

subject to modification or open to renegotiation by the Secretary because of an award of a new contract at the same approximate location or resource.

(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>
101921	16 U.S.C. 5960.	Pub. L. 105–391, title IV, § 411, Nov. 13, 1998, 112 Stat. 3514.

§ 101922. Use of nonmonetary consideration in concession contracts

Section 1302 of title 40 shall not apply to concession contracts awarded by the Secretary pursuant to this subchapter.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3150.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101922	16 U.S.C. 5962.	Pub. L. 105–391, title IV, § 413, Nov. 13, 1998, 112 Stat. 3515.

The words relating to the leasing of buildings and properties of the United States” are omitted as unnecessary.

§ 101923. Recordkeeping requirements

(a) IN GENERAL.—A concessioner and any subconcessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of a concession contract have been and are being faithfully performed. The Secretary and any authorized representative of the Secretary shall, for the purpose of audit and examination, have access to those records and to other records of the concessioner or subconcessioner pertinent to the concession contract and all terms and conditions of the concession contract.

(b) ACCESS TO RECORDS BY COMPTROLLER GENERAL.—The Comptroller General and any authorized representative of the Comptroller General shall, until the expiration of 5 calendar years after the close of the business year of each concessioner or subconcessioner, have access to and the right to examine any pertinent records described in subsection (a) of the concessioner or subconcessioner related to the contract involved.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3150.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101923	16 U.S.C. 5963.	Pub. L. 105–391, title IV, § 414, Nov. 13, 1998, 112 Stat. 3515.

In this section, the word “duly” is omitted as unnecessary.

In subsection (a), the words “and any subconcessioner” and “or subconcessioner” are added for clarity. See 36 CFR 51.98. The word “records” is substituted for “books, documents, and papers” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words “books, papers, documents” are omitted as included in “records”. The words “described in subsection (a)” are added for clarity.

§ 101924. Promotion of sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts

(a) IN GENERAL.—Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of System units is encouraged, and the Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where the trade does not exist.

(b) EXEMPTION FROM FRANCHISE FEE.—In furtherance of the purposes of subsection (a), the revenue derived from the sale of United States Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts shall be exempt from any franchise fee payments under this subchapter.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3150.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101924	16 U.S.C. 5964.	Pub. L. 105–391, title IV, § 416, Nov. 13, 1998, 112 Stat. 3516.

§ 101925. Commercial use authorizations

(a) IN GENERAL.—To the extent specified in this section, the Secretary, on request, may authorize a private person, corporation, or other entity to provide services to visitors to System units through a commercial use authorization. A commercial use authorization shall not be considered to be a concession contract under this subchapter and no other section of this subchapter shall be applicable to a commercial use authorization except where expressly stated.

(b) CRITERIA FOR ISSUANCE OF COMMERCIAL USE AUTHORIZATIONS.—

(1) REQUIRED DETERMINATIONS.—The authority of this section may be used only to authorize provision of services that the Secretary determines—

(A) will have minimal impact on resources and values of a System unit; and

(B) are consistent with the purpose for which the System unit was established and with all applicable management plans and Service policies and regulations.

(2) ELEMENTS OF COMMERCIAL USE AUTHORIZATION.—The Secretary shall—

(A) require payment of a reasonable fee for issuance of a commercial use authorization, the fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs;

(B) require that the provision of services under a commercial use authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of System unit resources and values;

(C) take appropriate steps to limit the liability of the United States arising from the provision of services under a commercial use authorization;

(D) have no authority under this section to issue more commercial use authorizations than are consistent with the preservation and proper management of System unit resources and values; and

(E) shall establish other conditions for issuance of a commercial use authorization that the Secretary determines to be appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of System unit resources and values.

(c) **LIMITATIONS.**—Any commercial use authorization shall be limited to—

(1) commercial operations with annual gross receipts of not more than \$25,000 resulting from services originating and provided solely within a System unit pursuant to the commercial use authorization;

(2) the incidental use of resources of the System unit by commercial operations that provide services originating and terminating outside the boundaries of the System unit; or

(3)(A) uses by organized children's camps, outdoor clubs, and nonprofit institutions (including back country use); and

(B) other uses, as the Secretary determines to be appropriate.

(d) **NONPROFIT INSTITUTIONS.**—Nonprofit institutions are not required to obtain commercial use authorizations unless taxable income is derived by the institution from the authorized use.

(e) **PROHIBITION ON CONSTRUCTION.**—A commercial use authorization shall not provide for the construction of any structure, fixture, or improvement on federally-owned land within the boundaries of a System unit.

(f) **DURATION.**—The term of any commercial use authorization shall not exceed 2 years. No preferential right of renewal or similar provisions for renewal shall be granted by the Secretary.

(g) **OTHER CONTRACTS.**—A person, corporation, or other entity seeking or obtaining a commercial use authorization shall not be precluded from submitting a proposal for concession contracts.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3150.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101925	16 U.S.C. 5966.	Pub. L. 105–391, title IV, § 418, Nov. 13, 1998, 112 Stat. 3516.

§ 101926. Regulations

(a) **IN GENERAL.**—The Secretary shall prescribe regulations appropriate for the implementation of this subchapter.

(b) **CONTENTS.**—The regulations—

(1) shall include appropriate provisions to ensure that concession services and facilities to be provided in a System unit are not segmented or otherwise split into separate con-

cession contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concession contract below \$500,000; and

(2) shall further define the term “United States Indian, Alaskan Native, and Native Hawaiian handicrafts” for the purposes of this subchapter.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3151.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101926	16 U.S.C. 5965.	Pub. L. 105–391, title IV, § 417, Nov. 13, 1998, 112 Stat. 3516.

The words “As soon as practicable after the effective date of this subchapter” are omitted as obsolete.

SUBCHAPTER III—COMMERCIAL SERVICES AUTHORIZATION

Sec.¹

101931.	Contract authority.
101932.	Award of commercial services contracts.
101933.	Term of commercial services contracts.
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Editorial Notes

CODIFICATION

The table of sections for subchapter III is set out preceding section 101931 as enacted by Pub. L. 114–289, and not as part of the chapter analysis preceding section 101901.

§ 101931. Contract authority

(a) **GENERAL AUTHORITY.**—Notwithstanding subchapter II, the Secretary may award and administer commercial services contracts (and related professional services contracts) for the operation and expansion of commercial visitor facilities and visitor services programs in System units. The commercial services contracts that may be awarded shall be limited to those that are necessary and appropriate for public use and enjoyment of the unit of the System in which they are located, and, that are consistent with the preservation and conservation of the resources and values of the unit.

(b) **ADDITIONAL AUTHORITY.**—Contracts may be awarded under subsection (a) without regard to Federal laws and regulations governing procurement by Federal agencies, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), sections 3141–3144, 3146, and 3147 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), and any civil rights provisions otherwise applicable thereto.

(c) **USE OF COMMERCIAL SERVICES CONTRACTS.**—

(1) **IN GENERAL.**—The Secretary may issue a commercial services contract under this subchapter when the Secretary determines that the contract meets the objectives of expand-

¹ Editorially supplied.