



United States Department of the Interior

NATIONAL PARK SERVICE
INTERMOUNTAIN REGION
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Denver, Colorado 80225-0287



IN REPLY REFER TO:
IMR-ACM (CANYXXX-17)

SEP 22 2016

Memorandum

To: All Requesters of the Prospectus for a Concession Business Opportunity to Provide Guided Interpretive Whitewater River Tours within Canyonlands National Park and Glen Canyon National Recreation Area

From: Regional Director, Intermountain Region

Subject: Amendment 2 and Responses to Questions Regarding the Prospectus for Solicitation CC-CANYXXX-17

This notice provides updates to the prospectus and responses to questions received for a *Concession Business Opportunity to Provide Guided Interpretive Whitewater River Tours within Canyonlands National Park and Glen Canyon National Recreation Area* for Solicitation CC-CANYXXX-17.

Amendment 2: Updates to the Prospectus

Exhibit B, Draft Operating Plan, Sec. 3 B) Trip Leader Guide and Crew Member Requirements, page B-15 and B-16.

Delete:

(3) (a) Possess a Whitewater River Captain's/Guide's license issued by the State of Utah.

Insert:

(3) (a) Possess a Whitewater River Guide's (WRG) license issued by the State of Utah.

Delete:

(4) (a) Each boat carrying clients for hire must have at least one qualified guide or trip leader on board. All other support crew accompanying such trips must have a Whitewater River Crew License (WRC) issued by the State of Utah. For the WRC license to be valid, the license holder must be accompanied on the river trip by a qualified WCG holder.

Insert:

(4) (a) Each vessel carrying passengers for hire must have a qualified guide or trip leader with either a Whitewater River Guide (WRG) endorsement or Whitewater River Crew Permit (WRCP) operating the

vessel. A WRCP is valid only when the holder is accompanied on the river trip by a qualified license holder with a Whitewater River Guide endorsement.

Delete:

4 (d) Interpretive specialists and instructors required for the success of the trip are allowed as paid crew members. The Concessioner must request in writing and obtain prior written approval from Canyonlands NP to utilize paid interpretive specialists and instructors, unless the specialist and instructors already possess all the training and skills required of a crew member.

Insert:

4 (d) Employees operating a baggage boat and NOT carrying passengers for hire are exempt from needing a WRG endorsement or a WRCP. Interpretive specialists and/or instructors required for the success of the trip are allowed as paid employees. If those employees do not have guide or crew responsibilities, they do not need a WRG endorsement or WRCP. The Concessioner must request in writing and obtain prior written approval from Canyonlands NP to utilize paid interpretive specialists and/or instructors.

Exhibit B, Draft Operating Plan, Standards

Delete:

Item 49 Additional Equipment - A functioning water purification kit and adequate sanitized water storage is provided to passengers, as suitable for the duration of trip and number of trip passengers.

Insert:

Item 49 Item 49 Additional Equipment - A functioning water purification kit and adequate sanitized water storage is provided for passengers, as suitable for the duration of trip and number of trip passengers.

Exhibit D: Insurance

Delete and Replace with Exhibit D: Insurance Revised 9.16.16

Exhibit F: Intellectual Property Licensed Marks.

Delete:

NONE

Insert:

Canyonlands National Park
Glen Canyon National Recreation Area

Responses to Questions

Below please find the National Park Service's (NPS) responses to questions regarding the CC-CANYXXX-17 Prospectus

General Questions:

1. Is there any limit to the number of contracts that one company could be awarded for this solicitation? What are the limitations, if any? What is the basis for these limitations, if any?

NPS Response: The River Management Plan limits commercial organizations to holding no more than three permit allocations. Permit was the term used prior to the term Contract when the River Management Plan was issued. This policy allows a company to expand its operation by acquiring additional allocations, yet insures that a variety of outfitters providing a variety of services will be maintained.

2. Is it possible for one company to win all 18 contracts?

NPS Response: No. See response to question #1.

3. Why does the concessioner who has the CC-CANY020-05 contract not have a preferential right (a.k.a. right of preference)

NPS Response: The concessioner under CC-CANY020-05 did not meet the conditions set forth in 36 CFR §51.36, and is therefore not a preferred offeror. A concessioner must be a preferred offeror to be eligible to exercise a right of preference.

4. Will the future concessioner for the CC-CANY020-17 have a right of preference to keep their contract? Or will this one contract remain the only one of 18 that does not have this preferential right?

NPS Response: CC-CANY020-17 will have a right of preference if it meets the criteria outlined in 36 CFR §51.36 through 36 CFR §51.38.

5. Regarding the "matching" process – how does an incumbent concessioner with a preferential right go about "matching" the terms of a better offer, if that better offer is deemed to be better (i.e. scored higher) because of factors such as Operational Experience (PSF3a) and Track Record of Meeting Financial Obligations (PSF4a) that cannot be changed by the incumbent? It is clearly easy for an incumbent to match the terms of a better proposal when it comes to future commitments for the concession; however it is not clear to us how the matching process works with parts of the evaluation that are about the past are therefore cannot be improved and/or matched.

NPS Response: A preferred offeror must agree to match all of the better terms and conditions of the best proposal as determined by the Director. The Director follows no prescribed method for determining such better terms and conditions, nor in determining whether the preferred offeror has agreed to meet each of the terms and conditions.

6. Does the Service expect Guided Interpretive Whitewater River Tours within Canyonlands National Park to return a reasonable profit to the providers of this service? If so, were these expectations based upon the financial statements of all existing companies over the period of the current contract?

NPS Response: The Service considered the financial statements of all existing Concessioners, the increased insurance requirements, and other factors and determined that there is a

reasonable opportunity for Concessioners to make a profit under the terms of the Draft Contract.

7. What is environmental purchasing in Moab?

NPS Response: Exhibit B: Draft Operating Plan Sec. 2) C) (1) states, “When feasible and appropriate, the Concessioner must implement a green procurement program (e.g., purchase and use of environmentally preferable products and equipment that contain the least hazardous materials and are less toxic, are the most biodegradable, are made with recycled content, have less packaging, are less polluting, energy efficient, etc.). These may include items such as paper and plastic products with recycled content, engine lubricants, and cleaning products. Biodegradable soap without phosphates must be used for camp dishwashing. Propylene glycol antifreeze engine coolant must be used in concession vehicles operating under this Contract when in National Park Service areas, (e.g., at Hite Marina area in Glen Canyon).” It is the Concessioner’s responsibility to determine when it is “feasible and appropriate” to incorporate environmental purchasing into its operation and to research where products can be purchased, which may include sources outside of the Moab area. Please note that biodegradable soaps and Propylene glycol antifreeze engine coolant must be used in operations under this Contract.

Timing:

8. Every existing concessioner is currently involved in guide training and, starting with Memorial Day, will experience the busiest part of their seasons in June and July. Was any consideration given to this fact when deciding the date for the release of this prospectus?

NPS Response: The Service has extended the solicitation period until November 18, 2016. Refer to Amendment #1 issued on June 2, 2016.

9. “...our biggest concern is the timing and hope that you would consider moving the due date so we can focus our season on giving our guest the best experience possible in a place we love and hope to continue providing that adventure for others in the future.”

NPS Response: See response to question #8.

