

ACCEPTING REDUCED RATES AND ITEMS OF NOMINAL VALUE FROM CONCESSIONERS

A. LAW

Executive Order 11222, May 8, 1965

The order prescribes standards of ethical conduct for Government officers and employees.

B. REGULATION

43 CFR, Part 20.735-7

The regulation prohibits Departmental employees from soliciting or accepting gifts, gratuities, entertainment or other favors from a person seeking or who has a business relationship with the Department. The regulation, however, does permit a Federal employee to accept promotional type items and food of nominal value on infrequent occasions in the ordinary course of official luncheon or dinner meetings and while on an inspection tour.

This Chapter 30 has been approved by the Assistant Secretary of Interior, for Policy, Budget and Administration and is consistent with 43 CFR, Part 20.735-7.

COMPTROLLER GENERAL OPINION-B-143189  
40CG 234, October 24, 1960

Opinion advised that the Interior Department may authorize contract provisions requiring concessioners to provide discounts or free service to Department officials who are on official business. Such discounts are not in violation of conflict of interest provisions because the discounts contract clause is a negotiated contract provision between the government and the concessioner.

54CG7, October 11, 1978

Advised that generally vested contract rights may not be waived without consideration but that GAO would not object to eliminating the discount clause contained in existing concession contracts.

Based on the Comptroller General's opinion, the Director, by memorandum dated January 25, 1979, directed the discontinuance of reduced rates to employees, even if they were on official business. Subsequent experience indicates that the change has resulted in higher travel costs and fewer inspections of concessioner operations. The policy and procedures set forth below permit reinstatement of reduced rates but only under such safeguards as will prevent

abuse or misapplication.

#### C. POLICY

##### Management Policies Manual, Chapter VIII

##### Accepting Reduced Rates and Items of Nominal Value From Concessioners

National Park Service employees may not receive concessioner goods or services at a discount unless it is in connection with official business, is to the Government's advantage and is contained in the concession authorization. National Park Service employees may not solicit directly or indirectly any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from a concessioner or other person who conducts operations or activities that are regulated by the Department. However, employees may accept food and refreshments of nominal value on infrequent occasions during official luncheon or dinner meetings and promotional material of nominal value from concessioners.

#### D. REDUCED RATES

##### 1. General

Concessioners are to provide reduced rates to Government employees only while the employees are conducting official business, in order to benefit the Government by lowering travel expenses, permitting more effective program control, and maximizing use of Federal funds. If the Government is not obliged to pay for the service or reimburse the employee, no discount may be given. Reduced rates for lodging and essential transportation may be provided directly to Federal employees (not family members) traveling under an approved travel authorization in accordance with Federal Travel Regulations, (FPMR 101-7) or other approved means. A purchase order is used for other services. Reduced rates are not applicable under any circumstances for food or merchandise, including groceries, gasoline or other automobile needs. The offering of reduced rates by concessioners or the acceptance of reduced rates for any purpose while not conducting official business or otherwise outside the parameters of this policy is strictly prohibited. Future concession contracts will contain a provision which requires concessioners to provide Federal employees with reduced rates only while on official business; existing contracts may be so amended if the concessioner agrees. All such rates must be made part of the concessioner's approved rate schedule. (See Chapter 18, Rate Administration Program)

2. Lodging And Essential Transportation

Essential transportation is defined as transportation that is required to conduct official business and in which the concessioner provides the only practicable means of transportation from one point to another.

a. DEPARTMENT OF INTERIOR EMPLOYEES

When lodging or essential transportation is obtained by Travel Authorization or other approved means, the authorization must indicate the park or area as a destination point. Blanket Travel Authorizations need not so specify.

Before allowing a reduced rate, the concessioner must be shown a copy of the authorization and employee identification.

b. NON-DEPARTMENT OF INTERIOR FEDERAL EMPLOYEES

It is assumed that under this situation the Superintendent will be or should be knowledgeable of the purpose of travel and that if reduced rates are applicable he/she will advise the traveler. For the traveler to receive the reduced rate the Superintendent is to send the traveler a letter, stating that he/she is conducting official business and specify services for which the reduced rate is authorized. The employee must present the concessioner with identification, a copy of his/her signed Travel Authorization and a copy of the Superintendent's letter authorizing the reduced rates.

3. Reduced Rates for Other Services

a. ELIGIBILITY

This provision applies to non-essential transportation (generally river runners, tour boats, horse rides) and other services for which a fee is charged. For an employee to be eligible for reduced rates for other services there must be a valid official purpose for his/her participation in the activity and the Government must be responsible for payment of the fee or charge. Such reduced rate authorization will fall under one of two categories:

(1) General Official Business

There must be a definite relationship between the employee's official duties and the service provided by the concessioner. For example, a ranger may accept a reduced rate for a river trip to inspect the accumulation of debris along a river bank.

