

September 7, 2016

Standard Operating Procedure #22

To: All Employees

From: Superintendent

Subject: **Research Request Policy and Cost Recovery Schedule**

This policy and cost recovery schedule are in effect as of September 1, 2016 and shall remain in place until revised. A number of projects are currently in progress that will impact the availability of document reproductions, including digital reproductions. As the availability of digital media increases, this policy may be revised. This policy and schedule applies to any entity conducting research including but not limited to members of the public, academia, publishers, media outlets and producers. This policy and schedule do not apply to internal park requests, or external requests deemed by management to meet park needs, such as from another NPS unit.

### **Research Requests**

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 any of the following:

- Fair use copies, as defined by the copyright law (i.e. research, news reporting, parody, or satire);
- Sales copies for use in a derivative work (e.g. shirt, postcard, calendar);
- Publication copies (e.g. for use in, articles, books, catalogs, films, pamphlet, website).

### **Request Format**

Researchers may request information from or access to materials in the park's library and museum collections via regular mail, e-mail, telephone or in person. Researchers are encouraged to complete their preliminary research at other museums, archives, and libraries before approaching the Little Bighorn Battlefield National Monument (LIBI). LIBI has limited staff and access to our library and museum collections is based on workload priorities as well as the physical condition and availability of items.

### **Response Format**

The park normally responds to requests in the format the request was made. For example, e-mail requests are responded to by e-mail and telephone requests by telephone, or follow up as agreed upon after the initial contact. The best way to initiate a request is by using

the research request email address:

classified under the Native American Graves Protection and Repatriation Act (NAGPRA) are sensitive and not available for research purposes.

Certain materials in the Little Bighorn Battlefield National Monument library and museum collections may be protected by U.S. Copyright Law (Title 17, U.S.C.), or restricted by one or more of the following: NPS gift or purchase agreements, donor restrictions, privacy and publicity rights, licensing and trademarks, FOIA exemptions, among others. Please refer to the Restrictions and Conditions for Use of Collections Materials form (Appendix 1) for terms and agreements regarding the use of materials with restrictions.

### **Publications**

Publication refers to any use of an item or image in a format that makes it available to the public. This includes both print and digital forms, such as placing an item on a website. The NPS only provides permission to publish for a one-time use in specific publications or for specific purposes outlined in an individualized Permission to Publish letter (Appendix 1). If a researcher wants to reuse an item they previously obtained for a new publication or purpose, they must submit a new request. Cost recovery may apply if an additional copy of the image is required for the new purpose.

If the item(s) requested are utilized in a publication, the park requests two copies of the final publication to be provided to NPS. One copy should be in print format and the second in electronic format if available (PDF-A format preferred). The items would then become available at the White Swan Library for staff, researchers, and the public to view and use in future research. The park also requests permissions to utilize items on their website and for educational purposes.

### **Cost Recovery Schedule**

#### **Authority**

Under the authority of 43 USC 1460:

*“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....”*

LIBI will provide basic services on a cost-recovery charge back basis once all appropriate forms (e.g. research registration form, restrictions agreement, cost recovery agreement) have been received. Cost recovery funds will be deposited into a donation account and used for future purposes for the library and museum collections.

### **Cost Recovery Fees for Research**

All research requests include two complimentary hours of staff time for research and fulfillment of the request. All requests requiring more than the initial two-hour time will be charged an hourly rate of \$35.00. If a request may take more than that initial hour, park staff will contact the researcher with an estimate of how many additional hours the request will take to fill. This will allow the researcher to determine if they want the park to move forward with the request.

Items in Digital Format: An average request for images, documents, and information that are available in a **digital format** typically take 2-3 hours of staff time to fulfill. This includes locating items, processing, communication with the researcher, creation of required documentation, and fulfillment of requests. Most typical requests will incur a cost recovery fee of \$35-\$70.

Items not in Digital Format: Requests for items that are not in a digital format often require more staff time. The park does not make physical reproductions of materials and not all items can be digitized or made accessible in a digital format.

