

**REVISED NPS PROPOSAL ON VSMA, JANUARY 2016**  
**(NOTE: NPS REFUSED TO SHARE THIS LANGUAGE WITH NPHA)**

COMMERCIAL SERVICES CONTRACTING

Sec.

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SEC. X:XX CONTRACT AUTHORITY

(a) GENERAL AUTHORITY -Notwithstanding Subchapter II of Chapter 1019 of title 54, United States Code, the Secretary may award and administer commercial services contracts (and related professional services contracts) for the operation of commercial visitor facilities and visitor services programs in areas of the National Park System. The commercial services contracts that may be awarded shall be limited to those that are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located, and, that are consistent, to the highest degree possible, with the preservation and conservation of the resources and values of the unit.

(b) ADDITIONAL AUTHORITY -Contracts may be awarded under subsection (a) without regard to Federal laws and regulations governing procurement by Federal agencies, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the provisions of sections 3141-3144 and 3146-J 147 of title 40, United States Code (Davis-Bacon Act), and any civil rights provisions otherwise applicable thereto.

SEC. :XXX. AWARD OF COMMERCIAL SERVICES CONTRACTS

(a) COMPETITIVE SELECTION PROCESS - Except as provided in subsection (c), all proposed commercial services contracts shall be awarded by the Secretary through a competitive selection process.

(b) SOLICITATION OF PROPOSALS-Prior to awarding a new commercial services contract, the Secretary shall publicly solicit proposals for the contract, except as provided in subsection (c). In connection with such solicitation, the Secretary shall prepare a request for proposals and shall publish notice of its availability.

(c) EXCEPTIONS. - The Secretary may award, without public solicitation, the following:

- (1) A temporary commercial services contract for a term not to exceed 5 years.
- (2) An extension of an existing commercial services contract for a term not to exceed 3 years.
- (3) A commercial services contract to a non-profit organization (recognized as such by the Internal Revenue Service) or unit of government if the Secretary determines that the non-profit or governmental use of the property will contribute to the purposes and programs of the park area.
- (4) A commercial services contract in extraordinary circumstances where compelling and equitable considerations require the award of a contract to a particular party in the public interest. An award of a contract under this paragraph shall not be made by the Secretary until at least 30 days after-
  - (i) publication in the Federal Register of notice of the Secretary's intention to award the contract and the reasons for the action; and

(ii) submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

#### **SEC. XXX. TERM OF COMMERCIAL SERVICES CONTRACTS.**

A commercial services contract entered into pursuant to this title 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 30 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

#### **SEC. XXX. FINANCIAL MANAGEMENT.**

(a) REVOLVING FUND. -There is established a revolving fund that shall be available without fiscal year limitation for expenses necessary for the management, improvement, enhancement, operation, construction, maintenance of commercial visitor services and facilities and payment of possessory interest and leasehold surrender interest.

(b) COLLECTION OF FUNDS.-

( 1) Funds collected by the Secretary pursuant to the contracts awarded under this title shall be credited to the revolving fund.

(2) The Secretary is authorized to transfer to the revolving fund, without reimbursement, any additional funds or revenue as he deems appropriate in connection with the functions to be carried out under this title.

(c) USE OF FUNDS. -The revolving fund shall be available for expenditure by the Secretary in furtherance of the purposes of this title.

#### **SEC. XXX REGULATIONS**

As soon as practicable after the effective date of this title, the Secretary shall promulgate regulations appropriate for its implementation.

#### **SEC. XXX. SA VINOS PROVISION.**

Nothing in this title shall affect any concessions contracts awarded under Subchapter **11** of Chapter 1019 of title 54, United States Code.

#### **SEC. XXX. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title such sums as may be necessary.