(2) **Concessioner Review Program**

(a) The Superintendent must have designated the employee to conduct official operational evaluations in accordance with the Concessioner Review Program.

(b) Reduced rates may not be granted in excess of the number of evaluations used for the Operational Performance Program.

(c) For each reduced rate authorization, the prescribed reports contained in the Operational Performance Program are to be completed.

b. PROCEDURES

(1) Services are to be purchased via Requisition (Form DI-1) and a Purchase Order (Form 147). A Travel Authorization may not be used. At the bottom of both forms it must be stated "(Name of employee) will be on official business and is entitled to the reduced rate for (specify) as provided for in the Concessioner Rate Schedule."

(2) The employee must present the concessioner with identification and a copy of the purchase order containing the appropriate wording that authorizes reduced rates.

4. Exclusions

Reduced rates, or no charge arrangements, under the following circumstances were in effect prior to the inception of this policy, may be authorized in the future and are not subject to its limitations:

a. A charge is not normally applicable in situations where the NPS is providing a service to the concessioner or working directly with the concessioner in providing a service or activity for the public. For example, an NPS employee is placed on a boat for the purpose of conducting an interpretation program. In such situations the Service does not pay the concessioner for the NPS employee's boat trip.

b. Employees may accept reduced rates or discounts offered to the general public so long as the term or conditions are the same as those for the public. Such discounts, however must be approved under the concessioner's rate schedule.

c. Nothing herein shall be construed to limit negotiation of price for procurement type actions under which the concessioner provides goods or services to NPS. The concessioner in such an instance is like any other vendor to the government and is not governed by the concession contract.

E. ACCOUNTABILITY AND VERIFICATION

1. The employee will be held accountable for accepting reduced rates only in accordance with this policy.

2. The Superintendent is to require a periodic report from the concessioner providing a listing of all employees granted reduced rates and the services provided.

3. The Superintendent is to review the list and compare it to available data concerning official visitors or approved purchase orders.

4. Any instance of an individual receiving a reduced rate for which he/she is not entitled, is to be investigated. The Superintendent will notify the employee's supervisor, in writing, of the suspected violation. If the employee is found to have violated the policy, appropriate disciplinary action must be taken.

F. CONTRACTUAL PROCEDURES FOR ALLOWING REDUCED RATES

1. Existing Contracts

a. AMENDMENT

\* If an existing concessioner agrees to provide reduced rates to NPS employees on official business, the contract or permit must be amended using similar wording to that contained in Paragraph 2 below. The reduced rates are to be uniformly applied and approved as part of the concessioner's rate schedule.\*

b. CONDITIONS

Discounted rates may be subject to special conditions by the concessioner such as no discount during the peak season or a differential between the on-and off-season. These conditions are also to be made part of the rate schedule.

2. New Contracts

The following clause will be inserted in Standard Contract Language to replace Section 3(a)((3). Its use is mandatory for all Statements of Requirements published after January 1, 1984.

Sec. 3(a)(3) The Concessioner shall require its employees to observe a strict impartiality as to rates and services in all circumstances. The Concessioner may, subject to the prior

approval of the Secretary, grant complimentary or reduced rates under such circumstances as are customary in businesses of the character conducted hereunder. The Concessioner will provide Federal employees conducting official business reduced rates for lodging, essential transportation and other specified services in accordance with procedures established by the Secretary.

#### G. ACCEPTANCE OF FOOD AND ITEMS OF NOMINAL VALUE

##### 1. Official Functions

In accordance with 43 CFR 20.735-7 (b)(2), An employee may accept: (a) Food and refreshments of nominal value on infrequent occasions in the ordinary course of an official luncheon or dinner meeting or other official meeting or on an inspection tour where an employee may properly be in attendance and (b) advertising material of nominal value such as pens, pencils, note pads, calendars, and other similar items.

##### 2. Special Events

The regulation permits National Park Service employees to attend infrequent special functions sponsored by the concessioner for the purpose of fostering good relations with local communities and to obtain support necessary to accomplish the Service's mission. At such functions, Federal employees may accept food and other favors of nominal value. The Superintendent shall approve such events and attendance. Such approval must be given in advance and in writing, and must reflect a conscious determination that such activity meets the criteria stated herein. Announcements or publicity should in no manner imply NPS or park sponsorship.

Attendance at such events is acceptable under the following circumstances:

- a. On an infrequent basis
- b. Open to the local community, and
- c. When failure to attend a function could hamper relations with the local community and possibly deprive the Service from obtaining support to accomplish its mission.