such grants are to be used to establish an office of surface mining regulation for each such tribe. Among other things, each such office shall assist OSM in the inspection and enforcement of surface mining activities on Indian lands; and sponsor employment training and education in the area of mining and mineral resources.
8. **Gift Authority (30 U.S.C. § 1231(b)(3)):** SMCRA authorizes OSM to accept donations for carrying out the purposes of the Abandoned Mine Reclamation Fund.

ALASKA AUTHORITIES

Bureaus operating in the State of Alaska are subject to several statutes that specifically apply only in Alaska. This section is designed to highlight some of the authorities provided in these statutes that may support a bureau's partnership activities, for the use of bureaus and their employees operating in Alaska. Employees also should consult the section in this Part D of the Primer that discusses their bureau's legal authority, as well as the Department-level and Government-wide authorities listed in the beginning of Part D.

The Solicitors Office can help Alaska-based employees determine the most appropriate authorities to support their partnership goals. Consultation with the Solicitors Office early in the initial partnership planning and discussion stages will help facilitate effective and legally supportable achievement of their partnership goals.

- A. The Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. 96-487, 94 Stat. 2371, Dec. 2, 1980, as amended)** provides an array of authorities that may be cited to support partnership activities, including the following list.
- 1. ANILCA § 304(f):** This section authorizes the Secretary to enter into cooperative management agreements with any Native Corporation, the State, any political subdivision of the State or any other person owning or occupying land that is located within or adjacent or near to any national wildlife refuge in Alaska.
 - 2. ANILCA § 605(e):** This section authorizes the Secretary to seek cooperative agreements with the owners of non-public lands adjoining the wild and scenic rivers in Alaska to ensure that the purpose of designation is served.
 - 3. ANILCA § 809 (16 U.S.C. § 3119):** This section authorizes the Secretary to enter into cooperative agreements with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations to effectuate the purposes and policies of subsistence management and use of public lands in Alaska.
 - 4. ANILCA § 903(b) (43 U.S.C. § 1601 note):** This section authorizes the Secretary to acquire certain types of easements in lands conveyed under ANILCA or the Alaska Native Claims Settlement Act (ANCSA)(Pub. L. 92-203, 85 Stat. 688, Dec. 18, 1971), including by exchange. See also ANSCA § 22f regarding exchange authority.
 - 5. ANILCA § 907 (43 U.S.C. § 1636):** This section established the Alaska Land Bank Program. It authorizes agreements with private landowners and authorizes the Secretary to provide technical and other assistance with respect to fire control, trespass, planning, fish and wildlife management and more. *See also* 43 U.S.C. 1613; 1601 note; and 1620.

6. **ANILCA § 1010 (16 U.S.C. § 3150):** This section requires the Secretary of the Interior to assess the oil, gas, and other mineral potential of the public lands in Alaska. The Secretary is authorized to consult with and exchange information with Alaska and to contract with public or private entities.
7. **ANILCA § 1203 (16 U.S.C. § 3183):** This section provides for a comprehensive cooperative management plan agreed to by the State for the Bristol Bay Cooperative Region for several purposes including providing for land exchanges.
8. **ANILCA § 1302 (16 U.S.C. § 3192):** This section authorizes the Secretary to acquire by donation, exchange, purchase or otherwise lands within the boundaries of a conservation system unit other than National Forest Wilderness; and to acquire by donation or exchange lands which are contiguous to any conservation system unit established or expanded by ANILCA that are owned or validly selected by the State.
9. **ANILCA § 1306(b) (16 U.S.C. § 3196(b)):** This section authorizes the Secretary to lease or acquire by donation, exchange, purchase, or any other method (except condemnation) real property, office space, housing, and other necessary facilities for administrative sites and visitor facilities in Alaska.
10. **ANILCA § 1318 (16 U.S.C. § 3206):** This section authorizes the Secretary to provide advice, assistance and technical expertise to Alaska Native corporations and groups in the preservation, display and interpretation of cultural and archeological resources, including assistance in the design and operation of buildings, facilities and interpretive displays for the public, and training for individuals in the identification, recovery, preservation, demonstration and management of cultural resources.

B. Other

1. **Marine Mammal Cooperative Agreements (16 U.S.C. § 1388):** This law authorizes the Secretary to enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide for co-management of subsistence uses by Alaska Natives.

AUTHORITIES FACILITATING INTERNATIONAL PARTNERSHIPS

The Department of the Interior may conduct international activities under the authority of Federal laws and treaties that apply to all Federal agency international activities. Many of these general authorities are set forth in the following list. Where delegation of authority has been reserved to the Secretary, no bureau may utilize such authority without an express delegation of that specific authority to the bureau. However, bureaus may have the authority to participate in scientific and technical exchanges and other cooperative projects with other countries, provided that such activities directly serve the bureaus' domestic missions or are authorized under specific statutory mandates (some of which are included in the agency-specific portions of this Part). The Office of Policy Analysis, International Affairs, and the Solicitors Office can help the bureau determine the application of, and the most appropriate way to use, these authorities to accomplish its partnership goals. Consultation early in the initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals.

- 1. Furnishing of Services and Commodities to Other Nations, Use of Foreign Currencies, Detailing and Assignment of Personnel, USAID Payment to US Agencies, Reimbursable Funding (22 U.S.C. § 2357, Pub. L. 87-195):** Section 2357 (section 607a) of the Foreign Assistance Act authorizes any U.S. agency, upon approval of the Agency for International Development (USAID), to furnish services to friendly countries, international organizations, and voluntary organizations, on an advance of funds or reimbursable basis. This allows agencies to contract with non-U.S. Government officials to perform such services. Upon approval of USAID, various sections of that Act authorize the use of excess foreign currency to carry out U.S. operations abroad; the assignment of U.S. Government employees to perform functions outside the U.S.; the detail of any agency employee to a position in a foreign government; the assignment of government employees to any international organization to render technical, scientific or professional advice; USAID payment to any U.S. agency to carry out assistance to a foreign country or international organization for procurement of commodities or services; and reimbursable funding by the Trade and Development Program to U.S. agencies to promote U.S. exports for major development projects in friendly countries.
- 2. International Participation in Scientific, Technical, and Cultural Activities (22 U.S.C. §§ 2452-2460):** Sections of the State Department's Mutual Education and Cultural Exchange Program authorize U.S. representation at international non-governmental scientific and technical meetings, permit U.S. Government agencies to accept foreign nationals for training or other meetings in and out of the U.S.; permit interchanges with other countries of scientists and experts in environmental science and management with approval of the State Department; encourage contributions of funds by foreign governments, international organizations and private individuals and organizations; authorize government agencies and employees to accept funds from foreign governments for activities determined by the State Department to be in the interest of the U.S.; and

authorize the State Department to offer grants and contracts for transportation and subsistence for educational and/or cultural exchanges.

- 3. Collection, Evaluation and Analysis of Information Concerning Mineral Occurrence, Production, and Use (30 U.S.C. §§ 1601-1604):** These provisions emphasize the USGS's responsibility to assess the mineral resources of the Nation. The provisions also require the President to coordinate departments' and agencies' promotion of cooperative research and development programs with other nations for the equitable and frugal use of materials and energy; promotion and encouragement of private enterprise in the development of economically sound and stable domestic materials industries; and facilitation of the availability and development of domestic resources to meet critical materials needs.
- 4. International Environmental Cooperation (42 U.S.C. § 4332(2)(F)):** The National Environmental Policy Act authorizes Federal agencies to lend appropriate support to programs that maximize international cooperation in preventing a decline in the quality of the world environment, when consistent with U.S. foreign policy.
- 5. Assignment of Government Employees to Requesting Countries, Use of Facilities and Personnel of Other Governments, and Provision of Technical and Other Services to Foreign Governments (22 U.S.C. §§ 1451, 1456 and 1457):** The United States Information and Educational Exchange Act authorizes the State Department to assign for service, at a foreign government's request, U.S. Government employees who have special scientific and technical qualifications; the State Department to use services, facilities and personnel of other government agencies on a reimbursable basis; and a government agency to perform technical or other services for the government of another country upon terms satisfactory to the USIA and the head of the government agency.
- 6. Detail of Personnel to International Organizations (5 U.S.C. § 3343, Pub. L. 85-795):** The Federal Employees International Organization Service Act authorizes the head of an agency to detail an employee to an international organization. Details may be made without reimbursement or may be paid or reimbursed by an international organization for expense incurred.
- 7. Gifts and Decorations from Foreign Governments (5 U.S.C. § 7342, Pub. L. 95-105):** The Foreign Gifts and Decorations Act permits a U.S. government official to accept transportation, subsistence, and/or lodging from a foreign government or international organization if such acceptance is appropriate and consistent with U.S. interests. This limited gift acceptance authority does not permit acceptance of travel expenses to or from the U.S. Gift acceptance is subject to approval by the Assistant Secretary - Policy, Management and Budget as in the Department's best interests.

