

Chapter 4: Two-Dimensional Reproductions

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CHAPTER 4: TWO-DIMENSIONAL REPRODUCTIONS

A. Overview

1. *What information will I find in this chapter?*

This chapter contains summary information on a broad range of issues relating to the production of two-dimensional (2-D) copies of archival and museum objects. This chapter outlines the basic steps necessary to make digital, microfilm, motion picture film, photographic, sound recording, videotape, or xerographic copies of archival collections and images of museum objects for exhibition, research, sale, and use in publications.

This chapter doesn't cover the production of three-dimensional (3-D) reproductions of 3-D items; although it does discuss the creation of 2-D images (photographs and digital images) of 3-D objects. For information on 3-D reproductions, see Chapter 5: Three-Dimensional Reproductions. Also see *Museum Handbook*, Part II (MH-II), Appendix L: Photography, and *Museum Handbook*, Part I (MH-I), Appendix R: Curatorial Care of Photographic Collections.

2. *What NPS policies and guidelines do I need to know?*

You should become familiar with the sections related to managing museum collections in the federal law and NPS policies and guidelines listed in Chapter 1: Evaluating and Documenting Collections Use, Section C.3, Chapter 2: Legal Issues, and the guidelines listed below:

- 43 USC 1460 (Copies of records, documents, etc.; charges; disposition of receipts):

The Secretary of the Interior, or any of the officers of that Department may, when not prejudicial to the interests of the Government, furnish authenticated or unauthenticated copies of any official books, records, papers, documents, maps, plats, or diagrams within his custody, and may charge therefore a sum equal to the cost of production thereof, plus the cost of administrative services involved in handling the records for such purposes....

- PL 106-206 (Commercial filming activities on federal land-106th Congress, Second Session, May 2000):

...establish[es] a fee [and permit system] for commercial filming activities on Federal land....such fee shall...be based upon the following criteria: 1) The number of days the filming activity or similar project takes place...2) the size of the film crew present...3) the amount and type of equipment present [and]...other factors...the Secretary shall not require a permit nor assess a fee for still photography...if such photography takes place where members of the public are generally allowed. The Secretary may require a permit, fee, or both, if such photography takes place at other locations where members of the public are generally not allowed, or where additional administration costs are likely. The Secretary shall require...a reasonable fee for still photography that uses models or props....

Note: No filming or photography is allowed if it causes a likelihood of resource damage, unreasonably disrupts the public's use and enjoyment of the site, or poses health and safety risks to the public.

- Director's Order #32: Cooperating Associations
- Director's Order #21: Donations and Fundraising
- NPS Cooperative Agreement Authority (February 2, 1998)
- Omnibus Consolidated Appropriations Act of 1997, Public Law 104e-208 (September 30, 1996), Title 1, National Park Service Administrative Provisions allow the NPS to:

...enter into cooperative agreements...that...transfer NPS appropriated funds to...State, local and tribal governments, other public entities, educational institutions, and private, nonprofit organizations for the public purpose of carrying out NPS programs...

3. What are 2-D reproductions?

2-D reproductions are flat, copy images of original works that are exact copies of the contents of the originals, although the size and process of the copy may be quite different. The original works may be:

- 2-D items such as documents, drawings and plans, graphic prints, magnetic tape, and photographs
- 3-D objects such as biological and/or paleontological specimens and archeological, ethnographic, and historical objects (including fine arts objects)

While direct imaging from museum objects is simply called photography or digital imaging, the generic process of creating copies is called **reprographics**. The related term **reformatting** implies any or all of the following actions:

- producing a later generation copy image from either an original item or a copy
- starting with an original or copy in one format, such as a photographic original, and using it to produce a second generation copy in another format, such as microfilm or digital files
- beginning with original content, such as a TIFF file, then changing either file format (for example, to JPEG or GIF) or laying out the textual or visual format on the page in a new way so that all the original elements are there, but the copy is now visually different (for example, the original text or image may be vertical, while the copy text or image is horizontal)
Note: See the glossary at the end of this chapter for definitions of TIFF, JPEG, and GIF.

This chapter describes these seven key reproduction formats:

- digital files
- microfilm

- motion picture film
- photographic reproductions
- sound recordings
- videotapes
- xerographic copies

4. *What are masters?*

Masters are the original or first generation images.

- ***Digital files:*** The digital master file (first digital copy) is usually a large file that hasn't been compressed (shrunk by removing non-essential information for ease of storage). Some digital file formats are proprietary or owned by a software firm. Firms may change formats frequently to keep up with software changes, making older files impossible or difficult to use on new software. Digital masters shouldn't be in proprietary formats, but instead should be in generic formats such as uncompressed TIFF for ease of future use.
- ***Photos and microfilm:*** The original negative, print, slide, and/or transparency made by the original photographer are all considered the first generation or master images for photographs and microfilm. The copies are all 2-D reproductions and second or later generation copies made from the originals. According to photographic terminology, a duplication master negative or preservation master transparency is not a copy, because it is a first generation image.
- ***Xerographic copies*** (also known as electrostatic copies or photocopies): The xerographic master is used for other copying and is considered the first generation.

5. *What are the differences between copies, derivatives, duplicates, facsimiles, and surrogates?*

Generally speaking, 2-D reproductions are one of the following:

- ***Copies*** are non-original (second generation or later) reproductions made from first generation or master negatives, digital files, or other source documents. Copies include copy prints made from master negatives, derivative files made from master digital files, and microfilm distribution copies made from master microfilm negatives. Second generation or later prints of record photographs or photographic negatives or prints made from original negatives or prints may also be called copies. Copies are often known by their method of creation, such as carbon copy.
- ***Derivatives*** are digital (electronic) files made from other digital files often in a different size or for a special purpose. These digital derivatives may be thumbnails (very small files) or derivatives made for special usages, such as on the Web. Derivatives are sometimes referred to as digital surrogates.
- ***Duplicates*** are two identical versions of the same generation. The original creator of the item may create two identical originals at the same time on the same equipment using the same materials. For example: the same photographer may take two identical images of the same subject

matter on the same roll of film using the same camera at the same time and place. While the two images are snapped only seconds apart and appear identical, they have different frame numbers and purposes and are said to be duplicates of each other. The first photograph is the preservation master, the second the usage copy. In this example, both images are originals as they are both first generation and identical to each other for most practical purposes. A duplicate is the only “copy” process that may be first generation. If the duplicates are letters, they should both have original signatures. **Note:** Most people now use the word “duplicate” interchangeably with the word “copy.”

- **Facsimiles** are copies of the content of an item usually made as close to identical as possible to the original often using the same media, process, appearance, and often the same format as the original. Facsimiles are almost always produced later by someone other than the creator of the original. When the word “facsimile” is preceded by a process name, such as “photographic facsimile,” you are being notified that the facsimile is NOT in the same process or format as the original. Therefore the facsimile *is* a close-to-identical copy in that process or format.
- **Surrogates** are copies, most frequently digital files, made from an original object as the result of digital capture, digital photograph, or digital imaging that take the place of an original for a specific purpose, such as preservation, deposit at another institution, or for other purposes noted under Section A.2 above.

The copyright law authorizes the production of a preservation surrogate of original works held by a museum, even when the museum doesn't have the copyright to the work. See Chapter 2: Legal Issues, Section C.13

The word “surrogate” is widely used when referring to copies produced in digital format to alert readers that the original has been reformatted to produce the copy. The difference between a surrogate and a derivative is that the derivative is always made from another digital file, while a surrogate may be an original digital image of an object. The process of making a digital image of an original object may be called digital capture, digital photography, or digital imaging.

In some reprographic processes, such as photography, microfilm, and motion picture film, each generation of copy after the first has less information. This information loss between generations is due to a loss of resolution inherent in lens and film-based imaging systems. To ensure that the park maintains the more complete and valuable original, all copies should be labeled as “copy” to ensure that they don't become confused with originals.

It is also wise to stamp, scan, or post a copyright warning statement on all xerographic and digital duplicates to ensure that researchers realize that the copies provided are being made available for research purposes, not publication. Further information on labeling and watermarking can be found in Section A.9. See also Chapter 3: Publications, for further guidance.

6. *What other basic concepts must I understand?*

The most basic concept is that of generations of reproductions, which are organized like family lineages. The original or first generation item is often called the preservation master (or simply the master). The second and later generation images are copies and may also function as facsimiles or surrogates.

- **For digital files**, the original (first generation) large, non-proprietary and uncompressed parent file is often called the master file. Non-proprietary file formats are free and generic, as software companies do not own them. Later files, which can be in thumbnail (very small), compressed, proprietary, or any other useful format, are called derivatives or usage files (the copies or child files). Digital cameras can be used to produce original images as well as copies. Scanning from original materials, sometimes called “direct digital capture” refers to:
 - *original or first generation images* made in a digital camera
 - *copy files* made from originals
 - “*lossless*” *compressed digital files* (such as TIFF files) don’t lose information from generation-to-generation. Lossless compression, however, compresses files to 1/2 to 1/3 their original size, while lossy compression, described below, shrinks files to 1/10 their original size.
 - “*lossy compression*” *file formats* (such as GIF or JPEG) ensure that the image will look different when decompressed than it did before compression. These differences between the original and the copy result in odd visual phenomena in the copy. These effects may be like looking through a piece of bubble glass or a prism and are known as “compression artifacts” or “unintended visual effects.” For lossy compression, the amount of information in compressed files is less than that in the original uncompressed files. “Lossy” digital file compression works by discarding information that is not easy to view, thus ensuring that the copy file is different from the original.

For more information see *Conserve O Gram (COG) 19/9*, Planning Digital Projects for Access and Preservation, and the Appendix A: Publications Glossary.

- **For microfilm**, the first camera-produced microfilm negative is usually a silver halide negative called the master (the parent image) and is said to be first generation or original. The subsequent or second generation negative and positives made from this master are called copies (child images). There are several copy processes, including diazo, silver halide, vesicular, and color processes. There are also many formats of microfilm including aperture cards, card jackets, and roll film in several film gauges (sizes) such as 16mm and 35mm.

In some cases copies may be produced in the longer-lived silver halide roll film format for deposit in another archives, library, or museum.

Note: Each generation away from the original negatives results in a decrease in the amount of information in the copy.

- ***For motion picture film***, the first camera-produced negative is the true original (the parent image), although the first generation film transparency and many outtakes (film footage cut from the original film) can also be considered originals. Later edited generations, such as the commercial films viewed in theaters, are often many generations removed from the original or first generation film. **Note:** Edited films are rarely first generation, but may be duplication masters (second generation) or usage masters (third generation) or viewing copies (anything from the third generation on). Each generation removed from the original negative has less information than the one before it.
- ***For photographs***, the first camera-produced negative and first print or transparency are called originals (the parent images) and are said to be of the first generation. Images made from first generation originals are called copies or second generation images (the child images). Copies can be produced from the negative, the positive, or the transparency, depending upon the type of reproduction process employed (direct duplicate, interpositive, or copy negative). **Note:** Each generation removed from the original negative and print has less information than the one before it. Photography can be used either for copy work or to produce original works.
- ***For sound recordings***, the material originally recorded upon, whether a wax cylinder, wire recording, or reel-to-reel or cassette tape, is considered the original, first generation material. Copies made from the originals on phonograph discs, reel-to-reel tape, or tape cassettes are called copies or second generation recordings (child recordings). **Note:** Unlike photographs, each duplicate of an original magnetic recording can be as good as the original unless improperly recorded. If improperly recorded, information can be lost. For further information see Chapter 3: Publications, Section I, Sound Recordings.

It is possible to sound engineer recordings, thus significantly reducing background noise. Background noise may provide information, such as the circumstances and ambience of the original recording effort. So, while second and later generation magnetic copies may be identical to the original if unaltered and copied well, they are not necessarily identical as they may have been edited or copied poorly. Editing and sound engineering alter a recording's characteristics and informational content.

- ***For videotapes***, the first recording, whether two-inch reel-to-reel tape in Beta format or tape cassettes in VHS format, is the original or first generation material (parent recording). Copies made from the originals on reel-to-reel tape or tape cassettes or cartridges are called copies or second generation recordings (child recordings).

Unlike photographs, each duplicate of an original magnetic recording is identical to the original, as there is no generational loss when copying. However, it is possible to edit recordings, cutting portions of the tape, sound engineering the audio content, and effectively revising the original recording. Magnetic copies may have been edited or sound engineered, thus altering their characteristics and their informational content.

- ***In xerographic files (photocopies)***, the original document is the parent, while the first high quality copy (second generation or child image) becomes a duplication master, used to produce additional copies (third generation or grandchild image) for reference and research purposes. **Note:** Xerographic copies can be almost as good as original printed text or line art, although they rarely capture the nuances of continuous tone photographs and may not amply capture all handwriting. Information is lost with each successive copy generation.

7. *When and why would I want 2-D reproductions?*

You produce 2-D reproductions because you, your park staff, researchers, and scholars will need them regularly. Most parks already produce 2-D reproductions for education, exhibitions, interpretation, publications, public service, and a host of similar functions, including:

- ***condition photographs*** to document in detail changes, damage, defects, or flaws in an item for insurance, loans, and similar purposes
- ***deposit copies*** created for placement at another repository to facilitate research
- ***duplication masters*** to be used when making further copies
- ***evidential copies*** created as legal evidence for courts and certified by the copy agency to be a true and complete copy of the original
- ***exhibition copies*** for use in an exhibit or display to replace the original item, either in a museum exhibit or as an exhibit on the World Wide Web
- ***fair use copies***, as defined by copyright laws, made for non-profit use in education, scholarly research, news reporting, commentaries, and parodies as long as the use doesn't affect the market for the work. Scholars often request copies for research instead of taking notes. Researchers don't need written permission from the holder of the copyright before using the materials for this purpose. See Chapter 1: Evaluating and Documenting Museum Collections Use, and Chapter 2: Legal Issues, for more guidance.
- ***presentation copies*** used in films, slide shows, and videotaped presentations or for award purposes
- ***preservation copies*** created as non-profit preservation facsimiles of the original, which may be deteriorated
- ***publication copies*** for use in an article, book, brochure, exhibit catalog, finding aid, motion picture film, pamphlet, videotape, Website or other publication
- ***record copies*** to document what has been published or reproduced to help with future planning and tracking activities
- ***research photographs*** for educational, interpretive, scholarly, and student work (See "fair use copies" above.)

- **sales copies** created at the request of an individual or organization for use in a for-profit publication, such as a book or videotape, or for use in a derivative work, such as a tee shirt, calendar, or similar product, or as a facsimile for sale
- **security copies** created to serve as back-up copies in case of theft or destruction of the original or to take the place of the original in a high risk situation, such as a traveling exhibition
- **treatment photographs** to document the before and after states of objects undergoing conservation treatment
- **use copies** to save the original item from handling damage
- **commercially produced copies** created by for-profit organizations for their own use when approved by the NPS (See Section B.9.)

Archival and museum professional standards support the need for archives and museums to provide 2-D reproductions of collections as a basic service to the community of scholars and staff.

The *Statement on the Reproduction of Manuscripts and Archives for Reference* by the Society of American Archivists states:

It is the responsibility of a library, archives, or manuscript repository to assist researchers by making or having made reproductions of any material in its possession, for research purposes, subject to certain conditions. Manuscript and archival materials may be reproduced if:

- (a) The conditions of the originals will permit such reproductions*
- (b) The originals have no gift, purchase, or legal restrictions on reproduction.*

8. *How do I know what process and format to select for what purpose?* See Figure 4.1 to identify what process or format of reproduction you should use for each of the purposes listed in Section A.6 above
9. *What reproduction services should my park provide to researchers and park staff?* Your park can provide basic services internally on a cost-recovery charge-back basis or you can have the work done by a contractor or cooperating association who will follow NPS policies and procedures. The essential elements of your programs include:
 - **Documentation services:** Be able to provide researchers with captions and credit lines promptly upon request. (**Note:** The park charges back the cost of these services to the researcher in accordance with 43 USC 1460.)
 - **High quality publication images:** Have the capability to provide inexpensive but high-quality images for publications or exhibitions in a timely fashion. (**Note:** Again, this work must be done by professionals, not researchers or untrained staff. See Sections B.9-10 for reasons. Copies are charged back to the researcher on a full cost-recovery basis as per 43 USC 1460.)
 - **Image search capability:** Be able to search images at the item-level quickly by subject, name, creator, process, format, and era. (**Note:** In

most parks whether or not you can search at the item-level depends upon whether or not the items were well cataloged into ANCS+. For many archival items, the actual item-level cataloging will not take place until the item is requested for duplication as most archives are not item-level cataloged, and the cost may be charged back to the researcher for the work.)

- ***Rights and permissions help:*** Have the ability to obtain quickly intellectual property rights (particularly copyrights) and permission to publish, exhibit, and use for other purposes. See *MH-III*, Chapter 2: Legal Issues, for guidance.

Park staff should help researchers by informing them of the rights that the park can authorize. When the researcher's proposed use is appropriate and the requested work is in the public domain or the park has the rights, the park staff should offer to authorize appropriate publications.

NPS staff should never undertake rights research work (locating copyright holders) or attempt to obtain permissions or licenses for requesters. Park staff should never grant permission to publish materials for which the NPS doesn't have the rights, including copyrights, and privacy and publicity rights. In these cases, restrict access to privacy-related materials, don't allow copying of publicity related materials, and provide copies of copyrighted materials for fair use purposes only. See Chapter 2: Legal Issues, for guidance.

Insist that the researcher complete the copyright/privacy statement, the researcher registration form, and the researcher duplication form. (See *MH-II*, Appendix D, for forms.) When a researcher or publisher asks the NPS to authorize publications and the park staff wish to comply, park staff will send out the NPS permission letters to the researcher or publisher, rather than signing researcher or publisher's permission forms. See Figure 4.6, Permission to Publish Letter.

- ***Speedy production of low-resolution research images:*** Be able to provide low quality or low-resolution research images, such as xerographic copies, quickly and inexpensively. **Note:** While lower resolution digital files and xerographic copies can often serve this purpose, this work must be done by park staff trained in copy procedures, materials handling, and policy and legal issues, not by researchers or untrained staff. Again, the full cost of the work will be charged back to the researcher.

10. *What do I need to know before I plan my park's 2-D reproductions standard operating procedure?*

Work with other park staff to develop a park reproduction procedure. If possible, include in your procedure development team any or all of the following people: your park or regional archivist, cultural resources manager, curator, Freedom of Information Act (FOIA) officer, historian, librarian, natural resources manager, public relations officer, and records manager. Also include at least one member of your administrative staff. See Chapter 1: Evaluating and Documenting Museum Collections Use, Chapter 2: Legal Issues, Chapter 6: Other Uses of Museum Collections, and Director's Order #53: Special Park Uses, Section 14, Filming and Photography.

The 2-D reproduction standard operating procedure should resolve the following issues:

- **Responsibilities and services:** Determine whether your park will provide each of the seven contemporary reformatting options (digital, microfilm, motion picture film, photographs, sound recordings, videotapes, and xerographic copies). Decide the following:
 - Will the work be done in-house using park staff or with cooperating associations or collaborators within or outside of the park?
 - Who will produce the copies, how, and to what standards?
 - Who will manage the visual collections (cataloging, preservation, and similar issues)?
 - Who will handle the correspondence, image location, labeling, captioning, intellectual property rights work, credit line production, financial transactions, copy inspection, and packing and shipping of the copies? These jobs may be assigned to several individuals.
 - How will the park handle requests for rush orders, unusual formats, or special requests, such as requests from the NPS senior staff, reporters, and members of Congress?

Note: Fill requests within 20 days, unless there is a problem with obtaining copies from a remote location or a need to stabilize the original before it is copied. You may choose to give priority to certain types of requests in your policy, but you must respond to FOIA requests within 20 days.

- **Cost-recovery payment:** Describe how your park will handle the recovery of costs, under the authority of 43 USC 1460, which allows that the

“Secretary of the Interior or any of the officers of that Department, may...furnish copies of any official books, records, papers, documents, maps, plats or diagrams within his custody and may charge therefore a sum equal to the cost of production thereof [of the copy], plus the cost of administrative services involved in handling the records for such purposes....”

