

tract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(C) A concessioner that holds a concessions contract that the Secretary estimates will result in gross annual receipts of less than \$500,000 if renewed shall be entitled to a preferential right of renewal under this subchapter if—

(i) the Secretary has determined that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(ii) the concessioner has submitted a responsive proposal for a proposed new concessions contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(9) New or additional services

The Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a unit of the National Park System.

(10) Secretarial authority

Nothing in this subchapter shall be construed as limiting the authority of the Secretary to determine whether to issue a concessions contract or to establish its terms and conditions in furtherance of the policies expressed in this subchapter.

(11) Exceptions

Notwithstanding the provisions of this section, the Secretary may award, without public solicitation, the following:

(A) A temporary concessions contract or an extension of an existing concessions contract for a term not to exceed 3 years in order to avoid interruption of services to the public at a unit of the National Park System, except that prior to making such an award, the Secretary shall take all reasonable and appropriate steps to consider alternatives to avoid such interruption.

(B) A concessions contract in extraordinary circumstances where compelling and equitable considerations require the award of a concessions contract to a particular party in the public interest. Such award of a concessions contract shall not be made by the Secretary until at least 30 days after publication in the Federal Register of notice of the Secretary's intention to do so and the reasons for such action, and submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(Pub. L. 105-391, title IV, §403, Nov. 13, 1998, 112 Stat. 3504.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title IV of Pub. L. 105-391, Nov. 13, 1998, 112 Stat. 3503, which is classified principally to this subchapter. For complete classification of title IV to the Code, see Short Title note set out under section 5901 of this title and Tables.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House

of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 5953. Term of concessions contracts

A concessions contract entered into pursuant to this subchapter shall generally be awarded for a term of 10 years or less. However, the Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

(Pub. L. 105-391, title IV, §404, Nov. 13, 1998, 112 Stat. 3508; Pub. L. 106-176, title III, §311, Mar. 10, 2000, 114 Stat. 34.)

AMENDMENTS

2000—Pub. L. 106-176, which directed the substitution of "contract terms and conditions," for "contract terms and conditions," could not be executed because the words "contract terms and conditions," did not appear.

§ 5954. Protection of concessioner investment

(a) Leasehold surrender interest under new concessions contracts

On or after November 13, 1998, a concessioner that constructs a capital improvement upon land owned by the United States within a unit of the National Park System pursuant to a concessions contract shall have a leasehold surrender interest in such capital improvement subject to the following terms and conditions:

(1) A concessioner shall have a leasehold surrender interest in each capital improvement constructed by a concessioner under a concessions contract, consisting solely of a right to compensation for the capital improvement to the extent of the value of the concessioner's leasehold surrender interest in the capital improvement.

(2) A leasehold surrender interest—

(A) may be pledged as security for financing of a capital improvement or the acquisition of a concessions contract when approved by the Secretary pursuant to this subchapter;

(B) shall be transferred by the concessioner in connection with any transfer of the concessions contract and may be relinquished or waived by the concessioner; and

(C) shall not be extinguished by the expiration or other termination of a concessions contract and may not be taken for public use except on payment of just compensation.

(3) The value of a leasehold surrender interest in a capital improvement shall be an amount equal to the initial value (construction cost of the capital improvement), increased (or decreased) in the same percentage increase (or decrease) as the percentage increase (or decrease) in the Consumer Price Index, from the date of making the investment in the capital improvement by the concessioner to the date of payment of the value of the leasehold surrender interest, less depreciation of the capital improvement as evidenced by the condition and prospective serviceability in comparison with a new unit of like kind.

(4) Effective 9 years after November 13, 1998, the Secretary may provide, in any particular