8. **Acceptance of Payment from a Non-Federal Source (31 U.S.C. § 1353):** This law authorizes a federal agency to accept funds from a foreign government, international or multinational organization for meetings, training or similar functions.
9. **Migratory Bird Work in Mexico and Canada (16 U.S.C. §§ 4401-4412):** The North American Wetlands Conservation Act authorizes migratory bird work in Mexico and Canada and provides funding and administrative direction for implementation of the North American Waterfowl Management Plan and the Tripartite Agreement on wetlands between Canada, the U.S. and Mexico.
10. **Cooperation and Partnership with Other Nations (16 U.S.C. § 470-1-2):** The National Historic Preservation Act includes specific reference to international conservation treaties such as the World Heritage Convention and establishes a policy of cooperation and partnership with other nations, as well as with domestic entities.
12. **International Cooperation for the Conservation of Fish or Wildlife and Plants Including Endangered Species and Threatened Species (16 U.S.C. §§ 1531-1538):** Among its purposes, the Endangered Species Act is intended to conserve the ecosystems upon which endangered and threatened species depend, and to conserve and recover listed species, pursuant to numerous international treaties. Section 1537 encourages international cooperation for the conservation of fish or wildlife and plants, including endangered species and threatened species and provides for the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation. That section also authorizes the Secretary of Interior, after consultation with the Secretary of State, to (1) assign or otherwise make available any officer or employee of his or her department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of fish or wildlife or plants, and (2) conduct or provide financial assistance for the educational training of foreign personnel, in his country or abroad, in fish, wildlife, or plant management, research and law enforcement and to render professional assistance abroad in such matters.
13. **Assistance to Preserve Biological Diversity (22 U.S.C. § 2151q):** To preserve biological diversity, Section 302 of the Special Foreign Assistance Act of 1986 authorizes assistance to other countries to protect and maintain wildlife habitat and to develop sound wildlife management and plant conservation programs. The statute authorizes the USAID Administrator to engage in a series of cooperative activities with foreign nations to conserve biological diversity, in cooperation with and support by other U.S. agencies, including the U.S. Fish and Wildlife Service and the National Park Service. Such activities include information exchanges, training and education, and long-term agreements under which the host country would protect ecosystems or other wildlife habitats recommended by a U.S. Federal agency.

- 14. Wildfire Suppression Assistance (42 U.S.C. § 1856):** The Wildfire Suppression Assistance Act authorizes the Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, to enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.
- 15. Convention on International Trade in Endangered Species of Wild Fauna and Flora:** Known as CITES (established in 1973), this convention establishes a system for regulating the international trade in wildlife species that are or may be in danger of becoming extinct as a result of that trade. Implementing legislation can be found in the Endangered Species Act of 1973 (16 U.S.C. § 1531-1538).
- 16. Convention on Wetlands of International Importance:** Known as the Ramsar Convention (1976), this convention seeks to preserve wetlands nominated by member countries based on their international significance, especially as migratory bird habitats. Everglades National Park was designated in 1988 and there currently are 17 Ramsar designated sites in the U.S. Implementing legislation may be found in the National Historic Preservation Act.
- 17. Protocol on Specially Protected Areas and Wildlife in the Wider Caribbean Region of 1990:** This protocol provides a mechanism for strengthened marine, related terrestrial, and/or cultural cooperation between State Parties and the private sector to enhance resource management effectiveness within the Wider Caribbean Region. This includes the coastal Atlantic nations from the southeast U.S. to Venezuela and the island nations party to the Cartagena Convention.
- 18. Convention to Combat Desertification:** Ratified by the U.S. in 2000, this Convention is intended to combat desertification and mitigate the effects of drought in arid, semi-arid, and dry sub-humid lands through effective action at all levels. In particular, the Convention addresses the fundamental causes of famine and food insecurity in Africa, by stimulating more effective partnership between governments, local communities, non-governmental organizations, and aid donors, and by encouraging the dissemination of information derived from new technology (e.g., early warning of impending drought) to farmers.

CRIMINAL & CIVIL ACTIONS WITH PARTNERSHIP IMPLICATIONS

The Department of Interior has wide-ranging affirmative criminal and civil enforcement responsibilities. These enforcement actions may afford opportunities not only to correct malfeasance but also to foster partnership. However, such partnership opportunities must be examined carefully by the Solicitors Office in concert with the Department of Justice, so that ethical and legal guidelines regarding criminal settlements are followed. In the context of criminal settlements, agreements will be governed by Department of Justice policy regarding supplemental sentencing, which provides, for example, that certain agreements may be concluded as a condition on a sentence of probation under 18 U.S.C. § 3566. Such agreements must be reviewed carefully by the Department of Justice. Even in a context where a criminal case is not already in court, agreements must be examined carefully and submitted for legal review. The fact that an opportunity for partnership with an offender exists should not keep the Department from appropriately exercising its discretion regarding affirmative enforcement.

A TRILOGY OF SUCCESSFUL PARTNERSHIPS

A. Santa Monica Mountains National Recreation Area

A partnership among communities and governments in conservation of the nation's largest urban national park

When Congress established the Santa Monica Mountains National Recreation Area (the Park or Recreation Area) in 1978, it envisioned something bold and unique: the nation's largest urban national park serving a diverse southern California population with outdoor recreation and other public health benefits. Congress directed the Secretary to manage the Recreation Area to preserve and enhance its public health value as an airshed for the southern California metropolitan area, while providing for the recreational and education needs of the visiting public. Congress also envisioned a collaborative management approach involving a complex array of private landowners and over 70 governmental agencies and advocacy organizations working together to serve the public. For example, Congress directed the Secretary fully consider the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission in establishing the Recreation Area..

Lands in a variety of ownerships are woven together within the Recreation Area boundary, with private property comprising 51 percent of lands within the boundary. The balance of land consists of parks managed by the State of California (24 percent), the National Park Service ("NPS") (15 percent), and local government and private organizations (10 percent).

As the primary organization with jurisdiction over the Park, the NPS is a catalyst for partnerships. The NPS works with an array of municipalities, community organizations and private property owners to preserve scenery and quality of life values in the Park. For example, private individuals living within the Park have proven themselves to be strong advocates and stewards of the parks. They are actively involved in volunteer efforts to care for park facilities and educate the public on the significance of park resources. Over 250 homeowner associations also work actively with the NPS in these efforts. Among the new programs being implemented is a "Neighborhood Stewardship" program. Modeled after the successful "Neighborhood Watch" program, this community-based effort utilizes local knowledge and proximity of neighborhoods to care for the Recreation Area.

The NPS has made a significant investment in volunteer programs to care for the Park. A full-time volunteer coordinator works to match volunteers with meaningful stewardship work. The coordinator trains a cadre of volunteer work-leaders to help recruit, train, and lead other volunteers, thereby extending services to the public with minimal paid staff involvement. Each year, over 1,100 repeat volunteers help the Park provide a wide range of public services in the Santa Monica Mountains. Examples of programs managed by volunteer work leaders include nature walks and docent programs, volunteer trail maintenance programs, invasive weed

abatement programs (volunteers known as “weed warriors”), habitat restoration programs, and mountain bike and horseback volunteer patrol programs.

The Park also works actively with public schools throughout southern California involving students in park programs to manage and restore natural and historical resources. Through these educational partnerships, students provide valuable services to the public while enhancing their understanding of environmental sciences.

