

(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.
101934.	Capital improvements.
101935.	Financial management.
101936.	Regulations.
101937.	Savings provision.
101938.	Sunset.

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.

ing, modernizing, and improving the condition of commercial visitor facilities and the services provided to visitors.

(2) EXCEPTIONS.—No contracts may be awarded under this subchapter—

(A) for the provision of outfitter and guide services described in section 101913(8); or

(B) to authorize the provision of facilities or services for which the Secretary has granted to an existing concessioner a preferential right of renewal as defined in sections 101911 and 101913.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1492.)

Editorial Notes

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsec. (b), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

§ 101932. Award of commercial services contracts

(a) COMPETITIVE SELECTION PROCESS.—Except as provided in subsection (c), commercial services contracts shall be awarded by the Secretary through a competitive selection process.

(b) SOLICITATION OF PROPOSALS.—Before awarding a new commercial services contract, the Secretary shall publicly solicit proposals for the contract, except as provided in subsection (c). In connection with such solicitation, the Secretary shall prepare a request for proposals and shall publish notice of its availability.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1493.)

§ 101933. Term of commercial services contracts

A commercial services contract entered into pursuant to this title shall be awarded for a term not to exceed 10 years.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1493.)

§ 101934. Capital improvements

A person or entity awarded a contract under this subchapter shall receive no leasehold surrender interest, as defined in section 101915, in capital improvements constructed under the terms of the contract.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1493.)

§ 101935. Financial management

(a) REVOLVING FUND.—There is established a revolving fund that shall be available to the Secretary without fiscal year limitation for—

(1) expenses necessary for the management, improvement, enhancement, operation, construction, and maintenance of commercial visitor services and facilities; and

(2) payment of possessory interest and leasehold surrender interest.

(b) COLLECTION OF FUNDS.—

(1) Funds collected by the Secretary pursuant to the contracts awarded under this sub-

chapter shall be credited to the revolving fund.

(2) The Secretary is authorized to transfer to the revolving fund, without reimbursement, any additional funds or revenue in connection with the functions to be carried out under this subchapter.

(c) USE OF FUNDS.—Amounts in the revolving fund shall be used by the Secretary in furtherance of the purposes of this title. No funds from this account may be used to decrease the availability of services and programs to the public.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1493.)

§ 101936. Regulations

As soon as practicable after the effective date of this subchapter, the Secretary shall promulgate regulations appropriate for its implementation.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1493.)

Editorial Notes

REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of Pub. L. 114-289, which enacted this subchapter and was approved Dec. 16, 2016.

§ 101937. Savings provision

Nothing in this subchapter shall modify the terms or conditions of any concessions contracts awarded under subchapter II or the ability of the National Park Service to enter into concessions contracts under the National Park Service Concessions Management Improvement Act of 1998 (title IV of Public Law 105-391) including the use of leaseholder surrender interest.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1493.)

Editorial Notes

REFERENCES IN TEXT

The National Park Service Concessions Management Improvement Act of 1998, referred to in text, is title IV of Pub. L. 105-391, Nov. 13, 1998, 112 Stat. 3503. For complete classification of this Act to the Code, see Short Title of 1998 Act note set out under section 100101 of this title and Tables.

§ 101938. Sunset

The authority given to the Secretary under this subchapter shall expire 9 years after the date of the enactment of this subchapter.

(Added Pub. L. 114-289, title VII, §701, Dec. 16, 2016, 130 Stat. 1494; amended Pub. L. 117-328, div. G, title I, §123, Dec. 29, 2022, 136 Stat. 4789.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in text, is the date of enactment of Pub. L. 114-289, which was approved Dec. 16, 2016.

AMENDMENTS

2022—Pub. L. 117-328 substituted “9” for “7”.