The park cost-recovery policy should be specific:

- Will the park charge the researcher for the production of a negative or original photograph or equivalent work when no duplication master exists in the park?
- Will the park insist that any negatives or transparencies produced to facilitate production of a print remain in the park, regardless of who paid for it? **Note:** Doing so will help the park retain control of its collections.
- How will money received be handled, recorded, secured, and appropriately documented?

- Will the park accept cash payments, money orders, credit cards, and personal checks for cost-recovery purposes?
- How will bounced checks be handled? Will fees be charged? Will collection agencies be used? If so, how?
- Will the park demand either prepayment (or at least a deposit) when the order is placed? If so, how will additional unexpected costs be handled?
- Which account will receive the money? **Note:** The superintendent will make this decision.
- For what future purposes will the money be used?
- Who will control the disbursement of the money?
- How will the cost-recovery fee level be set? (**Note:** Base cost-recovery fees upon actual park costs, such as the salary level of the staff members answering requests? Our legislation requires that parks and centers charge the same charge-back costs for all researchers, whether profit or non-profit, colleagues or strangers.
- When will fees be waived or reduced?
- **Contractor, staff, volunteers, or cooperating association selection:**
Indicate how the group doing the reproduction work will be selected:
 - What specifications and standards must they meet?
 - What pilot or test projects must they undertake?
 - Will the park run a test comparison by duplicating the same images with several candidate contractors and then inspecting the results?
 - Will the park send photographic pilot project work to a testing laboratory?
 - What will be the park's procedures for ordering and filling copy requests?
 - Will the park define proper handling procedures for the laboratory?
 - Will the park inspect how the group handles the materials?
 - Will the park indicate how limited the brightness/duration of light exposure must be?
 - Will the park specify the types of equipment that may be used (such as no mechanical or automatic feed copy equipment)?
 - Will the park inspect the group's equipment and laboratory?

- Will the park dictate how materials will be stored while at the duplication laboratory?
- Will the park require that the work be done in-house?
- Will the park set quality standards for 2-D reproductions? For example, will the park limit general requests for microfilm to the 16mm format silver halide; limit digital reproductions to 72 dots per inch (dpi); and offer only copy prints (not copy negatives)?
- How will shipment of materials to the researcher be handled?

Note: Regardless of who does the work, they must be trained in handling materials and be required to sign over to the park all copyrights to copies produced.

You may ship 2-D archival and manuscript materials for duplication purposes. Museum 3-D objects generally are not shipped out for record photographs unless already going out on loan, such as for conservation or exhibition. For archival and manuscript materials, ship duplication masters whenever possible. If shipping of original archival materials is necessary to make preservation, duplication, or usage copies, do so with caution to limit future preservation risks. Hand delivery is best. High priority materials for duplication include fragile or self-destructing items, particularly original cellulose nitrate, cellulose ester, and glass plate photographic collections. Stabilization may be necessary prior to reformatting.

- **Legal risk:** Decide what level of legal risk the park will accept:
 - Will the park insist on seeing the permissions from the intellectual property rights holders? *or*
 - Will the park simply require evidence of a good faith effort to obtain the permissions (such as a copyright search and letters to the last known address of the copyright holder)? *or*
 - Will the park provide the copy without authorizing publication and warn the researcher of his/her responsibility to obtain permissions? **Note:** See Figure 4.2 for a form that may be used for this purpose.
 - Will the park insist on use of the NPS digital watermark and the captions and credit line procedures listed in this chapter?
 - Will the park tell individuals making or obtaining copies that materials in the public domain (that is, materials that are no longer under copyright protection or that were created by the government) may not be copyrighted by another organization?
 - How will you ensure that the researcher is aware that he is legally responsible for observing intellectual property rights including copyright, privacy, publicity, and related legal issues?

- Will the park stamp, watermark, or mark all copies with a copyright notification statement? See Chapter 2: Legal Issues, Section C.12.
- Will the park notify the researcher that he/she must legally indemnify the NPS from any lawsuits resulting from his/her misuse of materials? See *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figures D.13a and D.14a for sample forms.
- **Restrictions:** Determine what rights the park will grant researchers:
 - May researchers digitize, photograph, videotape, film, microfilm, and resell 2-D copies of museum objects? In general this is NOT a good idea.
 - Will the park honor donor restrictions on duplication? If not, why not?
 - How will the park determine what materials are restricted and why? See Chapter 1: Evaluating and Documenting Museum Collections Use, and Chapter 2: Legal Issues, for guidance.

11. *How do I handle commercial requests to film or photograph park collections?*

PL 06-206 provides a mechanism for parks to collect fees from commercial organizations that are filming or photographing collections outside of public spaces or when commercial filming or photography poses additional administrative costs for the NPS.

For commercial filming: Before authorizing filming, you must determine if the filming will cause the collections damage, unreasonably disrupt collections use by the public, or pose a public health and safety threat. You must also ensure that the filming doesn't infringe copyright, privacy/publicity legislation, donor restrictions, or any restricted or sensitive data. If any of these situations are true, deny the filming.

If you authorize motion picture or video filming, the commercial organizations must complete a special use permit and pay a fee based upon the number of days of filming, the size of the film crew, and the amount and type of equipment present.

For commercial photography of collections: You may approve commercial still photography as long as it doesn't pose risks to the collections, doesn't affect the staff ability to serve the public, and doesn't pose health and safety risks. You will also want to ensure that no copyrights, privacy/publicity legislation, donor restrictions, sensitive or restricted data is copied. If the proposed photography poses any of these problems, deny the request. Generally large-scale duplication is a bad idea because it is very easy to miss a legal restriction or sensitive bit of protected data when many items are being copied at once.

Do not assess a fee or require a permit to film the exterior of the building or interior public spaces, but do so if the commercial firm wants to work in locations where the public is not allowed (museum storage or work spaces or exhibits after hours).

You may also charge a fee when additional administrative costs are likely, such as when staff must identify, locate, and handle objects for filming or still photography purposes. When extra work or non-public spaces are involved, you may require a fee and/or insist upon a permit. Fees collected go to the Recreation Fee Demonstration Program.

Don't allow outside researchers to make original 2-D copies of large quantities of NPS-held materials with their own cameras or scanners as it may infringe copyright, privacy, or publicity concerns; cause handling damage; cause light damage; strain relationships with affiliated groups if materials are later misused; or result in lawsuits. Park staff can't effectively control use of images made by researchers with their own equipment.

- **Maintaining control:** Decide how the park will maintain control over collections it manages. Decide how the park will warn researchers that they are not authorized to publish items that they obtained as research copies. Determine how the park will warn researchers that they aren't authorized to publish an item in a second edition or publication just because they obtained permission to use it in an earlier edition or publication.
 - When will the park refuse to provide copies? (damage to the resource; a negative impact on public accessibility; potential violation of copyright, privacy, publicity, or other statutory restrictions; preservation concerns; donor restrictions; and identified cultural sensitivities that may be protected by law)
 - Will the park decide that each use must be individually authorized by the park? (This is commonly done.)
 - Will the park refuse to grant long-term permissions to use material, such as “in perpetuity” or “all international rights in perpetuity?” (*Note:* Generally, it is best to grant limited, one-time use, or single-edition use for publications.)
 - How will the park prevent researchers, publishers, or others from using their own scanners, cameras, or other copy equipment to make copies of park collections?
 - How will the park implement the use of a watermark, hatch mark, or a clear plastic overlay sheet stating “Courtesy of _____ National Park. All rights reserved”? *Note:* NPS staff may use watermarks on all reproductions to indicate ownership and prevent misuse of images, with the potential exception FOIA requests that specifically state they want no watermark. FOIA requests for documents with no watermarks should be reviewed with the park FOIA officer on a case-by-case basis.
 - How will the park monitor the copying process to ensure proper handling of the originals and that proper captions and credit lines will always appear?

Note: It is essential to ensure that the copyrights, privacy rights, publicity rights, and similar legal, ethical, cultural, and donor-affiliated restrictions are not violated. Generally speaking this is easiest to manage if approvals are on a case-by-case basis, **hence copying using the researcher's own equipment and bulk copying pose particular risks to NPS collections and should be avoided.** If researchers (including park staff) are allowed to duplicate materials with their own equipment, have the researchers complete a duplication request form and copyright/privacy statement and indicate in writing with their signature, the purposes for which they may use the 2-D reproductions. See Figure 4.7, Wording to be Included in a 2-D Independent Contractor Agreement; Chapter 3: Publications; and Chapter 5, Figure 5.5, Cooperative Publishing Agreement.

- **Watermark:** A watermark is a visible or invisible encoding pattern (in an electronic file) or arrangement of paper fibers (in a non-magnetic paper document) that indicates the origins of the item (for digital files) or the material used in making the item (for paper documents). Not all digital watermarking packages work precisely the same. Some simply mark or produce a pattern on a document.

Others allow parks to search throughout the World Wide Web for all uses of NPS digitally watermarked items. Using these systems, researchers may click on the watermark to link directly to the NPS Web page that lists how to obtain permission to use the image and how to obtain higher quality copies. Thus the watermark can help NPS track use of digital files, as well as help non-NPS individuals learn more about how to obtain permissions and additional copies of NPS materials.

- Will the park require the use of a NPS or park watermark to indicate ownership by NPS or the park?
- Will the park insist that outside individuals creating files of NPS objects (if allowed), use a NPS digital watermark or other attribution mark so that the NPS can track use for appropriateness?
- **Digital copyright:** Decide the following:
 - How will the park protect from copyright conflicts those park images being digitized by non-contract organizations or individuals?
 - Will the park refuse to allow digitization if the digitizing firm plans to copyright the digital copy? If so, this policy should be applied consistently to all researchers.
 - Will the park refuse to allow cooperating associations to copyright digital copies of park-owned objects? **Note:** Recent case law (The Bridgeman Art Library vs. Corel Corporation in Federal District Court in New York, November 1998) indicates that mechanically produced reproductions of 2-D materials may not be copyrighted as they lack sufficient originality to qualify as an original work.
- **Management policy:** Determine how you will identify and deal with the management policy requirements that certain items in your collection be restricted and 2-D reproductions not be supplied. See Chapter 1: Evaluating and Documenting Museum Collections Use.

- **Extensive quotes and other non-fair uses:** Decide how requests for extensive 2-D reproductions, complete copies of a work, or direct quotations (beyond fair use), including images of textual documents, supplied as copies will be handled by the park. Develop a permission form and policy.

See Figure 4.6, Permission to Publish Letter, and Chapter 2: Legal Issues, Sections C.9 and C.10.

- **Bulk copying:** Determine whether you will allow other organizations to copy significant portions of your holdings outside of FOIA requests. What requirements must the researcher meet to ensure that the park's concerns are met for consultation with culturally affiliated peoples over sensitive materials, compliance with legal requirements, proper NPS attribution via credit lines, and NPS cost recovery?

Note: Bulk copying of NPS collections is generally frowned upon because legal, ethical, cultural, or preservation problems may arise. If individuals or organizations ask to copy entire or significant portions of a NPS-held collection, ensure that they are aware of restrictions that have been placed on use, including further 2-D reproductions from the copy. Screen the materials for donor restrictions, cultural sensitivities, and legal restrictions prior to the copying. Insist on proper captioning and citations of the park collection in all usages. ***The most commonly approved method of bulk copying is microfilming of entire collections for deposit in another archive or library or for scholarly use.*** See Sections C.11 and C. 12. Don't allow copying of materials with donor restrictions.

All bulk copies provided should be clearly labeled as copies and should contain the full citation and credit line (see Sections C.11 and C.12) of the original materials and appropriate copyright warnings. Don't allow bulk copying of materials protected by copyright unless the researcher has received written permission from the holder of the copyright. To maximize park control, your superintendent may require that anyone undertaking bulk copying complete a special use permit.

NPS fees are based upon and used for cost recovery. Each park will have fee schedules based upon the:

- **number and salary levels of staff doing the work**
- **prices of local contractors**
- **supplies used**
- **types of 2-D reproductions being provided**

Once you develop generic cost-recovery procedures based on these figures, you can use these fees for all requests until your costs change. See Chapter 6: Other Uses of Museum Collections.

For commercial filming in the parks, fees may also be based upon the number of days of filming, the size of the film crew, and the amount and type of equipment present.

12. *What sources of additional guidance should I consult?*

See the following publications for further guidance in the creation, storage, housing, and handling of reproduction formats:

- *Museum Handbook*, Part I (*MH-I*), Appendix R: Curatorial Care of Photographs
- *Museum Handbook*, Part II (*MH-II*), Appendix D: Museum Archives and Manuscript Collections, Sections T-W.
- *Conserve O Gram* leaflets, in the categories of Museum Collections Storage, Photographs, and Archival and Manuscript Collections and Rare Books.

B. Preliminary Policy and Planning Considerations

1. *What are the various kinds of 2-D reproductions?*

In archival and museum collections you can find a variety of historical 2-D reproduction processes and formats created using chemical, magnetic, pressure, photographic, photomechanical, and printing techniques, including:

- ***architectural drawing and plan processes:*** aniline prints, blacklines, bluelines, blueprints, chronaflex mylar prints, diazo prints, electrostatic plotter prints, ferrogallic prints, ferroprussiate prints, ink jet prints, magic marker drawings, ozalid prints, photostatic prints, sepia prints
- ***computer printouts:*** daisy wheel, ink jet, laser
- ***digital and magnetic media:*** CD-ROMs, Digibeta (for video), DAT (audio), diskettes, reel-to-reel tape, tape cartridges
- ***drawings and sketches:*** charcoal, conte crayon, graphite, ink, magic markers, pastels, watercolor
- ***early and largely extinct copy processes:*** carbon papers and carbonless copy papers, gelatin dry transfer copies, hectographs, letterpress books and papers, mimeographs, thermographs
- ***facsimile (fax) transmissions***
- ***graphic printing processes:*** engravings, etchings, halftone illustrations, lithographs, woodblock prints (***Note:*** While graphic prints can be original art objects, they were also used frequently before the development of photography in 1839 to distribute copy images of other artwork.)
- ***micrographic processes:*** color, diazo, silver halide, vesicular

- ***motion picture processes:*** cellulose ester, cellulose nitrate, color dye processes
- ***photographic processes:*** albumen prints, collodion processes, cyanotypes, gelatin silver prints and several thousand other processes
- ***photomechanical processes*** (e.g., Woodburytypes)
- ***xerographic copies***

Note: Some of these formats and processes were used to produce both original and copy materials, such as graphic prints, photography, and photomechanicals. Careful examination may prove whether some materials are originals or copies, but it is not always possible to distinguish between the two.

An overview of the relative permanence of these historic formats can be found in *COG 19/14, Judging Permanence for Reformatting Projects: Paper and Inks*. Care and handling instructions can be found in *COG 19/15, Storing Archival Paper-Based Materials*; *COG 19/16, Housing Archival Paper-Based Materials*; and *COG 19/17, Handling Archival Paper-Based Materials*.

2. *Who wants these 2-D reproductions?*

2-D reproductions are desired by many commercial and nonprofit individuals. These individuals fall into two natural groups:

- ***Museum staff***, including archivists, collateral duty staff, conservators, curators, museum specialists, and registrars, who want high quality, low-cost images such as:
 - ***record photographs*** for placement with catalog records
 - ***condition and treatment photographs*** to document the before, during, and after states of objects undergoing treatment or to document changes, damage, defects, or flaws in an item for insurance or liability purposes
 - ***deposit copies*** for placement at another repository to facilitate research
 - ***duplication master*** to be used when making additional copies
 - ***exhibition copies*** for use in an exhibit or display to replace the original item
 - ***preservation masters*** to use in the production of further duplication masters when existing duplication masters are damaged or deteriorated
 - ***duplication record photographs*** to serve as a record of what has been published or reproduced (Keep publications, as future orders may cite the publication name and page number when placing their order. Maintaining the publication will save you time as you try to fill the orders.)

- *security copies* to serve as back-up copies in case of theft of the original or to take the place of the original in a high risk situation
- *use copies* to save the original item from handling damage
- **Researchers**, including authors, contract researchers, discipline specialists, editors, educators, exhibit designers and writers, film and video production staff and writers, interpreters, park staff, public relations personnel, publishers, reporters, scholars, students, Web designers and writers, and others may want:
 - *deposit copies* placed in repositories near them to facilitate research
 - *fair use copies*, as defined by the copyright law, so that the scholar doesn't have to obtain permission from the copyright holder for research, news reporting, parody, or satire use of the item (Only when the item will actually be published or distributed, must the researcher obtain permission from the copyright holders. See Chapter 2: Legal Issues, for more guidance.)
 - *publication copies* for use in an article, book, exhibit catalog, finding aid, motion picture film, pamphlet, videotape, Website or other publication (*Note:* Researchers from nonprofit institutions often expect to be charged a lesser fee or no fee. Deciding when cost-recovery fees will be waived must be addressed in the park's 2-D reproduction standard operating procedure. Like all NPS procedures, the waiver of cost-recovery fees should be uniformly applied. Waiving fees only for colleagues or friends is discriminatory. Once regularly waived for some people, the waiving of fees must be offered to all other applicants in similar circumstances. Make certain you don't set precedents that will be too costly for the park to follow.)
 - *research photographs* for long-term scholarly work (*Note:* Scholars frequently don't want to worry about intellectual property rights or credit lines as the reproduction is raw material for scholarship. However, if the park doesn't collect any necessary fees up front, it is very difficult to obtain them later.)
 - *sales copies* for use in a derivative work, such as a tee shirt or calendar.

3. *What materials are most frequently reproduced?*

The materials reproduced most frequently are those that have already been exhibited, filmed, interpreted, published, or distributed on products, such as on tee shirts or posters. These materials tend to be:

- **photographs** (the most commonly reproduced items), including:
 - historical photos, particularly portraits, landscapes, and street or park scenes
 - high quality record images of museum objects and specimens
 - interpretive and resource management images of park sites

- **documents**, particularly:
 - autograph materials
 - drawings, including architectural, lighthouse, and ship drawings and plans
 - holographic (handwritten) documents, such as diaries and letters
 - maps
- **moving images**, including:
 - motion picture film footage
 - videotapes, particularly commercial programs and video histories
- **sound recordings**, particularly:
 - oral histories
 - music

Publishing previously unpublished park objects and documents serves the park's preservation goals as published copies reach many individuals who previously had to visit the park and handle original objects. Once published, however, demand to view the item is likely to increase, so it is important to have the original secure and, if possible, well stabilized or to have high quality copies for viewing.

Publishing also serves educational and outreach goals as well as giving authors, exhibit designers, and publishers the opportunity to provide new and interesting materials to the public.

4. *Why should I produce 2-D reproductions?*

You will provide or contract out to provide 2-D reproductions to:

- **meet a basic park staff need** for management control documents that:
 - serve as preservation masters for use instead of the original item
 - serve as duplication masters from which to make additional copies
 - serve as catalog record shots
 - serve as deposit copies for placement in other institutions to enhance access
 - document collection condition
 - document collection treatment, both before and after
 - serve as security copies to be used in lieu of valuable originals

- **enhance visibility** and usefulness of the collections for the public by providing images for use in:
 - articles
 - books
 - brochures
 - collection catalogs
 - derivative works (calendars, tee shirts, CD-ROMs, and other products)
 - electronic publications, such as CD-ROMs and the World Wide Web
 - exhibits and exhibit catalogs
 - family histories
 - research
 - student and staff reports
 - television programs and videotapes
- **increase the level of scholarship** on the National Park Service and particularly the park’s museum and archival collections
- **enhance support** (Leveraging the NPS museum and archival collection contents to raise popular support for and future donations to the NPS is a practical and effective strategy.)
- **help meet professional standards requiring that institutions provide copies for research**, such as the American Association of Museums (AAM) accreditation standards, the AAM Museum Assessment Program (MAP), and the Society of American Archivists (SAA), particularly Figure 4.7, Statement on the Reproduction of Manuscripts and Archives for Reference Use of the Society of American Archivists

5. *How do I set up my park’s 2-D reproduction fee schedule?*

You may recover costs for the work and materials involved in producing 2-D reproductions according to 43 USC 1460. These fees may not be determined by what other organizations charge, but must instead be based upon the actual resource and staff costs of the people doing the work in your park. You may also charge fees for commercial filming and photography work with collections. To figure out the park’s cost-recovery duplication fees you must determine the:

- ***salary and benefit costs per hour of the personnel*** routinely performing the work (***Note:*** If more than one person performs the work, determine the percentage of the time each participant handles the copy orders. Then, pro-rate the work according to the frequency with which the employees undertake it. For example, if a GS-7 collateral duty park

ranger and a GS-11 curator each do the work half the time, the cost-recovery plan fees should reflect an average of the two salaries.)

