

§ 5934. Inventory and monitoring program

The Secretary shall undertake a program of inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of National Park System resources. The monitoring program shall be developed in cooperation with other Federal monitoring and information collection efforts to ensure a cost-effective approach.

(Pub. L. 105-391, title II, §204, Nov. 13, 1998, 112 Stat. 3500.)

§ 5935. Availability for scientific study**(a) In general**

The Secretary may solicit, receive, and consider requests from Federal or non-Federal public or private agencies, organizations, individuals, or other entities for the use of any unit of the National Park System for purposes of scientific study.

(b) Criteria

A request for use of a unit of the National Park System under subsection (a) of this section may only be approved if the Secretary determines that the proposed study—

- (1) is consistent with applicable laws and National Park Service management policies; and
- (2) will be conducted in a manner as to pose no threat to park resources or public enjoyment derived from those resources.

(c) Fee waiver

The Secretary may waive any park admission or recreational use fee in order to facilitate the conduct of scientific study under this section.

(d) Negotiations

The Secretary may enter into negotiations with the research community and private industry for equitable, efficient benefits-sharing arrangements.

(Pub. L. 105-391, title II, §205, Nov. 13, 1998, 112 Stat. 3500.)

§ 5936. Integration of study results into management decisions

The Secretary shall take such measures as are necessary to assure the full and proper utilization of the results of scientific study for park management decisions. In each case in which an action undertaken by the National Park Service may cause a significant adverse effect on a park resource, the administrative record shall reflect the manner in which unit resource studies have been considered. The trend in the condition of resources of the National Park System shall be a significant factor in the annual performance evaluation of each superintendent of a unit of the National Park System.

(Pub. L. 105-391, title II, §206, Nov. 13, 1998, 112 Stat. 3500.)

§ 5937. Confidentiality of information

Information concerning the nature and specific location of a National Park System resource which is endangered, threatened, rare, or commercially valuable, of mineral or paleon-

ological objects within units of the National Park System, or of objects of cultural patrimony within units of the National Park System, may be withheld from the public in response to a request under section 552 of title 5, unless the Secretary determines that—

- (1) disclosure of the information would further the purposes of the unit of the National Park System in which the resource or object is located and would not create an unreasonable risk of harm, theft, or destruction of the resource or object, including individual organic or inorganic specimens; and
- (2) disclosure is consistent with other applicable laws protecting the resource or object.

(Pub. L. 105-391, title II, §207, Nov. 13, 1998, 112 Stat. 3501.)

SUBCHAPTER III—NATIONAL PARK
SERVICE CONCESSIONS MANAGEMENT

§ 5951. Congressional findings and statement of policy**(a) Findings**

In furtherance of sections 1, 2, 3, and 4 of this title, which directs the Secretary to administer units of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, and natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as have to be provided within such units should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that—

- (1) visitation will not unduly impair these resources and values; and
- (2) development of public accommodations, facilities, and services within such units can best be limited to locations that are consistent to the highest practicable degree with the preservation and conservation of the resources and values of such units.

(b) Policy

It is the policy of the Congress that the development of public accommodations, facilities, and services in units of the National Park System shall be limited to those accommodations, facilities, and services that—

- (1) are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located; and
- (2) are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the unit.

(Pub. L. 105-391, title IV, §402, Nov. 13, 1998, 112 Stat. 3503.)

SHORT TITLE

For short title of this subchapter as the “National Park Service Concessions Management Improvement Act of 1998”, see section 401 of Pub. L. 105-391, set out as a note under section 5901 of this title.

SAVINGS PROVISION

Pub. L. 105-391, title IV, §419, Nov. 13, 1998, 112 Stat. 3517, provided that:

“(a) TREATMENT OF GLACIER BAY CONCESSION PERMITS PROSPECTUS.—Nothing contained in this title [see Short Title note set out under section 5901 of this title] shall authorize or require the Secretary to withdraw, revise, amend, modify, or reissue the February 19, 1998, Prospectus Under Which Concession Permits Will be Open for Competition for the Operation of Cruise Ship Services Within Glacier Bay National Park and Preserve (in this section referred to as the ‘1998 Glacier Bay Prospectus’). The award of concession permits pursuant to the 1998 Glacier Bay Prospectus shall be under provisions of existing law at the time the 1998 Glacier Bay Prospectus was issued.

“(b) PREFERENTIAL RIGHT OF RENEWAL.—Notwithstanding any provision of this title, the Secretary, in awarding future Glacier Bay cruise ship concession permits covering cruise ship entries for which a preferential right of renewal existed prior to the effective date of this title [probably means the date of enactment of title IV of Pub. L. 105–391, which was approved Nov. 13, 1998], shall provide for such cruise ship entries a preferential right of renewal, as described in subparagraphs (C) and (D) of section 403(7) [16 U.S.C. 5952(7)(C), (D)]. Any Glacier Bay concession permit awarded under the authority contained in this subsection shall expire by December 31, 2009.”

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Pub. L. 105–391, title IV, §415(c), Nov. 13, 1998, 112 Stat. 3516, provided that: “Nothing in this title [see Short Title note set out under section 5901 of this title] amends, supersedes, or otherwise affects any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.”

§ 5952. Award of concessions contracts

In furtherance of the findings and policy stated in section 5951 of this title, and except as provided by this subchapter or otherwise authorized by law, the Secretary shall utilize concessions contracts to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to units of the National Park System. Such concessions contracts shall be awarded as follows:

(1) Competitive selection process

Except as otherwise provided in this section, all proposed concessions contracts shall be awarded by the Secretary to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually-owned, concessions contracts.

(2) Solicitation of proposals

Except as otherwise provided in this section, prior to awarding a new concessions contract (including renewals or extensions of existing concessions contracts) the Secretary shall publicly solicit proposals for the concessions contract and, in connection with such solicitation, the Secretary shall prepare a prospectus and shall publish notice of its availability at least once in local or national newspapers or trade publications, and/or the Commerce Business Daily, as appropriate, and shall make the prospectus available upon request to all interested parties.

(3) Prospectus

The prospectus shall include the following information:

(A) The minimum requirements for such contract as set forth in paragraph (4).

(B) The terms and conditions of any existing concessions contract relating to the services and facilities to be provided, including all fees and other forms of compensation provided to the United States by the concessioner.

(C) Other authorized facilities or services which may be provided in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including public access, utilities, and buildings.

(E) An estimate of the amount of compensation, if any, due an existing concessioner from a new concessioner under the terms of a prior concessions contract.

(F) A statement as to the weight to be given to each selection factor identified in the prospectus and the relative importance of such factors in the selection process.

(G) Such other information related to the proposed concessions operation as is provided to the Secretary pursuant to a concessions contract or is otherwise available to the Secretary, as the Secretary determines is necessary to allow for the submission of competitive proposals.

(H) Where applicable, a description of a preferential right to the renewal of the proposed concessions contract held by an existing concessioner as set forth in paragraph (7).

(4) Minimum requirements

(A) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include the following:

(i) The minimum acceptable franchise fee or other forms of consideration to the Government.

(ii) Any facilities, services, or capital investment required to be provided by the concessioner.

(iii) Measures necessary to ensure the protection, conservation, and preservation of resources of the unit of the National Park System.

(B) The Secretary shall reject any proposal, regardless of the franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is not likely to provide satisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(C) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(D) The Secretary may not execute a concessions contract which materially amends or does not incorporate the proposed terms and conditions of the concessions contract as set