

**PROPOSAL INSTRUCTIONS**

**UNITED STATES DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE**

Wrangell – St. Elias National Park and Preserve

**Proposal to Operate Guided Tours of Historic Buildings  
Within  
Kennecott Mines National Historic Landmark**

**CONCESSION CONTRACT NO. CC- WRST018-13**

## PROPOSAL INSTRUCTIONS

### 1) Response Requirements for Submission of Proposal

- a) This Prospectus is issued under the authority of 36 C.F.R. Part 51 (incorporated by reference herein). In the event of any inconsistency between the terms of this Prospectus and 36 C.F.R. Part 51, 36 C.F.R. Part 51 will control. The Service presumes that all persons that submit a proposal in response to this Prospectus are informed of the provisions of 36 C.F.R. Part 51.
- b) Proposals for the draft contract must be received by the due date and time shown on the inside cover of this Prospectus.
- c) Only an Offeror submitting a responsive proposal is eligible to be awarded the new concession contract. A responsive proposal means a timely submitted proposal that is determined by the Service as agreeing to all of the minimum requirements of the draft concession contract and Prospectus and as having provided the information required by the Prospectus. The minimum requirements for the draft concession contract are identified in Part A of the Proposal Package.
- d) Information "required by the Prospectus" refers to information expressly required by the Prospectus and that is material, as determined by the Service, to an effective evaluation of the proposal under the applicable selection factor.

### 2) Form in Which Proposal Must be Submitted

- a) Offerors must follow the format provided in the Proposal Package, including in its entirety without alteration the "Offeror's Transmittal Letter," in applying for the concession opportunity. Failure to submit a signed Offeror's Transmittal Letter without alteration (except for filling in the indicated blanks) will make your proposal non-responsive.
- b) Please number each page and section in your completed proposal. Add information to your proposal only to the extent that it is necessary and relevant to respond to the factor. Each page should have a heading identifying the selection factor and subfactor to which the information contained on the page responds. It is important that your response stays within the organizational framework in the Proposal Package and provides all relevant information directly in response to each selection factor. The Service may consider relevant information contained elsewhere in a proposal in assessing the proposal's response to each particular selection factor.
- c) Where page limits are set out in the Proposal Package, the Service will not review or consider the information on any pages that exceed the page limitations stated, including attachments, appendices, or other additional materials the Offeror submits. The Service would like to see clear and concise answers. A longer answer will not necessarily be considered a better answer.
- d) The Service considers text on two sides of one sheet of paper as two pages.
- e) Offerors must use normal sized font, such as 11 or 12 point, and 1 inch margins on all sides, in the body of the proposal. Tables, charts, graphs, provided forms, and copies of sample material using less than 11 point font are acceptable.

### 3) Submission Protocol

- a) Submit three identical hard copies.

- b) Enclose copies in a sealed envelope with the following marked on the envelope:
  - (1) "CONCESSION PROPOSAL, MAILROOM DO NOT OPEN"
  - (2) The due date specified in the Prospectus for receipt of the proposal by the Service.
  - (3) The name and address of the Offeror.
- c) The Service, at the appropriate address, must receive proposals by the time and date shown on the inside cover of this Prospectus.

#### 4) Proposals Considered Public Documents

- a) All proposals submitted in response to this Prospectus may be disclosed by the Service to any person, upon request, to the extent required or authorized by the Freedom of Information Act (5 U.S.C. § 552).
- b) If you believe that your proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, mark the cover page of each copy of the proposal with the following legend:

The information specifically identified on pages of this proposal constitutes trade secrets or confidential commercial or financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act. The Offeror requests that this information not be disclosed to the public, except as may be required by law.

You must specifically identify what you consider to be trade secret information or confidential commercial or financial information on the page of the proposal on which it appears, and you must mark each such page with the following legend:

This page contains trade secrets or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act, and which is subject to the legend contained on the cover page of this proposal.

- c) Information so identified will not be made public by the Service except in accordance with law.

#### 5) Questions

If you do not understand something in this prospectus, you must submit your questions in writing to the contact person noted on the inside cover of the Prospectus, no later than the date specified on the inside cover of the Prospectus. Your questions must specify the section of the Prospectus that is the subject of your inquiry. The Service will respond to your questions in writing and will provide the questions and responses to all potential Offerors who have requested a Prospectus. Questions submitted after this date may not be answered. (36 C.F.R. Part 51)

#### 6) Evaluation of Proposals

- a) The Service will apply the principal selection factors and secondary factors as set forth in 36 C.F.R. Part 51 by assessing each timely proposal under each of the selection factors on the basis of a narrative explanation discussing any subfactors when applicable and other supporting information.