- **average time** it takes the personnel to perform each of the above steps per item order (See Section C.2, Duplication Fees, and Figure 4.4, 2-D Reproductions Cost Recovery Chart for Estimating Time Spent [Sample], for an example.)
- **cost to produce each type of duplicate** at your local contractors, cooperating association, or in-house service agency (Obtain this information from your contractor or staff member.)
- **special service fees** charged by the contractor on demand, such as for a rush order or special service such as toning, retouching, or darkroom work on a copy print (Obtain this from the contractor.)
- **average peripheral costs**, such as mailing, special delivery, supplies, housing, and boxes or envelopes for copies and originals (Determine this based on supply and postage costs.)

Under Public Law 106-206 you may charge fees for commercial filming and photography. For filming, the cost is determined by the above factors and the number of days of filming, the size of the film crew, and the amount and type of equipment present. For photography, a fee is assessed only if the photography is in a location where members of the public are generally not allowed or where additional administrative costs are likely. All fees from this work go to the Fee Demonstration Program.

Cost-recovery Fee Formula:

**Hourly salary and benefit costs (30% of salary) of park staff
x number of hours to do the work (See Section C.2)
+ regular duplication costs of external contractor
+ special service fees and costs charged by contractors for rush orders
or services
+ transportation cost and supply costs charged back by NPS**

Once the cost of an average item for each of the types of copies you produce is computed, determine the costs of special orders (such as having a negative, print, slide, and transparency produced from an original photograph or microfiche produced from roll microfilm).

Determine the costs of the various special services and orders listed in Section C.2. For an overview of the staff work involved, see Figure 4.4, 2-D Reproductions Cost-Recovery Chart for Estimating Time Spent. Be sure that you have a fee schedule for each reproduction format that you produce. Update your park's duplication cost-recovery fee schedule each time fees from contractors or participating staff salary change. See Section C.2 and Figure 4.4.

6. *Do I have to make all types of 2-D reproductions available?*

No. However, if a type of reproduction is requested that you don't normally provide, you must take reasonable steps to attempt to meet the need.

For example, if you don't normally make copies of motion picture film, but you receive a request for a copy of a film, contact your regional/SO curator

for help in finding a contractor who will take on this work. Obtain cost information from the potential contractor and determine if the copy work would be prohibitively expensive for the researcher, as you would have to set up new procedures to meet the need.

7. *How do I produce these 2-D reproductions?*

You have the following options:

- Train park staff to produce the 2-D reproductions.
- Hire a contractor to reproduce the work following your instructions on how to handle and make 2-D reproductions of archival and museum materials to NPS specified standards.
- Work with a cooperating association to reproduce the work following your instructions as above.

Whichever solution you choose, ensure that the work is done to specified standards. Follow the quality control standards listed in the *Selected Bibliography*.

8. *How should I select and work with a cooperating association or reprographic contractor?*

If a cooperating association or contractor is permitted to digitize selected park holdings for profit-making purposes, you will need to charge for such services as curatorial assistance, security services, and special access during off-duty hours. Inform cooperating associations and contractors in advance of NPS requirements. If your superintendent approves, you may require the cooperating association or contractor to complete a special use permit indicating how and when the materials may be used.

To keep the process simple, the park may determine not to charge cost-recovery fees if the costs to be recovered are less than \$25 or some park-determined amount. When no park fee is charged, you may ask the researcher to send the duplication payment directly to the contractor or cooperating association producing the copy. Direct payment facilitates the work and limits the amount of park paperwork required.

If you decide to work with staff of a cooperating association or contractor for reprographic services, follow these guidelines:

- **Select your cooperating association or contractor based upon:**
 - **recommendations** from fellow professionals (Contact your NPS colleagues, regional/SO curators, archivists, and librarians for referrals.)
 - **results of a pilot project** of a selected group of materials that include a full range of text, continuous tone and line art (black-and-white and color images), combined text and images, and similar materials (Send the pilot project to each of the contractors or cooperating associations being considered. Inspect and test the results as described in Sections C and F.)
 - **an inspection visit** to the contractor's or cooperating association's laboratory during the pilot project to ensure that the facility is environmentally appropriate and has appropriate equipment

(For example, no equipment should use an automatic feed or force-feed mechanism.)

- ***interviews with contractor’s or cooperating association’s staff*** during the pilot project to ensure that the staff understand appropriate handling, light levels, benchmarks for quality and exposures, metadata requirements (descriptive data about the file, including size, format, document name, and contents), and packaging and shipping needs
- ***Train contractor’s or cooperating association’s staff*** in handling and shipping techniques. Ensure that contractors know to:
 - *leave materials in original order* and never rearrange materials by density and resolution
 - *keep hazardous materials separate* from non-hazardous materials during shipping; for example, keep cellulose nitrate negatives and film in separate sleeves, envelopes, and boxes from polyester copies
 - *provide special handling and shipping for cellulose nitrate materials*, never leaving them in hot rooms, in closed vehicles, or under hot lights
 - *provide new housing for all copies*, never reusing deteriorated housing or housing that has previously held cellulose nitrate or cellulose ester films including acetate, diacetate, and triacetate films, as the old housing will contaminate new 2-D reproductions
 - *use equipment that will not damage originals*, avoiding force-feed equipment when copying NPS materials, as they can cause abrasion, tearing, scratching, and bending of original items
- ***Write a contract, agreement, or memorandum of agreement*** that covers all the issues described above and also holds contractors to the standards listed in the *Selected Bibliography*. See *COG 19/12, Contracting for Reformatting of Photographs*.
- ***Cooperate***. If work will be ongoing, set up a cooperative relationship with the contractor or cooperating association.
- ***Inspect*** all returned originals. Make sure copies meet standards. Use a testing laboratory to check density and residual chemistry of microfilm, film, and photographs.
- ***Avoid over-exposure of the same treasures***. Nothing leads to increased demand for reproductions like past visibility. You will continue to receive regular requests for 2-D reproductions of the park’s best known collections. Many potential cooperating associations are interested in NPS content because it can be useful for education, entertainment, and as an expression of what is best in American culture. NPS museums must strike a balance between access and preservation in making materials available to the public. Simply “skimming the cream” or once again reproducing the top 1% of NPS collections in another format is to be avoided as:

- these materials have already received good exposure
- repeated use may present a preservation challenge for materials, which have been subjected to excessive handling and light exposure

Instead, select materials based upon their value, usage, and risks. See *COG 19/10, Reformatting for Preservation and Access: Prioritizing Materials for Duplication*.

Additional exposure of the same materials should be done in a way to help preserve them while sharing them with the public at little cost, such as publication on the NPS Website. Simply making them available to a contractor who will charge for public access is not as helpful to the public as placing them on the NPS Website.

Encourage proposals to stabilize and research the original object and provide Web access or publication of the copy. If your object is in a condition where only limited use can be supported, favor uses that will provide wide access without charging significant access fees.

9. *How do I maintain control when working with a contractor or cooperating association to produce 2-D reproductions for special projects?*

Maintain control by following NPS requirements on marking, legal issues, contracting, and format usage. Some formats, such as digital files, encourage widespread access (such as via the World Wide Web) and subsequent loss of control. Other copy formats, such as microfilm, provide excellent control, as only poor to moderate quality copies may be made one-at-a-time. See Section B.5 for guidance on commercial filming and photography of park collections and Figure 4.3, Comparison of the Advantages and Disadvantages of 2-D Copy Formats, for guidance on selecting a format.

Look into the contractor's background. If you are working with a contractor or cooperating association for a specific external project that was not initiated by the NPS, begin by learning the basic background on the project, including the:

- project title
- project publication media
- project schedule
- publication release dates
- language(s)
- publisher's and distributor's names
- project manager's name (also address, e-mail, phone, and fax numbers)
- editor's and designer's names (also address, e-mail, phone, and fax numbers)
- length of the proposed collaboration

- whether the park superintendent will receive a written report at the end of the project listing all NPS materials used and indicating how many times, and where each item was used
- whether the contractor or cooperating association plans to donate a portion of the proceeds to the park
- whether the contractor or cooperating association will provide at least two copies of the finished piece for the NPS—one for the library and one for the archives
- whether the contractor or cooperating association will indemnify the NPS from lawsuits and claims as stated in *MH-II*, Figure D.14, Copyright and Privacy Statement

Gather your contract or agreement information. Once you have the basic background information on the project, have your cooperating association or contractor indicate in writing in your agreement or contract, the following information about how the 2-D reproductions will appear in the final work:

- what size they will be
- where they will appear in the final work
- whether or not they may be cropped, compressed, or enlarged in any way
- how and where the caption line and credit lines will appear in the final work (Find out if the captions/credit lines will be next to the item, linked to the item [less desirable] or simply placed elsewhere in the publication with no linkage [least desirable])
- what additional copies or derivatives may be made from the 2-D reproductions
 - whether anything may be superimposed upon it or near it
 - whether the 2-D reproductions may be color corrected, sound engineered, or airbrushed; or have stains removed digitally; or be in any other way altered. **Note:** Retouching or enhancing the image produces an inauthentic copy that is significantly different from the original. Such retouching or correction may damage or destroy the evidential value of the copy
 - whether the 2-D reproductions will be used for any special purposes, such as for a frontispiece, book or box covers, advertising copy, or for film trailers
 - whether the NPS arrowhead logo must appear with the 2-D reproductions

Indicate any restrictions. Ensure that you have a clear written contract with the reprographic firm or cooperating association that has been signed by both

parties. Ensure that the cooperating associations or contractors know that having produced the copy doesn't allow them to:

- ***publish, distribute, sell, or use the materials in additional products*** or publications without permission from the park superintendent and the holders of any intellectual property rights and without using the appropriate caption and credit lines (See Sections C.12 and C.14) except for fair use purposes. See *MH-III*, Chapter 2: Legal Issues.
- ***authorize others to use, distribute, or publish the copies without the written permission*** of the park superintendent and the holders of any intellectual property rights and the use of the appropriate caption and credit lines (See Sections C.12 and C.14.)
- ***permanently keep copies after the life of the joint agreement is over*** without the written permission of the park superintendent and any intellectual property rights holders and affiliated peoples
- ***copyright the copies of materials held by the NPS*** without the written permission of the park superintendent and the holders of any intellectual property rights (See Chapter 2: Legal Issues, Sections C.6 and C.7.)
- ***morph or alter the copy, except for purposes of satire or parody,*** without the written permission of the park superintendent and the holders of any intellectual property rights except when requested by park staff to enhance the clarity of the information contained (such as for stain removal)

Specify all uses by the contractor/cooperating association. The contract should stipulate what uses the contractor and cooperating association may make of the reproduced items, if any. For example, may the contractor use the reproduced items in only one edition (one language, one publisher) in only one format (one Website, one book, one videotape)? If the contractor is asking for multiple edition use, multiple title use, or all digital rights, move the discussion to one time use to avoid losing control of NPS content. If the cooperating association or contractor wants to use the materials in all editions, on the box, and on the advertising, each permission must be negotiated and agreed to in writing with the superintendent.

Don't sign any agreements granting anyone "exclusive usage," "exclusive rights," "all rights in perpetuity," or "all galactic rights."

The contract must clearly state under what circumstances (if any) the contractor or cooperating association may make additional copies of the copies for deposit in other institutions or for sales purposes. If you grant usage to one contractor or cooperating association, you must be willing to do so to all others who request it, unless the preservation situation of the works change.

For further guidance see Figures 4.6, Permission to Publish Letter, and 4.8, Wording to be Included in a 2-D Independent Contractor Agreement; and *MH-II*, Appendix D: Managing Museum Archives and Manuscript Collections, Figures D.14, Researcher Duplication Form, D.15, Copyright and Privacy Form, and D.16, Researcher Registration Form. See also Chapter 3: Publications, Figure 3.12, Memorandum of Agreement.

10. *How do I maintain control during digital projects?*

Follow the guidance on maintaining control above under B.9.

- **Indicate who will do any collection preparatory work** required before scanning, such as collections stabilization or flattening and opening documents.
- **Identify the descriptive conventions**, particularly how and when the scanning contractor or cooperating association will do the file naming, numbering, indexing, and labeling.
- **Indicate what file formats and compression schemes** the scanning contractor or cooperating association will use.
- **Identify who will handle quality control testing** of files and metadata.
- **Identify who will use a digital watermark** stating “NPS” on original and on all the copies. See the definition of watermark in Section A.9 for more information.
- **Ensure that the contractor’s or cooperating association’s network is sufficiently secure** to prevent unauthorized downloading, transferring, copying, and manipulation of content. Avoid using non-secure formats, such as floppy diskettes, for distribution.
- **After the digitizing project is over the park should receive:**
 - *copies of all digital master files* (uncompressed TIFF files)
 - *copies of all derivative files* in various file formats, compression schemes, and sizes (thumbnail JPEGs, 200 dpi GIF, and so forth)
 - *copies of all metadata* (descriptive data on files)
 - *copies of all quality control test results* if the work is done outside the park
 - *copies of all indices*

11. *How do I maintain control during microfilming projects?*

Follow the guidance on maintaining control above under Section B.9. If an outside organization requests the right to microfilm selected park holdings, be aware that more work is involved in microfilming than in many copy activities.

- **Identify each party’s role.** Will it be the park or contractor/cooperating association that will:
 - *do any collection preparatory work required before filming*, such as loosening tight bindings or flattening and opening documents
 - *work with a conservator* to stabilize any deteriorated, fragile, or damaged items prior to filming

- *identify any missing items* or pages, locate, and replace them prior to filming
- *prepare targets* (internal labels for shooting next to museum materials) including credit lines (see Section C.12), tables of contents for each roll and each collection or groups of materials, resolution (focus) charts, bibliographic data (creator, title, date, media, publisher, if any, and date) and indications of missing documents or items for a series of linked materials
- *produce a table of contents for the entire project*
- *ensure that microfilm targets (internal indexing) are accurate, legible, and according to park requirements*
- *arrange the materials* for shooting in original order
- *quality control check* to ensure that nothing was rearranged out of original order during shooting
- ***Set up timetables*** for this work.
- ***Determine the quality control standards*** to be followed.
- ***After the microfilming project is over, check that the park receives:***
 - *the negative* of the microfilm plus a full set of copies
 - *a copy of all targets* or indices to the microfilm
 - *copies of all quality control test results*, including methylene blue tests and densitometric tests

See *COG 19/21, Planning for Microfilming Projects*, for further guidance.

12. *How do I maintain control for motion picture film and photography projects?*

If an outside organization requests the right to film or photograph selected park holdings:

- ***Indicate when and for how long the film may be used***, for example, for non-commercial usage on National Public Television for a five-year period.
- ***Indicate how long the photography may be used***, for example, in a single edition of a single English language publication or on a Website for five years.
- ***Ensure that the director and producer understand clearly and state in writing when and how the photography and film may be used.***
- ***After the filming or photography project is over, check that the park receives:***

- *all negatives plus a positive print or transparency* of each item, preferably on a long-lived film stock such as a polyester film base
- *copies of all final edited or retouched versions* and any outtakes or unused film footage
- *copies of all quality control tests* including densitometric tests and resolution tests
- *copies of any captions, indices, or directories*

See Section B.5 on commercial copying and Chapter 6: Other Uses of Museum Collections, Section C, for further guidance.

13. *How do I maintain control over collections for audiotaping and videotaping projects?*

If an outside organization requests the right to record selected park on audiotape or videotape:

- ***Indicate when and for how long the tapes may be used*** in concerts or broadcasts, for example, for non-commercial use on National Public Radio or Television for a 25-year period.
- ***Ensure that the director and producer understand clearly*** and state in writing when and how the tapes may be used.
- ***After the taping project is over,*** check to make sure the park receives :
 - *all master tapes plus an edited copy*, preferably on a long-lived tape stock such as professional quality reel-to-reel tape or short-play professional quality cassettes (<60 minutes per cassette) or on CD-ROM (For more information see *COG 19/19, Care of Archival Compact Discs*, and *19/20, Care of Archival Digital and Magnetic Media.*)
 - *copies of all final versions* and any outtakes or unused tape footage
 - *copies of any indices or directories*
 - *copies of all quality control tests*

See *MH-I*, Appendix C: Professional Organizations, for a list of groups that may be of assistance.

14. *How do I maintain control over printed and xerographic reproduction projects?*

If an outside organization requests the right to make printed or xerographic copies of selected park holdings:

- ***Ask to see all page proofs and bluelines*** to ensure that the object is reproduced correctly.
- ***After the printed or xerographic duplication project is over, ensure the park receives:***
 - *copies of page proofs and bluelines* for review purposes

- *two sets of the publication* (one for the library, one for the archives)
- *preservation and duplication master copies* on high quality acid-free paper with carbon-based laser toner for park use
- *a copy of any indices* to the copies
- *copies of all quality control test results* on the paper and toner

15. *How should I operate if I choose to do the work in-house?*

If you choose to do the work in-house:

- **Professionally train** your staff by sending them to courses sponsored by professional organizations.
- **Gain practical experience before beginning.** Ensure that your staff members doing the copy work obtain some practical experience through cross training or a detail with a major professional organization that does reproduction work to national standards.
- **Be aware of hidden costs.** Don't expect that the work will be done more quickly, cheaply, or easily if it is done in-house. **There is a very steep learning curve with most 2-D reproduction work** (all but xerographic copies) that may ultimately make it more cost effective to contract out, unless your staff has significant prior experience with reformatting.
- **Do effective quality control and reproduction testing.** Test and inspect in-house work just as you would contract work. See Section C.3 and the Selected Bibliography.

16. *How do I keep control of my content when producing 2-D reproductions in-house?*

When undertaking reproduction programs:

- **Don't allow researchers or untrained park staff to do the copy work** or to use their own equipment. The NPS should attempt to control handling and be responsible for legal (copyright, privacy, and publicity issues), ethical (donor restrictions) and cultural issues (Archaeological Resources Protection Act [ARPA] restrictions, and cultural sensitivities) relating to access and use of NPS collections. Allowing others to copy materials without careful supervision can lead to ongoing donor, legal, and cultural relations problems.
- **Don't allow park staff, volunteers, vendors, contractors, cooperating associations, or others to copyright their 2-D reproductions of your museum materials.** The copyright may pose significant confusion and access problems in the future. Some digital publishers and contractors are copyrighting their individual digital copies of public domain materials, even when the original items are already covered by copyright held by others. The lawsuit *The Bridgeman Art Library vs. Corel Corporation* in Federal District Court in New York of November 1998 indicates that mechanically produced reproductions of 2-D materials may not be copyrighted as they lack sufficient originality to qualify as an original art work. See Chapter 2: Legal Issues, Sections C.6 and C.7.

Most publishers copyright their entire work (book, journal, Website) even when they don't own the copyright to some individual pieces within

the publication. Such copyrighting of an assemblage of pieces doesn't change the copyright status of individual items already copyrighted or in the public domain. Copyrighting of a work that contains public domain materials serves as a notice that the publisher considers the sequence of content to be an original work capable of being protected under the law.

Don't authorize a contractor or cooperating association to place a copyright notice on an individual NPS-owned item and claim copyright ownership of something that is already in the public domain or whose copyright is held by another.

Such placement of a copyright notice on an unprotected or already protected item implies that the contractor or cooperating association has some control over the access and use of the original item. This is not true. Placing a copyright notice on something that is in the public domain or already is copyrighted is simply an ineffectual and misleading gesture.

- ***Don't allow park staff, volunteers, vendors, contractors, cooperating associations, or others to keep master images or files***, such as the photographic negatives or digital master file unless you have a signed agreement. The agreement must indicate that the NPS owns the material and controls access and the cooperating association is committed to preserving, migrating, and managing the materials on behalf of the NPS over time.

Many copy laboratories will argue that they can store and manage park duplication masters better than parks, particularly since shipping the duplication masters isn't necessary when the park wishes to place subsequent orders. Once you have lost physical control of the master, it may be difficult to regain it or legal title to the materials. See Figure 4.7, Wording to be Included in 2-D Independent Contractor Agreement, and Chapter 3: Publications, Figure 3.12, Memorandum of Agreement.

