

unit under concession contracts. The funds credited to the subaccount for a System unit shall be available for expenditure by the Secretary, without further appropriation, for use at the System unit for visitor services and for purposes of funding high-priority and urgently necessary resource management programs and operations. The funds credited to a subaccount shall remain available until expended.

(3) REDUCTION.—The Secretary may reduce the percentage allocation otherwise applicable under paragraph (2) to a unit or area of the National Park Service for a fiscal year if the Secretary determines that the revenues collected at the unit or area exceed the reasonable needs of the unit or area for which expenditures may be made for that fiscal year. In no event may a percentage allocation be reduced below 60 percent.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3146; Pub. L. 118–42, div. E, title I, §121, Mar. 9, 2024, 138 Stat. 249.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 101917 | 16 U.S.C. 5956. | Pub. L. 105–391, title IV, §407, Nov. 13, 1998, 112 Stat. 3511. |

Editorial Notes

AMENDMENTS

2024—Subsec. (c)(3). Pub. L. 118–42 added par. (3).

§ 101918. Transfer or conveyance of concession contracts or leasehold surrender interests

(a) APPROVAL OF SECRETARY.—No concession contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval by, the Secretary.

(b) CONDITIONS.—The Secretary shall approve a transfer or conveyance described in subsection (a) unless the Secretary finds that—

(1) the individual, corporation, or other entity seeking to acquire a concession contract is not qualified or able to satisfy the terms and conditions of the concession contract;

(2) the transfer or conveyance would have an adverse impact on—

(A) the protection, conservation, or preservation of the resources of the System unit; or

(B) the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges; and

(3) the terms of the transfer or conveyance are likely, directly or indirectly, to—

(A) reduce the concessioner’s opportunity for a reasonable profit over the remaining term of the concession contract;

(B) adversely affect the quality of facilities and services provided by the concessioner; or

(C) result in a need for increased rates and charges to the public to maintain the quality of the facilities and services.

(c) MODIFICATION OR RENEGOTIATION OF TERMS.—The terms and conditions of any con-

cession contract under this section shall not be subject to modification or open to renegotiation by the Secretary because of a transfer or conveyance described in subsection (a) unless the transfer or conveyance would have an adverse impact as described in subsection (b)(2).

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3147.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 101918 | 16 U.S.C. 5957. | Pub. L. 105–391, title IV, §408, Nov. 13, 1998, 112 Stat. 3512. |

In subsection (b)(1), the word “other” is added for consistency in the subchapter. See section 101926 of the revised title.

§ 101919. National Park Service Concessions Management Advisory Board

(a) ESTABLISHMENT AND PURPOSE.—There is a National Park Service Concessions Management Advisory Board whose purpose shall be to advise the Secretary and Service on matters relating to management of concessions in the System.

(b) DUTIES.—

(1) ADVICE.—The Advisory Board shall advise on each of the following:

(A) Policies and procedures intended to ensure that services and facilities provided by concessioners—

- (i) are necessary and appropriate;
- (ii) meet acceptable standards at reasonable rates with a minimum of impact on System unit resources and values; and
- (iii) provide the concessioners with a reasonable opportunity to make a profit.

(B) Ways to make Service concession programs and procedures more cost effective, more process efficient, less burdensome, and timelier.

(2) RECOMMENDATIONS.—The Advisory Board shall make recommendations to the Secretary regarding each of the following:

(A) The Service contracting with the private sector to conduct appropriate elements of concession management.

(B) Ways to make the review or approval of concessioner rates and charges to the public more efficient, less burdensome, and timelier.

(C) The nature and scope of products that qualify as Indian, Alaska Native, and Native Hawaiian handicrafts within the meaning of this subchapter.

(D) The allocation of concession fees.