In addition to partnerships with communities, schools, and land owners, the NPS has established a Cooperative Management Agreement with the California Department of Parks and Recreation and the Santa Monica Mountains Conservancy (both State of California agencies) to achieve operational efficiencies through joint management of parklands in the national recreation area. The agencies have instituted a seamless network of services to the public, including joint law enforcement patrol of parkland, joint education programs (such as campfire programs), joint fire management programs, and joint management of visitor facilities. The agencies also share technical and scientific resources, including inventory and monitoring of plant and animal species, mapping and geographic data management, and planning and architectural design. In addition, the agencies have developed a joint land protection plan to coordinate efforts to protect critical parklands. The State of California has invested over \$265 million in parkland acquisition within the Recreation Area boundary since 1978, while the National Park Service has invested over \$164 million during the same period. Through cooperative efforts conducted under the goals of the Cooperative Management Agreement the agencies achieved over \$800,000 in operational savings in federal fiscal year 2003. These savings allow the agencies to extend additional services to the public to meet an ever-growing demand.

A final area of partnership activity involves local regulation of private land uses within the Recreation Area. The NPS does not regulate private land development within the Recreation Area. This authority is held at the local level by State, county, and municipal jurisdictions. However, the NPS works collaboratively with these jurisdictions to ensure that park and community values are protected. Examples of collaborative efforts include development of watershed management plans, coastal protection plans, historic preservation plans, and county and municipal general plans and zoning ordinances. Through these collaborations, the NPS is able to offer technical assistance on management of natural and historical resources, scenery, and outdoor recreation and other public health programs.

For further information about the Santa Monica Mountains National Recreation Area, please visit the virtual visitor information center at www.nps.gov/samo.

B. LOWELL NATIONAL HISTORICAL PARK

This section describes many of the partnership initiatives of the Lowell National Historical Park (LNHP or the Park) over the past 25 years. Partnering with community organizations, city government and the private sector is a major part of the culture of LNHP’s

operations. Congress originally envisioned the Park as being operated with substantial local involvement, as is evidenced by the establishment of the Lowell Historic Preservation Commission (LHPC). The commission existed from 1978 to 1995 and was composed primarily of local interests. The descriptions below are not exhaustive, but are indicative of a broad spectrum of partnerships that have occurred in several key areas: economic development, canalway development, the trolley system, cultural programs and university relations. Further details regarding these areas can be found at <http://www.nps.gov/lowe> or will be provided by the Park upon request.

Economic Development Partnerships

The LNHP has played an integral role in the City of Lowell's (the City) economic development program over the past 25 years, guiding the rehabilitation and reuse of over 350 historic buildings. An important part of that process was the creation of a Preservation Plan in 1979 by the LHPC. The Preservation Plan set the vision for the redevelopment of the downtown and preservation district and provided a conceptual framework for the City's Downtown Master Plan. The development that has occurred over the past quarter of a century has adhered remarkably well to those original concepts, particularly the theme of reusing existing historic structures.

For years the LHPC and the LNHP consistently advocated for reuse of key buildings, opposed inappropriate actions such as demolitions, participated in the City's design control program and assisted in providing incentive financing to assure the highest quality of rehabilitation for nationally-significant historic structures in the LNHP and LNHP's Preservation District. In addition, in 1983, the State legislature created the Lowell Historic Board, a design review agency that based its design reviews on LNHP's design standards. This Board was given stronger powers and more independence than others established in the State.

The LHPC had grant and loan-making authority. A total of \$5.4 million in appropriations generated \$51 million in private investment to rehabilitate 63 eligible structures. The LHPC partnered with the non-profit Lowell Development and Financial Corporation (LDFC) which still administers the loan program. The LDFC partners with the LNHP to target redevelopment of historic structures whose owners have resisted redevelopment.

The LNHP continues to be involved in City planning efforts that overlap the LNHP's Preservation District. The LNHP has been a major participant in three City master plans over the past five years. All three of the plans adopted a preservation-oriented approach to assure that historic resources are given important weight. The Park's staff also has served on development committees for the Cambodian American League, the Cambodian Mutual Assistance Association and the Coalition for a Better Acre (primarily having an Hispanic constituency) to provide technical assistance on preservation projects undertaken by each of these organizations.

In 2002, the National Trust for Historic Preservation awarded its prestigious National Honor Award to the Park and the City for 25 years of partnerships in preservation-based

economic development. This followed a 1998 award from Historic Massachusetts, Inc. for visionary leadership in community preservation. Congressman Meehan on the occasion of the LNHP's Anniversary noted that "the Lowell Park's contribution to the area's economic development has been immeasurable. . . ."

By working with the City, the LNHP has assured that over \$170 million in projects either planned or underway in the Lowell Park and Preservation District, are achieving the highest quality of preservation work. Remarkably, these projects have not engendered any public controversy and all are progressing rapidly.

Canalway Development Partnerships

In 1985 an informal group representing various public and private entities addressed a common concern: enhancement of the Lowell Canal System and waterways. The existence of the canal system was a basis for the creation of the LNHP, but there was no comprehensive strategy to preserve and enhance the system. Lowell's canals are a well-documented historical resource, but the public could not take full advantage of them without improved access. Many of Lowell's important development sites had one thing in common, a canal or riverfront location. Yet, no single entity had canal enhancement as its purpose. Resources to stimulate appropriate development existed, but planning for the use of these funds was fragmented. Recognizing that resources would be much better utilized if planning were coordinated, State, and National Park Service representatives, City officials, the canal owners, and private developers prepared the Canalway Plan to present a unified vision of the system as an amenity.

The LNHP and the LHPC assumed the primary job of managing the successful preservation and development of the Canalway and Riverwalk, although this task required a high level of coordination and financial commitment at all levels of government and the private sector and an ongoing dialogue with residents and community groups. The City's private economic development agency played a significant role in the Canalway development, funding design costs for demonstration projects in critical locations.

The Lowell Historic Board also has been a participant in the Canalway effort by ensuring that development of adjacent properties is consistent with the unique historic environment, and preserving a twenty-foot right-of-way along the canals. The Massachusetts Department of Environmental Management (DEM) also has played a key role. DEM acquired much of the right-of-way along the Canalway, as well as the recreational and air rights to the canal system, and has provided significant funding for other Canalway projects.

Funding for the Canalway and Riverwalk has come largely from Federal, State, and local governments. Reauthorization of the LHPC in 1987 made Department of the Interior (Department) appropriations available to provide early development funds. To date, such funds account for \$15 million of the total \$37 million in development costs. Recently, in the absence of Departmental funds, the NPS has sought funding through the Federal Highway Administration Public Lands Highway (PLH) Discretionary Program and the Massachusetts Highway Department Enhancement Program. Nearly \$11 million in PLH discretionary project funds have

been awarded to the NPS and the City for Canalway and Riverwalk development since 1995. Enhancement funds total almost \$1 million. DEM contributed \$1.3 million for Canalway right-of-way acquisition and \$7.3 million to support development of the Eastern Canal Park, Mack Plaza/Victorian Garden, and Lower Locks projects. The remaining project funds have come through various State and local sources. This multi-agency commitment has been essential to sustaining investor confidence in adjacent economic development projects. Public investment of \$37 million in the Canalway and Riverwalk over the past 15 years has resulted in \$338 million of private investment in adjacent properties. The goals of the Canalway Plan transcended the political and local community issues for a common purpose to create an enhanced quality of life that is respectful of current and past settings. This process serves as a model of interagency coordination, public-private partnership, and cooperation in development of urban waterways to serve multiple users.

Trolley Expansion/Museum Project Partnership

The NPS and a series of local area partners have embarked on development of a new light rail heritage transit system to serve the City's congested downtown urban core. The new transit system will build on the LNHP's existing Park Visitor Transportation System and provide direct public access to the commuter rail station, downtown commercial sites, and cultural and recreational attractions. In June 1999, the LNHP signed a Memorandum of Understanding (MOU) with the City, the Lowell Regional Transit Authority (LRTA), the Northern Middlesex Council of Governments, and the New England Electric Railway Historical Society. The objective of the MOU was to "undertake a joint effort to evaluate potential additions to the National Park Visitor Transportation System, the development of a downtown electric trolley system, and creation of a trolley museum in the City of Lowell."