10. This Prospectus has been issued at the busiest time of the year for river concessioners in Canyonlands National Park – as we face the challenges of gearing up for the season with guide training for high water this year - and the deadline for submissions seems too short. Last year when we talked with concession staff in the Park they told us that they anticipated that the Prospectus would be issued in January or February of this year. It is important to us to be able to properly dedicate a significant amount of time to providing a thoughtful response and the time and effort that goes into this project - and this is hindered by the timing of the issuance of the Prospectus. Would you consider extending the deadline for receiving our completed submissions?

NPS Response: See response to question #8.

11. If you will be willing to modify the terms of this Prospectus or withdraw it at this time until a new Prospectus can be reissued, would it be possible in the future to provide at least 120 days for us to submit our completed submission?

NPS Response: See response to question #8.

12. We need more time, and we respectfully request the due date be extended until after the rafting season has ended and we have sufficient time to prepare our response.

NPS Response: See response to question #8.

13. Ask to have it delayed until Fall 2017

NPS Response: See response to question #8.

14. Our organization would be very interested in completing the current response in a timely basis. If adjustments were made to insurance and any other requirements in the current Prospectus, would the timing, including listed deadlines, remain the same?

NPS Response: See response to question #8.

15. In view of the following questions about the required insurance and about Principal Selection Factor I, would you be willing to modify the terms of this Prospectus or withdraw it at this time until a new one can be reissued.

NPS Response: See response to question #8.

16. Is there an NPS deadline for awarding the new permit that will avoid another extension?

NPS Response: The deadline for awarding a new contract that would avoid another extension is 12/31/16. However, by extending the proposal deadline for the Prospectus to 11/18/16, the contracts will need to be extended to give the Service time to evaluate proposals, select the best proposals, and prepare up to eighteen new contracts for award.

17. Why did the Service release this prospectus right in the middle of our busy summer rafting season? Does the Service understand the seasonal nature of the concession and the demands on our operations? If so, why has the Service seemingly disregarded that with the timing of this solicitation?

NPS Response: The Service endeavored to avoid extending the existing Contracts through another season. It was the Service's intent to issue new ten-year contracts for the 2017 Operating Season; therefore, the Service released the Prospectus as soon as practicable with a three month open period. See responses to questions #8 and #16.

Motorized Use:

18. Did the Intermountain Region Concessions office confer with the Canyonlands National Park Concessions office or with the River District for Canyonlands National Park when preparing this prospectus? If the answer to question 1 is yes, did they advise that it would be a good idea to require the reduction of motorized use on the Colorado River in Canyonlands National Park?

NPS Response: This question refers to language from the prior version of PSF1(a), the intent of which NPS feels many misinterpreted. Consequently, PSF1(a) has since been amended from the prospectus through Amendment #1 and the NPS considers questions related to the old version of PSF1(a) moot.

19. Why is the National Park Service attempting to reduce motorized use on the Colorado River in Canyonlands National Park through the prospectus process rather than through a public planning process?

NPS Response: See response to Question #18.

20. Who made the final determination that motorized use is non-conforming and needs to be reduced?

NPS Response: See response to Question #18.

21. How did you reach the conclusion that motorized use is non-conforming when the governing river management plan, which was chosen after an appropriate public planning process, reaches the opposite conclusion?

NPS Response: See response to question #18

22. Was your office aware of the decision in *River Runners for Wilderness v. Martin* wherein the National Park Service successfully defended its allowance of motorized rafting in Grand Canyon National Park? In that decision, the National Park Service argued that they were not required to manage the river through Grand Canyon National Park as Wilderness, and the 9th Circuit Court of Appeals agreed with them. A copy of the decision is attached?

NPS Response: See response to question #18.

23. In support of comments submitted by Jonathan Simon on behalf of UGO and AOA regarding reduction of motor use.

NPS Response: Section 5 of the Proposal Instructions allows Offerors to submit questions if they do not understand something in the Prospectus. The statement above appears to be a comment, not a question that requires an answer.

24. How does the park service see the decreased use of motors as diminishing wilderness characteristics suitability on future legislative wilderness processes? What studies and proposed alternatives have been conducted on all non-conforming uses in the potential wilderness "Area" including all motorized boat use (jet boats, houseboats, jetskis), vehicles, bicycles, road construction, fly overs, chainsaws, and mitigation of impacts from dams? In this assessment process were there notifications of intentions published to the public? By eliminating motors in the Park they are limiting Cataract Canyon to a 5 to 6 day trip this would reduce the number of visitors to the park as not everyone can afford time wise or monetarily a 6 day trip. Would the reduction of motor trips include the wounded warrior trips or would that be discrimination?

NPS Response: See response to questions #18

25. Based upon the importance of this selection factor, can you provide us with more information about how it was decided to emphasize the idea of reducing "the number of trips requiring motorized boats and/or reduce your overall motorized use while on the river?"

NPS Response: See response to question #18.

26. Candidly, we believe philosophically in operating without motors on the river and we have a long history of operating many 6-day non-motorized trips. Nevertheless, during high water we usually want to make sure we have motorized support rafts available to help provide extra safety and there are other times when operational considerations lead us to add a motorized-use component. From the perspective of National Park Service visitors, we find that with our offerings of a 4-day

motorized trip and a 6-day oar powered trip, at prices that differ very little, over half of the people who choose to go on the river with us elect the shorter motorized trip. Consequently, we are wondering if you can tell us how we will be evaluated under Principle Selection Factor 1 if we (I think very realistically) submit information explaining why we believe it is not practical to reduce motorized boats on the river?

NPS Response: See response to question #18.

Business Opportunity:

27. You can opt to pay a higher franchise fee? What does this get us. How could this potentially hurt smaller companies?

NPS Response: Offerors should evaluate their own financial capability before determining whether or not to offer a franchise fee higher than the minimum. As stated in the Proposal Package under Principal Selection Factor 5, “The offer of a higher franchise fee than this minimum is generally beneficial to the Service and accordingly will generally result in a higher score under this selection factor; however, consideration of revenue to the United States is 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.”

Proposal Instructions:

28. p.2 4) Proposals Considered Public Documents: Under this section it is clear that we can request the proposals submitted. At what point in the process and when can we request to see who has submitted proposals for specific contracts.

NPS Response: The Proposal Instructions state, “proposals submitted in response to this Prospectus may be disclosed by the Service to any person, upon request, to the extent required or authorized by the Freedom of Information Act (5 U.S.C. § 552).” Any request for documents will be evaluated consistent with the Freedom of Information Act and the Department of Interior’s regulations related thereto. See 43 C.F.R. Part 2.

29. We have learned that the availability of a debriefing from the Service to Offerors regarding their proposals varies greatly nationally from NPS region to region and that, in particular, the Intermountain Region of the NPS does not generally provide these debriefings. Will the Service and/or the Intermountain Region, with the release of the answers to these submitted questions, commit to providing debriefings to Offerors who make timely and proper debriefing requests, after they are notified of their selection or non-selection? IF not, why not?

NPS Response: The NPS provides the debriefings as a courtesy and not by law. As a result, we try to process all requests as soon as practicable, but sometimes there is a long queue of requests for many contracts. Refer to Proposal Instructions Section 8. Offerors may request an oral “post-award” debriefing which will hopefully expedite the process. Post-award debriefings do not include the specific content of any proposal, nor does it include any information prohibited from disclosure by law, including, without limitation, commercial and financial information that is privileged or confidential.

