

**CHAPTER 1019—CONCESSIONS AND
COMMERCIAL USE AUTHORIZATIONS**

SUBCHAPTER I—AUTHORITY OF SECRETARY

Sec.

101901. Utility services.

SUBCHAPTER II—COMMERCIAL VISITOR
SERVICES

101911. Definitions.
 101912. Findings and declaration of policy.
 101913. Award of concession contracts.
 101914. Term of concession contracts.
 101915. Protection of concessioner investment.
 101916. Reasonableness of rates and charges.
 101917. Franchise fees.
 101918. Transfer or conveyance of concession contracts or leasehold surrender interests.
 101919. National Park Service Concessions Management Advisory Board.
 101920. Contracting for services.
 101921. Multiple contracts within a System unit.
 101922. Use of nonmonetary consideration in concession contracts.
 101923. Recordkeeping requirements.
 101924. Promotion of sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts.
 101925. Commercial use authorizations.
 101926. Regulations.

CODIFICATION

Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1492, added subchapter III of this chapter without corresponding amendment of chapter analysis. For analysis of subchapter III, see table of sections set out preceding section 101931 of this title.

SUBCHAPTER I—AUTHORITY OF
SECRETARY

§ 101901. Utility services

To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary considers advisable, may furnish, on a reimbursement of appropriation basis, all types of utility services to concessioners, contractors, permittees, or other users of the services, within the System. The reimbursements for cost of the services may be credited to the appropriation current at the time reimbursements are received.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3137.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101901	16 U.S.C. 1b (matter before (1)).	Aug. 8, 1953, ch. 384, §1 (matter before (1)), (4), 67 Stat. 495; Pub. L. 91-383, §2(a), Aug. 18, 1970, 84 Stat. 826.
	16 U.S.C. 1b(4).	

The words “and he may use applicable appropriations for the aforesaid system for the following purposes” are omitted as unnecessary.

SUBCHAPTER II—COMMERCIAL VISITOR
SERVICES

§ 101911. Definitions

In this subchapter:

(1) **ADVISORY BOARD.**—The term “Advisory Board” means the National Park Service Concessions Management Advisory Board established under section 101919 of this title.

(2) **PREFERENTIAL RIGHT OF RENEWAL.**—The term “preferential right of renewal” means the right of a concessioner, subject to a determination by the Secretary that the facilities or services authorized by a prior contract continue to be necessary and appropriate within the meaning of section 101912 of this title, to match the terms and conditions of any competing proposal that the Secretary determines to be the best proposal for a proposed new concession contract that authorizes the continuation of the facilities and services provided by the concessioner under its prior contract.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3138.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101911(1)	no source.	
101911(2)	16 U.S.C. 5952(7)(C).	Pub. L. 105-391, title IV, §403(7)(C), Nov. 13, 1998, 112 Stat. 3506.

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 [enacting former sections 5951 to 5966 of Title 16, Conservation, which were repealed and restated in sections 101911 et seq. and 101524 of this title, amending former sections 1a-7 and 3 of Title 16, repealing section 17b-1 and subchapter IV of chapter 1 of Title 16, and enacting provisions set out as notes under this section and sections 100101 and 101912 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) [see 54 U.S.C. 101911(2), 101913(7)(C)]. 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 [enacting former sections 5951 to 5966 of Title 16, Conservation, which were repealed and restated in sections 101911 et seq. and 101524 of this title, amending former sections 1a-7 and 3 of Title 16, repealing section 17b-1 and subchapter IV of chapter 1 of Title 16, and enacting provisions set out as notes under this section and sections 100101 and 101912 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.”

§ 101912. Findings and declaration of policy

(a) **FINDINGS.**—In furtherance of section 100101(a), Congress finds that the preservation

and conservation of System unit resources and values requires that public accommodations, facilities, and services that have to be provided within those System units should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that—

(1) visitation will not unduly impair those resources and values; and

(2) development of public accommodations, facilities, and services within System 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 the System units.

(b) DECLARATION OF POLICY.—It is the policy of Congress that the development of public accommodations, facilities, and services in System units shall be limited to accommodations, facilities, and services that—

(1) are necessary and appropriate for public use and enjoyment of the System unit 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 System unit.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3138.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101912	16 U.S.C. 5951.	Pub. L. 105–391, title IV, § 402, Nov. 13, 1998, 112 Stat. 3503.

In subsection (a), the words “section 100101(a)” are substituted for “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” to give a more precise cross reference because section 100101(a) of the new title is where that direction to the Secretary is restated.

REPEAL OF NATIONAL PARK SERVICE CONCESSIONS POLICY ACT; SAVINGS PROVISION

Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515, provided that: “Public Law 89–249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.) is repealed. The repeal of such Act shall not affect the validity of any concessions contract or permit entered into under such Act, but the provisions of this title [enacting former sections 5951 to 5966 of Title 16, Conservation, which were repealed and restated in sections 101911 et seq. and 101524 of this title, amending former sections 1a–7 and 3 of Title 16, repealing section 17b–1 and subchapter IV of chapter 1 of Title 16, and enacting provisions set out as notes under this section and sections 100101 and 101911 of this title] shall apply to any such contract or permit except to the extent such provisions are inconsistent with the terms and conditions of any such contract or permit. References in this title to concessions contracts awarded under authority of such Act also apply to concessions permits awarded under such authority.”

§ 101913. Award of concession contracts

In furtherance of the findings and policy stated in section 101912 of this title, and except as provided by this subchapter or otherwise author-

ized by law, the Secretary shall utilize concession contracts to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to System units. Concession contracts shall be awarded as follows:

(1) COMPETITIVE SELECTION PROCESS.—Except as otherwise provided in this section, all proposed concession 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. The competitive process shall include simplified procedures for small, individually-owned entities seeking award of a concession contract.

(2) SOLICITATION OF PROPOSALS.—Except as otherwise provided in this section, prior to awarding a new concession contract (including renewals or extensions of existing concession contracts) the Secretary—

(A) shall publicly solicit proposals for the concession contract; and

(B) in connection with the solicitation, shall—

(i) prepare a prospectus and publish notice of its availability at least once in local or national newspapers or trade publications, by electronic means, or both, as appropriate; and

(ii) make the prospectus available on request to all interested persons.

(3) INFORMATION TO BE INCLUDED IN PROSPECTUS.—The prospectus shall include the following information:

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

(B) The terms and conditions of any existing concession 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 that may be provided in a proposal.

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

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

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

(G) Other information related to the proposed concession operation that is provided to the Secretary pursuant to a concession 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 concession contract held by an existing concessioner as set forth in paragraph (7).

(4) CONSIDERATION OF PROPOSALS.—

(A) MINIMUM REQUIREMENTS.—No proposal shall be considered that fails to meet the