The LNHP received \$198,000 in Federal Highway Administration funds provided through the NPS Alternative Modes program in FY 2002 to undertake a project feasibility study. The United States Department of Transportation's (DOT) Volpe Center conducted the study and concluded that the project is feasible. Congress appropriated \$856,620 through the Federal Land and Water Conservation Fund's FY 2002 budget for acquisition of the trolley system right-of-way. At the request of the Park, the City already has invested \$700,000 in the relocation of the Park's trolley line to improve the safety of the system.

On June 25, 2003, the Seashore Trolley Museum celebrated the official opening of its new museum in Lowell. The City provides the museum's current exhibit space near the Park Visitor Center free of charge. The LNHP played a key role in development of the exhibit which has been borrowed through a partnership with the National Building Museum. The Seashore Trolley Museum has loaned its historic New Orleans Car #966 to the LNHP. The NPS operates the car as part of its visitor transportation program with volunteer assistance provided by Seashore Trolley Museum members under the Volunteers in the Parks program.

The NPS, with its project partners, will continue to seek outside funding to support development of the expanded system. The University of Massachusetts-Lowell (the University) has expressed its support in facilitating the extension of the system to the Lawrence Mills and the University's residential campus. The City has made the trolley expansion project a recommended

action in its urban revitalization plans. The NPS and the City also have been working with the Lowell Public Schools, Middlesex Community College, and the University to develop an educational program through the DOT's Garrett Morgan Technology and Transportation Futures Program so that the skills needed to design, operate and maintain the proposed trolley system are developed. This ambitious partnership project sets the groundwork that will advance the vision of Park and community leaders in establishing Lowell as an important cultural, recreational, and educational center.

Cultural Partnership

LNHP has a long history of partnership with local cultural institutions to advance the programs of the Park. From its earliest years, LNHP partnered with the Regatta Festival Committee to coordinate local ethnic festivals that continued the immigrant traditions of the Greek, Irish and other communities that contributed to Lowell's milltown history. Likewise, the LHPC created a series of cooperative agreements to advance local cultural programs. For example, one cooperative agreement promoted the creation of an art education program and an art gallery known as A Brush With History. The gallery is located next to the LNHP's Visitor Center. The LHPC also had authority to make cultural grants. One such grant supported the efforts of the Merrimack Repertory Theater in writing and producing three plays with Lowell themes and subjects, including work in the textile mills, the immigrant cultures, and local legend, Jack Kerouac. The LHPC also played a role in attracting world class permanent public art installations to the Park. Working with art advocates and preservationists on the Lowell Public Art Committee, five major installations relating to mill girl, immigrant and industrial themes were made. LHPC funding was matched by private, City, State, and National Endowment for the Arts funds.

Working with the City and the Lowell Festival Foundation, the Park attracted the participation of the National Council for the Traditional Arts (NCTA) to bring the National Folk Festival to Lowell's Preservation District from 1986-1988. The presentation of this diverse program of ethnic music, crafts and food in this immigrant community was so successful that the community has kept NCTA involved with the Lowell Folk Festival. It is the largest free folk festival in the nation and it attracted nearly 250,000 visitors to the Park in 2003. The Festival Foundation raises over \$100,000 annually and provides nearly 1,000 volunteers. The University and the Festival Foundation also are partners with the LNHP in the annual Lowell Summer Music Series, which annually attracts as many as 27,000 visitors and produces as many as 28 summer concerts and children's shows. With financial support from over 100 local businesses, the Series has presented free and low-cost summer events for 14 years. The LNHP continues to participate in joint programming efforts in the community. NPS cooperates with the City and several non-profit organizations on the annual Safe Halloween Monster Bash, Winterfest, the Southeast Asian Water Festival and Kids Weeks during school vacations.

In cooperation with a committee of University and community representatives, the NPS hosts a series of programs each year which reach out to over three dozen ethnic communities, earlier generations of whom worked in the textile mills. Through exhibits, lectures, projects, performances and other special events, the Mogan Cultural Center, owned by NPS, has greatly expanded the Park's interaction with newer cultural groups. The Center also has collaborated

with labor organizations like United Teachers of Lowell, professional artist societies including the Brush With History Art Gallery and the Lowell Art Association, non-profit organizations like the Coalition for a Better Acre, environmental organizations like Lowell Parks and Conservation Trust, and youth groups like Spindle City Corps.

The community has built on the presence of the LNHP to attract museums, sports teams, an arts community and major festivals to the Preservation District. Among the museums that have located in and around the LNHP are the New England Quilt Museum, the American Textile History Museum, the Revolving Museum (contemporary art) and the National Streetcar Museum at Lowell (a project of the New England Street Railway Association). The LNHP has done joint programming with all of these. The National Trust for Historic Preservation designated Lowell as one of its first "Dozen Distinctive Destinations" in 2000. Members of Lowell's cultural community have participated in workshops, and an array of new joint initiatives are now in the planning stages.

University of Massachusetts-Lowell Partnerships

The University of Massachusetts-Lowell campus is located one mile from downtown Lowell. Since 1978, the University has been a major partner of the LNHP in a variety of undertakings.

The Tsongas Industrial History Center is a partnership of the LNHP and the University's Graduate School of Education, providing heritage education programs as many as 62,000 school children each year. The curriculum and exhibits were developed jointly by Park and University staff. The LNHP provides space for the Center in its Boott Cotton Mills Museum building. The University took the lead in grantwriting and fundraising to fund exhibits. Park and University staff work hand in hand on curriculum, outreach to schools, and teaching of school groups. This joint effort is one of the most successful NPS educational programs and has won a National Park Foundation Partnership Award as a model for effective heritage education.

The Center for Lowell History archives historic documents from Lowell's past, including writings by the mill girls and plans for the mills and canals. It contains an array of collections, including those of the B&M Railroad Historical Society and the papers of former United States Senator Paul Tsongas. The Center for Lowell History is part of the University's library system and is housed in the Mogan Cultural Center. The staff of the Center for Lowell History participates in exhibits and programs organized at the Mogan Cultural Center.

The Lowell Summer Music Series consists of 18 concerts and 10 children's shows at Boarding House Park each year. Upon termination of the LHPC, the LNHP took over this program. The University provides \$60,000 each year to the Series as one of the three presenting partners.

Lawrence Mills Redevelopment is a major development priority of the City, the LNHP and the University. The mill complex was acquired by the State for the University's campus expansion program. Shortly thereafter, there was a major fire that resulted in loss of half of the buildings in the complex. Working with the state legislative delegation, the University arranged

for the creation of a Lawrence Mills Reuse Task Force with City and LNHP representation. A master plan for the site was created. All 500,000 square feet of remaining buildings will be redeveloped under the University's plan. Design is now complete on a new \$19 million Graduate School of Education and a \$7 million park to be created in the millyard. Another building is slated to be reused as an Alumni House for campus fundraising events. The largest buildings have been transferred to a private development team for a \$30 million condominium project which will create 150 new housing units on this dramatic site. The LNHP and the City have participated in design review during the design phase. Construction on all projects is slated to begin in 2004.

Arena, Ballpark, and Riverwalk Development all have been joint projects of the University, the City and the LNHP. The University's involvement resulted in \$32 million in State funding toward a total development cost of \$75 million for these combined projects. The Park, through its federal lands designation, brought \$8.7 million of Federal Highway Administration Public Lands Highway funding for Riverwalk and Canalway improvements adjacent to the arena in the LNHP's Preservation District. Under an Intergovernmental Cooperation Personnel Agreement, the LNHP's Assistant Superintendent for Development served as project manager to coordinate the design and implementation of the joint projects from 1995 to 2000. University teams now use the ball park and hockey arena, as do the Red Sox Single-A Team and a minor league hockey team. New phases of mill development at the Boott Mills and Lawrence Mills will occur along the new Riverwalk, which connects the downtown historic district to the University campus.

C. RED ROCK CANYON NATIONAL CONSERVATION AREA

Red Rock Canyon National Conservation Area (the "Area") is managed by the Bureau of Land Management, in partnership with both the Friends of Red Rock Canyon (the "Friends") and the Red Rock Canyon Interpretive Association (the "Association"). The Area is ten miles west of Las Vegas and contains almost 200,000 acres, including a thirteen mile scenic loop drive, more than sixty miles of hiking trails, picnic areas, and a recently refurbished Visitor Center. The ecosystem of the Area is home to over 600 species of plants, with several of them found only within the Area. The wildlife in the Area range from the ground squirrel to the mountain lion, all having adapted to the harsh environment of the Mojave Desert. The Area is one of the top rock-climbing destinations in the United States.