30. p.2 6) Evaluation of Proposals b). It states that *The first four principal factors will be scored from zero to five. The fifth principal selection factor will be scored from zero to four (with a score of one for agreeing to the minimum franchise fee contained in the Prospectus.)* How are more points given for higher franchise fees? Is it a point for each percentage point? Is it on a curve so whoever gives the highest franchise fee gets the most points and then the rest are averaged down to the minimum? We do understand that the *Consideration of revenue to the United States in this determination and in scoring proposals under Principal Selection Factor 5 will be subordinate* to the other factors.

NPS Response: Principle Selection Factor 5 is worth a total of 4 points. Offering the minimum franchise fee will be worth one point pursuant to 36 C.F.R. § 51.16. For franchise fees offered that are above the minimum, there is no set formula for scoring and the Regional Director, in her sole discretion, will assign the score that reflects the offered franchise fee's determined merit in comparison to the other franchise fees offered.

31. Part II, Page 1, 3a - Speaking of electronic copy of the offer: Do you want a CD included with the three hard copies, or do you want an email copy?

NPS Response: Provide the electronic copy on a portable media device such as a CD or flash drive (thumb drive). Do not email files to the Service.

32. Part II, Page 2, 5 - Questions. How long will it take to receive answers to the questions?

NPS Response: The Service will make every effort to provide the answers as soon as possible and no later than 30 days prior to the due date for proposals. Responses to the questions will be available on the Commercial Services website at <http://concessions.nps.gov/prospectuses.htm> and notification of availability will be made through Federal Business Opportunities.

33. Part II, page 3, 7 - The process of selecting the best proposal - it says "the service will select the responsive proposal with the highest cumulative point score as the best proposal." Does this mean the best proposal for our individual concession contract #CC-CANY2017-05, or does it mean the best proposal overall of all contract submissions?

NPS Response: The responses submitted for each individual contract will be evaluated only against the responses for that specific contract.

34. Part II, page 4, 11b - Is there any chance that the Service will amend, extend, or cancel this solicitation due to the fact that it is due at the same time we are busy with the operations of our rafting trips.

NPS Response: See response to question #8.

Proposal Package:

35. Offeror's Transmittal letter, page 1. The letter requires us to state, "... the entities acting as Offeror or with an ownership interest in the Offeror have not had one or more public transactions terminated for cause or default...". A few years ago Tag-A-Long Expeditions had a backcountry land permit in Canyonlands National Park. Due to some infractions, our permit was restricted. When the period of the permit expired, we reapplied for the renewal of our permit. We are not successful in

our application. **Question:** When we submit the Offeror's letter, can we say that we have not had a public transaction cancelled for cause or default?

NPS Response: The NPS cannot respond to this question as it goes beyond clarifying information found in the Prospectus and seeks legal advice.

36. Part III, page 1, 3 - It says "the Prospectus consists of solicitations for the award of up to eighteen Concession Contracts." Does this mean you may not issue all eighteen contracts for some reason? If so, would it be based solely on an inadequate response? What would be considered?

NPS Response: The Service intends to issue eighteen contracts. However, if no response is received for an individual contract or the only response (s) is/are determined to be non-responsive, the Service may elect to not issue that contract rather than re-solicit for new proposals.

37. Part III, page 4, Service Objectives: You have stated that "the river itself" in Cataract Canyon is classified as "potential wilderness." Can you please tell us where this is written in an operating plan or other document.

NPS Response: Page 13 of the 1974 Wilderness Recommendation for Canyonlands National Park.

38. Part III, page 4, Service Objectives: You state that "In accordance with Service policies, potential wilderness will be managed as wilderness to the extent that existing nonconforming uses will allow, and these lands are to be managed to provide for their protection and the preservation of their wilderness character."

In this sentence you seem to imply that non-conforming uses are acceptable, as long as the wilderness character of the area is otherwise considered and conserved. Motorized rafts have long been used in Cataract Canyon and Canyonlands National Park to propel larger rafts that are more safe in high river flows and to also to provide shorter trip lengths for visitors. Would this be considered an acceptable non-confirming use that still allows for the preservation of wilderness character in all other aspects of the rafting experience.

NPS Response: See response to question #18.

39. Part III, page 5, Subfactor 1(a) - Reducing or discontinuing motorized use on river trips.

The River Management Plan of 1982 was determined through a process that included NEPA-like hearings and public comment. The determination was made to continue to allow motorized use on the Colorado River for safety and transport concerns.

NPS Response: Section 5 of the Proposal Instructions allows Offerors to submit questions if they do not understand something in the Prospectus. The statement above appears to be a comment, not a question that requires an answer.

40. Is it really appropriate (or legal) for the Service to change existing regulations regarding motorized use on river trips in Canyonlands National Park without public input and proper hearings? Does "potential wilderness" still exist in Canyonlands National Park? This was a term applied to a small number of acres within the park boundaries in the 1974 CMP. However, when more wilderness was added to the park over the next two decades, it appears that the term, "potential wilderness" was no longer used.

NPS Response: See response to question #18. Additionally, the portion of the Colorado River that flows through Cataract Canyon remains recommended as potential wilderness. Potential wilderness is still a valid term.

41. Principal Selection Factor 1 Service Objectives and Subfactor 1(a) is looking for ways that our operation would reduce non-conforming uses in Cataract Canyon. Is motorized craft a 'non-conforming' use under the Canyonlands Management plan or by act of Congress?

NPS Response: See response to question #18.

42. "Subfactor 2:a Guest and employee safety #2; New and innovative techniques like hiring contractor to do the ramp?

NPS Response: Section 5 of the Proposal Instructions allows Offerors to submit questions if they do not understand something in the Prospectus. The statement above appears to be a comment, not a question that requires an answer.

43. Regarding Principal Selection Factor 3, Subfactor 3(c), Part 2): The Service requests infractions "related to services required in the Draft Contract..." Would the service consider such activities as guided mountain biking, guided fishing, or guided mountaineering to be similar services and therefore offerors should reports infractions related to those activities?

NPS Response: Depending on their nature, infractions from guided activities provided to visitors or clients under a contract or permit with a state or federal agency could potentially be related to the services required in the Draft Contract.

44. Regarding Principal Selection Factor 3, Subfactor 3(c), would the Service consider a "Marginal" rating given by the NPS as part of an Annual Overall Evaluation to be a violation or infraction that should be reported in this part?

NPS Response: The NPS considers a less than satisfactory rating for the Offeror's Annual Overall Rating (AOR) for any of its current NPS Concessions operations as an "infraction." Offers should include information about a less than satisfactory AOR rating when responding to Subfactor 3 (c).

45. Regarding Principal Selection Factor 3, Subfactor 3(c) – will this Subfactor be scored by the evaluation panel? Will this subfactor carry equal weighting with PSF3a and PSF3b? Has the Service recently changed its process for evaluating this particular Subfactor regarding violations or infractions? We have received conflicting information during the debriefing process from different regions. It seems that some regions of the NPS score this Subfactor and some do not. Please provide as much detail as possible, including any recent changes in the evaluation process for this Subfactor?

NPS Response: Yes, Subfactor 3 (c) will be scored by the Panel. Subfactor 3 (c) will be given equal weight as 3 (a) and 3 (b). Please refer to Proposal Instructions 6). Other regions may have employed different processes, but this evaluation panel will follow the scoring protocol defined in this Prospectus.

