

Supporting Statement for
Submission of Offers in Response to Concession Opportunities, 36 CFR 51

OMB Control Number 1024-0125

Previous OMB Terms of Clearance: None

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Title IV of the National Parks Omnibus Management Act of 1998 (the Act) provided new legislative authority, policies and requirements for the solicitation, award and administration of National Park Service (NPS) concession contracts. Section 403(1) of the Act and implementing regulations at 36 CFR § 51.4 require that proposed concession contracts be awarded by the Secretary of the Interior to the person or entity submitting the best proposal as determined by the Secretary through a competitive selection process.

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 each prospectus as identified in 36 CFR Sections 51.5, 51.17 and 51.32 will be used to evaluate all offers received and determine which among them is the best offer for purpose of contract award. Specific information identified in the implementing regulation includes:

- The minimum measures the concessioner will take to ensure protection, conservation and preservation of the resources of the park;
- The responsiveness of the proposal to the objectives of providing necessary and appropriate visitor services at reasonable rates, including, but not limited to:
 - The minimum visitor services the concessioner will provide,
 - The minimum capital investment, if any, the concessioner will make,
 - Any other minimum requirements that the new contract may specify, including, as appropriate and without limitation, measurable performance standards.
- The experience and related background of the offeror;
- The financial capability of the offeror to carry out its proposal;
- The minimum franchise fee or other forms of consideration to the Government;
- 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.

The amount of information or degree of detail requested varies widely, depending upon the size and scope of the business opportunity. For example, a much greater amount of detailed information would be required for a multi-unit lodging and food service operation such as that at Yellowstone, than would be required for a small firewood sales operation. Without such information, the National Park Service would be unable to objectively evaluate offers received for a particular business opportunity, and would be unable to assure that the park resources will be adequately protected, or to determine which offeror would provide the best service to visitors at reasonable rates, and the greatest overall return to the Government.

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.

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 applicant and no other source of information is available. As each business opportunity is also unique, offers submitted in response to each prospectus must be prepared individually, and cannot be reused in the case of renewals or other repeat applications. No similar information pertaining to business opportunities on park lands is collected by the National Park Service or other Federal agencies. Since circumstances vary with each business opportunity advertised, there is no available information that can be used in lieu of that supplied in the interested party's offer.

5. If the collection of information impacts small business or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

Information is collected from those small businesses that wish to submit an offer in response to the advertisement of a concession opportunity. As in the case of other applicants, information is limited to that required in order for the National Park Service to objectively evaluate all offers received and determine which among them is the best offer. For example, as indicated in 36 CFR § 51.12, solicitations for large, complex operations may be issued in two phases, a qualifications phase and a proposal phase; while solicitations 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 will incorporate simplified administrative requirements.

6. Describe the consequences 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 evaluate all offers received in response to the advertisement of a concession opportunity, as required by Public Law 105-391, and determine which among them is the best offer.

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 receiving 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 3 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 the 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.**

In a limited number of cases involving very large, complex concession operations, additional copies of the submission may be required.

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 3 years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost hour and 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. [Please list the names, titles address, and phone numbers of persons contacted.]

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 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 rule was published as proposed for public comment on June 30, 1999, (64 FR 35516). While certain of the requirements of the rule related to this information collection, the new regulatory requirements did not materially change this information collection activity. NPS did not receive comments on the proposed rule that addressed this information collection. A 60-day notice seeking comments on this collection was published in the Federal Register on July 10, 2006 (71 FR 38895). No written public comments were received.

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

Not applicable.

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

Offerors are advised in the solicitation document that all offers submitted may be disclosed by the Department of the Interior to any person upon request pursuant to the Freedom of Information Act. If the offeror believes that the offer contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), the cover page of the offer, as well as each page of the offer containing such information is to be labeled. Information in an offer identified as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the offer, except that, (i) if a contract is awarded to the offeror as a result of the submission of the offer, the Government shall have the right to use the information as provided in the contract, and (ii) if the same information is obtained from another source without restriction, it may be used without restrictions

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.

Not applicable. 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 in Item 13 of OMB Form 83-I.**
- ❖ **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate calories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

There are approximately 630 concession authorization administered by the National Park Service. The amount of time necessary to prepare and submit an offer will vary depending upon the complexity of the operation. Approximately 200 of these are large operations which would require some 90 calendar days (approximately 60 working days, or 480 burden hours each) to prepare and submit an offer. The remaining 430 are small operations which would generally require some 45 calendar days (approximately 30 working days, or 240 burden hours each) to prepare and submit an offer. (in the case of very small operations, lesser periods of time would be required.) Approximately 20 large and 80 small authorizations expire each year. NPS anticipates that it will receive approximately 4 offers for each large and 2 offers for each small authorization. The annual burden estimate is summarized as follows:

Large operations:	480 hours x 20 solicitations x 4 offers = 38,400 annual burden hours
Small operations:	240 hours x 80 solicitations x 2 offers = 38,400 annual burden hours
Total	76,800 annual burden hours

Costs to respondents vary widely, depending upon the size and scope of the operation on which they submit an offer. Also, it should be noted that these costs occur every 5, 10, or 15 years, depending upon the length of the contract, and are not annual costs for concessioners or other applicants. Costs could range from less than \$1,000 in the case of extremely small operations (for example, firewood sales), to \$10,000 for a typical small operation, to well in excess of \$20,000 in the case of a large operation requiring on-site visits, preliminary construction drawings, etc. These estimates are based on an estimated average cost of \$40 per hour times 240 burden hours for a small operation and 480 burden hours for a large operation. The total wage costs to respondents is \$3,072,000 annually.

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 any hour burden shown in Items 12 and 14).

- ❖ **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]. 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 or 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.**

Respondents do not have any recurring costs associated with the prospectus process. Respondents would not have other costs associated with preparing and submitting applications as part of the prospectus process, other than expenses for printing, travel for on-site visits, and professional fees (for example, accountant's fees or A&E charges). These costs will vary considerably due to proximity to the proposed concession operation and the desired involvement of consultants and other professionals outside the company. For small operations, such costs could range from \$1,000 to \$5,000, and for large operations, from \$5,000 to in excess of \$10,000. The total non-wage costs to all respondents would range from \$180,000 to \$600,000, depending on the size of the operation. Assuming an average cost of \$3,000 for small operations and \$8,000 for large operations, the National Park Service projects annual costs of \$1,120,000 for this collection as follows:

Large operations: 80 offers (20 solicitations, 4 offers each) times \$8,000 = \$ 640,000
Small operations: 160 offers (80 solicitations, 2 offers each) times \$3,000 = \$ 480,000

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. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

The annual hourly cost to the Federal government to evaluate offers submitted by prospective concessioners is estimated at \$115,200. This is based on an estimated cost of \$20 per hour as follows:

Large operations: 160 person-hours per authorization (4 persons, 40 hours each), times 20 authorizations per year, times \$20 per hour = \$64,000

Small operations: 32 person-hours per authorization (2 persons, 16 hours each), times 80 authorizations per year, times \$20 per hour = \$51,200

Expenses for printing, travel for on-site visits and to evaluate larger offers, and professional fees (i.e., contractor fees to analyze some complex financial statements) could amount to approximately \$75,000 annually.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This information collection request will not change the estimated burden currently approved by OMB.

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, include beginning and ending dates of the collection of information, completion of report, publication dated, and other action.

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.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable.