

Title 36: Parks, Forests, and Public Property

PART 51—CONCESSION CONTRACTS

Subpart C—Solicitation, Selection and Award Procedures

§ 51.5 What information will the prospectus include?

The prospectus must include the following information:

- (a) The minimum requirements of the concession contract. The minimum requirements of the concession contract, include, but are not limited to the following:
 - (1) The minimum acceptable franchise fee or other forms of consideration to the Government;
 - (2) The minimum visitor services that the concessioner is to be authorized to provide;
 - (3) The minimum capital investment, if any, that the concessioner must make;
 - (4) The minimum measures that the concessioner must take to ensure the protection, conservation, and preservation of the resources of the park area; and
 - (5) Any other minimum requirements that the new contract may specify, including, as appropriate and without limitation, measurable performance standards;
- (b) The terms and conditions of a current concession contract, if any, relating to the visitor services to be provided, including all fees and other forms of compensation provided to the Director under such contract;
- (c) A description of facilities and services, if any, that the Director may provide to the concessioner under the terms of the concession contract, including, but not limited to, public access, utilities and buildings;
- (d) An estimate of the amount of any compensation due a current concessioner from a new concessioner under the terms of an existing or prior concession contract;
- (e) A statement identifying each principal selection factor for proposals, including subfactors, if any, and secondary factors, if any, and the weight and relative importance of the principal and any secondary factors in the selection decision;
- (f) Such other information related to the proposed concession contract as is provided to the Director pursuant to a concession contract or is otherwise available to the Director, as the Director determines is necessary to allow for the submission of competitive proposals. Among other such necessary information a prospectus will contain (when applicable) are the gross receipts of the current concession contract broken out by department for the three most recent years; franchise fees charged under the current concession contract for the three most recent years; merchandise inventories of the current concessioner for the three most recent years; and the depreciable fixed assets and net depreciable fixed assets of the current concessioner; and
- (g) Identification of a preferred offeror for a qualified concession contract, if any, and, if a preferred offeror exists, a description of a right of preference to the award of the concession contract.

§ 51.12 Are there any other additional procedures that I must follow to apply for a concession contract?

The Director may specify in a prospectus additional solicitation and/or selection procedures consistent with the requirements of this part in the interest of enhancing competition. Such

additional procedures may include, but are not limited to, issuance of a two-phased prospectus—a qualifications phase and a proposal phase. The Director will incorporate simplified administrative requirements and procedures in prospectuses for concession contracts that the Director considers are likely to be awarded to a sole proprietorship or are likely to have annual gross receipts of less than \$100,000. Such simplified requirements and procedures may include, as appropriate and without limitation, a reduced application package, a shorter proposal submission period, and a reduction of proposal information requirements.

§ 51.17 What are the selection factors?

(a) The five principal selection factors are:

- (1) The responsiveness of the proposal to the objectives, as described in the prospectus, of protecting, conserving, and preserving resources of the park area;
- (2) The responsiveness of the proposal to the objectives, as described in the prospectus, of providing necessary and appropriate visitor services at reasonable rates;
- (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 concession contract;
- (4) The financial capability of the offeror to carry out its proposal; and
- (5) The amount of the proposed minimum franchise fee, if any, and/or other forms of financial consideration to the Director. However, 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.

(b) The secondary selection factors are:

- (1) The quality of the offeror's proposal to conduct its operations in a manner that furthers the protection, conservation and preservation of park area and other resources through environmental management programs and activities, including, without limitation, energy conservation, waste reduction, and recycling. A prospectus may exclude this secondary factor if the prospectus solicits proposals for a concession contract that is anticipated to have annual gross receipts of less than \$100,000 and the activities that will be conducted under the contract are determined by the Director as likely to have only limited impacts on the resources of the park area; and
- (2) Any other selection factors the Director may adopt in furtherance of the purposes of this part, including where appropriate and otherwise permitted by law, the extent to which a proposal calls for the employment of Indians (including Native Alaskans) and/or involvement of businesses owned by Indians, Indian tribes, Native Alaskans, or minority or women-owned businesses in operations under the proposed concession contract.

(c) A prospectus may include subfactors under each of the principal and secondary factors to describe specific elements of the selection factor.

§ 51.32 What is the process if the Director determines that the best responsive proposal was not submitted by a preferred offeror?

If the Director determines that a proposal other than the responsive proposal submitted by a preferred offeror is the best proposal submitted for a qualified concession contract, then the Director must advise the preferred offeror of the better terms and conditions of the best proposal and permit the preferred offeror to amend its proposal to match them. An amended proposal must

match the better terms and conditions of the best proposal as determined by the Director. If the preferred offeror duly amends its proposal within the time period allowed by the Director, and the Director determines that the amended proposal matches the better terms and conditions of the best proposal, then the Director must select the preferred offeror for award of the contract upon the amended terms and conditions, subject to other applicable requirements of this part.