46. [PSF2 (a) 2)] With no commitments from Glen Canyon on their involvement or lack thereof to the maintenance of the North Wash ramp explain new and innovative techniques as they deal with not only changing lake levels but the resource managers lack of communication with the river running community while still operating under the scope of the contract?

NPS Response: The GLCA superintendent discussed this issue with the river running community in November 2015 and committed to maintaining the North Wash ramp to the current standard for the 2016 season. However, while the Service recognizes that the North Wash site is critical to the current operating model for smaller vessel river runners, the ramp cannot be maintained indefinitely due to the dynamic nature of the river and poor stability of the bank. It is therefore important for the river running community to have new and/or innovative techniques for unloading passengers and retrieving vessels safely.

47. [PSF4] On page 14, it states that “The Service requires all existing business entities to submit ... an audited or reviewed (i) income Statement for the two most recent fiscal years and (ii) Balance Sheets (1) for the most recent fiscal year and (2) as of the end of the most recent month prior to the submission of your proposal.” Can you waive this requirement for existing concession contract holders?

NPS Response: No, the Service is not allowed to make an exception for existing concession contract holders.

48. [PSF 4] Table 3 on Page 17 references “Year 1” and “Year 2.” Are we to project anticipated Revenues and Expenses for the first two years of the new contract term – in this case for 2017 and 2018?

NPS Response: Table 3 is a “Historical” Income Statement to be used if an Offeror does not have audited or reviewed financial statements per the instructions on page 14. If Table 3 is utilized, an Offeror must complete the table using its financial information from the two most recently completed fiscal years, which for most would be 2014 and 2015.

49. [PSF4] Table 4 on Page 18 shows a Personal Financial Statement. Since we will be submitting our Prospectus response as an existing corporation that is currently the holder of the concession contract, can you confirm that I do not need to submit this Personal Financial Statement?

NPS Response: If you are a corporation you do not need to fill out the personal financial statement. However, if your corporation is financially supported by an individual, the individual should provide a personal financial statement.

50. Page 24, Subfactor 4(c). Start-up funding. Question: As an existing contract operator, do we need to show proposed start-up funding in detail?

NPS Response: An Offeror must report its start-up expenses, regardless of how minimal. If the Offeror anticipates no start-up costs associated with a new contract, it should note on Table 6 that it will have “none,” and the Offeror must provide a detailed explanation why no costs will be incurred.

51. [PSF4c] On Page 24, under section 1 dealing with owner or investor financing, it asks that a parent company or an Offeror-Guarantor that is a business entity provide audited or reviewed financial information. Since we will be submitting our Prospectus response as an existing corporation that is currently the holder of the concession contract, can you confirm that we do not need to submit an audited or reviewed income Statement for the two most recent fiscal years?

NPS Response: First, to be clear, the language to which the question refers concerns whether an Offeror must submit a parent’s or an Offeror-Guarantor’s financial documents, not the Offeror’s own financial documents. The NPS cannot confirm that you, the potential Offeror, does not need to submit an audited or reviewed income statement for the two most recent fiscal years. Additionally, the NPS does not know whether you, the potential Offeror, has start-up

costs, and if you do, the NPS does not know from what source you would obtain such funds. Thus, the NPS cannot determine what credible, compelling documentation you, the potential Offeror, must submit to demonstrate your ability to obtain any required start-up funds.

52. [PSF4] Additionally, since we will be submitting our Prospectus response as an existing corporation that is currently the holder of the concession contract, can you confirm that we do not have to submit an audited or reviewed most recent fiscal year Balance Sheet and most recent fiscal month Balance Sheet?

NPS Response: See response to question #47.

53. [PSF4] Since we will be submitting our Prospectus response as an existing corporation that is currently the holder of the concession contract, can you confirm whether or not the other items listed on Page 24 under “A parent company” – including a current bank account statement and signed commitment letter from the company – are not necessary?

NPS Response: See response to question #51.

54. [PSF5] How many points will be awarded for a submission that offers the minimum franchise fee specified?

NPS Response: Principal Selection Factor 5 will receive a score of “1” for agreeing to the minimum franchise fee contained in the Prospectus. Refer to Proposal Instructions 6) b) and 36 CFR § 51.16.

55. Can you provide additional Information about how Prospectus submissions will be evaluated under this [PSF5] selection factor?

NPS Response: Principal Selection Factor 5 will receive a score of “1” for agreeing to the minimum franchise fee contained in the Prospectus. Refer to Proposal Instructions 6) b), and the response to question #30 above.

56. What franchise fee offering would it take to receive the maximum of 4 points offered under this selection factor?

NPS Response: See response to question #30.

Draft Contract:

57. Draft contract, page 4, Annual financial report (Definitions, Page A1-1 (f)). Currently we operate three Guided Interpretive Whitewater River Tours in Canyonlands National Park and in Glen Canyon National Recreation Area. Question: What receipts are you looking for? Do we submit receipts for (1) the entire company, (2) for our three concession contracts as a whole or (3) the specific receipts for each of the three concession contracts?

NPS Response: Specific gross receipts must be reported for each individual contract.

Draft Contract – Exhibit B – Operating Plan

58. P. 15 B) (3) & (4) Trip leader and Crew Member Requirements. The Utah State Parks and Recreation Department recently revised their guide licensing designation, if you are not already aware.

Whitewater River Guide (WRG) – A minimum of nine river trips on whitewater river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river section on which the operator will be carrying passengers for hire. A Whitewater River Guide endorsement meets the requirements for an Other River Guide endorsement.

Whitewater River Crew Permit (WRCP) is valid only when the holder is accompanied on the river trip, by a qualified license holder with a “Whitewater River Guide” endorsement.

New in the crew member requirements in that same paragraph is the statement that *All other support crew accompanying such trips must have a Whitewater River Crew License (WRC) issued by the State of Utah.* The Utah State Parks boating laws specifically state that guide licenses are only required for guides who are operating vessels carrying passengers for hire. Does that mean if they are rowing a baggage boat not carrying passengers for hire or are a crew member just helping on a larger boat with a licensed guide motoring does the crew member still have to have a valid guide license? In the past we have been able to use swampers and baggage boats without licensed guides because they are not carrying passengers for hire as outlined in the boating laws. It is something that we will change in our operations if need be, but we would hope you would reconsider the requirement for all crew members to be licensed and restate it to be as it was in the previous operating plan and outlined in the boating laws to be *guides operating a vessel carrying passengers for hire must have in their possession a valid Utah Division of Parks and Recreation guide license.*

NPS Response: Refer to Amendment 2: Updates to the Prospectus on page 1 of this memorandum.

59. Crew member requirements 3) B) 4) Each boat carrying clients for hire must have at least one qualified guide or trip leader on board. All other support crew accompanying such trips must have a Whitewater River Crew License issued by the state. Does this mean that swampers need to have a guide license even when just swamping on a s-rig?

NPS Response: See response to question #58.

60. Guide license names are not correct.

NPS Response: Section 5 of the Proposal Instructions allows Offerors to submit questions if they do not understand something in the Prospectus. The statement above appears to be a comment, not a question that requires an answer.

61. Hiking during a river tour: Due to high impact on resources from low awareness of trail etiquette and soils, guides must accompany groups on heavily used trails, These include lathrop archaeological site Indian Creek, the loop, water canyon, and the doll house. What data shows the impact is from unguided commercial passengers. The loop is the best hike for passengers on a solo boat one day trip. Would trail markers (carins) not be a better proposal than to ban a group based on assumptions.

