

## SUPPORTING STATEMENT A

### PROPOSED SALE OF CONCESSION OPERATIONS 36 CFR PART 51, SUBPART J

OMB CONTROL #1024-0126

Terms of Clearance: None

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

Title IV, Section 408 of the National Parks Omnibus Management Act of 1998 (P.L. 105-391) provides that no concession contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval by, the Secretary. That law further provides that the Secretary shall approve a transfer or conveyance unless the Secretary finds that: (a) the individual, corporation or entity seeking to acquire a concession contract is not qualified or able to satisfy the terms and conditions of the concession contract; (b) such transfer or conveyance would have an adverse impact on (1) the protection, conservation, or preservation of the resources of the unit of the National Park System or (2) the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges; and (c) the terms of the transfer or conveyance are likely, directly or indirectly, to reduce the concessioner's opportunity for a reasonable profit over the remaining term of the contract, adversely affect the quality of facilities and services provided by the concessioner, or result in a need for increased rates and charges to the public to maintain the quality of such facilities and services.

36 CFR 51, Subpart J, provides that a concessioner may not assign, sell, convey, grant, contract for, or otherwise transfer (such transactions collectively referred to as "assignments" for purposes of this part), without the prior written approval of the Director, National Park Service (NPS) any of the following: (a) Any concession contract; (b) Any rights to operate under or manage the performance of a concession contract as a subconcessioner or otherwise; (c) Any controlling interest in a concessioner or concession contract; or (d) Any leasehold surrender interest or possessory interest obtained under a concession contract.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

The information requested in 36 CFR, Part 51, Subpart J, is used to determine whether or not the proposed purchaser is qualified to satisfy the terms of the contract, and whether or not the

transaction will adversely impact protection, conservation or preservation of the resource or provision of necessary visitor services. It is also used to determine whether or not the proposed transaction will result in decreased services to the public, the reduction of the concessioner's opportunity for a reasonable profit over the remaining term of the contract, or rates in excess of existing approved rates to the public. The amount and type of information to be submitted varies with the type and complexity of the proposed transaction. Information includes:

- a) All instruments proposed to implement the transaction;
- (b) An opinion of counsel to the effect that the proposed transaction is lawful under all applicable Federal and State laws;
- (c) A narrative description of the proposed transaction;
- (d) A statement as to the existence and nature of any litigation relating to the proposed transaction;
- (e) A description of the management qualifications, financial background, and financing and operational plans of any proposed transferee;
- (f) A detailed description of all financial aspects of the proposed transaction;
- (g) Prospective financial statements (proformas);
- (h) A schedule that allocates in detail the purchase price (or, in the case of a transaction other than an asset purchase, the valuation) of all assets assigned or encumbered. In addition, the applicant must provide a description of the basis for all allocations and ownership of all assets; and
- (i) Such other information as the Director may require to make the determinations required by this subpart.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.**

At this time, the collection of information involving electronic means is not available, primarily due to the wide disparity in both size and type of operations and the applicant's ability to provide responses electronically. Copies of so many documents are needed that electronic submission is infeasible.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The requested information is unique to the proposed transaction, and no other source of information is available. As each transaction is also unique, proposals submitted must be prepared individually, and cannot be reused in the case of repeat applications. Since

circumstances vary widely in each proposed transaction, there is no available information that can be used in lieu of that supplied in the application.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

Information is collected from those small businesses proposing to purchase a concession operation. As in the case of other applicants, information is limited to that required in order for the National Park Service to objectively determine whether the proposed transaction conforms to the regulations at 36 CFR Part 51, and is otherwise in the public interest.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The National Park Service would be unable to objectively determine whether approval of the proposed transaction would be in the best interest of the public and whether the return to the Government for the privileges authorized would be adequate.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- \* **requiring respondents to report information to the agency more often than quarterly;**
- \* **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- \* **requiring respondents to submit more than an original and two copies of any document;**
- \* **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- \* **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- \* **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- \* **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- \* **requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The request for comments and extension of the collection was published in the *Federal Register* for public comment on March 2, 2012, Volume 77, No. 42, Pages 12876-12877. The NPS received no comments in response to the *Federal Register* Notice. The comment period ended on May 1, 2012.

Requests for comments on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported were sent to three concessioners (see below). Monte Smith of Silver Hill Canoe had concerns about the availability of all his information to the public, however, his financial information is protected under the FOIA. John Madigan of Apostle Islands Cruises, Inc., felt the process went well and was a smooth transaction.

Monte Smith  
Silver Hill Canoe Rental/Silver Hill Float Service  
[Info@silverhillcanoe.com](mailto:Info@silverhillcanoe.com)  
870-439-2372

John Madigan  
Apostle Islands Cruises, Inc.  
[johnmadigan@hotmail.com](mailto:johnmadigan@hotmail.com)

Paul Claus  
Canyon Creek Guide Service/Ultima Thule Outfitters  
[info@ultimathulelodge.com](mailto:info@ultimathulelodge.com)  
(No comments received)

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payments or gifts are provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Information is collected and protected in accordance with the Freedom of Information Act (5 U.S.C. 552) (FOIA). In accordance with the Freedom of Information Act, if a respondent believes their application contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, the cover page, as well as each page of the application containing such information is to be labeled. Information in an application identified as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of determining whether the proposed transaction should be approved, except that if the same information is obtained from another source without restriction, it may be used without restriction.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

No sensitive questions are asked.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- \* **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- \* **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- \* **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

Approximately 20 applications to sell or transfer a concession operation are received by the

National Park Service each year. NPS estimates that approximately 80 hours would be required to prepare an application (many of the documents submitted to NPS are documents that are normally prepared as part of the transaction even if NPS approval were not required, such as agreements for sale and purchase, loan documents, or mortgage documents). Only one application is submitted per transaction. The annual burden estimate is summarized as follows:

Businesses or Nonprofit Entities

Position-Private	Hourly pay rate (\$/hr est.)	Hourly pay rate including benefits (1.5 x hourly rate)**	Hours required per response	Average wage cost per response
General Manager	\$54.38*	\$81.57	80	\$6,526
<b>Total</b>				\$6,526
Based on an estimated average General Manager rate				
* Occupational Employment and Wages, May 2010, Bureau of Labor Statistics <a href="http://www.bls.gov/oes/current/oes111021.htm">http://www.bls.gov/oes/current/oes111021.htm</a>				
**A multiplier of 1.5 was added for benefits in accordance with BLS news release USDL 12-0450, March 14, 2012, <a href="http://www.bls.gov/news.release/pdf/ecec.pdf">http://www.bls.gov/news.release/pdf/ecec.pdf</a>				

Based on these assumptions, the estimate of burden hours for a General Manager is:

1. Total burden hours for a General Manager to prepare an application (20 applications x 80 hours): 1,600 hours
2. Total dollar value of annual burden hours: 20 applications x \$6,526: \$130,520

**13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)**

**\* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

- \* **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- \* **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

The total non-hour cost burden to applicants is \$5,000. There are no other costs associated with preparing and submitting an application, other than expenses for printing, which is estimated to be approximately \$250 per application (x 20 applications). Costs for legal and accounting fees, on-site visits are inherent in the transaction, even if NPS approval were not required, and are not included in this estimate.

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

The annualized cost to the Federal government to review applications for sales and transfers is estimated at \$55,472. This is based on staff time to process and review applications. This includes the costs of printing and consultation fees as needed. A weighted average cost per hour is calculated based on the following assumptions:

Position	Grade	Hourly pay rate (\$/hr est.)*	Hourly rate including benefits (1.5 x hourly rate)**	Percent of time spend on processing	Weighted Average (\$ hr)
Supervisory Concessions Specialist	GS-13, step 5	\$48.35	\$72.53	20%	\$14.51
Lawyer (to review application)	GS-15, step 5	\$67.21	\$100.82	20%	\$20.16
<b>Total</b>					\$34.67
*Salary Table 2012-DCB, <a href="http://www.opm.gov/oca/12tables/pdf/dcb_h.pdf">http://www.opm.gov/oca/12tables/pdf/dcb_h.pdf</a>					
**A multiplier of 1.5 was added for benefits in accordance with BLS news release USDL 12-0450, March 14, 2012, <a href="http://www.bls.gov/news.release/pdf/ecec.pdf">http://www.bls.gov/news.release/pdf/ecec.pdf</a>					

1. Total burden hours: 40 hours x 20 applications: 1,600 hours
2. Total annual recurring cost: \$34.67 x 1,600 hours: \$55,472

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

It was determined that 100% of the requests for proposed sale of concession operations originate from businesses or nonprofit entities. Therefore, we removed the burden hours from the individuals and moved that burden in to the business/non-profit entities burden estimate.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

Not applicable.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The expiration date will be displayed as applicable.

**18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

There are no exceptions to the certification statement.