WACC Access: If requested items are stored at WACC, the park follows established procedures for allowing access to LIBI museum collections through WACC. The request is evaluated, reviewed, and then forwarded onto the park's museum curator for approval. Cost Recovery for these items will be determined according to the WACC schedule (See example in Appendix 1).

**Additional Fees** may apply as follows:

- If items are requested on a CD or DVD, an additional \$5 fee per disc will be applied.
- If items are sent via FedEx, the cost of shipping will be applied.
- If an item cannot be digitized or copied at the park, the park may, when appropriate, have the item sent to an off-site facility for reproduction. If that occurs, the costs of those services will be applied.

A **Cost Recovery Agreement** (included in Appendix 1) will be provided once the amount has been determined. All orders are prepaid. The preferred form of payment is online through [www.pay.gov](http://www.pay.gov). If this method of payment is agreed to, the researcher will receive an email invoice from the park with instructions and information for payment. An alternative method of payment is by check or money order payable to the National Park Service and delivered to:

Little Bighorn Battlefield National Monument  
ATTN: Research Requests/Resource Management  
PO Box 39

Crow Agency, MT 59022-0039

Typically, orders will be fulfilled by email, the NPS secure file transfer site, or burned to disk and sent by U.S. Mail unless a special delivery service, such as FedEx is requested.

**APPENDIX 1: Forms**

- Researcher Registration Form
- Restrictions and Conditions
- LIBI Cost Recovery Form
- WACC Cost Recovery Form
- Permission to Publish

**LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT  
RESEARCH REGISTRATION FORM**



**United States Department of the Interior  
NATIONAL PARK SERVICE**



**LITTLE BIGHORN BATTLEFIELD  
NATIONAL MONUMENT**

756 Battlefield Tour Road  
Crow Agency, MT 59022

**Researcher Registration Form**

Name:  Date:

Picture ID Type and Number:

Institutional affiliation:

Work address:

Phone:  Fax:  Email:

Home address:

Phone:  Fax:  Email:

Contacted Park through:

Visit  Letter  Phone  Fax  FOIA  Subpoena

Research project summary:

Publication plans (publisher, type of publication, and date):

Other special requirements:

Collections used (Name and box number):

**LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT  
RESTRICTIONS AND CONDITIONS FOR COLLECTION USE**

**Intellectual Property Rights**

The Researcher agrees to release and discharge the Little Bighorn Battlefield National Monument (The Park) and the National Park Service (NPS) from any and all claims and demands arising out of, or in connection with, the use of the image, including without limitation any and all claims with regard to intellectual property rights, such as donor restrictions, copyright, privacy, publicity, libel, and related legal issues.

The copyright law of the United States (Title 17, United States Code) governs the making of reproductions of copyrighted materials. The various state privacy acts govern the use of materials that document private individuals, groups, and corporations. Under certain conditions specified in the law, libraries and archives are authorized to furnish a reproduction if the document does not infringe the rights of an individual, group, or corporation. These specified conditions of authorized use include:

- Non-commercial and non-profit study, scholarship, research, or teaching
- Criticism, commentary, or news reporting
- An NPS preservation or security copy
- A research copy for deposit at another institution.

If the researcher uses a copy or reproduction for purposes in excess of “fair use”, **they are** personally liable for infringement and agree to indemnify the NPS from any legal action as a result of the error. The Park’s furnishing of a photographic, xerographic, digital, or other copy of a document **does not** indicate permission to publish, exhibit, perform, reproduce, sell, distribute, or prepare derivative works from or of the item.

The Researcher agrees to obtain all intellectual property rights, including copyright from the rights holder(s). Permission to publish, exhibit, perform, reproduce, prepare derivative works from, sell, or otherwise distribute the item must be obtained by the researcher from the holder of the original copyright (or if the creator is dead from his/hers 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 rights to items in the Park’s collections **may not be** the NPS. The NPS is not legally liable for copyright, privacy, or publicity infringement when materials are wrongfully used after being provided to researchers for “fair use”.

The Park reserves the right to refuse to fill a request if fulfillment would violate rights restrictions (including but not limited to copyright and donor restrictions) and/or federal or state privacy or publicity law. The Park also places restrictions on the use of cameras, photocopiers, and scanners in the research room.