Over one million people enjoy the Area annually. The BLM is able to offer a much higher level of service to meet the needs of these visitors through its partnerships with the Friends and the Association. For example, the partners allow several visitor programs to be provided free of charge, including several popular features at the Visitor Center. These include interpretive displays, a book and gift shop, a desert tortoise habitat, and daily Interpretive Staff and/or Ranger information hikes and programs. In addition to the activities describe below, funding donated by both the Friends and Association enables the BLM to publish the informative "Official Guide to Red Rock Canyon."

The Friends marks its 20th Anniversary in 2004. In 2003, Friends volunteers spent over 16,500 hours working on trail improvements, graffiti removal, fence installation, maintaining the tortoise habitat at the Visitor Center, and performing trail monitoring. In October of 2003, during Red Rock Day, the Friends and the public contributed 2,500 hours of volunteer work on fencing; campsite improvements; painting of trash cans, barbecues, and restrooms; and trash removal. Since the Friends' inception, its members have provided over 200,000 volunteer hours for preservation of the Area, and the Friends' members, partners, and corporate sponsors have contributed over \$750,000 in direct financial support.

More specifically, the Friends:

- Provide majority staffing of the information desk, reaching more than 400,000 visitors annually.
- Maintain and improve all Visitor Center landscaping.
- Provide majority funding and staffing for Environmental Education workshops.
- Provide transportation scholarships for at-risk schools, enabling over 15,000 children to visit the Area.
- Initiate and fund the recycling program within the Area.
- Fund and design a walkway that protects a fragile and heavily-used Riparian Area.
- Provide majority staffing, funding, and planning for "Red Rock Day," a BLM-sponsored clean-up and restoration workday.
- Provide funding and staffing for cultural resources documentation, photo monitoring, protection, and preservation.

The Association is a nonprofit 501(c)3 organization whose primary purpose is to enhance the recreational, educational, and interpretive programs of the Bureau of Land Management and other government agencies, by providing to the public materials and services that promote an understanding and appreciation of the Area's natural history, cultural history, and science. Examples of ways in which the Association supports the conservation of the Area include: research, preparation and funding of interpretive exhibits; running a Junior Ranger program; providing staff for outreach programs and guided walks; and assisting in special activities, such as photo contests, poetry contests, art contests, and a harvest festival.

The Association supports the Area primarily by providing approximately forty either full or part-time paid staff to perform a variety of functions. Association staff operate the not-for-profit bookstore/gift shop in the Visitor Center, as well as staffing the Area's entrance booth. Furthermore, the Association maintains a staff of eight naturalists, who significantly enhance visitor support services by performing interpretive and educational activities. The Association also makes direct donations to the Area. The support provided by the Association amounts to over \$250,000 per year in donated services at the Area.

For more information about the Area and its partners, please visit the Area's website at www.redrockcanyon.blm.gov or the Friends' website at www.friendsofredrockcanyon.org or the Association's website at www.redrockcanyonlv.org.

PART E: ETHICS ISSUES IN PARTNERSHIPS

Federal employees must remember that while they may be working alongside partnering individuals and organizations, their first and only loyalty must be to the public's interest. While partnerships may enhance federal programs, employees are still subject to the federal ethics statutes and regulations pertaining to fund-raising, accepting gifts, endorsements, and other considerations. Therefore, as employees expand the use of partnerships, they must be mindful of these restrictions, because partnership authority is not an exception to these criminal and regulatory restrictions.

Most employees are familiar with the ethics regulations known as the Standards of Conduct. A peculiarity in the regulations provides that only employees who file financial disclosure forms are required to receive annual ethics training. The Department has an informal policy of encouraging that all other employees avail themselves of this training as well. The Department's Ethics Office (located within the Solicitor's Office) has experience in answering questions that arise from employees engaging with outside entities to partner in a variety of ways, all with an eye to furthering the Bureaus' and Department's missions. It is critical for employees at all levels to understand that the Department's development of the 4 C's philosophy and management's urging that partnership activities increase in order to further our mission should not be construed to mean that partnership activities must move forward without proper consideration and resolution of ethics questions.

These discussions should include an analysis of potential organizational conflicts of interest. As Federal employees we are all bound to work in accordance with the criminal conflict of interest statutes and the Standards of Conduct regulations. These laws and regulations run to individual employees. However, we are an organization of employees bound to uphold these laws and regulations and therefore when we engage with outside entities to form partnerships, we should be mindful of the potential for tainting the process or bringing into question the agency's impartiality in line with similar analyses that would occur for an individual.

The Department and its Bureaus have many good stories to tell about partnerships that are up and running, as well as about activities that may lead to successful partnerships. However, it is conceivable that a partnership effort may one day be derailed because inadequate attention was paid to the parties' interests or because of an inadvertent (or worst case, intentional) misapplication of the ethics laws and regulations. Employees engaged in partnership activities must have a thorough understanding of the ethics laws and regulations in order to identify potential issues of concern in the development and implementation of the partnership. Everyone at all levels should be able to agree that having a partnership unravel because of ethics concerns would be an embarrassment and unacceptable.

It is essential that employees realize that there may be "gray areas" in any ethics inquiry; the statutes and regulations discussed in this Primer do not always create bright-line tests. By being familiar with these restrictions, employees will be better able to ask the hard questions that must be asked, anticipate potential problems, and take steps to avoid ethics violations or the appearance of a violation. All employees engaged in these activities should be supported in identifying ethics issues, seeking resolution to them and thereby creating a stronger partnership.

Nothing in the Department's message about the development of partnerships should be construed as a directive to ignore the application of the ethics rules, or to view resolution of ethics questions to be a hindrance to our doing our business.

STATUTORY PROHIBITIONS

18 U.S.C. § 201 BRIBERY OF PUBLIC OFFICIALS

Generally, this statute prohibits a Government employee from receiving or soliciting anything of value in exchange for being influenced in the performance or non-performance of any official act, including giving testimony, or in exchange for committing any fraud.

18 U.S.C. § 203 COMPENSATION FOR REPRESENTATIONAL ACTIVITIES

Generally, this statute prohibits a Government employee from receiving or soliciting compensation, for any representational services rendered before a Government agency in connection with a particular matter in which the United States is a party or has an interest.

18 U.S.C. § 205 REPRESENTATIONAL ACTIVITIES

Generally, this statute prohibits a Government employee from representing anyone else before a court or Government agency in a particular matter in which the United States is a party or has an interest. There is an exception for representing other federal employees in personnel matters. Limited exceptions are allowed only for representation of oneself or one's immediate family (defined as spouse, parents, and children) or of a person or estate for which the employee acts as a fiduciary, but not where the employee has participated officially or has official responsibility. There is also a limited exception for representing non-profit organizations made up primarily of employees or their immediate families.

18 U.S.C. § 208 CONFLICT OF INTEREST

Generally, this statute prohibits a Government employee from participating personally and substantially in his or her official Government capacity in any "particular matter" in which any of the following has a financial interest:

- The employee
- The employee's spouse
- The employee's minor child
- The employee's general business partner
- Any organization in which the employee is serving as an officer, trustee, partner or employee; or
- Any person or organization with whom the employee is negotiating for non-federal employment.

The statute recognizes limited exceptions to the prohibition for:

- **Written waivers issued by agency after full disclosure of the financial interest (such as when serving in official capacity as an officer in an outside organization)**
- Financial interests exempted by OGE regulation
- Financial interests resulting solely from the interests of the employee or his/her spouse or minor children in birthrights in
 - an Indian allotment held in trust
 - an Indian tribe or band (or other recognized group or community)
 - an Indian claims fund held in trust or administered by the U.S.
 AS LONG AS the particular matter on which the employee works does not specifically involve the allotment, tribe or claims fund. 18 U.S.C. § 208(b)(4).

The assistance of your ethics counselors is necessary in considering any exemption from 18 U.S.C. § 208.