Don't store park 2-D reproduction masters with park contractors or cooperating associations unless the park has a very clear and specific agreement signed by both parties, stating:

- ***precisely what services will be provided and at what cost***
- ***how the materials will be handled and used***
- ***that 2-D reproductions may be made only with written permission of the park staff***
- ***that the park owns the materials and can regain custody when required***
- ***precisely what materials are covered by the agreement in inventory form***

Keep all masters in the park, as this will allow the park to control access and use, monitor usage, and limit risk, such as intellectual property right infringements and inappropriate use of sensitive or confidential data. See Section B.9.

- **Don't allow researchers to deliver the materials to the copy laboratory themselves.** Researchers are not park staff. If the researcher loses the material, the park would be in a very awkward position legally. Either have park staff deliver the items or hire a delivery service.

17. *Is approval necessary before 2-D reproductions are made?*

Yes. Items must not be removed from museum storage for any non-research or reference purpose without archival/curatorial examination and approval. Determine if the object is stable and capable of being handled and reproduced. In some cases, it may be necessary to work from a copy image or object rather than reproducing from the original.

18. *How do I handle requests for photographs of original archival and museum materials?*

Researchers and park staff often require 2-D reproductions of museum objects. Staff may want usage, duplication, or reference copies to serve as surrogates for the originals. Researchers generally want copies for publication or scholarly purposes. Handle all requests in the same manner:

- **Document the request.**
 - *Ensure that all appropriate forms are completed* and that the researchers sign them. (See *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figures D.14, Researcher Duplication Form, D.15, Copyright and Privacy Form, and D.16, Researcher Registration Form.)
 - *Ask for copies of all final edited or final program versions* and any outtakes.
 - *Request that a clear credit line and caption line* always accompany the item in all products (see Section C.12).
 - *Inform users that having a copy doesn't allow them to use the materials in additional or later programs, films, tapes, performances, products, or publications* without obtaining additional NPS approval and written permission.
- **Examine the item.** Determine if the objects/items require stabilization or are particularly vulnerable to handling or light damage during reformatting. (See Section B.19.)
- **Stabilize the item.** If necessary, send the object to a conservator for treatment prior to reproduction.
- **Work with a museum objects photographer.** Ask your regional/SO curator for assistance in locating a trained photographer. See *MH-II*, Appendix L: Photography.
- **Arrange for a cost-recovery payment.** See Section B.8.
- **Ensure that the park obtains all copyright and model release forms** from the original image creator and all master images, such as original negatives, and that no copies or negatives stay with the photographer when the park is funding the request.

- **Ensure that your contract or agreement clearly states that the park owns all copyrights** and receives all model and interview release forms, as well as all negatives, slides, transparencies, prints, digital files, etc. See Chapter 3: Publications, Figure 3.4, Assignment of Copyright by Contractor (Sample).
- **Ensure that the researcher funds any and all processing costs, including negative production if necessary.** Most museums and archives require that the researcher fund not only their copy, but also the production of a negative or other master image that stays with the museum if no such master image or negative already exists. Your policy should indicate that the park receives the duplication master (the negative) and the preservation master (the transparency) if the work is being funded by an outside agency and the park doesn't already have masters for these purposes.
- **Don't loan, sell, or distribute duplication or preservation masters to researchers,** as the park may lose control of the intellectual property rights and the ability to manage the sensitivities and usage context. Instead, share usage copies, which may be photographic prints, xerographic copies, smaller digital files (around 72 dpi) and non-broadcast quality materials.
- **Ensure that the original object is handled appropriately** and replaced in storage.
- **Compare the copy image** side-by-side with the original item for quality, completeness, focus, tonal range, and other issues. See COG 19/13, Preservation Reformatting: Inspection of Copy Photographs.

19. *What items require examination and/or stabilization before being copied?*

Examine all items to ensure that they are not too fragile, faded, or damaged to be handled, transported from storage, or lit for reproduction. Many items may need to be treated or stabilized by a conservator. This section will alert you to potential problems and vulnerabilities when materials are placed in new environments such as photo laboratories with their resulting changes in temperature and humidity, strong lighting, rapid handling, and transportation difficulties. Among the items that are particularly vulnerable to the handling, humidity and temperature changes, and light damage that often accompany reformatting are:

- **photographs**, including:
 - *cased images*, such as daguerreotypes, ambrotypes, tintypes, opalotypes, and similar images (**Note:** Although cased images may be very difficult to copy due to dirty or deteriorating cover glasses, copyists must be warned not to dismount the original case, frame, and cover glass assemblage or they may destroy the items.)
 - *cellulose ester*, including acetate, diacetate, and triacetate negatives, transparencies, and X-rays (**Note:** These materials may give off acetic gases that damage nearby materials. Cellulose ester images must not be housed, packaged, or shipped with non-cellulose ester materials.)

- *cellulose nitrate*, particularly as nitrate negatives, X-rays, motion picture film, and aerial photographs (**Note:** Nitrate is a fire, health, safety, and structural hazard unless stored at a low temperature and humidity and kept far from sources of ignition. Nitrate materials must not be housed, packaged, or shipped in containers with non-nitrate materials.)
- *ferroprussiate process prints*, including cyanotypes and blueprints (**Note:** These items are extremely susceptible to fading under strong light and have very weak paper fibers. See *COG 19/7, Care of Blueprints and Cyanotypes.*)
- *glass plates*, including albumen photographic transparencies, autochromes, collodion wet plate negatives, collodion dry plate negatives, lantern slides, opalotypes, silver gelatin dry plates (**Note:** Glass plates may be broken, cracked, or chipped and/or have flaking emulsions. Glass plates generally are fragile and require attentive handling/shipping to ensure that no two plates touch each other.)
- *paper-based images*, particularly wood pulp paper (**Note:** Paper materials are susceptible to environmental damage, particularly light damage. Light can bleach and weaken paper fibers, as well as fade media and dyes.)
- *shaped and curved images*, such as stereographs (**Note:** The natural curve of the image and base will not lay easily on the platen of a scanner or xerographic copier. Older stereographs can separate from their bases, posing additional stabilization and copy problems.)
- **books**, which may need to be either individually copied on a rare-book-equipped copy machine that has V-shaped special book edges (allowing books to be copied without pressing them flat) or copied with special book cradles to keep their bindings intact. Avoid any sort of automatic feed mechanism as well as any copy equipment that requires placing pressure on the book spine. Additional book problems requiring stabilization include acidic pages, flaking due to red rot, loose or missing pages, illustrations, such as photographs or maps, that must be copied in the middle of text (posing particular problems when you are using xerographic copying or digital copy technologies).

Other book reproduction problems include:

- *albums, scrapbooks, historical leather bound volumes, and rare books, which are often:*
 - damaged on their spine or covers
 - difficult to work with unless you have a book cradle for shooting (placing them flat may destroy their bindings)
 - distorted or warped dimensionally
 - experiencing mold, insects, or vermin problems
 - fragile, brittle, and acidic, requiring a book cradle to view them
 - full of affixed objects that are falling off, requiring reattachment and documentation
 - suffering red rot (flaking or powdering leather) on covers and spines

- *tightly bound books and books with narrow gutters (inner margins), which may be:*
 - awkward to handle
 - difficult to copy without destroying the binding or disbinding the book
- ***magnetic media***, including:
 - *audiotapes*, which have a media life expectancy of 50-100 years depending upon their base materials
 - *digital reel-to-reel tape*, which has a media life expectancy of 30 years (if the base is polyester) and a software/hardware life expectancy of 3-5 years
 - *diskettes*, which have a media life expectancy of 10-15 years and a software/hardware life expectancy of 3-5 years
 - *tape cartridges and cassettes*, which have a media life expectancy of 5-50 years but a software/hardware life expectancy of 3-5 years
 - *videotape*, which has a media life expectancy of 30-100 years depending upon the media base

(Note: These materials can have bases, such as cellulose ester, that are unstable; flaking media; and coatings, all of which are sensitive to environmental changes and the shock of handling and transportation.)

- ***manuscripts***, including:
 - *letterhead holographic letters*
 - *diaries*
 - *memoranda*
 - *notes*
- ***museum objects***, which are often fragile, very large, high-value, and heavy, and which may require special packing, handling training, copy set-ups (a risk in themselves in tight storage spaces), and cameras to be effectively photographed, including:
 - *decorative arts materials*, such as: basketry, ceramics, furniture, glass, jewelry, medals
 - *archeological objects*, such as: basketry; bone and ivory objects, including jewelry and sculptures; ceramics, including pots, vessels, and similar containers; metal objects, including tools and weapons

(Note: These and similar materials may be too fragile for easy transportation, thus requiring in-park photography to produce a 2-D image of a 3-D object.)

- *artwork*, such as: architectural fragments; art on paper, including graphic media, photographic media, and photomechanicals (**Note:** These items are extremely susceptible to environmental damage, particularly light damage. Light can bleach and weaken paper fibers and fade media/dyes.); framed and/or matted items, which may require careful removal of frames and mats before photography; friable media, including charcoal, conte crayon, pastel drawings, pencil sketches, and similar images or documents with smearable, loose media. (**Note:** The surface of these media must never be touched, placed directly on a glass platen, have a glass or plastic sheet placed upon them to hold them flat or otherwise be touched. Keep light levels relatively low and for relatively brief duration.); graphic prints, including engravings, etchings, intaglio, lithographs, and wood engravings; paintings, including watercolors (**Note:** Paintings can have fragile surfaces and light-sensitive media.); sculpture
- *natural history specimens*, including: specimens in alcohol, specimens in formaldehyde in glass jars, specimens with arsenic or other chemical contamination

(**Note:** These materials, which may be contaminated with potentially dangerous chemicals, may require special packing, handling training, copy set-ups, and cameras to effectively portray a 3-D object in a 2-D image. While 3-D digital imaging systems exist, none of the currently available systems offers full 3-D imaging capabilities at a reasonable cost, although this eventually will become possible.)

20. *Should I allow researchers to make private 2-D copies of museum objects with personal equipment?*

No, although visitors are generally free to take photographs of items on exhibit. While you may allow photography of some materials without legal, management policy, or sensitivity concerns, when possible provide copies rather than allowing private photography or digital copying of museum or archival collection items. Such activity may pose serious problems that are described below. **Your duplication standard operating procedure should discourage the use of private imaging equipment**, including personal digital cameras, scanners, and cameras. Instead, researchers should obtain appropriately marked fair use copies from the park See Chapter 6: Other Uses of Museum Collections, Sections C and D. Allowing the creation of private 2-D copies of public collections may cause:

- **disruption** of museum research spaces or storage or work areas to accommodate a single individual
- **intellectual property rights concerns**, as the user now has a publication-quality image, which may be used without regard to copyrights, privacy rights, and publicity rights
- **potential liability problems**, if the copyist inappropriately publishes the item without obtaining permission from the holder of the intellectual property rights
- **preservation problems**, as non-custom copyists handle items for the speediest copy work, often ignoring the damage they cause to originals

- ***public relation concerns with affiliated group and other stakeholders***, when the copyist produces a publication quality copy that is then used inappropriately or inaccurately without consulting affiliated groups
- ***public relations concerns with scholars and the general public***, when the copyist publishes the item with inaccurate or inappropriate information alongside the NPS credit line
- ***supervisory responsibilities***, as staff must constantly monitor for inappropriate handling

Museum object documentation of fine and decorative arts materials, some ethnographic materials, and archives by a private individual or firm may pose a legal threat to effectively managing copyright and privacy/publicity rights and restricted collections. While biological, archeological, and similar objects aren't intellectual property concerns, they can be damaged if not handled with great care. Light damage from copy stands can also pose problems. **Note:** This is generally not a concern for natural history specimens or archival collections already screened for problems if they are to be microfilmed for scholarly uses, for preservation, or for deposit in another library.

Some copy agencies are copyrighting their digital reproductions of original works even when the copyrights of the original works are held by public museums or are in the public domain. Don't allow this to happen to NPS collections. The NPS museum collections are held in trust for the public and must not be misrepresented by false copyright claims or usage that violates NPS policies, procedures, and protective legislation.

21. *What notice should I place on all copies?*

According to Section 108 of the U.S. Copyright Act, you must place a notice of copyright directly upon the copies the park provides to users. You may rubber stamp the items, write the notice upon the copy by hand, or use a viewable digital watermark.

- If the original work includes a formal copyright statement, use the following notice:

The work from which this copy was made included the following copyright notice: (Transcribe the original notice and place it here.)

- If the work to be reproduced doesn't contain a copyright notice, place the following notice on it:

The work from which this copy was made did not include a formal copyright notice. Copyright law may protect this work. Uses may be allowed with permission from the rights holder, or if the copyright on the work has expired, or if the use is 'fair use' or within another exemption. The user of this work is responsible for determining lawful uses.

C. 2-D Reproductions Management Implementation Issues

1. *What management issues apply to all kinds of 2-D reproductions?*

A number of issues apply to all reproduction work, regardless of process and format. These include:

- **legal issues**, such as copyright, privacy legislation, publicity legislation, obscenity, Freedom of Information Act, Archaeological Resources Protection Act, National Historic Preservation Act Amendment of 1980, Executive Order 13007-Indian Sacred Sites (May 24, 1996), Federal Cave Resources Protection Act, and Endangered Species Act of 1973

For guidance on these and other legal and ethical issues, see Chapter 2: Legal Issues, and Chapter 1: Evaluating and Documenting Museum Collections Use, Section E, Cultural Issues.

- **procedural issues**, such as adequacy of researcher supervision, fragility of materials to be reformatted, the need to catalog materials that are reformatted, sensitive or restricted data, consumptive use concerns, maintaining the chain of custody, how to handle contaminated and/or hazardous materials (such as cellulose nitrate), establishing a park access and use policy, and setting up user fees

See Chapter 1: Evaluating and Documenting Museum Collections Use, Section C, Management Issues, and *MH-I*, Appendix D: Museum Archives and Manuscript Collections, and Appendix R: Photographs.

- **ethical issues**, such as donor restrictions, equality of access, confidentiality and privacy, preservation, employee ethics, and professional ethics

For more information, see Chapter 1: Evaluating and Documenting Museum Collections Use, Section D, Ethical Issues.

- **cultural issues**, such as sacred ceremonies and sites, circumstances of usage, and authorized users and cultural privacy

For more information, see Chapter 1: Evaluating and Documenting Museum Collections Use, Section E, Cultural Issues.

- **scientific issues**, including concerns about information on the location of threatened and endangered species

For more information, see Chapter 1: Evaluating and Documenting Museum Collections Use, Section F, Scientific Issues.

- **preservation and protection issues**, such as assessment of the original object's physical condition, care and handling of originals (such as cellulose nitrate, cellulose ester films, and glass plate negatives as well as deteriorating museum originals of all kinds) and copies, an overview of potential preservation risks, an overview of security risks, including theft and vandalism, how to evaluate risks, how to recognize and prevent

overuse, how to mitigate damage, and how to migrate and refresh electronic and magnetic media

See Chapter 1: Evaluating and Documenting Museum Collections Use, Section G, Preservation and Protection Issues, and *MH-I*, Chapter 3: Preservation: Getting Started, and Appendix M: Management of Cellulose Nitrate and Ester Film.

- ***interpretive issues***, such as the interpreter's role in making and using reproductions, determining the appropriateness of the proposed use, and exploring alternatives to the proposed reproduction or use

See Chapter 1: Evaluating and Documenting Museum Collections Use, Section H, Interpretation Issues.

- ***documentation issues***, such as how to document access and use of collections, when to use an outgoing loan agreement, when to require a special use permit (such as for bulk or commercial copying), and when to expand ANCS+ cataloging records (when you lack item-level control)

See Chapter 1: Evaluating and Documenting Museum Collections Use, Section J, Documentation, and *MH-II*, Chapter 5: Outgoing Loans.

2. *What 2-D reproduction procedures should I set up for my park?*

Each park needs to set up these basic 2-D reproduction procedures:

- ***Researcher Duplication Form:*** This form captures the basic information on the researcher's request and requires the researcher to acknowledge that the use is for non-commercial and non-profit research, news reporting, criticism, and commentary purposes only and not for publications and derivative works. Some information on the form, such as name, address, and affiliation, should be checked against picture identification cards, such as drivers' licenses and employment identification cards. See Question 3 below and *MH-II*, Appendix D: Administration of Archives and Manuscript Collections, Figure D.14, Researcher Duplication Form (Sample).
- ***Copyright and Privacy Restrictions Statement:*** This statement warns the researcher that permission to publish, exhibit, perform, reproduce, prepare derivative works (such as posters or tee shirts) from, or distribute the item must be obtained by the researcher from the individual(s) who hold the rights (not necessarily the NPS). See *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figure D.15, Copyright and Privacy Restriction Form.

Researchers sign the form to indicate that they:

- understand their responsibilities regarding intellectual property rights
 - agree to the park's terms including indemnifying or holding the NPS harmless from legal claims arising from the researchers' use of the item
- ***Duplication Fee Schedule:*** The fee schedule is given to researchers to alert them to the park's cost-recovery fees for duplication services. After reviewing the fee schedule and selecting images for duplication,

researchers must complete Researcher Duplication Forms (*MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figure D.14) correctly and completely.

- **Order Process:** The park staff begins the order process by:
 - *identifying and retrieving* the item being requested
 - *determining the intellectual property right status* of the item requested (privacy, publicity, and copyrights) by checking the deed of gift
 - *checking the requested items* for damage, health and safety issues, and/ or legal or preservation risks
 - *answering the request* in person, or via mail, phone, e-mail, or fax (All responses should be prompt, or at least within 20 days, to acknowledge receipt of the order, explain the park duplication policy, indicate any cost-recovery fees, and cite any duplication restrictions due to the copyright status of the item.)
 - *stabilizing the item to be duplicated*, if necessary; if not possible, creation or location of a duplication master to serve as the original for duplication purposes
 - *rehousing the item and copies* (if necessary)
 - *labeling the item and copies* (if necessary)
 - *packing the item and copies* (if the item is being shipped)
 - *completing all loan or other necessary forms*
 - *depositing any researcher payments* into the appropriate account (**Note:** Reproduction work should not be done without first receiving all payments, as the NPS is not set up to handle billing and debt collection.)
 - *transporting the items to contractor or staff* responsible for duplication, and if necessary, completing their duplication order form
 - *unpacking and checking-in items* after duplication
 - *inspecting returned originals for deterioration* or missing items
 - *inspecting copies* against originals for outside researchers to ensure image completeness, appropriate focus, color balance, and similar visual issues
 - *reordering of duplicates for any missed items* or items that don't pass inspection
 - *quality control testing* of any copies for internal use

- *producing captions and citations*
- *rehousing (if necessary) and refiling the original material*
- *verifying payment of contractor and park by researcher*
- *completing any necessary paperwork, including cover letter to researcher*
- *packaging and mailing of duplicate to researcher*

3. *What is the standard operating procedure for obtaining 2-D reproductions?*

Obtaining 2-D reproductions is a simple process that is the same for staff as for visitors:

- **Flag or list the originals.** The researcher determines what will be reproduced.
 - *For archives*, the researcher marks that item by placing a reproduction flag next to it. A reproduction flag is a stiff, 3"x11" piece of acid-free paper. Place the flag in the archival storage box immediately in front of the item to be reproduced. If it is not absolutely clear which item should be copied, note in pencil on the top of the flag the item location or a unique identifier, for example, box 1, folder 6, item 9, and erase or strike out any previously marked location information. See *MH-II*, Appendix D: Museum Archives and Manuscript Collections.
 - *For museum objects*, make a list of all items to be reproduced including their catalog numbers, object/specimen names, and locations

Attach this list to the Researcher Duplication Form. **Note:** This procedure should be followed when retrieving items for duplication, regardless of the reason. Follow the guidance in *MH-II*, Appendix L: Photography, when making photographs of 3-D museum objects.

- **Register the request.** The researcher completes a researcher request form, copyright and privacy form, and duplication request form completely and legibly. See Chapter 2: Legal Issues, and *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figures D.14, Researcher Duplication Form, D.15, Copyright and Privacy Restrictions Form, and D.16, Researcher Registration Form.
- **Check the forms.** Ensure that the researcher has completed researcher registration, copyright and privacy, and researcher duplication forms completely, clearly, and legibly.
- **Evaluate the request.** The responsible park staff member examines the request and determines whether the copy can be provided given:
 - *the legal (copyright, privacy, and publicity, and legislation) status of the items requested for copying (Note: If the copyright status is unknown, grant only “fair use” of the materials. See Chapter 2:*

Legal Issues. ***The researcher, not the park, is responsible for obtaining permission to publish.*** If the image is of a private living individual and the park lacks a model release form, don't duplicate it as the image may be protected by privacy legislation. If the individual shown is a park staff member or no longer living, you may duplicate the image.