(3) ANNUAL REPORT.—The Advisory Board shall provide an annual report on its activities to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) ADVISORY BOARD MEMBERSHIP.—Members of the Advisory Board shall be appointed on a staggered basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Advisory Board shall be comprised of not more than 7 individuals appointed

from among citizens of the United States not in the employment of the Federal Government and not in the employment of or having an interest in a Service concession. Of the 7 members of the Advisory Board—

(1) one member shall be privately employed in the hospitality industry and have both broad knowledge of hotel or food service management and experience in the parks and recreation concession business;

(2) one member shall be privately employed in the tourism industry;

(3) one member shall be privately employed in the accounting industry;

(4) one member shall be privately employed in the outfitting and guide industry;

(5) one member shall be a State government employee with expertise in park concession management;

(6) one member shall be active in promotion of traditional arts and crafts; and

(7) one member shall be active in a nonprofit conservation organization involved in parks and recreation programs.

(d) **SERVICE ON ADVISORY BOARD.**—Service of an individual as a member of the Advisory Board shall not be deemed to be service or employment bringing the individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Advisory Board shall not be deemed service in an appointive or elective position in the Federal Government for purposes of section 8344 of title 5 or other comparable provisions of Federal law.

(e) **TERMINATION.**—The Advisory Board shall continue to exist until December 31, 2009. In all other respects, it shall be subject to chapter 10 of title 5.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3147; Pub. L. 117–286, § 4(a)(329), Dec. 27, 2022, 136 Stat. 4342.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--------------------------------|--|
| 101919(a) through (c). | 16 U.S.C. 5958(a) through (c). | Pub. L. 105–391, title IV, § 409, Nov. 13, 1998, 112 Stat. 3512; Pub. L. 111–11, subtitle VII, subtitle E, § 7403, 123 Stat. 1219. |
| 101919(d) | 16 U.S.C. 5958(e). | |
| 101919(e) | 16 U.S.C. 5958(d). | |

In subsection (b)(2), the text of 16 U.S.C. 5958(b)(2) (last sentence) is omitted as obsolete.

In subsection (b)(3), the words “commencing with the first anniversary of its initial meeting” are omitted as obsolete.

In subsection (d), the word “deemed” is substituted for “considered as” for consistency in this title and with other titles of the United States Code.

Editorial Notes

AMENDMENTS

2022—Subsec. (e). Pub. L. 117–286 substituted “chapter 10 of title 5.” for “the Federal Advisory Committee Act (5 U.S.C. App.).”

§ 101920. Contracting for services

(a) **CONTRACTING AUTHORIZED.**—

(1) **MANAGEMENT ELEMENTS FOR WHICH CONTRACT REQUIRED TO MAXIMUM EXTENT PRACTICABLE.**—To the maximum extent practicable, the Secretary shall contract with private entities to conduct or assist in elements of the management of the Service concession program considered by the Secretary to be suitable for non-Federal performance. Those management elements shall include each of the following:

(A) Health and safety inspections.

(B) Quality control of concession operations and facilities.

(C) Strategic capital planning for concession facilities.

(D) Analysis of rates and charges to the public.

(2) **MANAGEMENT ELEMENTS FOR WHICH CONTRACT ALLOWED.**—The Secretary may also contract with private entities to assist the Secretary with each of the following:

(A) Preparation of the financial aspects of prospectuses for Service concession contracts.

(B) Development of guidelines for a System capital improvement and maintenance program for all concession occupied facilities.

(C) Making recommendations to the Director regarding the conduct of annual audits of concession fee expenditures.

(b) **OTHER MANAGEMENT ELEMENTS.**—The Secretary shall consider, taking into account the recommendations of the Advisory Board, contracting out other elements of the concessions management program, as appropriate.

(c) **AUTHORITY OF SECRETARY NOT DIMINISHED.**—Nothing in this section shall diminish the governmental responsibilities and authority of the Secretary to administer concession contracts and activities pursuant to this subchapter and section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of this title. The Secretary reserves the right to make the final decision or contract approval on contracting services dealing with the management of the Service concessions program under this section.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3149.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--|
| 101920 | 16 U.S.C. 5959. | Pub. L. 105–391, title IV, § 410, Nov. 13, 1998, 112 Stat. 3514. |

§ 101921. Multiple contracts within a System unit

If multiple concession contracts are awarded to authorize concessioners to provide the same or similar outfitting, guiding, river running, or other similar services at the same approximate location or resource within a System unit, the Secretary shall establish a comparable franchise fee structure for those contracts or similar contracts, except that the terms and conditions of any existing concession contract shall not be