

PROPOSAL INSTRUCTIONS

Note to Offeror. The following instructions refer to the person or entity that is submitting a proposal as the “offeror”. When the word “you,” or “your” is used in an instruction, the instruction is referring to the offeror.

1) **36 CFR Part 51**

This prospectus is issued under 36 Code of Federal Regulations Part 51. If any part of this Prospectus is inconsistent with 36 CFR Part 51, 36 CFR Part 51 will control.

2) **Proposal Submission Date**

Proposals must be received by the National Park Service (NPS) by the due date and time and at the address shown on the inside cover of this Prospectus. If you intend to mail a proposal you should do so early enough to ensure receipt by NPS by the due date. You also may deliver your proposal to NPS at this address by the time and date shown on the inside cover of this prospectus. If a proposal is not received by the due date, it will not be considered by NPS.

3) **Document Delivery Service**

Document delivery services, including overnight delivery, to some areas may not provide true overnight delivery. You are encouraged to insure the timely submittal of your proposal by contacting the delivery service of your choice regarding delivery availability for the specific location specified on the front page of this prospectus.

4) **Proposal Form**

A proposal in general must follow the format provided in the Proposal Package.

5) **Proposal Submission Requirements**

A) Numbering. Each page and section of a proposal should be numbered. Each page should also have a heading identifying the selection factor and subfactor to which the information contained on the page responds.

B) Copies. Three (3) identical hard copies and one (1) electronic copy, identical to the hard copies of a proposal in the format outlined in the Proposal Package should be submitted. All documents should be double-sided copied. No fax or email copies will be accepted.

To facilitate discussion and review of Proposals among evaluation panel members, the electronic copy must be in a format that can be easily uploaded, downloaded, printed, and searched electronically. Microsoft Office programs or a portable document format (PDF) electronic version that allows for copying and pasting of text using Adobe Acrobat Reader software are acceptable. However, you must provide all financial spreadsheets in Microsoft Excel. In the event of a discrepancy between the electronic copy and the hard copies, information on the hard copies will control.

C) **Label.** The copies should be contained in a sealed envelope with the following marked on the envelope:

“CONCESSION PROPOSAL, MAILROOM DO NOT OPEN”

The due date specified in the Prospectus for receipt of the proposal by NPS.

The name and address of the Offeror.

6) **Public Availability of Proposals**

A) **Confidential Information.**

If you believe that a proposal contains trade secrets or confidential commercial and financial information that you do not want to be made public, please include the following sentence on the cover page of each copy of the proposal:

“This proposal contains trade secrets and/or confidential commercial and 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.”

In addition, you must specifically identify what you consider to be trade secret information or confidential commercial and financial information on the page of the proposal on which it appears, and you must include the following sentence on each such page:

“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 non-disclosure statement on the cover page of this proposal.”

B) **Public Release.**

Information so identified will not be made public by NPS except in accordance with law.

7) **Questions**

If you do not understand something in this Prospectus, you must submit your questions in writing by the date and to the person noted on the inside cover of this Prospectus. Your questions must specify the section of the Prospectus that is the subject of your inquiry.

The NPS will respond to all 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. Because the Service must provide equal information to all Offerors, there must be sufficient time allowed to inform all interested parties of all questions and answers.

8) **Evaluation of Proposals**

A) **NPS Review.**

In order to select the best proposal, NPS will review each proposal received by the due date under the selection factors stated in this prospectus.

B) Merits of the Proposal.

For each selection factor, NPS will assign a score that reflects the merits of the proposal under that selection factor in comparison to the other proposals received. The selection factors and range of possible scores are stated in the Proposal Package.

9) Selecting the Best Proposal

NPS will select the proposal with the highest total point score as the best proposal, unless this contract is subject to a right of preference, if applicable (see next paragraph). If two or more proposals receive the same highest point score, then NPS will select as the best proposal (from among the proposals with the same highest point score) the proposal that NPS determines will, on an overall basis, best achieve the purposes of 36 CFR Part 51.

10) Right of Preference (if any)**A) What is a Right of Preference?**

A right of preference is a legal right that in some circumstances permits an existing satisfactory concessioner to match the terms of the best proposal received in response to a concession prospectus if the existing concessioner submits a responsive proposal but does not submit the best proposal.

B) What happens if there is a Right of Preference?

If there is a right of preference and the proposal submitted by the existing concessioner is not selected as the best proposal, NPS will advise the existing concessioner of the better terms and conditions of the best proposal that the existing concessioner must match. If the existing concessioner does so (by amendment of its proposal) within the time allowed, it will be selected for award of the concession contract. If it does not, then the offeror that submitted the best proposal will be selected for award of the contract. An existing concessioner must submit a responsive proposal in order to exercise a right of preference.

C) Is there a Right of Preference Applicable to this Concession Contract?

Under the provisions of 36 CFR Part 51, the NPS has determined that this is not a qualified concession contract. Therefore, no preferred Offeror for this Contract exists.

11) Only “Responsive” Proposals will be Considered by NPS**A) What is a Responsive Proposal?**

A responsive proposal within the meaning of this prospectus is a proposal submitted by the due date that is determined by NPS 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.

B) What is a “non-responsive proposal”?

A “non-responsive proposal” is a proposal that is not submitted on time, or, does not agree to all of the minimum requirements of the proposed concession contract and prospectus, or, does not provide the information required by the prospectus.

C) What happens if a proposal is determined to be non-responsive?