- *the preservation state of the original item*
- *the proposed usage* (publication or use in a for-profit product) of the copy
- *any special concerns* related to NPS management policy (for example, the original item is NAGPRA-eligible and requires consultation with affiliated groups prior to use)

Note: During evaluation, Cellulose nitrate and cellulose ester (acetate, diacetate, and triacetate) materials may be judged too dangerous and deteriorated to be removed from cold storage for publication purposes. Researchers and duplication staff may be instructed to work with copy negatives instead. Some materials are restricted by other laws or management policy.

Usage for research that doesn't involve publication—such as limited distribution for not-for-profit education, and publication for news reporting, parody, or satire—doesn't require copyright permissions. However, if a copy is made during some other activity, such as conservation treatment, the user must be notified that there may be legal or other restrictions on the use of the reproduction.

Any reuse, even in a later publication or lecture for education or training purposes, may be prohibited unless permission is obtained. See Chapter 1: Evaluating and Documenting Museum Collections Use, and Chapter 2: Legal Issues.

The researcher must obtain a statement from the copyright holder authorizing the use if:

- the use doesn't fit the fair use criteria described in Chapter 2: Legal Issues
- the park doesn't have all copyrights (Check the deed of gift and accession file.)
- the work isn't in the public domain (See Chapter 2: Legal Issues.)
- the park staff can't find any documentation of any sort on the copyright status of the work

The copyright holder's statement (a model for use by researchers seeking to obtain permission to publish, distribute, perform, exhibit, or prepare derivative works from park-held copyright protected materials) should be modeled on Figure 4.6. The statement should say:

“I _____ (full name of copyright holder) *authorize the applicant* _____ (full name of applicant) *to publish (or exhibit, distribute, perform, or film, or whatever is agreed to) the following item* _____ (describe the item by creator, date, catalog number, and title) *in the following publication* _____ (list the publication by title, author, publication date, edition and language; if an exhibition, list museums, travel schedule, dates, title, and sponsor; if for classroom use, list the course title, dates, school, method of distribution, and audience).”

Signed _____

This statement should be signed by the copyright holder, with the copyright holder’s name, address, phone number, fax number, and e-mail address following the signature.

This copyright statement authorizes the use if the researcher plans to publish, re-sell, exhibit, perform, or distribute the item (including over the Web).

Or, alternatively, the researcher can indicate in writing on the Researcher Duplication Form (*MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figure D.14) that he/she won’t use the image in publications, exhibits, performances, or derivative works. Check the accession and catalog folders of the requested object to see what intellectual property rights the park has and what other restrictions (donor restrictions) may apply.

Ask yourself:

- Has the researcher obtained any necessary permission(s) for copyright, privacy, and similar issues?
- Is the researcher proposing to do anything he/she shouldn’t given the intellectual property rights status of the work?

Note: Any use from which money is made in any way requires copyright permissions unless the work is in the public domain. See Chapter 1: Evaluating and Documenting Collections Use, and Chapter 2: Legal Issues, for further guidance.

- **Inform the researcher.** Confirm the request as soon as possible (at least within 20 days) using the same communication media used by the researcher, for example, if the researcher called, return the call; if the researcher wrote, reply in writing.

Inform the researcher of the:

- park publication policy
- arrangements necessary to have copies made (prepayment, signed forms)
- cost-recovery fee schedule and a rough estimate of the cost of the requested work
- permissions that the researcher must obtain elsewhere

- restrictions making the use of the item impossible (Check the accession and catalog folders to find the deed of gift or any related correspondence detailing this.)

If the original to be copied lacks an original negative (duplication master) or if the type of copy requested would require contracting with an outside professional for image production, notify the researcher immediately. Alert the researcher that each required service has an equivalent cost-recovery fee. Ensure that the researcher knows that all negatives, including those he/she pays for, stay at the park.

- **Collect cost-recovery payments in accordance with 43 USC 1460.** The researcher indicates if he/she wants to proceed and provides payment for the estimated cost of the work. The park policy should indicate what forms of payment are acceptable, for example:
 - *cash*, which requires a written receipt and may induce
 - *credit cards*, which result in a partial loss of revenue due to fees by the company and may be stolen, resulting in no payment
 - *money orders*, which are always safe although somewhat inconvenient for researchers
 - *personal checks*, which sometimes bounce and must be addressed by bill collectors

These cost-recovery fees are based upon a park-derived formula. The money is then deposited in the park's account for use by the museum program to furnish future copies. See Section B.5 for information on how to determine fees.

- **Complete an outgoing loan form.** The responsible park museum staff member completes an outgoing loan form (form 10-127 Rev.) for any item to be duplicated away from the museum. If the reprographics laboratory is in the park, the museum staff member packs the item (if necessary) and transfers it.

You can minimize risk of loss or damage and avoid any outgoing loan by having the outside laboratory do the image capture in the park. **Note:** Generally courier delivery is the safest way to arrange delivery to an outside contractor or cooperating association's laboratory. Never let the researcher deliver the item to the laboratory.

For further guidance on outgoing loans, see *MH-II*, Chapter 5: Outgoing Loans, and *MH-I*, Chapter 6: Handling, Packing, and Shipping Museum Objects.

- **Arrange for photography.** Select a photographer and set up any agreements or complete any necessary paperwork. Warn photographers of any health or safety hazards, such as deteriorating cellulose nitrate film. Alert the photographer if he/she should expect any unusual processes, formats, or genres of images, such as glass plate negatives, specimens with asbestos, or moldy or previously vermin-infested items.

For more information on museum object photography, see *MH-II*, Appendix L: Photography.

- **Prepare a credit line and draft caption text.** While the item is being photographed or copied, prepare the credit line and caption to accompany the image. Check any necessary facts while the materials are being copied. See Section C.12 for details and Chapter 3: Publications, Section C.18.
- **Inspect the original and the copies:** Upon receipt of the returned original and copy, inspect the original's condition to ensure that it wasn't damaged during the copying.
 - *For 2-D originals and copy images*, place the original and copy side-by-side on a clean, color-corrected viewing station (matching computer monitors or color balanced light tables) and examine the two images against each other visually and against the photographic order form.
 - *For 3-D original objects and copy images*, place the original object on a safe, clean, and level space next to the color-corrected viewing station that has been electronically calibrated by a computer professional to maintain proper color balance between the monitor, the central processing unit, and the files. Examine the copy visually against both the original and against the photographic order form.

Ask yourself the following questions about the copy:

- Is the copy in the desired process, size, format, and configuration?
 - Is the copy as described on the request form?
 - Is the copy an accurate and complete reproduction of the original? Is anything missing?
 - Is the copy acceptably sharp with a good tonal or audio range and/or color balance or sound that matches the original?
 - Is the copy usable/acceptable as a document?
 - Does the copy require any specific testing such as methylene blue testing or densitometric testing before being provided to the researcher? (**Note:** Generally this will be done only upon request or for materials being added to NPS collections. See *COG 19/13*, Preservation Reformatting: Inspection of Copy Photographs.)
- **Test the copies.** If testing of the copies is required, a loan form is prepared for the copy items, which are packaged and delivered to the testing laboratory using a courier service. Upon return, the testing results are reviewed.

If the copies don't pass the inspection standards listed in the contract, the contractor must re-copy the items at no cost to the park. If the copies pass the testing, the test results are placed with the catalog folder.

See COG 19/13, Preservation Reformatting: Inspection of Copy Photographs.

- **Stamp or mark the copy with the copyright statement** (“For fair use purposes only. No publication,” the word “Copy” and the image negative number.)
- **Re-file the original.**
- **Do a final check for any problems**, such as sensitivities of the subject matter that might cause you to notify the researcher to consult with an affiliated group.
- **Prepare an invoice for any additional or unanticipated charges not already prepaid.** Work with park budget, procurement, or contracting staff to prepare an invoice for any remaining amount due the park for the reprographic services. Also prepare a cover memo describing the fees and the payment methods accepted. This might be a form letter.
- **Arrange for delivery.** Package the copy for delivery. Mail the copy to the researcher along with a copy of the required caption and credit line statements and a copy of the original order. **Note:** At this time, file a copy of the order form in a master file to be kept at least five years for park studies of collection usage.
- **Credit the researcher’s full payment.** Once received, credit any additional amount due for the reproduction services.
- **Document the publication.** Place the publication citations into the ANCS+ catalog record for the items documented. Also keep a follow-up publication file of actual publications using park collections for exhibitions and reference. (**Note:** This list may be generated from ANCS+.)

A list of publications created using park collections is posted on the NPS Museum Management Program (MMP) Publications Page on the World Wide Web at <<http://www.cr.nps.gov/csd>>.

4. *What work don’t I have to do for researchers?*

You don’t have to:

- **undertake any research**, including copyrights or caption research
- **make subjective judgements** about the informational, artifactual, associational, evidential, or monetary values of materials for potential researchers
- **thematically search through collections** to locate specific sorts of items for scholars

Instead, the park determines in the duplication policy what level of support it will provide in response to absentee queries via phone, fax, and e-mail. Generally parks provide phone, fax, and e-mail requests with less support than they provide to scholars who come to the park. Often phone, fax, and e-mail requests receive about 30 minutes support per researcher per month, unless the work has a special status. Special status projects might include a

television documentary, newspaper report, or major scholarly study identified by the park superintendent as receiving special support. Each park must determine what level of support it will provide, when it will provide more, and then stick systematically to this policy. Equality of access is a basic guideline.

Researchers must complete all necessary forms including researcher registration, duplication, and copyright/privacy forms regardless of how their requests were received. (See *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figures D.14, Researcher Duplication Form, D.15, Copyright and Privacy Restrictions Form, and D.16, Researcher Registration Form.) You will need to mail, fax, or e-mail your forms to those individuals who contact you via these media.

Finally, researchers must pre-pay or provide a monetary deposit for all copies prior to copy production.

5. *What information must the researcher supply on a Researcher Duplication Request Form?*

The researcher should complete the Researcher Duplication Form (see *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figure D.14). The form incorporates:

- *researcher's contact information*, including full name, address, fax number, and phone number
- *researcher's identification*, including picture identification type and number
- *amount of and type of deposit* to cover duplication costs
- *researcher's institutional affiliation* (employer)
- *date the order was filled*, for order fulfillment tracking purposes
- *who filled the order*, for order fulfillment tracking purposes
- *reason for the copies*, including whether a publication or exhibit is planned
- *description of any special duplication needs*, such as blow-ups, details, or rush order
- *name and catalog number of the collection* from which the item to be duplicated is to be removed or for 3-D objects, the objects specimens name and catalog number as given on the catalog record
- *description of the item to be duplicated*, including catalog or negative number, type of item, process, format, and a description of any subject matter, genre, or other unique identifying characteristics (*Note:* For 3-D objects this would be the object/specimen name).
- *number and type of duplicates wanted*, indicating the size, process, format, color, surface characteristics, and other qualities of the requested duplicate, such as a 8" x 10" glossy black-and-white silver gelatin photographic print on Ilfobrome paper or a 30K TIFF file on a 3.5" diskette.

Note: On this duplication form, the researcher reads and signs a statement that indicates that the use is for non-commercial and non-profit fair use purposes and that the provision of a duplicate doesn't authorize publication or further reproduction. The researcher is also asked to legally indemnify the park from any liability resulting from use of the copies.

6. *How and why do I determine if a use is for-profit or not for-profit?*

Whether a proposed work will be sold is the determining factor. The status of the agency creating the work (a corporation or a non-profit organization) is **not** the factor that determines if a use is for profit. Ask if the items being created (publications, derivative works, etc.) are going to be sold. Ask if admission will be charged if the items are put on exhibit.

If the answer to either question is "yes," then the product is considered for-profit. This for-profit status is important, as the NPS doesn't hold the intellectual property rights, such as copyrights, for all items within its collections. If you authorize a non-fair use, such as public distribution or multiple exhibitions of the same image, you must seek permission in writing from the rights holders. There may be a fee required before rights holders will authorize (license) such a use.

You may provide a limited number of copies of small and insignificant portions of a copyrighted work for purposes of criticism, education, news reporting, parody, and research (which is called fair use). For-profit or sales usages of items for which NPS doesn't hold the copyright aren't legitimate. Nor is widespread distribution of significant portions of an item, such as placing a document on the Web, legitimate. Both the sales usages and the widespread distribution of significant portions of a work are copyright infringements.

To protect the NPS from copyright infringement, don't grant permission to publish works unless:

- the work is in the public domain, *or*
- the park has the copyrights, *or*
- the park or the researcher has received permission from the copyright holders

Note: If the work was produced under an agreement, partnership, by a volunteer, or by a contractor, the partner, cooperating association, volunteer, or contractor holds the copyrights unless there is a specific written agreement that states that the work is a "work for hire" or that the individual gives all copyrights to the park. Remember that the park also requires model release forms, interview release forms, or equivalent permissions from all individuals shown (including interviewees and interviewer), or represented in the materials. For examples of release forms, see *MH-III*, Chapter 3: Publications, particularly Section E.17 and Figures 3.6 and 3.7. ***Even when the publication request meets the above criteria, don't sign forms provided by researchers that state that the park is granting permission to publish. Instead, send the researcher a Permission to Publish Letter (Figure 4.6.). See Chapter 2: Legal Issues.***

7. *How do I handle a permission to publish request?*

Don't sign publishers' and authors' standard permission forms. Instead, send them a notice or letter like that in Figure 4.6, Permission to Publish Letter. The letter makes it clear that the NPS provides copies for fair use purposes only. The NPS may not have the copyrights and other intellectual property permissions necessary to authorize publication. Therefore the researcher is personally responsible for obtaining all permissions and a signed Copyright and Privacy Restriction Statement (*MH-II*, Appendix D, Figure D.15) when in the park.

The letter sent out to the researcher should also indicate:

- that the park can only grant the permission to publish to the extent that it has this right
- whether the individual is granted permission or is not granted permission by checking the appropriate box at the bottom of the form
- precisely which editions and versions of the publication are being authorized (See Chapter 3: Publications, Sections C.5 and C.6 and D.1-D.5.)

Never authorize permission to use NPS materials in all versions of a publication, film, video, or Website in perpetuity.

8. *How do I judge whether a usage is appropriate or not?*

There are a number of questions you want to have answered:

- **Forms:** Did the researcher completely and accurately fill out the researcher registration form, copyright and privacy form, and researcher duplication request? If not, the use isn't appropriate.
- **Type of usage:** Did the researcher indicate whether the use involves:
 - **publishing** the item
 - **exhibiting** in a for-profit environment (exhibits that charge admission or raise a profit for an organization)
 - **distributing** (including placing materials online in multiple viewing stations or on the Web)
 - **performing** (broadcasting, recording, or performing a copyrighted work for a fee or admission charge)
 - **preparing a derivative** work (tee-shirt, poster, or postcard)

To fill these non-fair use requests, the park must have the copyrights *or* the images must be in the public domain either because copyright has lapsed or because the materials didn't qualify for protection (such as federally produced works). If the park doesn't have the copyrights to the work, the publications, derivative works, distribution, and performances aren't appropriate. You must not grant permission for such inappropriate uses. ***If you are aware that a researcher intends an illicit or potentially illegal usage, don't provide a copy.***

- ***Duration of usage:*** Did the researcher indicate for how many editions and in how many countries the work would be published? If not, and the park has the copyright, go back to the researcher and ask him/her to clarify the usage being requested. Keep permission authorizations as short term as possible—for a single edition if possible. Never agree to grant “all publication rights in perpetuity internationally.” If the park doesn’t have the copyright, don’t give any written or spoken permission to publish, even if the researcher states that “this is a standard form and everyone else fills it out.”
- ***Contract researcher concerns:*** Is the researcher a contractor who is collecting the duplicates on behalf of someone else? Examples might be picture researchers or contract researchers.

If your researcher is under contract, stress the importance of recording and sharing negative and catalog numbers with the contracting author or publisher. If correct catalog and negative numbers aren’t collected during research, the request will come without this essential information. The museum staff may later be expected to identify and make publication-quality copies for the publisher working only from poor quality xerographic copies with no control numbers. If this scenario does happen, the cost of the extra time required to identify the images should be charged back as part of the order.

If the researcher supplies incorrect data—for example non-existent catalog numbers—don’t undertake significant research on his/her behalf without charging back the costs. Also don’t provide permission to publish until it is clear precisely what is being requested.

9. *How do I decide whether to approve a researcher duplication or publication request?*

When you are deciding whether to approve a standard researcher duplication request, follow the guidance in your park reproduction procedures and in Chapter 1: Evaluating and Documenting Museum Collections Use, and Chapter 2: Legal Issues.

Subject to NPS policy and procedural guidance, approve all scholarly, non-profit educational, and news reporting requests, as well as all those for satire and parody purposes as these purposes are listed as fair use exemptions within the copyright law itself. See Chapter 2: Legal Issues, Section C.10.

These fair use requests are legitimate as long as:

- the request uses only a small or relatively insignificant part of the work, for example, not an entire film but one frame, not an entire photograph but an insignificant detail or portion of an image, not an entire letter but an insignificant paragraph
- the use will not affect the future market for the item and is non-commercial

See Chapter 2: Legal Issues, Section C.9 for further guidance. If the copy usage will result in a for-sale product, wide-spread distribution, or publication, or if the usage utilizes a significant portion of the work or affects the market for the work; or if this is the first publication of a previously unpublished work:

- either the park must have the copyright and be willing to authorize the publication, **or**
- the work must be in the public domain, **or**
- the researcher must have obtained permission to publish from the holder of the original copyright

If the latter is the case, ask for a copy of the copyright holder's permission statement for the park files if you are going to authorize use. In addition, the work must not be legally, ethically, or culturally restricted for any of the reasons described in Section C.1 and Chapter 1. For more guidance, see Chapter 1: Evaluating and Documenting Collections Use, and Chapter 2: Legal Issues.

For non-standard or non-routine requests, such as requests to license a NPS image or to undertake special activities beware of the following:

- ***Incomplete, vague, or incoherent requests for duplicates or publication:***

It is the researchers' responsibility to indicate clearly and cogently what items they would like to have copied, as well as precisely what publication plans they have, if any. The duplicate request form must be filled out, completely and legibly, before the park fills the request.

- ***Publishers "standard" permission forms:***

Many publishers send out "standard" publication permission forms that grant the publisher extensive rights to the copy image. The publisher may indicate that unless the NPS staff signs the form, the publisher won't use the NPS copy. Don't comply. Just because the publisher wants you to use his form doesn't mean you must. Instead, reply with your standard permission form (Figure 4.6, Permission to Publish Letter).

- ***Image morphing or manipulation:***

The Visual Artists Rights Act is a sub-set of the copyright law, which states that no image manipulation is allowed for works produced after 1971 (except for purposes of parody, criticism, and satire) during the term of copyright protection. Therefore, before providing copies and authorizing publication involving visual image manipulation, you should determine whether the image is still protected by copyright.

If the visual image is protected by copyright, don't authorize multiple exhibitions, or any publications or products involving manipulation of the visual image in the copy. **Note:** Images produced by federal employees are not protected by copyright. For contract work, the copyright status depends upon what the contract states. See Chapter 2: Legal Issues.

- ***Requests for permission in perpetuity or internationally:***

You want the park to be able to retain some control over usages of park collections to:

- *protect your park from potential liability* from copyright, libel, privacy, publicity, and similar legal problems
- *generate allowable cost-recovery revenue* from park collections to help make park collections more self-sufficient
- *ensure that proposed future usages are not culturally or ethically insensitive* (If they are sensitive, alert the publisher to the problem and explore solutions. See Chapter 1: Evaluating and Documenting Museum Collections Use.)
- *ensure that proposed future usages meet current NPS policy* (See Section C.1)

Limit all permissions to publish by a time limit. Some publishers will request “all rights in perpetuity internationally,” rights for “all editions,” or “all rights overtime throughout the galaxy.” Don’t agree to any of those requests. Instead, grant rights for a single edition or two or for all editions published prior to a given date—perhaps for the next five years. The edition may be international, but shouldn’t be “in perpetuity” or “galaxywide.” When you limit your permissions, the publisher can always come back to you again later to request permissions for additional editions.

