

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”.

**CHAPTER 1021—PRIVILEGES AND LEASES**

Sec.

- 102101. General provisions.
- 102102. Authority of Secretary to enter into lease for buildings and associated property.

**§ 102101. General provisions**

(a) LIMITATION.—

(1) NO LEASE OR GRANT OF A PRIVILEGE THAT INTERFERES WITH FREE ACCESS.—No natural curiosity, wonder, or object of interest shall be leased or granted to anyone on such terms as to interfere with free access by the public to any System unit.

(2) EXCEPTION FOR GRAZING LIVESTOCK.—The Secretary, under such regulations and on such terms as the Secretary may prescribe, may grant the privilege to graze livestock within a System unit when, in the Secretary’s judgment, the use is not detrimental to the primary purpose for which the System unit was created. This paragraph does not apply to Yellowstone National Park.

(b) ADVERTISING AND COMPETITIVE BIDS NOT REQUIRED.—The Secretary may grant privileges and enter into leases described in subsection (a), and enter into related contracts with responsible persons, firms, or corporations, without advertising and without securing competitive bids.

(c) ASSIGNMENT OR TRANSFER.—No contract, lease, or privilege described in subsection (a) or (b) that is entered into or granted shall be assigned or transferred by the grantee, lessee, or licensee without the prior written approval of the Secretary.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102101 .....	16 U.S.C. 3 (last sentence).	Aug. 25, 1916, ch. 408, §3 (last sentence), 39 Stat. 535; Mar. 7, 1928, ch. 137, §1 (matter relating to section 3 of the Act of August 25, 1916, in 12th undesignated par. under heading “NATIONAL PARK SERVICE”), 45 Stat. 235; Pub. L. 85–434, May 29, 1958, 72 Stat. 152; Pub. L. 105–391, title IV, §415(b)(1), Nov. 13, 1998, 112 Stat. 3515.

In subsection (a)(1), the word “rented” is omitted as included in “leases”.

In subsections (b) and (c), the word “permit” is omitted for consistency because a permit is not mentioned earlier in the source provision.

In subsection (c), the word “lessee” is substituted for “permittees” for consistency in the section.

**§ 102102. Authority of Secretary to enter into lease for buildings and associated property**

(a) IN GENERAL.—To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary may consider advisable, and except as provided in subsection (b) and subject to subsection (c), may enter into a lease with any person or government entity for the use of buildings and associated property administered by the Secretary as part of the System.

(b) PROHIBITED ACTIVITIES.—The Secretary may not use a lease under subsection (a) to authorize the lessee to engage in activities that are subject to authorization by the Secretary through a concession contract, commercial use authorization, or similar instrument.

(c) USE.—Buildings and associated property leased under subsection (a)—

(1) shall be used for an activity that is consistent with the purposes established by law for the System unit in which the building is located;

(2) shall not result in degradation of the purposes and values of the System unit; and

(3) shall be compatible with Service programs.

(d) RENTAL AMOUNTS.—

(1) IN GENERAL.—With respect to a lease under subsection (a)—

(A) payment of fair market value rental shall be required; and

(B) section 1302 of title 40 shall not apply.

(2) ADJUSTMENT.—The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

(e) SPECIAL ACCOUNT.—

(1) DEPOSITS.—Rental payments under a lease under subsection (a) shall be deposited in a special account in the Treasury.

(2) AVAILABILITY.—Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at System units, including—

(A) facility refurbishment;

(B) repair and replacement;

(C) infrastructure projects associated with System unit resource protection; and

(D) direct maintenance of the leased buildings and associated property.

(3) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this section and sections 100101(b), 100502, 100507, 100751(b), 100754, 100901(b) and (c), 100906(a) and (d), 101302(b)(1) and (c) to (e), 101306, 101702(b) and (c), 101901, 102701, and 102702 of this title.

(f) REGULATIONS.—The Secretary shall prescribe regulations implementing this section that include provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102102(a) .....	16 U.S.C. 1a–2 (matter before (a)). 16 U.S.C. 1a–2(k)(1).	Pub. L. 91–383, §3 (matter before (a)), Aug. 18, 1970, 84 Stat. 826. Pub. L. 91–383, §3(k), as added Pub. L. 105–391, title VIII, §802(a), Nov. 13, 1998, 112 Stat. 3522.
102102(b) through (d).	16 U.S.C. 1a–2(k)(2) through (4)(B).	
102102(e) .....	16 U.S.C. 1a–2(k)(5).	