A non-responsive proposal will not be considered by NPS.

D) Does an existing concessioner with a right of preference have to submit a responsive proposal?

Yes. Just like all other offerors, an existing concessioner with a right of preference must submit a responsive proposal in order to be considered for award of a concession contract.

12) Congressional Review Period

Concession contracts issued for a term of more than ten years or where 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 the term is not more than ten years and the anticipated gross receipts are less than \$5,000,000.

13) Important Conditions and Cautions Regarding Submission and Evaluation of Proposals**A) Written Information Only.**

All information regarding this prospectus will be issued in writing. No NPS or other government official is authorized to make substantive oral representations relating to this prospectus, and no one may rely on any oral representations made by government officials with respect to this prospectus.

B) Entire Proposal.

Your proposal should address all of the selection factors and any related subfactors. Proposals should respond to all questions and provide all requested information. If a question or requested information is not applicable to a proposal, the proposal should state this in response to the question or request for information. The NPS will review the entire Proposal Package to determine whether your proposal in fact accepts without condition the terms and conditions of this Prospectus. If not, your proposal may be considered non-responsive, even though you submitted an unconditional Offeror's Transmittal Letter.

C) Incorrect Information.

If you consider a statement or information in the Prospectus to be incorrect, you must submit comments to NPS in writing no later than thirty days prior to the due date for proposals. Comments should be sent to the office named on the cover of this prospectus for the receipt of proposals.

D) Thorough Review.

The information contained in this Prospectus is provided to allow persons the ability to understand the terms and conditions of the draft concession contract. You are encouraged to thoroughly review the entire prospectus to identify all required information and documents that must be submitted as part of a proposal before beginning to prepare a proposal.

E) Expanded Facilities or Services.

Unless this prospectus expressly requests otherwise, offers to expand the scope of facilities, equipment, and/or services to be provided beyond those called for in this Prospectus will not be considered by NPS in the evaluation of proposals.

F) Additional Benefits to the Government.

A proposal to provide direct or indirect financial or other benefits to the park area or government that are not within the scope or requirements of the prospectus will not be considered in the evaluation of proposals.

G) Financial Feasibility.

All financial commitments made in your proposal will be closely reviewed and analyzed against your financial statements and supporting documents to determine the feasibility of your proposal.

H) Complete Offer.

Your proposal must reflect the complete offer that you intend to make. NPS will consider written proposals as the full and final offer in response to the prospectus, and intends to make its selection on the written information provided in proposal. Proposals should be prepared on the assumption that NPS knows nothing about you or your proposal. Proposals should also be prepared on the assumption that NPS does not have any documents previously provided by you to NPS. This is true even if you are the existing concessioner or operate another NPS concession within the park area or elsewhere. Proposals may not reference information or documents previously provided to NPS. Copies of any information or documents that you wish to be considered must be submitted as part of a proposal.

I) Amendment or Cancellation of this Prospectus.

This Prospectus sets forth the terms and conditions under which the concession operation is to be conducted. NPS may amend this Prospectus and/or extend the submission date (prior to the proposal due date). NPS may cancel a solicitation at any time before the award of the draft concession contract if NPS determines in its discretion that this action is appropriate in the public interest. No person obtains legal rights as a result of an amended, extended, canceled or reissued solicitation for this concession contract.

J) Additional Information.

NPS may request from any person who 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. You may not amend or supplement your proposal after the submission date unless requested by NPS to do so, and, unless NPS provides all offerors that submitted proposals a similar opportunity to amend or supplement their proposals.

K) Execution of the New Contract.

The offeror selected for award of the concession contract must execute the concession contract promptly after selection within the time established by NPS. If the selected offeror fails to execute the concession contract within the time period specified by NPS, the Director will select another proposal for award of the concession contract, or will cancel the solicitation and may resolicit the draft concession contract.

L) Additional Terms and Conditions.

NPS may include as terms of the final concession contract appropriate elements of the proposal selected for award of the concession contract. Do not make proposal commitments that you are not prepared to fulfill.

M) Independent Assessment.

You are responsible for undertaking an independent assessment of 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 NPS. You may not rely on any representations of NPS in this regard.

14) Offeror's Transmittal Letter and Accompanying Proposal.

The proposal you are to submit consists of two parts, an Offeror's Transmittal Letter and accompanying proposal. The formats for these documents are contained in Section IV of this prospectus.

The Offeror's Transmittal Letter states your acceptance of the terms and conditions of the concession opportunity as set forth in this prospectus. It states that you will comply with the required elements of the contract and related terms of the prospectus. The letter must bear original signatures and be included in your proposal. If submitted by a corporation or other business entity, persons authorized to enter into contracts on behalf of the entity must sign it.

The proposal that accompanies the Offeror's Transmittal Letter is in two parts, A and B.

15) Who Must Sign the Offeror's Transmittal Letter?

The Proposal Package is drafted upon the assumption that an Offeror is the same legal entity that will execute the draft concession contract as the Concessioner. If the entity that is to be the Concessioner is not formally in existence as of the time of submission of a proposal, a proposal must demonstrate that the individuals or organizations that intend to establish the entity that will become the Concessioner have the ability and are legally obliged to cause the entity to be financially and managerially capable of carrying out the terms of the contract in accordance with the terms of the offeror's proposal. In addition, the Offeror must unconditionally state and guarantee in its proposal that the Offeror will provide the Concessioner with all funding, management and/or other resources that the proposal offers.