- ***Exclusive usage:***

Some publishers and researchers will request exclusive usage or publication of some items. This is particularly likely to happen with groups requesting 2-D reproductions for use on online order fulfillment services (which post images on the Web and then sell 2-D reproductions or high quality digital files to interested parties).

The NPS may NOT offer exclusive usage of federal collections to anyone.

- ***Incorrect or insensitive usage:***

On occasion you may receive a request to publish a NPS copy in a publication that you feel contains incorrect, culturally insensitive, or otherwise troublesome content. As public servants, NPS staff should not censor publications. Instead we must support freedom of speech. That said, however, NPS collections shouldn’t be exhibited, performed, published, or used in products in ways counter to the law, professional ethics, or NPS management policy. The ultimate decision rests with your superintendent.

10. *When might I refuse to grant permission to publish?*

There are several situations in which you might appropriately deny permission to publish or place multiple copies of an object on exhibition or use them in a product such as a poster. These include instances when publishing, exhibiting, distributing, or preparing a derivative work from the proposed image is:

- ***illegal***, such as when the copyright is held by someone other than the NPS and the researcher has not obtained permission; or the caption contains protected archeological site location information (See Chapter 2: Legal Issues for further guidance.)
- ***against NPS management policy***, such as when the caption contains protected or legally restricted information or when reproduction will cause significant damage to the original object or a protected resource (See Chapter 1: Evaluating and Documenting Museum Collections Use, Section C, Management Issues.)
- ***against professional ethics***, such as publishing information on a NPS museum object that is substantially incorrect or untrue or that might contain racial, sexual, or similar slurs or misleading or incorrect information about a living private individual (See Chapter 1: Evaluating and Documenting Museum Collections Use, Section D, Ethical Issues, and Section E, Cultural Issues.)

If specific questions arise, talk to your regional/SO curator and the NPS or DOI solicitor.

11. *Must researchers fill out NPS Special Use Permits to publish a NPS image?*

No. Researchers should instead fill out the Researcher Registration Form, Researcher Duplication Form, Copyright and Privacy Restrictions Form, and pay for their requested copies. A special use permit is not required to publish, exhibit, or research NPS collections. Do, however, keep a copy file of all publication permissions you grant for documentation purposes.

The park superintendent may require that any bulk copying or commercial agreement be formalized via the use of a special use permit. Keep one copy of permissions in the item's accession or catalog folder.

12. *What are the appropriate caption and credit line policies?*

The Access Policies and Rules Governing Use Statement in *MH-II*, Appendix D: Museum Archives and Manuscript Collections, Figure D.13a-b, indicates the proper credit line and caption format for use by publishers, researchers, and staff for archival materials. The caption and credit line statement in Chapter 3: Publications, Section E.18, indicates the proper format for 3-D items. Use this combined caption and citation format to indicate the nature and source of material to be published, whether in an article, book, catalog, or on the Web.

The recommended components of a proper citation are:

- item title in quotes followed by object name or collection title
- brief description (including process, format, materials, and measurements)
- date(s)

- plate, page, or image number in the text
- name of the object creator
- photographer, if appropriate
- park name
- item or collection catalog number
- negative number, if appropriate
- donor, if applicable

For example:

Western Mono Cooking Basket
 ca. 1910-1920
 Collected by Ansel F. Hall at the 1921 Indian Field Days
 Sedge root, bracken fern root, bunchgrass. H 6 1/2", Dia. 14"
 YOSE-133
 Gift of Mrs. William Moyle DuVal

Plate 97, Keystone View Company, "Yellowstone National Park" shows an appreciative crowd of Hardy Hotel waitresses in full costume gathered around Old Faithful ca. 1918. Wapantucket Collection, YELL 123, Negative # 98977.

Refer to Chapter 3: Publications, Section E.18. **Note:** The order of the elements within the caption is flexible, depending upon the use.

Publishers and authors don't always follow correct citation procedures. You may request a chance to review text and captions for accuracy before publication. Encouraging researchers and publishers to be specific and accurate will save you time and effort later when you must fill future reproduction requests generated by these publications.

13. *Can I charge money for permission to publish a NPS item?*

No. You can't charge money to publish., You can charge back the cost of your work, however, for cost-recovery purposes in accordance with 43 USC 1460, including:

- time spent on research, whether you grant the permission or not
- correspondence with those seeking permission to publish

You may also charge fees for commercial filming and photography of collections. See Section B.5. You might wish to determine the average cost of doing this work. Future charge backs might be done at this average rate in order to save time and money. See Sections C.2 and C.3.

14. *How do I handle cost-recovery money received from duplication work?*

You should handle cost-recovery fees by transferring them to an appropriate park account with the assistance of park fiscal, procurement, or contracting officers. The account must be used in the future to furnish copies.

15. *What special needs might the researcher indicate?*

The researcher might ask for any or all of the following:

- ***rush orders*** (*Note:* Check with your laboratory first before accepting rush orders.)
- ***copies that are details of portions of originals*** rather than complete 1:1 copies (*Note:* 1:1 means that the copy is an exact model of the original. The copy matches the original's dimensions exactly.)
- ***copies that have a perfect scale match*** to the original 1:1, such as exact scale engineering drawings
- ***enlarged copies of originals***
- ***copies made under special lighting***, such as under raking or infrared lighting for examination purposes
- ***copies made against special backgrounds***, such as back-lit transparencies being rephotographed
- ***copies made under special conditions***, such as an object being photographed against a blue background or the image made using a special filter
- ***manipulated copies***, with darkroom modifications such as airbrushing, dodging and burning, and retouching, or post print manipulation such as retouching or hand-tinting, as well as with digital manipulation such as morphed images. See *MH-I*, Appendix R: Care of Photographic Collections, for details
- ***rights to shoot scenery, museum objects, or exhibitions for commercial purposes*** (in which case a special use permit is necessary if the work is commercial filming and may be necessary for commercial photography)
- ***toned copies made to enhance their longevity***, for example photographs or microfilm with polysulfide toning
- ***unusual formats of copies***, such as making card jackets or microfiche from roll microfilm masters

When possible, accommodate these requests. Your photographer or contractor should be able to handle most of these special requirements. Remember to inquire about these special requirements when you are contracting.

16. *How do I identify the impacts on the collection?*

The major impacts on the collection are usually the result of:

- ***Handling damage:*** Ensure that all copy staff working with the originals understand how to handle original museum materials. See *MH-I*, Chapter 6: Handling, Packing and Shipping Museum Objects. Also see *COG* leaflets 19/4, Archives: Preservation Through Photocopying; 19/7, Archives: Reference Photocopying; 19/8, Preservation of Magnetic Media, 19/17; Handling Archival Paper-Based Materials; 19/19, Care of Archival Compact Discs; and 19/20, Care of Archival Digital and Magnetic Media.

- **Shipping damage:** See *MH-I*, Chapter 6: Handling, Packing and Shipping Museum Objects, and *COG* 14/8, Caring for Cellulose Nitrate Film.
- **High intensity or long duration light exposure:** See *MH-I*, Chapter 4: Museum Collections Environment, Section E, Light, and the appendices for the specific type(s) of material you are dealing with, such as Appendix J: Curatorial Care of Paper Objects; Appendix M: Management of Cellulose Nitrate and Ester Film; Appendix R: Curatorial Care of Photographic Collections.
- **Environmental stresses** caused by wide fluctuations in temperature and relative humidity. See *MH-I*, Chapter 4: Museum Collections Environment.
- **Usage of automatic feed copying equipment** such as force-feed xerographic copy machines, step-and-repeat microfilm cameras, and form-feed scanners.

17. *What steps do I take to prevent collections from being damaged?*

There are a number of simple steps you can take:

- **Prepare a Park Museum and Archival Access and Usage Policy**
- **Train** your staff and contractors thoroughly.
- **Inspect** how the work is being done on a regular basis by making surprise visits to the copy site.
- **Establish quality control procedures** to check and test the resulting copy product carefully.
- **Monitor** the condition of returned original items. If a change in condition is noted, inquire at the laboratory. Register your concern and ask how the problem may have occurred, for example, the photographic fading is most likely due to overexposure to light or too intensive a light exposure.
- **Contract effectively** by ensuring that any contracts or job descriptions written for copy work include quality control evaluation criteria, a requirement to meet national standards, and clear statements about how the work is to be done and what constitutes unacceptable performance.

18. *How do I inspect copies once they have been returned?*

When the copies are back from the reproducing firm or park copy office, follow the guidance listed in Section C.3, within your contract specifications, and in the various *COG* leaflets cited in Section A.10.

D. Glossary:

Aperture Card is a punch card (stiff board computer data processing system card) with holes that contain micrographic images.

Bordering refers to identifying the non-textual or image frame or margin area around a source document so that markings in the margins or frame are not captured.

Cartridge is a cassette of magnetic tape (audiotape, videotape, or electronic record) or microfilm that is in an enclosed container. Cartridges are loaded and unloaded into playback devices, such as a microfilm reader or tape player.

Cassettes are containers holding audiotape, videotape, microfilm, or motion picture film on a spool with an internal take-up spool to contain the film or tape once played. The entire package is enclosed and protected from mishandling.

CD-ROM refers to Compact Disc Read-Only Memory, which are magnetic media storage devices requiring hardware and software for access. CD-ROMs are produced as flat discs made out of a variety of non-archival media generally lasting 5-30 years. When selecting CDs for storage, select CDs with a scratch resistant lacquer, a gold reflector layer, thalocyanine dyes, and a stable substrate. Avoid all CDs or DVDs with cyanine dyes and aluminum reflection layers, or those requiring proprietary software or file formats. See *COG 19/19*, Care of Archival Compact Discs.

Cellulose ester film includes the three most common forms of late 20th century motion picture and still photographic negatives after cellulose nitrate. While not a safety hazard, acetate, diacetate, and triacetate films self-destruct rapidly over time. Most modern color film, including slides made today, are cellulose ester. See *MH-I*, Appendix M: Management of Cellulose Nitrate and Ester Film.

Cellulose nitrate film is the most common form of 20th century motion picture (popular from around 1890-1950) and still photographic negative and X-ray film. It is a health and safety hazard and requires rapid copying and cold storage. See *MH-I*, Appendix M: Management of Cellulose Nitrate and Ester Film.

Centering refers to placing a source document or the image of a document in the center of the field of vision or copy document.

Color correction refers to the process of changing color in a copy to more closely match that in the source document. This should be done systematically and should be documented in all metadata.

Color management refers to a systematic attempt to maintain color balance in copies that are equivalent to those in the original source document by calibrating and managing all equipment (including monitors, scanners, and original lighting), software, and processes to maximize accuracy.

Computer Output Microfilm (COM) is a method of printing electronic data directly from a database or other electronic source onto microfilm. This is a “hybrid approach” to reprographics that uses digital media for access and microfilm for preservation to circumvent the short useful lifetime of microfilm and the awkward access methods of microfilm.

Compression is the process of forcing more electronic data into less space to speed processing, storage, and transmission. This is a digital process. See also *Lossy compression* and *Lossless compression*.

Copies are non-original (second generation) reproductions made from first generation or master negatives, digital files, or other sources. Copies include copy prints made from master negatives, derivative files made from master digital files, and microfilm distribution copies made from master microfilm negatives. Second generation prints of record photographs or photographic negatives or prints made from original negatives or prints may also be called copies.

Decompression is the process of inflating compressed digital data and attempting to retrieve the original data unchanged. See also *Lossless compression* and *Lossy compression*.

Derivatives are digital (electronic) files made from other digital files often in a different size or for a special purpose. These digital derivatives may be thumbnails (very small files) or derivatives made for special usages, such as the Web. Derivatives are sometimes referred to as digital surrogates.

Diazo film is a form of non-archival quality microfilm in which the image is produced by the effect of light upon diazonium.

Digital cameras magnetically capture digital images from source documents or objects.

Digital surrogates. See *Surrogates*.

DPI refers to dots per inch, the indication of the resolution of a scanned image.

Duplicates are two identical copies of the same generation. The original creator of the item may create two identical originals at the same time on the same equipment using the same materials. For example: the same photographer may take two identical images of the same subject matter on the same roll of film using the same camera at the same time and place. While the two images are snapped only seconds apart and appear identical, they have different frame numbers and purposes and are said to be duplicates of each other. The first photograph is the preservation master, the second the usage copy. If the duplicates are letters, they should both have original signatures. In this example, both images are originals as they are both first generation and identical to each other for most practical purposes. A duplicate is the only “copy” process that may be first generation. **Note:** Most people now use the word “duplicate” interchangeably with the word “copy.”

Duplication master is a copy of an item used to produce future copies, such as a negative.

Dynamic range is the color or bit depth in a digital file listed in bits to indicate the number of colors represented. For example, 8-bit images allow up to 265 colors; 24-bit images can represent 16 million colors, and so forth.

Electrostatic process is a dry direct copy process that uses plain paper (hopefully acid-free) and a copy machine that utilizes an electrically photo conductive process.

Enlargement is a blow-up of a copy made larger than the original. This term is also used to refer to the interpositive (transparency) used to make the reproduction.

Facsimiles are copies of the content of an item usually made as close to identical as possible to the original often using the same media, process, appearance, and often the same format as the original. Facsimiles are almost always produced later by someone other than the creator of the original. When the word “facsimile” is preceded by a process name, such as “photographic facsimile” you are being notified that the facsimile is NOT in the same process or format as the original. Therefore the facsimile *is* a close-to-identical copy in that process or format. **Note:** This usage should be distinguished from that of “fax” a copy image of a document sent electronically to a different locale.

Fair copy refers to a complete and exact copy of the final version of a document.

Fax is a copy image of a document sent electronically to a different locale.

Fiche. See *Microfiche*.

Film is a transparent and flexible sheet of plastic or gelatin that may contain images or magnetic particles.

Floppy disk is a flat sheet of magnetic film in the shape of a disk that is held within a stiff cover.

GIF refers to graphic image file, a widely used proprietary digital file format owned by CompuServe.

Gray scale refers to the number of shades of gray in an image that can be identified and copied.

Hard disk is a computer hardware storage device for containing data.

Header refers to metadata in a scanned image containing file size, name, and source that is placed with the image file and the label on a piece of microfiche.

Image enhancement is the process of using a darkroom, xerographic copier, or digital scanner and editing software to change, modify, edit, or alter an image.

Image is a broad term used to refer to either an original visual document, such as a photograph, drawing, or painting; or a copy of an original document.

Imaging is the process of digital or photographic capture of a document, drawing, or photograph.

JPEG is a digital file format proposed by the Joint Photographic Experts Group and supported by the International Standards Organization for compression and storage of still images. This widely used format may be lossy.

Lossless compression is a digital file reduction process that cuts the file size without causing a change in the file's appearance (once uncompressed) or any loss of data. Lossless compression doesn't generally compress files as much as lossy compression. TIFF files can be a lossless compression format.

Lossy compression drops "inessential" information from a digital file, so that the amount of storage space needed for the file can be limited. Lossy compression reduces file size more than lossless compression; however when uncompressed, the file quality and appearance will have changed somewhat due to the amount of information discarded. The amount of file change may lead to "unintended visual affects" such as "compression artifacts" that may be patterns or marks in the copy that aren't in the original. On occasion, the visual changes may be relatively imperceptible. GIF and JPEG files are lossy compression file formats.

Magnetic media includes audiotape, videotape, and electronic records that have been captured as magnetized particles on the surface of a tape or other media.

Magnetic tape is a format of plastic tape coated with an electromagnetic layer that can hold audiotape recordings, video recordings, and electronic records.

Masters are original first generation images.

Metadata is "information about data and data systems." In plain English, metadata refers to digital or magnetic descriptions of file sizes, contents, and formats; database system contents, location data, characteristics, usage guidance, or similar instructions. Metadata is commonly created to facilitate access and usage of the files and their data and may become a part of the file, such as a file header.

Microfiche is a thin rectangular sheet of clear film that contains a number of microfilm images in horizontal rows, like cartoon strips and in columns. Also called "fiche" these microfiche, often have an eye-legible label or heading on their top.

Microfilm is a very sensitive form of photographic film capable of capturing very small and detailed images of materials in a variety of film processes, including silver gelatin (also called silver halide), diazo film, and vesicular film. The latter two processes are used for distribution or usage copies and aren't considered archival (permanent and durable).

Micrographics is the process of producing microfilm copies of original materials.

Migrate is the process of moving digital data into file formats compatible with new software and hardware. Software changes every 18 months to 5 years. All electronic data should be moved to the latest edition of software and hardware compatible formats at least that often in order to remain usable. Many software packages are not “backwardly compatible,” that is capable of playing or using older files produced on earlier versions of the same software. When a software package or file format is proprietary, the problem is compounded because fewer contractors can support the migration. Materials in proprietary formats may require rescanning rather than migration. See also **Refreshing**.

Negative is the master photographic image produced by most cameras and used to produce photographic prints. Negatives have reversed tonalities from positive images; that is, the light areas in a print are dark in a negative. In a colored negative the colors are reversed to complementary tonal values.

Open reel tape. See **Reel-to-reel tape**.

Original is the source document or object that is to be copied.

Photo CD or photo Compact Disc is a proprietary Kodak file format that produces five different sizes of digital files of each image stored on a single compact disc. This is not a long-lived archival storage media. Finally this form is proprietary meaning that only a single vendor supports it. When the software and hardware and processing infrastructure are no longer being supported by this vendor, it will be challenging to migrate this captured information to the next generation of file formats, software, and hardware.

Pixel is a digital picture element or a tonal value in binary code.

Polarity refers to the reversal of tones found in a photographic negative so that light areas in the print become dark areas in the negative and vice versa.

Quality control is the process of checking copies against standards produced by the American National Standards Institute (ANSI) and the Association of Information and Image Management (AIIM) and other organizations, including completeness, density, labeling or indexing, resolution, and residual chemicals for photographs and microfilm.

Reader is an optical enlarging and playback device for viewing microfilm.

Reader-Printer is an optical enlarging and playback device for viewing and making xerographic copies of microfilm.

Reduction ratio is the scale of the shrinkage of a microfilm when compared to the original source document, for example, 12X refers to a 12:1 ratio. 12:1 tells you that the linear dimension of the document is 12 times smaller in the microfilm.

Reel is an open spool for containing microfilm, motion picture, film, or magnetic tape that has at least two flanges.

Reel-to-reel tape is magnetic (audiotape, videotape, or electronic) tape on an open spool without the protective casing that characterizes cassettes and cartridges. Reel-to-reel tape should be stored on hubs (unflanged spools) in stable film cans.

Refreshing refers to the process of rewinding and forming a smooth “tape pack” that ensures that no stresses are placed on any particular section of a tape. Also occasionally used to refer to the process of copying a tape. See also **Migrate**.

Reprographics is the focus of this chapter. It includes all copy and duplication processes including photography, motion picture film duplication, micrographics, and xerography. Some authors also include digital scanning, audiotape copying, and videotape copying.

Reproduction is an exact copy of a source document in content, although the size, process, and context may be quite different.

Resolution refers to the sharpness of detail or focus of an image expressed as a numeric value, either as lines per millimeter discernible in a standard test pattern image or for digital files as the numbers of pixels listed as height x width in pixels or dots per inch (dpi), for example 50 x 100 dots per inch.

RGB refers to the system of additive color creation used in video display devices and some photographic processes.

Scanner is a piece of hardware that captures an electronic image of a source document for access purposes.

Silver gelatin film is an archival form of photographic film, motion picture film, and microfilm created by the action of light on silver halide particles within a gelatin emulsion.

Silver halide film. See *Silver gelatin film*.

Sound recordings include any base or medium that contains captured sound whether a wire recording, magnetic recording, phonograph recording, wax recording, or filament recording.

Surrogates are copies that take the place of an original for a specific purpose, such as preservation, deposit at another institution, or for other purposes noted under Section A.2

Threshold is the bitonal digital scanning setting at which gray is read as either black or as white.

TIFF or tagged image/interchange file format is a lossless digital file format that is widely used as an industry standard and often selected as the best format for digital master files.

True color generally is used to describe 24-bit color scanning that can represent 16 million colors. See *Dynamic range*.