18 U.S.C. § 209 DUAL COMPENSATION

Generally, this statute prohibits a Government employee from receiving any salary, or any contribution to or supplementation of salary, as compensation for services he or she is expected to perform as an officer in the Executive Branch of the U.S. Government.

WAIVERS

In some cases a waiver may be provided to an employee which allows the employee to retain an interest that would otherwise be prohibited to the employee in a particular position because of a conflict on interest restriction. A waiver may also be issued to allow an interior employee to work on certain matters that would otherwise be prohibited because of conflict of interest laws. A waiver is a form of remedial action and an employee seeking a waiver should contact their servicing ethics counselor to determine whether their situation is one in which a waiver may be considered. After this, the servicing ethics counselor will provide guidance to the employee on how to prepare and where to send the waiver request.

18 U.S.C. § 208(b) WAIVERS

This is a waiver to the statutory prohibition under 18 U.S.C. § 208(a). This law generally prohibits a Government employee from becoming involved in a particular matter when the employee, his/her spouse, minor child or other entities specified in the law has a financial interest in that matter. It also applies in cases where the organization, in which the employee serves as an employee or officer or is negotiating for future employment, has a financial interest in the particular matter. A § 208(b) waiver allows the employee to become involved in such particular matter. A waiver must be in writing and will be granted only when the Bureau head or the Designated Agency Ethics Official determines that the disqualifying financial interest is not so substantial that it would likely affect the integrity of the employee's services to the Government.

The Appearance of a Conflict of Interest

PERSONAL AND BUSINESS RELATIONSHIPS - 5 C.F.R. § 2635.502

Basic Principle: Unless specifically authorized by appropriate officials, an employee should not participate in a particular matter involving specific parties when:

- The employee knows the matter is likely to have a direct and predictable effect on the financial interests of a member of his/her household; or
- The employee knows that someone with whom the employee has a “covered relationship” is a party or represents a party in the particular matter; and
- The employee believes that a reasonable person with knowledge of all the relevant facts would question his/her impartiality in the matter.

With whom does an employee have a “covered relationship?”

- Anyone with whom the employee has or seeks a business, contractual or other financial relationship other than routine consumer transactions (but not prospective future employers);
- Members of the employee’s household or relatives with close personal relationship;
- Anyone with whom the employee’s spouse, parent or dependent child is serving or seeking to serve as officer, director, trustee, general partner, agent attorney, consultant, contractor or employee;
- Anyone for whom the employee has served in above capacity within the last year;
- An organization in which the employee is an active participant

Employees who are concerned about this prohibition may seek assistance of their supervisor, an ethics official or other authorized official. Authorization may be granted by an appropriate ethics official upon written determination that, in light of all relevant circumstances, the Government’s interest in the employee’s participation in the matter outweighs the concern that a reasonable person may question the integrity of the agency. After receiving an authorization, the employee cannot thereafter disqualify himself from participation in the matter on the same grounds that were the basis for the authorization.

LOBBYING ACTIVITIES

There are a number of statutes that prohibit DOI employees from using appropriated funds to lobby a Member of Congress or other entities other than what is required by the employee’s job duties. The general provisions to remember are these:

- An employee may not use appropriate funds to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence a Member of Congress in any manner, on a matter of personal interest.
- An employee is required to refrain from using their official position to further personal views by promoting or opposing legislation relating to programs of the Department.

- Employees acting entirely as private citizens have the right to petition Congress, either individually or collectively, on any subject. An employee's right to petition Congress, a Member of Congress, or to furnish information to either House of Congress, shall not be interfered with or denied as long as the employee does it as a private citizen, on their own time, and with their own supplies or equipment.

Specific statutory lobbying prohibitions affecting official duties are as follows:

- **18 U.S.C. § 219.** Section 219 prohibits employees from acting as an "agent of a foreign principal" as defined under the Foreign Agents Registration Act (FARA) or a "lobbyist" on behalf of a foreign entity that is required to register under the Lobbying Disclosure Act of 1995 (LDA). The LDA ban prohibits certain lobbying of covered legislative and executive branch officials on behalf of foreign corporations, associations, or other organizations. There are certain FARA exceptions related to trade or commerce, legal representation, humanitarian fundraising, and religious, scholastic, or scientific pursuits.
- **18 U.S.C. § 1913.** Section 1913 prohibits employees from using any part of the money appropriated by Congress to influence, in any manner, certain governmental individuals and entities to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy or appropriation. The specific individuals and entities who may not be influenced using appropriated funds are:
 - a Member of Congress
 - a jurisdiction
 - an official of any state, local, or territorial government, or
 - an Indian tribe.

This prohibition prevents employees from engaging in grass-roots lobbying campaigns directed at the public, using e-mails, letters or other forms of communication that expressly encourage the public to contact the specified individuals or entities on pending matters of the types identified above. The prohibition does not prevent, however,

- good-faith responses to requests for information;
 - public statements that are strictly factual and devoid of positive or negative sentiment about pending matters; or
 - communications which, if prohibited, would in the opinion of the Attorney General violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence or national security activities.
- **Other Anti-lobbying Restrictions:** An annual provision of a government-wide appropriation statute prohibits the use of appropriated funds for publicity or propaganda purposes (such as expenditures for grass-roots lobbying of the public) designed to support or defeat legislation pending before Congress. Also, DOI's annual appropriation statute contains a provision prohibiting employees from engaging in lobbying campaigns or participating in events designed to support or oppose pending legislative goals even where the employee's activities stop short of directly encouraging grass-roots lobbying. These

legislative goals may be expressed in pending bills or proposed presidential budgets. As with Section 1913, both of these additional restrictions do not prohibit good-faith responses to requests for information or public statements that are strictly factual and devoid of positive or negative sentiment about pending matters.

Regulatory Limitations

ACCEPTING GIFTS

As stated in Executive Order 12674, as a rule Federal employees may not, directly or indirectly, solicit, or accept a gift from: a) a prohibited source; or b) if it is given because of your official position. This rule applies whether the Federal employee is on duty or off duty. A gift may include but is not limited to a gratuity, favor, discount, cash, gift certificate, entertainment, hospitality, loan, forbearance, or other item of monetary value. It also applies to services as well as gifts of training, transportation, local travel, lodging and meals.

A prohibited source includes any person, company, or organization that:

- Has business with your agency,
- Is seeking to do business with your agency,
- Conducts operations that are regulated by your agency, or
- Has any interests that may be affected by the performance or non-performance of your official duties.

A Prohibited Source may also include:

- Any professional, technical or trade association, the majority of whose members represent prohibited sources; or
- An outside organizations which seeks to influence the Department.

Some things are excluded from the definition of a gift, however. The following have been deemed **not** to be gifts:

- Coffee, donuts, or other modest food items not offered as part of a meal;
- Greeting cards, presentational plaques, certificates, or trophies;
- Prizes in contests open to the general public;
- Commercial discounts available to the general public or to all Government employees;
- Commercial loans, pensions, and similar benefits;
- Anything for which you paid market price; or
- Anything paid for by the Government.

Exceptions to the Prohibition:

- Unsolicited Gifts values at \$20 or less (market value), per occasion, from a single prohibited source. However, gifts from any single prohibited source may not exceed \$50

in any given calendar year. **You may not accept cash or other monetary instruments under and circumstances.**

- Waiver of conference fees or acceptance of meals when you are speaking at widely-attended gatherings in your official capacity
- Widely attended gatherings. When there has been a determination that your attendance is in the interest of the agency, you may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering. In such cases, employees must fill out the DI-1958 **prior** to acceptance of attendance. This form must be approved by the appropriate ethics official.
- Discounts and similar benefits that are offered to the public, other groups that you belong to, or to all Government employees
- Gifts based on outside business or employment relationships
- Awards and honorary degrees
- Gifts from a political organization
- Gifts based on a personal relationship

Travel Regulations

ACCEPTANCE OF TRAVEL FROM A NON-FEDERAL SOURCE

As a rule, whenever you are on official travel for the Department, your travel expenses should be paid by the Department or another Federal agency. Occasionally, however, a private sector organization may express its generosity by offering to pay for all or part of the official travel expenses incurred by an employee. When this occurs, the statutory provisions of 13 U.S.C. § 1353 may be used to authorize the Department to accept the employee's travel related expenses. Regulations implementing this statute are contained in 41 CFR § 304-1. In order to use the travel acceptance authority under 31 U.S.C. § 1353, certain conditions and procedures must be satisfied.