NPS Response: The Prospectus does not state that the Service has determined that the impacts on trails are attributed only to unguided commercial passengers. Exhibit B, Draft Operating Plan Section 3) K) (2) (a), states, “It is encouraged for visitors to explore and hike during their trip.” Whitewater river trip clients must follow the same rules, regulations, and closures as the

general public. There are no hiking bans on whitewater river trip clients in Exhibit B, Draft Operating Plan. Guides accompanying their groups on hikes provides a number of benefits including increased safety, assurance that Service rules and regulations are followed and natural and cultural resources are protected, and it provides an opportunity to offer interpretive information as required in the Contract that may be difficult to share while on the river.

62. For the Canyonlands primary interpretive goals why is safety not included? For Glen Canyon why is mitigation from impacts of dams not included?

NPS Response: The interpretive themes identified in Exhibit B, Draft Operating Plan, Attachment #2 focus on the natural and cultural resources of the Area. Safety is addressed extensively throughout Exhibit B, Draft Operating Plan. Specifically, as it applies to providing this information to visitors, review Section 2) H) (7). The interpretive themes identified by Glen Canyon National Recreation Area provide a broad framework which includes the opportunity to discuss impacts of the dam under the interpretive theme encompassing "...the intricate web of relationships between peoples, their interaction with the landscape, and the results that shape cultural exchange, create conflict, achieve progress, and deliver consequences."

63. If the evaluation standards have changed has the person responsible for changing the standards been down Cataract at both high water and low water conditions on both one day trips and multi day trips?

NPS Response: NPS service standards for white water rafting were reviewed by NPS personnel who have rafting experience in multiple parks.

64. Guided raft float day trip standards: #46 what are the coast guard requirements? #47 does a raft need to be seaworthy? #48 a prop wrench or are channel locks sufficient. #49 water purification kit needs to be provided to passengers? #54 what is the coast guard maximums on rafts? #57 what are the plastic bags for? #77 will the superintendent have time to approve all of our interpretive content?

NPS Response: #46 - Contact United States Coast Guard at www.uscgboating.org for latest information. #47 - The seaworthiness standard is one of reasonable fitness. The vessel must be fit for its particular purpose and offer reasonable safety for that purpose. #48 - A prop wrench is usually a socket wrench. Channel locks pliers are commonly used for removing cotter pins that help secure some props. To prevent injury and damaging equipment, follow the manufacturer's guidance regarding your motor and your tools. #49 - See Amendment 2 #54 - Contact Coast Guard for latest information at www.uscgboating.org. #57 - Plastic bags are for items that passengers may want to dispose of in the toilet system that you do not want in your toilet system, i.e. paper towels, handwipes, tampons, trash, etc. Plastic bags may also be used to store toilet paper in to keep it dry if it's raining. #77 - Yes, the Superintendent or his/her designee will review interpretive content.

65. Guided raft float overnight standards: #49 are sleeping bags and tents now required since rentals are no longer authorized? #57 type IV throwable with minimum 50' 3/8 inch rope.

NPS Response: Rental of equipment associated with the conduct of the activities required by the Contract has been removed from the Draft Contract since no facilities are assigned to the Concessioner under the Draft Contract; therefore, any rental of equipment to clients is occurring outside of the park under arrangements made between the Concessioner and the client. If the Concessioner provides such items as described in Standard #49, Standard #49 will be applicable. The statement above regarding Standard #57 appears to be a comment, not a question that requires an answer.

66. Exhibit B: Draft Operating Plan section 4. A) 5a. Do the monthly and the annual report require same information?

NPS Response: The monthly report due by the 5th of the following month will include the information specified in Exhibit B, Draft Operating Plan, Section 4) A) (5) (a) for the previous month. The Annual report will include a summary of the same types of information for the preceding operating season.

67. Part 3) A) section 7; Use of Hite air strip. Does the Glen Canyon Superintendent's authority supersede FAA's regulations concerning said airstrip?

NPS Response: The Hite airstrip has historically and consistently been designated as a "private" airstrip with a "Hazardous" condition warning as published on the FAA Denver Sectional Navigation Chart. Because it is a private designation it is the NPS's understanding that the FAA has no regulatory authority or responsibility regarding the management of this airstrip aside from publishing the Aviation Navigational Chart on which it is depicted. Further, the Utah Division of Aeronautics denied licensing the Hite airstrip due to the hazardous conditions and deemed it inadequate for anything but NPS administrative use. The NPS does not encourage any public or commercial use of the Hite airstrip and informs anyone who inquires of its use of the hazardous conditions and that if it is used without NPS authorization they do so at their own risk.

68. Section F #4; Two parties may camp together but only if both parties arrive at the campsite together and the total number of campers does not exceed 40. Does this limit motor use when a shorter motor trip meets up with a longer oar trip to pull them of the lake, safety reasons, or high water?

NPS Response: No, the NPS does not consider that this limits motor use.

69. Does the contract preclude clients arranging their own shuttles?

NPS Response: No, however, if the Concessioner is providing shuttle service under its contract, it must comply with all provisions of its contract. Refer to Exhibit B, Draft Operating Plan, Section 2) E) (9). Shuttle services within the Area must be provided by a company or individual authorized to conduct services within the Area. Subconcessions are not permitted. Refer to Draft Contract, Addendum 1, Section 3 (d).

70. [Section 3) F) (4)] Clarify splitting trips. We should be allowed to combine a 4d/3d trip. Run safety. Etc. Can we continue to have a double launch for luxury trips?

NPS Response: While on the river, combining trips to run Cataract Canyon is allowed for safety purposes. However, when the intent is to combine trips at a camp, they then become a single trip and need to continue to travel and camp together as one trip. Regarding Luxury Trips, Concessioners may have a double launch from the boat ramp. Once those trips camp together (first night) they become a single trip and must camp and travel together from that point. Group size is limited to 40.

71. In the pricing section...Luxury trips will be considered if you continue to offer reg trips. Does this mean that we might be told that we CAN NOT run one of our Luxury trips?

NPS Response: Section 3 A) (9) of Exhibit B, Draft Operating Plan states, "Concessioners offering "luxury" tours must continue to offer and provide the types of river tours and pricing options that have traditionally been available to Area visitors" and "Luxury Tours must be

approved by Canyonlands NP prior to launch.” Therefore, Concessioner’s cannot offer Luxury Tours ONLY, and all tours must be approved prior to launch.

72. What does it mean by the park service has the ability to affect the schedule of a trip or postpone it....they listed a variety of reasons.

NPS Response: As described in Exhibit B, Draft Operating Plan, Section 2) E) (2), the Service reserves the right to delay, cancel or reschedule a tour, limit the size of a commercial group in the backcountry, implement necessary management actions, schedule Service activity or close an area to prevent adverse environmental impact to Area resources, to ensure visitor safety, to facilitate research projects, or to respond to any unforeseen circumstances that may have an unfavorable impact upon the nature or purpose of guided interpretive whitewater river tours.

73. It state that in the use of calm water we can use a variety of vessels as long as the predominant direction is downstream. Does this mean that we could offer a Stillwater Canyon kayaking trip as long as we continue downstream from the Confluence of the Green and Colorado Rivers?