Vesicular film is a form of non-archival microfilm in which bubbles form an image that is made somewhat more durable by heating and cooling. This process has a much shorter life expectancy than silver gelatin films.

Videodisc is a laser-etched optical disc used for storing sound and moving images. Although non-magnetic, this process is dependent upon having a working playback device.

Videotape is a magnetic recording media for moving images that is not archival as it is relatively short-lived and not durable. The only truly long-lived moving images are motion picture film on polyester film bases.

Watermark: A watermark is a visible or invisible encoding pattern (in an electronic file) or arrangement of paper fibers (in a non-magnetic paper document) that indicates the origins or physical ownership of the electronic item (for digital files) or the material used in making the item (for paper documents). Not all digital watermarking packages work precisely the same. Some watermark software simply marks a document. Other watermarking software packages allow the watermarked item to be directly linked to a Web page that provides source information, as well as allowing the watermark owner to search the Internet for all occurrences of the watermarked item on the Web.

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ANSI/AIIM MS 23-1991 (*Operation, Inspection, and Quality Control Procedures for First-Generation, Silver Gelatin Microfilm*)
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ANSI/AIIM MS19-1987 (*Microform Identification*)
ANSI/AIIM MS23-1991 (*Roll Microfilm Inspection*)
ANSI/AIIM MS34-1990 (*Reels for Roll Microfilm*)
ANSI/AIIM MS43-1988 (*Copy Microform Inspection*)
ANSI/AIIM MS45-1990 (*Microform Inspection for Deterioration*)
ANSI/AIIM MS51-1991 (*Micrographics Resolution*)
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Figure 4.1. How to Select an Appropriate Process or Format of Reproduction for each Reproduction Purpose or Function (*Note:* This chart focuses on visual and textual documents rather than sound, moving images, or magnetic media. For guidance on museum object photography, see *MH-II*, Appendix L: Photography. For guidance on magnetic media, etc., see the *Conserve O Grams* series.)

Purpose or Function of the Copy	Process/Format of Reproduction to be Produced
<ul style="list-style-type: none"> • Duplication Masters • Preservation Masters • Condition Copy • Deposit Copy • Record Copy • Security Copy • Treatment Copy 	<ul style="list-style-type: none"> • Duplication Master: Produce a 4" x 5" master copy photographic still negative or larger to serve as your park's duplication master. • Preservation Master: Produce a 4" x 5" preservation transparency (that can later be used to produce new negatives) as your park's preservation master. • Usage Copies: Produce 8" x 10" print(s) for park usage, such as for: <ul style="list-style-type: none"> – condition reporting copies – deposit in other institutions - record copies for placement with the accession and catalog files – security copies (replacement of valuable originals in files) – treatment copies (illustrating conservation treatments) <p>At minimum produce the negative and transparency. Use color only if crucial to conveying the nature of the item. Ensure that your negative and transparency film bases are polyester, not cellulose ester. Ensure that the process chosen is long-lived, tested, and if possible is polysulfide toned. Images may be scanned for usage, but the preservation and duplication master copies should be 4" x 5" photographic negatives and transparencies, not digital processes.</p>
<ul style="list-style-type: none"> • Evidential Copy 	<ul style="list-style-type: none"> • Produce identical copies using the same process, format, and technology as that of the original item. Don't modify the document in any way, such as through sound engineering or editing or cutting. Indicate the date the copy was made, your name, the method of copying, and any other requirements that the lawyers provide, plus the statement "this is a true and exact copy."
<ul style="list-style-type: none"> • Exhibition Copy • Fair Use Copy, includes: <ul style="list-style-type: none"> – News Reporting – Parody – Research – Teaching • Performance or Presentation Copy • Presentation Copy • Sales Copy • Usage Copy 	<ul style="list-style-type: none"> • For Outside Uses: If there is no negative or sound master, produce a high quality 4" x 5" or larger master copy negative plus whatever sized print necessary or a reel-to-reel sound file. You may also produce a usage copy by scanning from the negative or sound master. If the researcher is willing to fund the production costs, also have a transparency or cassette produced. Charge back the costs for the entire process (both negative and print production). If a digital copy is requested from the negative, produce a 600 dots-per-inch (dpi) master scan or a very large sound file. Produce appropriately sized derivative (copy) files from the digital master file as indicated by the researcher. Charge back the costs for the entire process (master scan and requested derivatives) to the researcher. Watermark all scans provided to the researcher and all derivative files, but not the original master scan kept in the park. Keep a copy of all the scans in the park. The park then uses the negative or master reel-to-reel and master scan to limit the need for future handling of fragile originals to produce reproductions. • For NPS Use: If producing photographs, moving images, or sound files for NPS purposes (such as exhibitions, fair use, performance or presentation copies (such as for slide shows), follow the guidance under preservation and duplication masters above. Once the masters are produced, use a copy for the special purpose, but keep the first generation copy as the reproduction master (for future duplication purposes) and the transparency or first generation copy as a preservation master (so that when the existing production master (negative or reel-to-reel) wears out, a new production master can be readily produced). Your first or master digital file should be relatively high resolution, such as a 600 dots per inch scan, and should include a gray scale or color bar to facilitate system color calibration and image color correction. Watermark all derivatives made from the master scan. Keep a copy of all the scans in the park.

Figure 4.2. Reproduction Order Notification Sheet

These copies are provided for fair use purposes only, such as non-commercial and non-profit research, news reporting, criticism, parody, and commentary purposes. The provision of copies by the park does NOT authorize publication (including extensive quoting or use in books or magazines, films, tapes, or multimedia works such as the Web or CD-ROMs), exhibition, distribution, resale, performance, reproduction, or the production of derivative works from these items.

Permission for publication (including articles, audiotapes, books, CD-ROMs, films, videotapes, and Web and other Internet usage), exhibition, distribution, resale, performance, reproduction, modification, extensive quoting, or the production of derivative works (for example, calendars, tee-shirts, postcards, posters, scarves, or stationery) must be obtained from the intellectual property rights holders in writing. The National Park Service is NOT necessarily the holder of all rights to these works. Nor is the NPS responsible for researching these rights for individuals who wish to use the works.

The copies provided may include materials that are covered by one or more of the following legal, cultural, or ethical restrictions:

- copyright (US Constitution Article I, Section 8; Copyright Act of 1976; 17 USC 101-810 et seq; Sonny Bono Term Extension Act of 1998 (PL 105-298, 112 Stat. 2827); the Digital Millennium Copyright Act, (PL 105-304, 112 Stat. 2860); and International Treaties such as the Berne Convention for the Protection of Literary and Artistic Works, the North American Free Trade Agreement Implementation Act; and the Uruguay Round Agreements which is 17 USC 104a and 109)
- privacy law (5 USC 552a and state laws including Restatement [Second] of Torts 652A-652I and the Lanham Act Section [15 USC 1125])
- publicity law (state common or statutory laws in almost half the states)
- defamation (including slander or libel-which are state laws)
- obscenity law (state law as well as the Child Protection Act of 1984)
- cultural sensitivities (Executive Order 13007-Indian Sacred Sites)

You as the researcher of these materials are responsible for all lawsuits, civil actions, or related actions, including lawyers and court costs, arising out of inappropriate usage of these copies.

Figure 4.3. Comparison of the Advantages and Disadvantages of 2-D Copy Formats

Comparison of the Advantages and Disadvantages of 2-D Copy Formats	
Advantages	Disadvantages
<p>Digital surrogates have the following advantages:</p> <ul style="list-style-type: none"> • Digital media, such as magnetic tape, are excellent for document management purposes, as they can be rapidly searched and retrieved. • Digital images don't lose quality from generation to generation so copies can be as good as originals. • Digital files require little storage space and storage prices are dropping rapidly. • Digital images are easily manipulated, making them valuable for modeling and simulations. • Digital copies can be mounted on the Web and made available simultaneously to millions of researchers internationally at relatively low cost or shared in vast quantities on a single CD-ROM. • Digital files allow text to be wedded to images, sound, and motion, so that, for example, the catalog record can contain an image of the object. • Digital files can be manipulated to achieve the very best possible image using desktop equipment. • Digital file creation costs are relatively low. • Digital file standards exist, such as the Dublin Core, for exchange and searching of data internationally. • Digital images can be watermarked to ease locating unauthorized uses on the World Wide Web. • Digital images can reach students who learn best by doing or through sound or motion rather than written words. • Digital images have many output formats from thumbnail images that load rapidly on the Web and have little detail to master files of great size with tremendous detail. Different formats are useful for different purposes. • Digital storage standards exist for maximum life. (<i>Note:</i> Store magnetic tape at temperatures below 73°F (23°C) and at 20% RH. Storage of tapes at temperatures below 46°F (8°C) may lead to the lubricant separating from the tape binder. Store optical discs at temperatures below 73°F (23°C) and at 20-50% RH. See <i>COG</i> 19/20 "Care of Archival Digital and Magnetic Media," and 19/19, "Care of Archival Compact Discs.") 	<p>Digital surrogates have the following disadvantages:</p> <ul style="list-style-type: none"> • Digital data system obsolescence is the most important factor in determining the useful life expectancy of digital data. Most systems last 18 months-5 years before data must be migrated. • Digital files on polyester-based magnetic tape last only about 10-50 years if stored in average conditions at 21 °C and 50% RH. • Digital surrogates are not eye-legible. They are totally dependent on fragile, rapidly changing, and expensive hardware and software systems. • Digital images are not evidence as they can be manipulated and changed without leaving any easily visible trace since they are numerical data. • Digital start-up costs are 1/3 for digitizing the items and 2/3 for cataloging, metadata, and quality control on the files produced. • Digital file management costs are 50-100% of the initial project investment during the first 10 years of the file life alone according to the National Archives and Records Administration (NARA). • Digital images are much more expensive to manage over time than paper, as you must refresh the image; manage the hardware, software, and metadata; and continuously migrate the file (every 18 months-five years). • Digital files don't appear the same on all types of computer systems. They are affected by the file format, the color balance of the monitor, the type of computer (Macintosh or IBM compatible PC). • Digital files can't be used by all researchers as some lack computers; others can only work with some file formats. • Digital master files should be housed offline in an uncompressed and non-proprietary file format. Only derivative files should be used. • Digital files require the use of different types of scanners to scan text, oversize items, photographic prints, slides, and other formats. • Digital quality control is a very complex process. • Digital metadata capture and management is a very complex and expensive process. • Digital scanning may need to be done and redone again often if the project is ill conceived, resulting in data that can't be migrated.

Comparison of the Advantages and Disadvantages of 2-D Copy Formats

Advantages	Disadvantages
<p>Microfilm copies have the following advantages:</p> <ul style="list-style-type: none"> • Microfilm (thermally processed silver halide roll microfilm, diazo, and vesicular film) should last at least 100 years if stored at 21°C and 50% RH. • Microfilm is very long-lived and must be duplicated only every 50 years to produce a new printing master. • Microfilm takes up very little space and is cheap to store. • Microfilm--particularly commercial film--is listed in a national registry of microfilm masters to help prevent duplication of effort by several different repositories. Microfilm production standards, manuals, and training courses exist. • Microfilm can accommodate both text and images. • Microfilm comes in a variety of formats, including microfiche, roll film, aperture cards, and card jackets. Each format offers certain advantages. • Microfilm publishing is an established industry that shares and distributes copies of archival and library materials with repositories internationally. • Microfilm is eye-legible with a magnifier and includes internal targets (indices) to help find data. • Microfiche can be filed by topic. • Microfilm is system independent requiring no software. • Microfilm is most effective as a copy technology when entire organized collections or bodies of work must be reproduced and exchanged with other repositories or small numbers of researchers. • Microfilm is a relatively non-damaging copy format that is good for bound and fragile materials and frequently used for oversize items. 	<p>Microfilm copies have the following disadvantages:</p> <ul style="list-style-type: none"> • Microfilm is an awkward access media. Most researchers avoid microfilm. • Microfilm is a poor document management system requiring extensive work in targeting (internal index preparation) and arranging original materials prior to filming. • Microfilm is relatively slow and somewhat awkward as an access medium. • Microfilm is known to require exacting processing and creation work that requires elaborate equipment and highly trained personnel. • Microfilm is NOT a good copy medium for exchanging copies of just a few pages or a small quantity of materials. • Microfilm requires a fairly demanding storage environment. For long-term storage for polyester film based materials the temperature must not exceed 70°F (21°C) and 20-50% RH. • Microfilming work, both archival and library in-house work and work done by commercial contractors, often doesn't meet the ANSI/AIIM standards for permanence. • Microfilming requires extensive quality control testing before acceptance of the final copies.
<p>Motion picture film has the following advantages:</p> <ul style="list-style-type: none"> • Motion picture film (film) offers very long life expectancy (>500 years) if created, stored, and handled correctly. • Film can hold very detailed high quality visual information including sound, color, as well as text. • Film captures motion, time, and sequence easily. • Film is relatively easy to store and transport. • Film can be used in multi-user settings, such as theaters, classrooms, and television. • Film care guidance exists. See <i>COG</i> series. 	<p>Motion picture film has the following disadvantages:</p> <ul style="list-style-type: none"> • Film requires sophisticated equipment, experience, and expensive chemicals to produce. • Motion picture film made by amateurs is rarely satisfactory as high quality and long-lived work. • Film often has poor color stability. • Film bases prior to polyester have been unstable, including cellulose nitrate, cellulose acetate, cellulose diacetate, and cellulose triacetate. • Films are very expensive to produce. • Film requires elaborate editing and quality control procedures.

Comparison of the Advantages and Disadvantages of 2-D Copy Formats

Advantages	Disadvantages
<p>Photographic copies have the following advantages:</p> <ul style="list-style-type: none"> • Photographic films that are black and white polyester-based will last 500 years at 21°C and 50% RH; while cellulose ester films such as acetate, diacetate, and triacetate last 100 years. • Photographs can hold more information than most digital files as the information is chemically encoded and goes down to the molecular level. • Photographs have excellent handling, storage, housing, and management standards already developed. • Photographs are long-lived when created, housed, and stored correctly. • Photographic studios exist in most towns, so local expertise is available. • Photographs are popular with most researchers. • Photographs are the most requested format for most publishers. • Photographs are the most common image format created by artists and the public and the most common image format in archives and museums. • Photographs are eye-legible and can be filed in self-indexing files and function without requiring software or hardware. • Photographs are still the reproduction medium of choice for most publishers and authors. • Photographic guidance is widespread. See the <i>COG</i> leaflets cited in Section A.9, <i>MH-I</i>, Appendix R: Care of Photo Collections; and <i>MH-II</i>, Appendix L: Photography. 	<p>Photographic copies have the following disadvantages:</p> <ul style="list-style-type: none"> • Photographs are easy to produce with poor focus, poor processing, or other problems. • Producing a good photograph requires skill. • Photographs lose visual information each time they are copied with each new generation having less information. • Photographic reproduction system selection is complex. Each copy system has certain advantages and disadvantages: <ul style="list-style-type: none"> - <i>the interpositive process</i> provides the best tonal accuracy but greatest cost - <i>direct duplicate negatives</i> provide the least generational loss but are not good at maintaining image detail - <i>prints from copy negatives</i> are the easiest to produce, but are poor quality • “Photographs don’t lie; but liars photograph” therefore the veracity of photos is overrated as they can be manipulated in a darkroom or by careful composition by a professional photographer. • Photographs such as color images and cellulose nitrate and acetate negatives deteriorate faster than many other document types. These materials are particularly sensitive to humidity and temperature. • Photographs must be produced in a darkroom and photographers must deal with chemicals, elaborate equipment, and escalating supply costs. • Photographic collections take up significant space and require separate indices for access. • Photographic images can serve only a single researcher at a time unless multiple copies are made. • Photographic creation costs are relatively high. • Photographic storage costs are high. Photo storage requires cold storage of valuable original photographs and the duplication of preservation and usage copies. • Photographic copies are not as efficient as digital for document management purposes, as they must be manually retrieved and may require a separate database or index. • Photographs have fairly diverse and demanding storage environmental needs for long-term storage. • Photographs generally are not very effective for multi-user situations, except for slide shows. • Photos are difficult to manage as they fade when exposed to light and are damaged by handling.

Comparison of the Advantages and Disadvantages of 2-D Copy Formats

Advantages	Disadvantages
<p>Sound recordings have the following advantages:</p> <ul style="list-style-type: none"> • Sound recordings are simple to produce. They don't require a professional's services. • Sound recordings are inexpensive to produce. • Sound recordings are popular with scholars as oral histories and music and with the public on the Web and as CDs. • Sound recordings are the tools of choice for certain historians for oral histories. • Sound recordings capture nuances and atmosphere that textual transcriptions lack • Sound recordings that are magnetic have no loss from generation-to-generation of copies. • Sound recordings can be provided to multiple users via the radio. • Sound recording care standards exist. See the <i>COGs</i> described in Section A.9. 	<p>Sound recordings have the following disadvantages</p> <ul style="list-style-type: none"> • Sound recordings made magnetically (tapes) are short-lived (<30 years) • Sound recordings, although easy to produce, are often of very poor quality when made by amateurs. • Sound recordings are awkward to index and search effectively. • Magnetic sound recordings require rewinding and a new tape pack every 3 years or so. • Magnetic sound recordings require migration every 5 years or so or every time the recording/playback system equipment changes. • Sound recordings can be edited, leaving little sign of the reworking, making them poor as evidence. • Spoken sound recordings may require transcription, which is costly and time consuming. • Sound recordings that are magnetic, such as reel-to-reel audiotapes and cassettes, require well-maintained tape players for playback purposes or the tapes may be damaged.
<p>Videotape recordings have the following advantages:</p> <ul style="list-style-type: none"> • Videotape recordings (videos) come in many storage formats from cartridges, cassettes, to reel-to-reel. Videos come in many recording formats from PAL and BETA to VH-S. • Videos are inexpensive and easy to produce. • Videos are popular with scholars and the public. Videos can be made available to multiple users via television, auditoriums, and classrooms. • Videos are the tools of choice for certain types of scholarship such as visual anthropology and video history interviews. • Videos can be copied without generational loss of information. • Video storage standards are known. Store tapes at 5°C (40°F) ±2° and 20% RH ±2%. • Videotape storage, handling, and usage standards exist. See the <i>COGs</i> listed in Section A.9. 	<p>Videotape recordings have the following disadvantages:</p> <ul style="list-style-type: none"> • Videotapes are short-lived (<30 years) • Videotapes made of metal particulate or chromium dioxide pigments are particularly short-lived. • Videos are awkward to index and search effectively. Videotapes require smooth even rewinding every several years to prevent tape layers from sticking together and transferring magnetic particles. • Video recordings require migration (recopying onto new polyester-based tape) every 5 years or so. • Video recordings can be almost invisibly edited, making them poor as evidential sources. • Videos often begin deteriorating after about 16-20 playback sessions or 10-30 years. See <i>COG</i> 19/20. Video equipment must be tuned-up regularly and cleaned so it is dust-and debris free, and dry. • Video recording equipment frame codes vary from machine to machine. Don't use machine-based frame codes for indexing tapes. • Videos produced in the U.S. must be reformatted into other recording formats for use internationally.

Comparison of the Advantages and Disadvantages of 2-D Copy Formats

Advantages	Disadvantages
<p>Xerographic copies have the following advantages:</p> <ul style="list-style-type: none"> • Xerographic copies on acid-free paper stored in a standard office environment of 21°C and 50% RH should last >100 years. • Xerographic copies ideally should be stored at 35°F (2°C) to 65°F (18°C; ± 2°F or ± 1°C maximum daily fluctuation) and 30-50% RH (±3% maximum daily fluctuation.), making them a fairly robust media at near-to-office conditions. • Xerographic copies are cheap, easy, and fast to produce. • Xerographic copies are the most frequently requested types of copy by most researchers. • All parks have xerographic copy equipment and staff who can use it. • Xerographic copy testing for permanence is easy. Simply run a white gloved hand over the toner to see if it has fused, then check the paper acidity. • Acid-free paper for long-lived preservation xerographic copying is easy to locate and use. • Xerographic storage, handling, and housing standards already exist. See the <i>COG</i> leaflets cited in Section A.9. 	<p>Xerographic copies have the following disadvantages:</p> <ul style="list-style-type: none"> • Xerographic copies are easily damaged by rough or frequent handling. • Xerographic copies are easily damaged by frequent viewing in high light situations or frequent copying. Exposure to significant light and form feeders; such as happens when they are frequently copied in xerographic copiers is especially damaging. • Xerographic copies require a fair amount of space to store. When copying non-standard sized items smaller than 8" x 10", you may need more space to house the copy than the original. • Xerographic copies are poor for document management purposes. They are slow to retrieve. • Xerographic copies require a separate index or cataloging system for access or must be filed in self-indexing folders using multiple copies under multiple subject headings.