- b) For each selection factor, the Service will assign a score that reflects the determined merits of the proposal under the applicable selection factor and in comparison to the other proposals received, if any. The Service will give equal weight to each subfactor under a given selection factor, unless otherwise expressly stated.

The first four principal factors will be scored from zero to five. The fifth principal selection factor will be scored from zero to four (with a score of one for agreeing to the minimum franchise fee contained in the Prospectus). Secondary Selection Factor 1 will be scored from zero to three. The Service then will assign a cumulative point score to each proposal based on the assigned score for each selection factor.

- c) Principal Selection Factors. The five principal selection factors are:

Principal Selection Factor 1. The responsiveness of the proposal to the objectives, as described in the Prospectus, of protecting, conserving, and preserving resources of the park area.

Principal Selection Factor 2. The responsiveness of the proposal to the objectives, as described in the Prospectus, of providing necessary and appropriate visitor services at reasonable rates;

Principal Selection Factor 3. The experience and related background of the Offeror, including the past performance and expertise of the Offeror in providing the same or similar visitor services as those to be provided under the new concession contract;

Principal Selection Factor 4. The financial capability of the Offeror to carry out its proposal; and

Principal Selection Factor 5. The amount of the proposed minimum franchise fee, if any, and/or other forms of financial consideration to the Service. Consideration of revenue to the United States will be subordinate to the objectives of protecting, conserving, and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates.

- d) Secondary Selection Factors. The secondary selection factor is:

Secondary Selection Factor 1. The quality of the Offeror's proposal to conduct its operations in a manner that furthers the protection, conservation, and preservation of the park area and other resources through environmental management programs and activities, including, without limitation, energy conservation, waste reduction, and recycling.

## **7) Process of Selecting the Best Proposal and Offering the Contract**

The Service will select the responsive proposal with the highest cumulative point score as the best proposal. If two or more responsive proposals receive the same highest point score, then the Service will select as the best proposal (from among the responsive proposals with the same highest point score) the responsive proposal that the Service determines on the basis of a narrative explanation will, on an overall basis, best achieve the purposes of 36 C.F.R. Part 51. Consideration of revenue to the United States in this determination and in scoring proposals under Principal Selection Factor 5 will be subordinate to the objectives of protecting, conserving and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates (36 C.F.R. §51.16(c)).

The contract will be offered in the following order:

1. If an ANILCA preferred operator submits the best proposal, that ANILCA preferred operator will be offered the contract.
2. If an offeror other than an ANILCA preferred operator submits the best proposal, **the ANILCA preferred operator with the highest point score of all ANILCA preferred operators** will be given the opportunity, by amending its proposal, to meet the terms and conditions of the best proposal. If that ANILCA preferred operator meets the terms and conditions of the best proposal in a timely manner, that ANILCA preferred operator will receive the contract. [Note: Only the ANILCA preferred operator with the highest point score will receive an opportunity to meet the terms and conditions of the best proposal.]
3. If the ANILCA preferred operator with the highest point score out of all of the ANILCA preferred operators does not meet the terms and conditions of the best proposal or does not timely execute the contract, and the best proposal is from the Preferred Offeror under Section 403 of the National Park Service Concessions Management Improvement Act of 1998 (Preferred Offeror), the Preferred Offeror will receive the contract.
4. If the best proposal is not from the Preferred Offeror, the Preferred Offeror will be given the opportunity, by amending its proposal, to meet the terms and conditions of the best proposal. If the Preferred Offeror meets the terms and conditions of the best proposal, the preferred offeror will receive the contract.
5. If the Preferred Offeror does not meet the terms and conditions of the best proposal or does not timely execute the contract, the contract will be offered to the Offeror with the best proposal.

## 8) Availability of a Debriefing

Offerors may request in writing either a pre- or post-award debriefing after receiving the Notification of Selection/Non-Selection letter. A pre-award debriefing occurs after the selection of the best proposal that was timely submitted and responsive, but before award of the concession contract. Award of a concession contract does not occur until the competitive process has been completed and both the selected Offeror and the Service have signed the concession contract (36 C.F.R. Part 51). If Offerors wish to request a debriefing, a written request for either a pre- or post-award debriefing must be received within 14 calendar days from receiving the Notification of Selection/Non-Selection letter. The Service will make every effort to debrief Offerors as soon as practicable after receiving a request. Circumstances may cause a pre-award debriefing to be delayed until after the contract award. If a pre-award debriefing is delayed until after contract award, the Service will provide a post-award debriefing. A debriefing is not an opportunity for negotiation, amendment, supplementation or reevaluation of any proposal.