**Use in Publications**

Researchers looking to publish items from the collection (including but not limited to print and/or digital format) must ask for permission to publish. When granted, permissions are granted to publish for a one-time use in specific publications or for specific purposes outlined in a Permission to Publish document. Additional use of the item may require additional permissions. Researchers agree to prohibit third party use of the item. Researchers understand that the use of the image does not surrender the Park's or the NPS's right to use or grant others permission to use the item

**Captions and Credits**

Images must credit the NPS and the Park in the caption, as noted below. This caption will be provided by park staff:

Courtesy of the National Park Service, Little Bighorn Battlefield National Monument, Item Number, Photographer or Artist, Title or Description of Work, Date.

**Agreement**

I, the researcher, understand and agree to the above terms and will indemnify, defend, save, and hold the NPS 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.

Printed Name	Signature	Date

**LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT  
 COST RECOVERY AGREEMENT**

Name	Date
Address	Telephone
Email	

Item Number	Item Description	Special Instructions (including citations)

Hourly fee (as outlined in Cost Recovery Schedule) _____ hours at \$ 35.00 per hour (Minimum 1 hour, charged by the hour)	\$
Other Fees (as applicable)	
Order total	\$

**NOTICE: COPYRIGHT RESTRICTIONS**

The copyright law of the United States (Title 17, U.S.C.) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction in excess of "fair use," that user, not the National Park Service, may be liable for copyright infringement. The National Park Service reserves the right to refuse to fill a request if, in its judgment, fulfillment of the order would involve violation of copyright law.

The researcher must obtain permission to publish, exhibit, perform, reproduce, prepare derivative works from, sell or otherwise distribute the item from the holder of the original copyright. The holder of the original copyright isn't necessarily the National Park Service. The National Park Service possesses physical property rights through ownership of the materials; however, copyright often resides with the individual or

corporate body responsible for the materials, or with the estate. Permission to reproduce or publish from these collections must be secured by the researcher from the copyright holders.

**I, the researcher, assume all responsibility for respecting the provisions of the copyright law of the United States (Title 17, USC). I am aware of the regulations regarding the use of the collections as outlined in the Research Request policy and agree to abide by them. I agree to purchase the items listed on this form, including paying for additional fees that may be needed prior to processing the order.**

Printed Name	Signature	Date

**WESTERN ARCHEOLOGICAL CONSERVATION CENTER  
COST RECOVERY - EXAMPLE**

**LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT  
PERMISSION TO PUBLISH - EXAMPLE**



United States Department of the Interior  
NATIONAL PARK SERVICE



**LITTLE BIGHORN BATTLEFIELD  
NATIONAL MONUMENT**  
756 Battlefield Tour Road  
Crow Agency, MT 59022

5/17/2016

PO Box 2  
Crow Agency, MT 59022

Dear Dr. Smith :

The Little Bighorn Battlefield National Monument has received your request for permission to publish in the Battlefield book due out later in 2016 by the University of Oklahoma Press.

The Little Bighorn Battlefield National Monument allows researchers to use park collections for purposes of: private research, non-profit teaching, parody, satire, commentary, and criticism, and newspaper 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.** The NPS doesn't hold the copyright or other intellectual property rights to all materials within the park. The NPS can only grant permission to use the materials to the extent that the park has the rights.

As a researcher, you signed the Restrictions and Conditions for Use of Collections Materials Agreement 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.

You, Dr. Smith, understood and agreed 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 the Little Bighorn Battlefield National Monument's permission to use the following materials in your book, the first edition of the English language work. Permission is also granted to use the following materials in advertising the above title. Permission is also granted to annotate and edit the materials; please make sure to indicate when the annotation and editing occurs so your readers will know the difference between the original and your versions.

Park ID #	Item Description	Special Instructions
LIBI_00007_04889	DeWolf's Contract as Army Contract Physician	Citation: Courtesy of the National Park Service, Little Bighorn Battlefield National Monument, LIBI_00007_04889, Dr. DeWolfe's Contract as Army Contract Physician, 10/23/1875.

Sincerely,