Figures: 4.4. 2-D Reproductions Cost Recovery Chart for Estimating Time Spent (Sample)

Note: The actual time will depend upon park specifics, such as location, staff expertise, and level of existing cataloging.

Tasks Involved in Reproduction Requests	Minutes
<ul style="list-style-type: none"> Ensuring that a duplication request form is filled in correctly and completely (See Section B.5) 	5
<ul style="list-style-type: none"> Identifying and retrieving the item being requested 	10
<ul style="list-style-type: none"> Checking the intellectual property right status of the item requested (privacy, publicity, and copyrights) by looking at the deed of gift in the museum records 	5
<ul style="list-style-type: none"> Answering the request in person, or via mail, phone, e-mail, or fax. All responses should be done rapidly, or at least within 20 days, to acknowledge receipt of the order, to explain the park duplication policy, indicate any cost-recovery fees, and indicate if there are any duplication restrictions due to the copyright status of the item. Use a standardized response modified for each situation. 	10
<ul style="list-style-type: none"> Stabilizing the item to be duplicated, if necessary. If stabilization is not possible, creation or location of a duplication master to serve as the original for duplication purposes. Not always necessary. 	Varies; in this case none is necessary
<ul style="list-style-type: none"> Rehousing ,if necessary, and packing the item 	15
<ul style="list-style-type: none"> Depositing any researcher payments into the appropriate account. <i>Note:</i> Reproduction work should not be done without first receiving all payments, as the NPS is not set up to handle billing and debt collection. 	10
<ul style="list-style-type: none"> Transporting items to and from the contractor or staff responsible for duplication, and, if necessary, completion of their duplication order form 	Varies; in this case 15 minutes
<ul style="list-style-type: none"> Unpacking and checking-in items once duplication is done 	5
<ul style="list-style-type: none"> Inspection returned copy for quality and returned original for deterioration 	10
<ul style="list-style-type: none"> Reordering duplicates for any missed items or items that don't pass inspection 	Varies. Not necessary here.
<ul style="list-style-type: none"> Visually inspecting copies against originals for outside researchers to ensure image completeness, appropriate focus, color balance, and similar visual issues 	5
<ul style="list-style-type: none"> Producing caption and citation 	15
<ul style="list-style-type: none"> Rehousing, if necessary, and refiling the original material 	10
<ul style="list-style-type: none"> Verifying payment of contractor and park by researcher 	5
<ul style="list-style-type: none"> Completing any necessary paperwork, including cover letter to researcher and packaging and mailing duplicate for shipment to researcher 	20
<ul style="list-style-type: none"> Other 	
Total of Work in Minutes	140 minutes per item or 2.33 hours

Figure 4.5. Cost-recovery Fees Formula (Sample)

<i>Cost-recovery Fees Formula:</i>	
\$16.58	Hourly salary and benefit costs per hour at the GS-7/1 rate
x <u>2.33</u>	Number of hours to do the work (See Section C.2 and Figure 4.4.)
\$38.63	
+ \$15.00	Regular duplication costs by external contractor
+ 0.00	Special service fees and costs charged by contractors for rush orders or services
+ \$5.00	Transportation cost and supply costs charged back by NPS
+ <u>0.00</u>	Other special fees (specify)
\$58.63	Total cost

Figure 4.6. Permission to Publish Letter (Sample)

Dear Sir or Madame:

_____ (Park name) has received your request for permission to publish _____

in the following publication (Title) _____

(Author) _____ (Publisher) _____ (Publication date) _____

(Edition number) _____ (Language) _____

_____ (Park name) allows researchers to use park collections for purposes of:

- private research
- non-profit teaching
- parody, satire, commentary, and criticism
- news reporting

in accordance with the fair use provisions of the U.S. Copyright Act of 1976 (17 USC 101-810 et seq. [1988 & Supp. v. 1993]). If you wish to use materials obtained for a non-approved or non-fair use purpose such as a publication or derivative work, **you are responsible for obtaining written permission from all holders of intellectual property rights, which are not necessarily the NPS.** X NP doesn't hold the copyright or other intellectual property rights to all materials within the park. The X NP can only grant permission to use the materials to the extent that the park has the rights.

As a researcher, you signed the Copyright/Privacy Restrictions Statement agreeing that permission to publish, exhibit, perform, reproduce, prepare derivative works from, sell, or otherwise distribute the item must be obtained by the researcher separately in writing from the holder of the original copyright (or if the creator is dead from his/her heirs) as well as from any individual(s), groups, or corporations whose name, image, recorded words, or private information (e.g., employment information) may be reproduced in the source material.

The holder of the original copyright isn't necessarily the National Park Service. The National Park Service is not legally liable for copyright, privacy, or publicity infringement when materials are wrongfully used after being provided to researchers for fair use. I, (insert name) _____, the researcher, understand and agree to the above terms and will indemnify, defend, save, and hold the National Park Service harmless from all claims, demands, losses, or damages (including attorney's fees and expenses) arising out of any legal action, settlement, or adjustment resulting from my not having followed the guidelines provided above.

To the extent allowed by law and by the holders of the intellectual property rights, you _____ have _____ do not have the _____ (Park name) permission to use these materials in _____ the _____ edition of the _____ language work or until _____. This should not be construed as a permission to publish beyond the extent to which the NPS can authorize publication.

Sincerely,

Name
Title
Address
Phone
Fax

Figure 4.7. Wording to be Included in a 2-D Independent Contractor Agreement (Sample to be mailed, e-mailed, faxed, or handed to appropriate potential contractors for signature prior to beginning work as 2-D reformatting contractors)

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into by and between _____ (Park name),
National Park Service, a federal agency, and the undersigned (the “Contractor”).

1. Engagement of Services. Contractor agrees to perform services as designated in Exhibit A and hereafter referred to as the “Project” for the _____ (Park name), National Park Service, as follows:

The _____ (Park name), National Park Service, selected Contractor to perform these services based upon the _____ (Park name), National Park Service, receiving Contractor’s personal service and therefore Contractor may not subcontract or otherwise delegate its obligations under this Agreement without the _____ (Park name), National Park Service’s prior written consent. Contractor agrees to perform the services in a professional manner as designated in Exhibit A.

2. Compensation.

2.1 Fees and Approved Expenses. The _____ (Park name), National Park Service, will pay Contractor the fee set forth in Exhibit A for services rendered by Contractor pursuant to this Agreement. Contractor will not be reimbursed for any expenses incurred in connection with the performance of services under this Agreement, unless those expenses are approved in advance and in writing by the _____ (Park name), National Park Service.

2.2 Timing. The _____ (Park name), National Park Service, will pay Contractor for services and will reimburse Contractor for previously approved expenses within ____ days of the date of Contractor’s invoice.

3. Independent Contractor Relationship. Contractor and the _____ (Park name), National Park Service, understand, acknowledge, and agree that Contractor’s relationship with the _____ (Park name), National Park Service, will be that of an independent contractor and nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.

4. Confidential Information and Intellectual Property Rights.

4.1 Disclosure.

(a) Contractor agrees to disclose promptly in writing to the _____ (Park name), National Park Service, or any person designated by the _____ (Park name), National Park Service, all work product, including but not limited to audiotapes and videotapes, photographs, digital files, computer programs, processes, know-how and other copyrightable material, that is conceived, developed, made or reduced to practice by Contractor within the scope of the Project. [*Note:* The park should clearly define precisely what is to be done here.]

(b) Contractor represents that his performance of all of the terms of this Agreement does not and will not breach any agreement to keep in confidence any confidential or proprietary information, knowledge or data of a third party and Contractor will not disclose to the _____ (Park name), National Park Service, or induce the _____ (Park name), National Park Service, to use any confidential or proprietary information belonging to third parties unless such use or disclosure is authorized in writing by such owners.

(c) Contractor represents that any audiotapes, CD-ROMs, DVDs, digital files, files, microfilm, motion picture film, negatives, photographs, publications, transparencies, videotapes, xerographic copies, or intellectual or tangible works of any sort including copyrighted works relating to the _____ (Park name), National Park Service’s actual or anticipated business or research and development which Contractor has conceived,

developed, made, or reduced to practice at the time of signing this Agreement [hereafter “previously conceived and copyrighted works], have been disclosed in writing to the _____ (Park name), National Park Service, and attached to this Agreement as Exhibit B.

4.2 Confidential Information.

Contractor agrees during the term of this Agreement and thereafter to take all steps reasonably necessary to hold in trust and confidence information which he knows or has reason to know is considered confidential by the _____ (Park name), National Park Service, (“Confidential Information”). Contractor agrees to use the Confidential Information solely to perform the project hereunder. Confidential Information includes, but is not limited to, historic, management, and technical information including:

- the locations of archeological sites, endangered geological and paleontological resources, endangered species nesting and habitat sites, shipwrecks, sacred places, protected caves, wells, and endangered or threatened historical resources such as forts and historic structures
- documentation of ethnographic activities, including sacred ceremonies and food gathering activities
- potentially libelous or slanderous material contained in materials being copied
- images and words of private living individuals lacking model release forms
- images and words of famous individuals lacking permissions

All work done for the _____ (Park name), National Park Service, in terms of creating original images of archival, library, and museum collections and copying materials found in those collections will be held in absolute confidentiality by the contractor and his sub-contractors. Contractor’s obligations with respect to the Confidential Information also extend to any third party’s proprietary or confidential information disclosed to Contractor in the course of providing services to the _____ (Park name), National Park Service. This obligation shall not extend to any information that becomes generally known to the public without breach of this Agreement. This obligation shall survive the termination of this Agreement.

4.3 No Conflict of Interest. Contractor agrees during the term of this Agreement not to accept work or enter into a contract or accept an obligation, inconsistent or incompatible with Contractor’s obligations or the scope of services rendered for the _____ (Park name), National Park Service, under this Agreement.

4.4 Assignment of Work Product.

(a) “Work Product” means the original and copy images, master negatives, interpositives, copy negatives, master digital files, all derivative files of digital materials, master videotapes, outtakes of video or film, camera-ready film, A and B reels of film, microfilm negatives, microfilm copy negatives, microfilm positives including spin-offs such as microfiche or aperture cards, master audiotapes, outtakes of audiotapes, xerographic copies and other electrostatic copy processes, and all other copies or original images of NPS materials, as well as all captions, credit lines, microfilm targets, indices, descriptive databases, contextual information, and similar materials that include tangible works of authorship of any sort solely or jointly conceived, created, copied, duplicated, developed or reproduced during the Project.

Contractor hereby irrevocably assigns, conveys and otherwise transfers to the _____ (Park name), National Park Service, and its respective successors and assigns, the actual objects and all rights, title and interests worldwide in and to the Work Product and any copies, variants, or derivatives, and all proprietary rights therein, including, without limitation, all copyrights, trademarks, design patents, trade secret rights, moral rights, privacy rights and permissions, publicity rights and permissions, and all contract and licensing rights, and all claims and causes of action of any kind with respect to any of the foregoing, whether now known or hereafter to become known.

In the event Contractor has any rights in and to the Work Product that cannot be assigned to the _____ (Park name), National Park Service, Contractor hereby unconditionally and irrevocably waives the enforcement of all such rights, and all claims and causes of action of any kind with respect to any of the foregoing against the _____ (Park name), National Park Service, its distributors and customers, whether now known or hereafter to become known and agrees, at the request and expense of the _____ (Park name), National Park Service, and its respective successors and assigns, to consent to and join in any action to enforce such rights and to procure a waiver of such rights from the holders of such rights.

Any previously conceived and copyrighted works created by the contractor prior to his work with _____ (Park name) are not assigned to the _____ (Park name), National Park Service. However, if Contractor produces new or copies or reproduces different or additional audiotapes, CD-ROMs, DVDs, digital files, files, microfilm, motion picture film, negatives, photographs, publications, transparencies, videotapes, xerographic copies, or intellectual or tangible works of any sort including copyrighted works during the scope of the Project, Contractor grants to the _____ (Park name), National Park Service, all copyrights and a royalty-free, worldwide, perpetual, irrevocable, non-exclusive license, with the right to sublicense, to reproduce, distribute, modify, publicly perform and publicly display such inventions and copyrighted works in the _____ (Park name), National Park Service's products based on the Project.

In the event Contractor has any rights in and to the Work Product that cannot be assigned to the _____ (Park name), National Park Service, and cannot be waived, Contractor hereby grants to the _____ (Park name), National Park Service, and its respective successors and assigns, an exclusive, worldwide, royalty-free license during the term of the rights to reproduce, distribute, modify, publicly perform and publicly display, with the right to sublicense and assign such rights in and to the Work Product including, without limitation, the right to use in any way whatsoever the Work Product. Contractor retains no rights to use the Work Product and agrees not to challenge the validity of the ownership by the _____ (Park name), National Park Service, in the Work Product.

(b) Contractor agrees to assist the _____ (Park name), National Park Service, in any reasonable manner to obtain and enforce for the _____ (Park name), National Park Service's benefit patents, copyrights, and other property rights covering the Work Product in any and all countries. Contractor agrees to execute, when requested, patent, copyright, or similar applications and assignments to the _____ (Park name), National Park Service, and any other lawful documents deemed necessary by the _____ (Park name), National Park Service, to carry out the purpose of this Agreement. Contractor further agrees that the obligations and undertaking stated in this Section 4.4(b) will continue beyond the termination of Contractor's service to the _____ (Park name), National Park Service.

(c) In the event that the _____ (Park name), National Park Service, is unable for any reason whatsoever to secure Contractor's signature to any lawful and necessary document required to apply for or execute any patent, copyright or other applications with respect to any Work Product (including improvements, renewals, extensions, continuations, divisions or continuations in part thereof), Contractor hereby irrevocably designates and appoints the _____ (Park name), National Park Service, and its duly authorized officers and agents as his agents and attorneys-in-fact to act for and in his behalf and instead of Contractor, to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other rights thereon with the same legal force and effect as if executed by Contractor.

4.5 Return of the _____ (Park name), National Park Service's Property. Contractor acknowledges that the _____ (Park name), National Park Service's sole and exclusive property includes all documents, such as digital files and derivatives, microfilm (including microfiche, aperture cards, card jackets, and roll microfilm), motion picture film (including negatives, positives, outtakes, sound reels, and A and B reels), photographs (including negatives, prints, and transparencies), sound recordings (including audiotapes, CD-ROMs, DVDs, phonograph records, reel-to-reel tape, and other historic processes), videotape

recordings (including cartridges, reel-to-reel tape and other historic processes), xerographic copies (including copies of film and paper) and other materials such as blueprints, drawings, plans, and the captions and indices to these materials in his custody or possession, whether delivered to Contractor by the _____ (Park name), National Park Service, or made by Contractor in the performance of services under this Agreement, relating to the business activities of the _____ (Park name), National Park Service, or its customers or suppliers and containing any information or data whatsoever, whether or not Confidential Information.

Contractor agrees to deliver promptly all of the _____ (Park name), National Park Service's property and all copies, derivatives, surrogates, facsimiles, and variants of the property produced (including digital files on hard drives or diskettes) of the _____ (Park name), National Park Service's property in Contractor's possession to the _____ (Park name), National Park Service, at any time upon the _____ (Park name), National Park Service's request. The Contractor may not keep any copy, reproduction, original, derivative, or variant version for any purpose without prior written permission of the superintendent of _____ (Park name).

4.6 Warranties. Contractor represents and warrants that:

(a) the Work Product was created solely by him, his full-time employees during the course of their employment, or independent contractors who assigned all right, title and interest in their work to Contractor;

(b) Contractor assigns any and all rights, title and interests he may have in the tangible forms of the Work Product and all intellectual property rights protecting them to _____ (Park name). The Work Product and the intellectual property rights protecting them are free and clear of all encumbrances, including, without limitation, security interests, licenses, liens, charges or other restrictions except as set forth in Exhibit C;

(c) Contractor has maintained the Work Product in confidence;

(d) the use, reproduction, distribution, or modification of the Work Product does not and will not violate the rights of any third parties in the Work Product including, but not limited to, trade secrets, trademarks, publicity, privacy, copyrights, and patents;

(e) the Work Product is not in the public domain, or if in the public domain will not be claimed or copyrighted by the contractor;

(f) Contractor has full power and authority to make and enter into this Agreement.

4.7 Performance. Contractor represents and warrants that for a period of [indicate how long here for example five years] following acceptance of the Work Product (i) the product will be free from defects in workmanship and materials under normal use, and (ii) that the product will perform in accordance with the specifications in Exhibit A (Use the standards cited in the Selected Bibliography).

4.8 Indemnification. Contractor agrees to defend, indemnify, and hold harmless the _____ (Park name), National Park Service, their officers, directors, sublicensees, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, alleging or resulting from the breach of the warranties in Section 4.6. The _____ (Park name), National Park Service, shall provide notice to Contractor promptly of any such claim, suit, or proceeding and shall assist Contractor, at Contractor's expense, in defending any such claim, suit or proceeding.

5. Termination-Noninterference with Business.

5.1 Termination by the _____ (Park name), National Park Service. The _____ (Park name), National Park Service, may terminate this Agreement for material breach at any time upon fifteen (15) days prior written notice to Contractor. The _____ (Park name), National Park Service, also may terminate this Agreement immediately in its sole discretion upon Contractor's material breach of Article 4 and/or Section 5.3 of this Agreement and/or upon any acts of gross misconduct by Contractor directly affecting this Agreement or the independent contractor relationship.

5.2 Termination by Contractor. Contractor may terminate this Agreement for material breach at any time upon thirty (30) days prior written notice to the _____ (Park name), National Park Service.

5.3 Noninterference with Business. During and for a period of two (2) years immediately following termination of this Agreement by either party, Contractor agrees not to solicit or induce any employee or independent contractor to terminate or breach an employment, contractual or other relationship with the _____ (Park name), National Park Service.

6. General Provisions. This Agreement will be governed by and construed in accordance with the laws of the United States and the State of _____ as applied to agreements entered into and to be performed entirely within State of _____ between State of _____ residents.

This Agreement, including all Exhibits to this Agreement, constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral.

No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party. Contractor may not assign its rights or obligations arising under this Agreement without the _____ (Park name), National Park Service's prior written consent. The _____ (Park name), National Park Service, may assign its rights and obligations under this Agreement.

This Agreement will be for the benefit of the _____ (Park name), National Park Service's successors and assigns, and will be binding on Contractor's heirs, legal representatives, and permitted assignees. If any dispute arises between the parties with respect to the matters covered by this Agreement which leads to a proceeding to resolve such dispute, the prevailing party in such proceeding shall be entitled to receive its reasonable attorneys' fees, expert witness fees and out-of-pocket costs incurred in connection with such proceeding, in addition to any other relief to which it may be entitled.

All notices, requests and other communications required to be given under this Agreement must be in writing, and must be mailed by registered or certified mail, postage prepaid and return receipt requested, or delivered by hand to the party to whom such notice is required or permitted to be given. Any such notice will be considered to have been given when received, or if mailed, ten (10) business days after it was mailed, as evidenced by the postmark. The mailing address for notice to either party will be the address shown on the signature page of this Agreement. Either party may change its mailing address by notice as provided by this Section. The following provisions shall survive termination of this Agreement: Article 4 and Section 5.3. This Agreement is effective as of, _____(date), and will terminate on _____(date), unless terminated earlier in accordance with Section 5 above.

**“THE _____ (Park name),
NATIONAL PARK SERVICE”:**

“CONTRACTOR”:

By: _____

By: _____

Typed name

Typed name

Title

Title

Address:

Address:

EXHIBIT A

Project and Specifications

(Note: Use the ANSI and AIIM standards in the Bibliography listed under the appropriate type of media being produced [for example, photographs or microfilm])

EXHIBIT B

Prior Work Product Disclosure

(Note: Produced by the Contractor to indicate existing materials pertaining to the park to which the contractor has and owns the property rights.)

EXHIBIT C

Exceptions