## 9) Preferred Offeror Determinations

There are two types of preferences applicable to NPS concession contracts in Alaska, as follows:

- a) ANILCA Section 1307.

The Alaska National Interest Lands Conservation Act (ANILCA), Section 1307 (16 U.S.C. 3197) includes provisions concerning persons and entities who are to be given special rights and preferences with respect to providing commercial visitor services in conservation system units in Alaska – *Historical Operators* and *Preferred Operators*.

*Historical Operator* means “the holder of a valid written authorization from the Director to provide visitor services within a park area that on or before January 1, 1979, was lawfully engaged in adequately providing such visitor services in the applicable park area” (36 CFR 13.305). The NPS has determined there is no historical operator for this concession contract.

*Preferred Operator* means “a Native Corporation that is determined under 36 CFR 13.325 to be “most directly affected” by the establishment or expansion of a park area by ANILCA, or a local resident as defined in this subpart.” Local Resident is defined in 36 CFR 13.305.

The National Park Service invited Native Corporations to apply for “most directly affected” status, pursuant to 36 CFR 13.325, when the last Kennecott building prospectus was issued in 2003. At that time, Chitina Village Corporation was determined to be a Native corporation “most directly affected” by the establishment of Wrangell – St. Elias National Park and Preserve. Other Native Corporations may apply to be considered as a Native Corporation that was equally affected by the establishment of Wrangell-St. Elias National Park & Preserve, and thus also receive “most directly affected” Native Corporation status in conjunction with this solicitation, pursuant to 36 CFR 13.325. See Proposal Package – ANILCA Section 1307 Preferred Operator Application.

Local residents may apply for the preferred operator preference in conjunction with this solicitation, pursuant to 36 CFR 13.315. See Proposal package – ANILCA Section 1307 Preferred Operator Application.

The Native Corporations determined to be “most directly affected” and local residents have equal preference (36 CFR 13.315).

See 36 CFR Part 13, Subpart E, for a description of how these preferences are applied. See “Offering the Contracts”, above, for a description of how the Preferred Operator preference is applied.

Applications for “most directly affected Native Corporation” and “local residents” are due on the same date as the application for this proposal. The application date is listed on the inside cover of this prospectus. See Proposal Package – ANILCA Section 1307 Preferred Operation Application.

Certain provisions of 36 CFR part 13, Subpart D and the draft concession contract relevant to joint ventures, subconcessions and management agreements are reproduced below for the convenience of the Offeror.

“An offer from a preferred operator under this subpart, if the offer is in the form of a joint venture, will not be considered valid unless it documents to the satisfaction of the Director that the preferred operator holds the controlling interest in the joint venture.”

In addition, a proposal from an Offeror that contemplates or proposes business relationships that do not comply with the following provision will be considered as not responsive to this solicitation.

“Subconcession or other third party agreements, including management agreements, for the provision of visitor services required and/or authorized under this CONTRACT are not permitted.” (Draft concession contract, Section 19(c))

b) National Park Service Concessions Management Improvement Act.

The National Park Service Concessions Management Improvement Act (P.L. 105-391) Section 403 also includes a preference for a Preferred Offeror to the award of a qualified concession contract. Note that the definition of Preferred Offeror under this statute and regulation (36 CFR 51.27) is very different than the definition of Preferred Operator under ANILCA Section 1307.

Under the provisions of 36 CFR Part 51, Subparts E and F, the Service has determined that this is a qualified concession contract, and, therefore, a preferred Offeror for this contract exists.

c) Relationship Between ANILCA 1307 Preferred Operator and Existing Satisfactory Concessioner Preferences

The rights of preferred operators under ANILCA Section 1307 take precedence over the right of preference granted to existing satisfactory NPS concessioner. (36 CFR 13.83(c)).

## 10) Congressional Review Process

Concession contracts issued for a term of more than ten years, or when the annual gross receipts are anticipated to exceed \$5,000,000, are required by law to be submitted to the Congress for sixty days before they may be awarded. The new concession contract will not be submitted to the Congress because annual gross receipts are not anticipated to exceed \$5,000,000 and the term will not be for more than 10 years.