NPS Response: Use of calm water must be part of a whitewater river tour, and must be predominantly downstream. Guided flatwater trips are not a component of this concession contract. All vessels under a Whitewater Contract travel downstream to the take-out locations in GLCA. Vessels may not return upstream.

Draft Contract – Exhibit D - Insurance

74. Can you provide us with information as to why this Prospectus increased the General Aggregate and the Per Occurrence requirements from the \$3 million / \$1.5 million limits that were adopted for the Dinosaur National Monument contracts that became effective this year – to \$4 million / \$2 million as stipulated for Canyonlands National Park?

NPS Response: Starting in 2009, the NPS has engaged an insurance consultant to determine insurance requirements for all concession contracts. The insurance consultant reviews the risks associated with the specific operations and recommends types and amounts of insurance based on such review and recommends the amount a prudent business operator might obtain. The Service uses this third-party expert information in concert with other information such as the Service guidance on Commercial Recreational Service Insurance Requirements when establishing limits specified in the contract. This considers factors including risk potential and number of participants in the activity.

The main difference between Dinosaur and Canyonlands stems from the risk potential. The class of rapids in Dinosaur National Monument generally range from Class III-IV, whereas Cataract Canyon in Canyonlands National Park can experience up to Class V rapids, making its risk for a potential multiple-person accident higher than Dinosaur. The Service considered special attributes of Cataract Canyon, including Cataract Canyon contains over 26 rapids representing some of the biggest whitewater in the United States during spring runoff; it is a particularly hazardous and isolated section of the Colorado River; and there are sections where multiple rapids are situated in close proximity that require precise maneuvering of the watercraft mid-rapid to affect a safe run.

Additionally, upon further consideration the Service has determined it will make changes to the insurance requirements published in Exhibit D. The updated limits are consistent with the

NPS's overall methodology and better address a range of risk potential based on number of passengers in a boat. Refer to Amendment 2.

75. We support the comments submitted by Jonathon Simon on behalf of UGO and AOA regarding the increased insurance requirements. As a smaller outfitter our insurance rates would increase at a minimum of 40% for a season to support the higher liability limits and longshoreman insurance. We want to have insurance as outlined in the NPS Management Policies that provide reasonable assurance that concessioners have the ability to cover bona fide claims for bodily injury, death, or property damage arising from an action or omission of the operator and to protect the government against potential liability for claims based on the negligence of the operators, but increasing the limits without justification or need would really diminish our ability to do business and make a reasonable profit.

NPS Response: Section 5 of the Proposal Instructions allows Offerors to submit questions if they do not understand something in the Prospectus. Some of the statements above appear to be internal questions or comments and not questions that require an answer.

76. Did your decision to require \$4 million worth of insurance coverage take into account that there are a variety of operations in Canyonlands National Park using a variety of boat sizes? The previous prospectus had a sliding scale of required coverage which made more sense.

NPS Response: Refer to Amendment 2.

77. Will the NPS provide the basis for the insurance requirements given in the insurance exhibit to the contract? How did the Service come up with the levels of coverage? What are the "comparables" that the Service used when determining the insurance coverages and limits?

NPS Response: See Response to question #74. Any further information the NPS may provide in response to this question is considered part of the pre-decisional financial analysis and not available for release.

78. Is \$4,000,000.00 liability insurance requirement reasonable to the smaller concessioners? A 510% increase in rates (Premium increase? Documentation will be important). Does this invite frivolous lawsuits. What were the considerations made for arriving at 4m do they follow industry standards or recent park decisions. Rates and charges will exceed market rates and charges for comparable services after taking into account the availability and costs of labor and additional insurance above the industry standard. Does this perceived protection balance with the perceived reduction of use? Will the increased cost cause the superintendent to rescind the CMD. Is the lowering of the franchise fee in relation to the increase in costs or the lack of maintenance that will occur at North Wash? We should request to keep the tiered insurance requirements for the current contract. Our insurance rate would increase 30% with new requirements.

NPS Response: The Service considered the increased insurance requirements and determined that there was a reasonable opportunity for Concessioners to make a profit pursuant to the business opportunities offered under the prospectus. Furthermore, the NPS cautions against automatically assuming that insurance premiums will rise in all circumstances, as an increase in coverage does not necessarily translate into a dollar for dollar increase in insurance premium. The recommended general liability limit shown can be achieved by any combination of commercial general liability, excess liability and umbrella liability insurance. In addition, the concessioner should evaluate the applicability of Longshoreman's Insurance which may not be applicable in particular circumstances based on the concessioner's operations and river characteristics.

The NPS cannot cite any increases in frivolous lawsuits since 2009 when insurance limits have been routinely higher than in previous contracts. Again, the NPS cautions against making assumptions about excessive premium increases or the lack of availability of this coverage. The NPS has no intention of changing the rate approval method stated in the Draft Contract and cannot speculate how franchise fees will be utilized in the future.

Section 5 of the Proposal Instructions allows Offerors to submit questions if they do not understand something in the Prospectus. Some of the statements above appear to be internal questions or comments and not questions that require an answer.

See also the response to questions #74 and Amendment 2.

79. Can you provide us with information as to why this Prospectus increased the Personal and Advertising Injury Liability from \$1.5 million that was adopted for the Dinosaur National Monument contracts that became effective this year – to \$2 million as stipulated for Canyonlands National Park?

NPS Response: Refer to Responses to questions #74 and Amendment 2.

80. EXHIBIT D, Page D-1 - Insurance Requirements, (a) Commercial General Liability. Did the Service consider the premium cost for the insurance coverage required in the contract? Did the Service consider that our premiums will be higher if larger and safer motorized rafts are discontinued and trips are on the river for longer periods of time? Is the Service aware that a recent requirement for \$4,000,000 in coverage for a Dinosaur National Monument contract was reduced before contracts were issued?

NPS Response: See response to question #74 and Amendment 2. Personal and Advertising Injury Liability coverage is Coverage B of a standard General Liability Policy and commonly underwritten at the same limit as Coverage A - commercial general liability by insurers. The NPS applied this industry standard practice in assigning this minimum for this insurance requirement.

81. Is \$1,000,000.00 WC requirement reasonable to the smaller concessioners?

NPS Response: Workman's compensation (WC) insurance is a state-by state statutory requirement. Requirements presented in the insurance exhibit are based on these requirements. Employer liability insurance is separate from WC. The NPS applied an industry standard of \$1M as the minimum for Employers Liability which it has applied consistently for recent contracts for concessioners providing similar services.

82. We are concerned with the stipulation that specifies: "If the Concessioner's operations include use of watercraft on navigable waters and employ persons in applicable positions, a Maritime Coverage Endorsement must be added to the Workers' Compensation policy..." Are the Green and Colorado Rivers in Utah considered navigable waters? Does this Prospectus require a Maritime Coverage Endorsement?

NPS Response: The current language requires obtaining such insurance to protect employees when, and only when, such requirements apply to the Concessioner's operations based upon whether the waterway is navigable and whether the operator employs persons in applicable positions. The Service has determined that the waterways associated with the services under this contract have been designated as navigable waters. Each Offeror, therefore, must determine whether the operations it proposes to provide under a Draft Contract would trigger the application of this requirement as it relates to employment of persons in applicable

positions. The Service, believes the provisions cited likely would not apply to operations under any of the Draft Contracts.