Conditions and Procedures

Federal regulations require that the travel authority under 31 U.S.C. § 1353 must be used, where appropriate, before any other travel acceptance authority is considered. An agency may accept payment for an employee and/or the employee's spouse's travel from a non-Federal source when proper consideration is given to the conflict of interest criteria and a written authorization to accept payment is issued **in advance** of the travel event. Written authorizations is accomplished by completing Form DI-2000. This form may be obtained from your servicing ethics counselor or downloaded from the Departmental Ethics Office's website at www.doi.gov/ethics and clicking on the "forms center" link. The authorized Approving Official documents on this form his or her determination that the non-Federal travel payment is:

I. For travel relating to an employee's official duties (including attendance because the employee's presence at the meeting is necessary to permit participation in the meeting by another employee or because a spouse's presence at the meeting or similar function is in the interest of the agency) under an official travel authorization issued to the employee, and to an accompanying spouse when applicable;

II. For attendance at a meeting or similar function relating to the official duties of the employee; and

III. From a non-Federal source that is not disqualified on conflict of interest grounds.

Please Note – Payment may not be accepted under this authority for a meeting or other event required to carry out an agency’s statutory or regulatory functions. For example, a statutory or regulatory function essential to an agency’s mission, such as investigation, inspection, audit, site visit, or program evaluation.

In making this determination, the Authorized Approving Official shall be guided by all relevant considerations including, but not limited to:

1. The identity of the non-Federal source;
2. The purpose of the meeting or similar function;
3. The identity of other expected participants;
4. The nature and sensitivity of any matter pending at the agency affecting the interests of the non-Federal source;
5. The significance of the employee’s role in any such matter; and
6. The monetary value and character of the travel benefits offered by the non-Federal source.

Authorized Approving Official

For purposes of this policy, the term, “Authorized Approving Official” means that Department official who has been delegated the authority to approve the usual travel authorizations of the employee who will benefit from the non-Federal travel payment.

The following procedures must be satisfied before the employee begins his or her travel:

1. Each employee (and/or the accompanying spouse) must have an approved travel authorization. Each travel authorization must contain a statement indicating that: (a) all or part of the employee’s travel expenses will be paid for by (name of non-Federal source); (b) The authority to accept the travel related payment is 31 U.S.C. § 1353; and (c) and the planned travel situation complies with the ethics considerations for acceptance under 41 CFR § 304-1.
2. A form DI-2000 must also be completed and signed by the employee and approved by the Authorized Approving Official after receiving concurrence by a servicing ethics official.
3. Payments from a non-Federal source to cover the travel related expenses of an employee may be made in the form of a check or similar instrument made payable to the agency. Employees may also accept payments-in-kind (i.e., an airline ticket) on behalf of the Department and other payments when authorized to do so. Employees may not accept cash.

A copy of each completed Form DI-2000 must be filed with the Bureau or Office Deputy Ethics Counselor. These forms are collected by the Departmental Ethics Office and used as part of the required reports to the U.S. Office of Government Ethics.

CHARITABLE FUNDRAISING - 5 C.F.R. § 2635.808

Federal employees are prohibited from fundraising on government time or on government property. Department employees are therefore restricted from any charitable fundraising in an official capacity unless the charitable organization is approved by the Office of Personnel Management (OPM). At this time, the only charitable organization sanctioned by OPM is the Combined Federal Campaign. The rules governing acceptable fundraising activities by Federal employees are contained in 5 CFR Part 950. Raffles, lotteries, bake sales, carnivals, athletic events, or other fundraising activities not specifically provided for by regulation are prohibited. The prohibition extends to activities such as Girl Scout cookie drives and sports tournament ladders where participants contribute money. *Non-federal partner entities are not similarly restricted from fundraising. These partners may fundraise on behalf of the partnership, and such funds may in turn be accepted by the FWS under authority at 16 U.S.C. § 742f(b).*

An employee may engage in fundraising activities as a private citizen, on their own time and away from the workplace, provided that the employee does not use their official title or position to further the fundraising event. Even when acting as a private citizen, however, an employee may not solicit funds or other support from subordinates or from prohibited sources.

A limited exception exists for recognized employee organizations (such as the IDRA) to conduct fundraising activities to benefit their members and their families.

Finally, the fundraising restrictions pertain to the raising of funds, but not to campaigns for “in-kind” donations such as food, clothing and toys. Such charitable drives are permissible but employees and management should make every effort to limit the amount of official time, space and equipment that are used to avoid negative impact on the work of the office.

ENDORSEMENTS - 5 CFR § 2635.702(c)

Employees shall not use or permit the use of their Government positions, titles, or any associated authorities to endorse any product, service, or enterprise except:

1. In furtherance of statutory authority to promote products, services, or enterprises; or
2. As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency’s mission.

Employees may endorse any outside program in their private capacities; however, the endorsement may not make reference to their official titles or positions within the Department.

Things to do when Establishing Private Sector Partnerships

Prepare a written partnership agreement which should contain the objectives of the partnership. It should state the policy on endorsements and advertising, and the responsibilities of each partner. The agreement should state the benefits the Department can expect from the partnership activities.

Have employees who are officers in partner organizations recuse (disqualify) themselves from any involvement as a Federal employee in particular matters in which the partner organization has a financial interest.

Authorize official time for employees to work on the joint effort for which the partnership was established.

Things *to avoid* when Establishing Private Sector Partnerships

Endorsing the product or services of the partner organization in your official capacity.

Soliciting funds or donations for your programs from partner organizations without specific statutory authority.

Create an organization to do what your own agency cannot do and then enter into a partnership with it.

Accept any compensations other than your Federal salary for official duty services you provide to partner organizations unless that compensation is from a Federal agency.

Use appropriated money to pay for lobbying activities to be performed by a partner.

Control or assume any measure of practical responsibility for the fund raising activities of private individuals or organizations who are partners.

Service by an Employee in his/her Official Capacity as a Board Member or Officer of a non-Federal or Partner Organization

Sometimes an employee is asked by an outside group to serve in his/her official capacity as an officer or a board member. Serving in either of these capacities creates a conflict of interest for the employee because the financial interests of the outside group are imputed to an employee when he/she serves in a fiduciary capacity (i.e., officer or director). The employee is precluded from participating in an official capacity in matters that would directly and predictably affect the financial interests of the outside group. Therefore, the employee and his/her management must decide that it is in the best interest of the agency to serve in this capacity and that such service will not compromise or call into question the integrity of the agency in the management of its programs.

If it is decided that serving as an officer or director is in the best interest of the agency, the employee must work with a bureau ethics official to prepare and sign several documents memorializing this arrangement. First, a waiver of the conflict of interest must be issued by either

the Designated Agency Ethics Official or the director of the bureau for which the employee works. Second, a memorandum of understanding between the outside group and the agency must be executed detailing the nature of the duties to be performed and the projected time spent on matters involving the outside group. Lastly, a statement of disqualification or recusal may have to be issued to protect the employee from improperly participating in a matter that creates a further conflict of interest between his/her official duties and those of the organization on which he/she is serving. Samples of these documents follow below for informational purposes. These documents should be filled out and reviewed by an ethics official in consultation with the employee seeking to serve on the outside group and the employee's supervisor, and the bureau director, who is delegated the authority to issue waivers of the financial conflict of interest.

NOTE: Many of the benefits of serving on an outside organization may be accomplished by an employee's participating as a Federal liaison instead of a board member or officer. The Department's Ethics Office recommends this as the better alternative in most cases. An ethics official should also be consulted about appearances of conflict and how to address them.

Sample Waiver of Financial Conflict of Interest when Employee is Serving as Officer or Board Member of Outside Organization

To: Bureau Director/Bureau Ethics Counselor

From: Deputy Ethics Counselor

Subject: Conflict of Interest Waiver for [Name of Employee]

The purpose of this memorandum is to request that you grant [name of employee and title of position], a waiver of the criminal conflict of interest provisions that may apply to his service in an official capacity as a member of the board of directors (board member) of the [name of organization], a nonprofit organization. [Employee's] official [name of Bureau] duties are to serve as [describe by title and additional information]. He/She is responsible for [detail the level of responsibility and type of responsibility the employee has].