## 11) Cautions to Offerors about Submission and Evaluation of Proposals

- a) All information regarding this Prospectus will be issued in writing. No Service representative or other government official is authorized to make substantive oral representations relating to this matter, and no Offeror should rely on any oral representations made by government officials with respect to this transaction.
- b) The attached draft contract and its exhibits set forth the terms and conditions under which the concession operation is to be conducted. The Service may amend a Prospectus and/or extend the submission date prior to the proposal due date. The Service also may cancel a solicitation at any time before the award of the concession contract if the Service determines in its discretion that this action is appropriate in the public interest. No Offeror or other person will obtain compensable or other legal rights as a result of an amended, extended, canceled, or reissued solicitation for this concession contract (36 C.F.R. § 51.11).
- c) Unless otherwise expressly stated, the draft concession contract does not permit the provision of visitor services by the concessioner through subconcession or other third party agreements, including management agreements. Accordingly, the entity that is to

be the concessioner under the draft concession contract, unless the contract expressly states to the contrary, must have the capability to provide all visitor services under the draft concession contract without the assistance of third parties. Joint ventures, partnerships, and other business entities are permitted.

- d) Except as provided under 36 C.F.R. §51.4, the terms, conditions and determinations of this Prospectus and the terms and conditions of the draft concession contract as described in this Prospectus, including, without limitation, its minimum franchise fee, are not final until the concession contract is awarded.
- e) This Prospectus includes the selection factors to be used by the Service to evaluate proposals. Under each factor, the Service may identify subfactors to ensure that all elements of the factor are considered. You, the Offeror, should ensure that you fully address all of the selection factors and related subfactors.
- f) This Prospectus and related documents reflect the views and objectives of the Service with regard to the proposed concession operation. Should you believe any statement in the Prospectus to be inaccurate, you must submit comments to the Service in writing, **no later than the date specified** on the inside cover of the Prospectus. Send your comments to the office named on the inside cover of this Prospectus for the receipt of proposals.
- g) The information in this Prospectus, including the Appendices, is provided to allow Offerors to understand the operations and terms of the new concession contract. Offerors are encouraged to thoroughly review all information and required submittal documents before beginning to prepare a proposal.
- h) Offerors are responsible for undertaking appropriate due diligence with respect to this business opportunity. All of the statements made in this Prospectus regarding the nature of the business and its likely future are only opinions of the Service. Offerors may not rely on any representations of the Service in this regard.
- i) A proposal to expand the scope of investment, facilities, services, and/or Leasehold Surrender Interest, beyond those called for in this Prospectus will not be considered in the evaluation of proposals.
- j) A proposal to provide direct or indirect monetary or other benefits to the Park or government not within the scope or requirements of the contract will not be considered in the evaluation of proposals.
- k) If you propose to make any financial commitments and considerations in response to any selection factor, your proposal will be reviewed and analyzed against your financial statements and supporting documents with appropriate review of feasibility. Such documents reviewed and analyzed will include but not be limited to the Business Organization and Credit Information, pro forma income statements, audited or reviewed financial statements, and balance sheets contained in your proposal.
- l) The proposal and related materials submitted should reflect the entire proposal you are making. The Service will consider your written submission as your full and final proposal in response to the Prospectus, and will make its selection based on the written information you have submitted and other appropriate information. Do not assume that the Service knows anything about you or your proposal. Do not assume that any information about you or your proposal, any previous correspondence or previous submissions are in the possession of or will be considered by the Service. This is true even if you are the current concessioner or have operated another concession within the

park area or National Park System. In making its selection of the best proposal submitted in response to the Prospectus, the Service has the right, but not the obligation, to consider any other information relating to the matter.

- m) Document delivery services, including overnight delivery, to some areas may not provide true overnight delivery. Offerors are encouraged to ensure the timely submittal of proposals by contacting the delivery service of their choice regarding delivery availability for the specific location identified on the inside cover of this Prospectus.
- n) The Service may request from any Offeror who has submitted a timely proposal a written clarification of its proposal. Clarification refers to making clear any ambiguities that may have been contained in a proposal, but does not include amendment or supplementation of a proposal. An Offeror may not amend or supplement a proposal after the submission date unless requested by the Service to do so, and unless the Service provides all Offerors that submitted proposals a similar opportunity to amend or supplement their proposals.
- o) The selected Offeror must execute the concession contract promptly after the selection of the best proposal and within the time period specified by the Service. If the selected Offeror fails to execute the concession contract within the time period specified by the Service, the Service may select another responsive proposal for award of the concession contract, or will cancel the selection and may re-solicit the concession contract (36 C.F.R. Part 51).

The Service, in accordance with 36 C.F.R. Part 51, may include as terms of the draft concession contract, appropriate elements of the proposal selected for award of the concession contract, including, without limitation, investments, facilities, services, and other commitment