83. We are concerned with the stipulation that specifies: "If Concessioner operations are conducted in proximity to navigable waters and employ persons in applicable positions, United States Longshore and Harbor Workers' Compensation Act coverage must be endorsed onto the Workers' Compensation policy." The Utah State Workers Compensation Fund tells us that "Utah workers compensation policies do not include endorsements for Maritime Coverage or United States Longshore and Harbor Workers Compensation Act." Does this Prospectus require a United States Longshore and Harbor Workers' Compensation endorsement?

NPS Response: See response to question #82.

84. If this Prospectus does require these [Maritime Coverage and/or United States Longshore and Harbor Workers Compensation Endorsement] endorsements, as noted above, can these requirements be removed?

NPS Response: See response to question #82 above.

85. Longshoreman's is a federal coverage that is not offered by WCF in Utah. Agent explained coverage would also not apply to us as we are not working on a dock or off a ship. Is the park now not taking precedence over navigable waters where the park overlaps a navigable water way. If so is the prospectus in compliance with the coast guard. This seems to be a moot point according to DOL.gov 902 (3)(B) that states that (B) individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet are exempt from longshoreman's insurance and subject to coverage under a State workers' compensation law. Our employees are not in applicable positions to be covered by longshoreman insurance.

NPS Response: See response to question #82 above.

86. According to the Workers Compensation Fund of Utah which provides our Workers Compensation coverage, the Maritime Coverage Endorsement that is required in the prospectus is not available in Utah. Will this requirement be removed from the Contract requirements?

NPS Response: See response to question #82 above. If the Maritime Coverage Endorsement is not available under the Utah WC Fund, it is available in the open insurance market.

87. Workers Compensation Insurance and Longshore and Harbor Workers Insurance. It is probably our job to find the coverage required in section (j). However, we are not certain that the Longshore and Harbor Workers endorsements are available in Utah. If we are unable to obtain this coverage at all, much less at a reasonable cost, will the Service be able to amend the Prospectus and the Contract? If not, will we be given extra time to ensure such coverage is available and that we will be able to afford it?

NPS Response: See response to questions #82. Additionally, the due date for proposals has been extended, see Amendment #1.

88. Under Exhibit D, section (j) the workman's compensation section outlines insurance requirements that are required "IF" the watercraft is operated in navigable waters, Maritime Coverage and Harbor Workers' Compensation Act coverage is required. Has the National Park Service, other Government Agencies or a Federal Court determined that the Colorado and Green Rivers in Canyonlands National Park meets this navigability test? If the navigability test is not met will these endorsements be removed from the contract?

NPS Response: See response to question #82 above

89. If the State workman's compensation insurance for our state doesn't offer insurance that meets the NPS requirements, is our corporation ineligible to apply for the Canyonlands contract?

NPS Response: See response to question #82 above. Note that, in most states, offerors may obtain Employer's Liability and/or maritime employee coverage from carriers that are outside the State's WC Fund if the fund-provided insurance does not meet the NPS requirement. In the event that Utah does not allow such action, the state WC Fund amounts would apply; however if it is determined subsequent to an injury that maritime coverage applies, the concessioner will be liable for uninsured claims.

90. Our company carries the US Department of Transportation mandated 1.5 million in coverage for our equipment transportation vehicles as well as passenger carrying vehicles. The proposal outlines \$1 million dollar coverage as being acceptable for vehicles that do not transport passengers. Does the NPS know of an insurance product from any insurance company that would offer different coverage amounts for various vehicles in a single company?

NPS Response: It is uncommon for auto insurance brokers to provide separate coverages for vehicles carrying passengers and not carrying passengers. It may not be cost effective to obtain such differentiated insurance. Offerors should consult with their own insurance carriers to determine availability and cost effectiveness.

91. Under Exhibit D, section (a) the Commercial General Liability limits are listed. We have requested rates from our insurance company over 30 days ago and they have yet to be able to provide a comprehensive quote for the limits listed within the proposal. This insurance company has been used by our company (and many others) for writing insurance in National Park Service units, including Canyonlands National Park for more than 2 decades. The new limits are clearly not immediately available in the insurance market place. How are these new limits determined? Did the National Park Service do any cost analysis on these limits prior to asking from them in the new contract?

NPS Response: The NPS has investigated the availability in the market and has found it available. The NPS has considered the cost of the insurance in its financial analysis.

92. Under Exhibit D, section 5 concerning certificates of Insurance, some reference is made as to what is needed in the insurance certificate. The full policy, when printed is in excess of 100 pages, would it be more appropriate to send a full printed copy of the policy to insure we are in compliance?

NPS Response: A full copy of the policy can be provided although the information is typically available on the Declarations page available from the broker.

Draft Contract – Exhibit E – Transition

93. Could you comment on these two sections? They seem to be contradictory. [Business Opportunity] *9 Personal Property and Inventory Used in Existing Concession Operation* seems to state that nothing needs to transfer and existing Concessioners are not obligated to provide anything to new contract holders in the event of a transfer. Exhibit E is all about transfer to a new concessioner and includes transfers of reservation systems, financial records and other personal property. While we understand the need to *achieve an orderly transition of operations to avoid disruption of services to Area visitors* in the event of a transfer, Exhibit E seems to go into too much detail in the

requirements and Section 1 p. 9 covers it more in accordance with the actual operations of the contract.

NPS Response: Exhibit E, Transition to a New Concessioner, outlines the responsibilities, processes, and procedures for a transfer to a new concessioner including the responsibility to provide applicable financial reports, personal property lists, reservation information, etc. to ensure a smooth transition and continuity of services to visitors. However Exhibit E does not state any requirement for an existing concessioner to sell its personal property to a new concessioner.

94. Exhibit E seems unnecessary due to no assets in permit transfer.

NPS Response: Refer to response in #93 above.



Sue E. Masica

cc: Superintendent, Canyonlands National Park
Chief of Commercial Services, WASO

EXHIBIT D**INSURANCE REQUIREMENTS**

Revised 9.16.2016

SEC. 1. INSURANCE REQUIREMENTS

The Concessioner shall obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. No act of the Concessioner, its agents, servants, or employees may impair any and all insurance coverage provided for the benefit of, or evidenced to the Service. The Concessioner must provide the Service with an unconditional 30-day advance notice of cancellation of coverage or policy terms on all liability and workers' compensation insurance policies.

The amounts of insurance, limits of liability, and coverage terms included are not intended as a limitation of the Concessioner's responsibility or liability under the Contract, but rather an indication as to the minimum types, amounts, and scope of insurance that the Service considers necessary to allow the operation of the concession at the Area. Nevertheless, if the Concessioner purchases insurance in addition to the limits set forth herein, the Service will receive the benefit of the additional amounts of insurance without cost to the Service.

SEC. 2. LIABILITY INSURANCE

The Concessioner must maintain the following minimum liability coverages, all of which, unless noted herein, are to be written on an occurrence form of coverage. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with excess or umbrella liability as explained below.