The criminal conflict of interest statute, 18 U.S.C. 208(a), requires that an employee refrain from participating personally and substantially in an official capacity in any particular matter that will have a direct and predictable effect on the financial interests of any organization in which the individual serves as an officer, director, trustee, or employee.

In the absence of: (1) specific statutory authority placing a federal employee in an officer or director position in an *ex officio* capacity; (2) a release of fiduciary obligations by the organization (if permitted by state law); or (3) a waiver of the requirements of 18 U.S.C. 208(a), the statute effectively would preclude [employee's name] service, as an official duty activity, as a board member of the [name of organization].

[Employee's name] will serve as a board member of the [name of organization] with full voting privileges. The [name of organization followed by description of its work and its relationship with the DOI]. A memorandum of understanding between the [bureau name] and the [name of the organization] concerning the service of [employee's name] as an officer in the [name of the organization] is attached.

Inasmuch as [employee's name] appointment as a board member of the [name of organization] is not pursuant to a statute or release of fiduciary obligations, he/she has requested that you, as the official to whom waiver authority is delegated, authorize his participation in certain particular matters that may affect the financial interests of the [name of the organization]. Under 18 U.S.C. 208(b)(1), a waiver may be granted if the official to whom waiver authority is delegated determines that the disclosed financial interest is "not so substantial as to be deemed likely to affect the integrity of the employee's services to the Government."

In the course of his assigned duties as a board member, the following types of particular matters potentially could come before [employee's name] for his personal and substantial participation: (1) particular matters of general applicability, such as legislation, regulation, or policy, that may affect the financial interests of the [name of the organization] as a member of a class of similarly situated entities; (2) particular matters involving specific parties, such as grants, contracts, application approvals, that specifically involve the [name of the organization] or otherwise affect its financial interest; or (3) other miscellaneous matters involving the conduct of [name of the organization] affairs and [name of bureau] support. [The items listed in this paragraph are examples only; this language should be tailored to fit the particular situation.]

While performing, as an official duty activity, the usual and customary duties of the position of a member of the board of directors of an outside organization, any actions taken, either in the federal workplace or at the organization, that affect the financial interests of the outside organization are deemed official matters to which 18 U.S.C. 208(a) may apply. For example, such actions may include: (1) requesting that official travel funds be spent or other government resources be utilized for the employee to conduct the affairs of the organization; (2) signing a training authorization to use [name of bureau] funds to pay for an employee to attend a conference or other meeting of the organization; (3) speaking as an official duty activity, or directing a subordinate to speak, at any conference or other meeting of the organization where attendance fees are charged; or (4) providing advice and consultation with respect to, or otherwise conducting, the business affairs of the organization including voting on matters to come before the [name of the organization] Board of Directors. While the financial impact may be insignificant, under well-settled precedent, 18 U.S.C. 208(a) has no de minimis aspect.

I believe that a waiver is justified because [name of employee] would serve in the [name of organization] as an official duty activity, and there is a greatly diminished risk that the integrity of the services that the government expects from [name of employee] would be affected. [name of employee's] position in the outside organization is fully known to [name of bureau]. Moreover, [name of bureau] already has determined that, to a significant degree, the interests of [name of bureau] and the interests of the [name of organization] are consonant. [name of bureau] expects that the interests of the [name of bureau] and the interests of the [name of organization] both can be furthered through the performance of [name of employee's] official duties as a aboard

member.

Accordingly, if approved, the requested waiver will apply fully to [name of employee]'s participation in his/her capacity as a board member in any particular matter that will directly and predictably affect the financial interests of the [name of organization], EXCEPT the following particular matters, that might have a direct and predictable effect on the financial interests of the [name of organization] as to which [name of employee] has committed to recuse himself: Preparation of requests to the [name of bureau] from the [name of organization] to obtain federal funds to support [name of organization] activities and approval of travel authorizations pertaining to himself to attend meetings or to otherwise provide support to [name of organization]. A copy of the recusal memorandum is attached. In this manner, [name of employee]'s service as a [position to be held] in the [name of organization] is severed from his service as [name of bureau and title of employee's position], thereby avoiding any potential that he could act contrary to the interests of [name of bureau] for the benefit of the [name of the organization].

[name of employee] understands and agrees that, as an official duty activity, no separate compensation or reimbursements may be received from the [name of organization] in connection with his service as a board member [or officer]. Travel, lodging per diem or other incidental expenses incurred by [name of employee] on behalf of the [name of organization] may be accepted by [name of bureau] under 31 US Code § 1353. Acceptance of [name of employee]'s travel expenses from [name of organization] shall be accomplished via a Form DI-2000 which must be approved by the [name of bureau] Ethics Office prior to the travel, or when circumstances do not permit prior approval, within seven days of conclusion of the travel.

This waiver letter has been coordinated with the DOI Office of Ethics, within the Office of the Solicitor.

Attachments: Recusal Letter dated _____
Blank Form DI-2000.

DECISION:

_____ Waiver granted, subject to the terms and conditions stated above, based on my determination, made in accordance with 18 U.S.C. 208(b)(1), that the disclosed financial interests are not so substantial as to be deemed likely to affect the integrity of the service which the government may expect from the employee.

_____ Waiver denied.

Bureau Director Date
Name of Bureau

Confirmed and Acknowledged:

Employee's Name Date
Title

Bureau's Name

MOU for Official Participation as Officer or Board Member of Partnership Organization

Memorandum of Understanding
between the
U.S. Department of the Interior
and the
(Name of Outside Organization)
(*Sample*)

1. This document sets forth an agreement between the U.S. Department of the Interior (DOI) and the (organization name) concerning the service of (employee name) as an officer in the (organization name) as a part of his official government duties.

2. The primary beneficiary of (employee name)'s service as an (organization name) officer is intended to be the DOI. It is expected that the benefits to the DOI will include, but not be limited to the following:

(suggested benefits:)

- a. acquisition of state-of-the-art technical information about (name subjects).
- b. knowledge about organizational arrangements and relationships of organizations with which the DOI interacts, in order to enhance the working relationships between the DOI and such other organizations;
- c. improved understanding of current issues in the (name the field of endeavor) that concern DOI missions and operations;
- d. utilization of professional networks and channels to disseminate information relevant to the accomplishment of DOI missions; and
- e. utilization of other mechanisms to facilitate accomplishment of DOI missions, functions and processes, such as meetings, conferences, symposia, and publications.

3. In order to avoid the possibility of an actual or apparent use of public office for private gain, when official time is used for service as an officer in the (name of organization), the following principles will apply:

- a. Federal employees may not represent anyone other than the United States before an agency or court in connection with a particular matter in which the U.S. is a party or has a direct and substantial interest (18 U.S.C. § 205).

- b. Federal employees are required to refrain from working on particular matters as a Government employee when the employee is serving as an officer in a private organization and the organization in which he is serving has a financial interest in those Government matters (18 U.S.C. § 208).
- c. If a Federal employee's participation in a project undertaken in conjunction with a private organization was done as a part of his official duties, the employee is prohibited from sharing in any compensation by the dual compensation provisions of law (18 U.S.C. § 209).
- d. Federal employees are prohibited from using official time and Government equipment to instigate and generate lobbying activity on any issue pending before or of interest to the Congress (18 U.S.C. § 1913).
- e. Federal employees are prohibited from controlling or assuming any measure of practical responsibility for the fund raising activities of private individuals or organizations (E.O. 12731).

4. The relationship between the (organization name) and the DOI addressed in this document is intended to enhance service to the American public through more efficient applications of DOI programs. All actions should be directed toward attainment of that mutually beneficial goal.

5. The foregoing is not intended to impose on the (organization name) any obligations or restrictions, other than an obligation to respect the above described limitations on the activities and function of, and benefits which may be received by, nor does it constitute a representation or warranty by the (organization name) as to the benefits which the DOI will receive in fact from (employee name)'s service as an officer in the (organization name). Neither does the (organization name) assume any obligation to enquire into or enforce (employee name)'s compliance with paragraph 3c. above.

 (Name of DOI Official)

Date: _____

 (Name of Society Representative
 and title)

Date: _____