

terms of an existing concessions contract to provide new and additional services where the Secretary determines the services are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located and are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the unit. Such new and additional services shall not represent a material change to the required and authorized services as set forth in the applicable prospectus or contract.

(10) **AUTHORITY OF SECRETARY NOT LIMITED.**—Nothing in this subchapter shall be construed as limiting the authority of the Secretary to determine whether to issue a concession contract or to establish its terms and conditions in furtherance of the policies expressed in this subchapter.

(11) **EXCEPTIONS.**—Notwithstanding this section, the Secretary may award, without public solicitation, the following:

(A) **TEMPORARY CONTRACT.**—To avoid interruption of services to the public at a System unit, the Secretary may award a temporary concession contract or an extension of an existing concessions contract for a term not to exceed 3 years, except that prior to making the award, the Secretary shall take all reasonable and appropriate steps to consider alternatives to avoid the interruption.

(B) **CONTRACT IN EXTRAORDINARY CIRCUMSTANCES.**—The Secretary may award a concession contract in extraordinary circumstances where compelling and equitable considerations require the award of a concession contract to a particular party in the public interest. Award of a concession contract under this subparagraph shall not be made by the Secretary until at least 30 days after—

(i) publication in the Federal Register of notice of the Secretary’s intention to award the contract and the reasons for the action; and

(ii) submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3138; Pub. L. 114–289, title V, §502, Dec. 16, 2016, 130 Stat. 1490.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101913	16 U.S.C. 5952 (less (7)(C)).	Pub. L. 105–391, title IV, §403 (less (7)(C)), Nov. 13, 1998, 112 Stat. 3504.

In paragraph (1), the words “entities seeking award of a concession contract” are substituted for “concessions contracts” for clarity.

In paragraph (2)(B)(i), the words “by electronic means” are substituted for “the Commerce Business Daily” to eliminate obsolete words. Federal Business Opportunities is the designated single point of universal electronic public access for publication of all procurement information and notices previously published in the Commerce Business Daily. See 66 Fed.

Reg. 27407, May 16, 2001, 68 Fed. Reg. 56678, October 1, 2003, 48 CFR ch. 1, subch. B, part 5, and the special notice posted in CBDNet on December 28, 2001, and printed on January 2, 2002.

In paragraph (5)(C), the words “concession contract” are substituted for “concession, contracts” to correct an error in the source provision.

In paragraph (8)(B)(ii)(III), the word “concession” is added for consistency in this subchapter.

Editorial Notes

AMENDMENTS

2016—Par. (9). Pub. L. 114–289 amended par. (9) generally. Prior to amendment, text read as follows: “The Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a System unit.”

§ 101914. Term of concession contracts

A concession contract entered into pursuant to this subchapter shall generally be awarded for a term of 10 years or less. The Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3142.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101914	16 U.S.C. 5953.	Pub. L. 105–391, title IV, §404, Nov. 13, 1998, 112 Stat. 3508; Pub. L. 106–176, title III, §311, Mar. 10, 2000, 114 Stat. 34.

§ 101915. Protection of concessioner investment

(a) **DEFINITIONS.**—In this section:

(1) **CAPITAL IMPROVEMENT.**—The term “capital improvement” means a structure, a fixture, or nonremovable equipment provided by a concessioner pursuant to the terms of a concession contract and located on land of the United States within a System unit.

(2) **CONSUMER PRICE INDEX.**—The term “Consumer Price Index” means—

(A) the “Consumer Price Index—All Urban Consumers” published by the Bureau of Labor Statistics of the Department of Labor; or

(B) if the Index is not published, another regularly published cost-of-living index approximating the Consumer Price Index.

(b) **LEASEHOLD SURRENDER INTEREST IN CAPITAL IMPROVEMENTS.**—A concessioner that constructs a capital improvement on land owned by the United States within a System unit pursuant to a concession contract shall have a leasehold surrender interest in the capital improvement subject to the following terms and conditions:

(1) **IN GENERAL.**—A concessioner shall have a leasehold surrender interest in each capital improvement constructed by a concessioner under a concession contract, consisting solely of a right to compensation for the capital improvement to the extent of the value of the concessioner’s leasehold surrender interest in the capital improvement.