(a) Commercial General Liability

- (1) The Concessioner must obtain coverage for bodily injury, property damage, contractual liability, personal and advertising injury liability, and products and completed operations liability. The Concessioner must provide the following minimum limits of liability:

Per Occurrence

Up to 5 passengers per boat	\$1,000,000
6-21 passengers per boat	\$2,000,000
22 + passengers per boat	\$5,000,000

Personal Injury and Advertising Injury

Up to 5 passengers per boat	\$1,000,000
6-21 passengers per boat	\$2,000,000
22 + passengers per boat	\$5,000,000

Products and Completed Operations Aggregate

Up to 5 passengers per boat	\$2,000,000
6-21 passengers per boat	\$3,000,000
22 + passengers per boat	\$6,000,000

General Aggregate

Up to 5 passengers per boat	\$2,000,000
6-21 passengers per boat	\$3,000,000
22 + passengers per boat	\$6,000,000
Medical Payments	\$0

(2) The liability coverages may not contain the following exclusions/limitations:

Athletic or Sports Participants
 Products/Completed Operations
 Personal and Advertising Injury exclusion or limitation
 Contractual Liability

(b) Automobile Liability

The Concessioner must provide coverage for bodily injury and property damage arising out of the ownership, maintenance or use of "any auto," Symbol 1. Use of Symbol 7, "specifically described autos," is acceptable when an insurer will not provide Symbol 1 because that insurer does not provide coverage for all of the Concessioner's owned "autos." Where there are no owned autos, the Concessioner will provide coverage for "hired autos" and "non-owned autos," Symbols 8 and 9. Garage-keepers' liability is to be included on a "direct" basis for all Concessioner operations handling, parking or storing automobiles owned by others for a fee.

Combined Single Limit Each Accident

\$(See Exhibit 1)

Automobile liability requirements only apply if a concessioner enters a National Park by automobile as part of their operations. A minimum automobile limit of \$1.5 million is required for transportation of passengers in Utah or for interstate transport of passengers.

**Automobile Liability Limit Requirements for Transport of Passengers
Exhibit 1**

Vehicle Description	Required Automobile Liability Limit - Intrastate Transport	Required Automobile Liability Limit - Interstate Transport
Concessioners with vehicles and no transport of passengers.	\$1,000,000	\$1,000,000
Concessioners with one public passenger vehicle (PPV), sport utility vehicle (SUV) or van with less than 8 passengers (including driver).	\$1,000,000	\$1,000,000
Concessioners with two or more PPVs, SUVs or vans with less than 8 passengers (including driver).	\$1,500,000	\$1,500,000
Concessioners with one PPV, SUV, van or bus with 8 to 15 passengers (including driver).	\$1,500,000	\$1,500,000
Concessioners with two or more PPVs, SUVs, vans or buses with 8 to 15 passengers (including driver).	\$1,500,000	\$1,500,000
Concessioners with bus with 16 or more passenger capacity (including driver). ¹	\$3,000,000	\$5,000,000

(c) Excess Liability or Umbrella Liability

The Concessioner may use an Excess or Umbrella Liability policy to achieve the commercial general liability and automobile liability limits set forth above. The limit of liability under the excess policy must be in an amount that together with the subordinate policy meets the minimum limit of liability required.

The Concessioner is not required to provide excess liability or umbrella liability coverage, but may use it to supplement any insurance policies obtained to meet the minimum requirements of the Contract. If maintained, the Concessioner will provide coverage for bodily injury, property damage, personal injury, or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Umbrella Liability policy.

(d) Liquor Liability (not applicable)

The Concessioner must provide coverage for bodily injury and property damage including damages for care, loss of services, or loss of support arising out of the selling, serving, or furnishing of any alcoholic beverage.

Each Common Cause Limit	\$
Aggregate Limit	\$

¹ Increase limit by \$1,000,000 for every 10 passenger increase over 30 passengers (e.g. 40 passengers would require \$4 million limit for intrastate transport, 50 passengers would require \$5,000,000 limit). Increase Interstate transport limit in same manner once passenger capacity exceeds 50 passengers.

(e) Watercraft Liability (or Protection and Indemnity)

The Concessioner must provide coverage for bodily injury and property damage arising out of the use of any watercraft.

Up to 5 passengers per boat	\$1,000,000
6-21 passengers per boat	\$2,000,000
22 + passengers per boat	\$5,000,000

Tower's liability shall be maintained at the same each occurrence limit if the Concessioner tows or transports non-owned vessels by water.

(f) Environmental Impairment Liability (not applicable)

The Concessioner will provide coverage for bodily injury and property damage arising out of pollutants or contaminants on-site and off-site and for cleanup.

Each Occurrence or Each Claim Limit	\$
Aggregate Limit	\$

(g) Aircraft Liability (not applicable)

The Concessioner must provide coverage for bodily injury (including passengers) and property damage arising out of the use of any aircraft.

Each Person Limit	\$
Property Damage Limit	\$
Each Accident Limit	\$

The Concessioner must maintain airport liability insurance at a limit of at least \$ _____ if the Concessioner maintains landing facilities for use by third parties. Hangerkeeper's liability shall be maintained at a limit sufficient to cover the maximum estimated value of non-owned aircraft in the Concessioner's care, custody or control if the Concessioner provides aircraft storage to third parties.

(h) Professional Liability, e.g. dive instructor, massage therapist (not applicable)

The Concessioner must maintain, or cause professionals working on its behalf to maintain, professional liability insurance for all professional services provided by or on behalf of the Concessioner.

Each Occurrence Limit	\$
Aggregate Limit	\$

(i) Deductibles/Self-Insured Retentions

The Concessioner's self-insured retentions or deductibles on any of the above described liability Insurance policies (other than umbrella liability, environmental impairment liability or professional liability, if maintained) may not exceed \$5,000 without the prior written approval of the Director. Deductibles or retentions on umbrella liability, environmental impairment liability and professional liability may be up to \$25,000.

(j) Workers' Compensation and Employers' Liability

The Concessioner must obtain coverage that complies with the statutory requirements of the state(s) in which the Concessioner operates. The employer's liability limit will not be less than \$1,000,000.

If the Concessioner's operations include use of watercraft on navigable waters and employ persons in applicable positions, a Maritime Coverage Endorsement must be added to the Workers' Compensation policy, unless coverage for captain and crew is provided in a Protection and Indemnity policy.

If Concessioner operations are conducted in proximity to navigable waters and employ persons in applicable positions, United States Longshore and Harbor Workers' Compensation Act coverage must be endorsed onto the Workers' Compensation policy.

SEC. 3. INSURANCE COMPANY MINIMUM STANDARDS

All insurance companies providing the above described insurance coverages must meet the minimum standards set forth below:

- (1) All insurers for all coverages must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.
- (2) All insurers for all coverages must have a Best's Financial Size Category of at least VII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.

SEC. 4. THIRD PARTY INSURANCE

Concessioners entering into contracts with third parties for various services or activities that the Concessioner is not capable of providing or conducting, must ensure that each third party retained for such work maintain an insurance program that adequately covers the activity and comply with all the requirements applicable to that party's own insurance.

SEC. 5. CERTIFICATES OF INSURANCE

All certificates of insurance required by this Contract shall be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number ("AMB#"). The name, address, and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the Concessioner, upon written request of the Director, shall provide the Director with a complete copy of any of the insurance policies (and all endorsements thereto) required herein to be maintained by the Contract including this Exhibit.

The certificate of insurance shall contain a notation by the Concessioner's insurance representative that the insurance coverage represented therein complies with the provisions of the Contract, including this Exhibit.

SEC. 6. STATUTORY LIMITS

In the event that a statutorily required limit exceeds a limit required herein, the Concessioner must maintain the higher statutorily required limit, which shall be considered as the minimum to be maintained. In the event that the statutorily required limit is less than the limits required herein, the limits required herein apply.