National Park Service
U.S. Department of the Interior

George Washington
Memorial Parkway

C/O Turkey Run Park
McLean, VA 22101
703-289-2500 phone
703-289-2598 fax

Commercial Use Authorization (CUA) Conditions

Section 418 of the National Parks Omnibus Management Act of 1998, Public Law 105-391 (Section 418), authorizes the National Park Service (NPS), to issue commercial use authorizations (CUAs) to persons (referring to individuals, corporations and other entities) to provide commercial services to park area visitors in limited circumstances.

General Conditions

Reference in this authorization to "Superintendent" shall mean the service official executing this permit, and the term shall include his/her duly authorized representatives, and reference to "Service" herein shall mean the National Park Service.

No member of, or delegate to, Congress shall be admitted to any share or part of this authorization, or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this permit if made with a corporation or company for its general benefit.

Prior to approval of authorization, the prospective CUA holder shall submit an annual report, which summarizes total in-park visitor use and includes gross revenues for the year. For the purpose of this permit, gross revenues are defined as:

> The total amount received, realized by, or accruing to the business operator for all sales of goods and services provided by the business operator for payment by cash, barter, or credit pursuant to the privileges granted by the CUA. This includes income from subsidiary or other operations located outside of lands administered by the National Park Service to the extent that they support operations authorized by the permit.
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> Gross receipts generated from subsidiary or other operations located outside of the park that do not participate in the provision of the service will not be included in the calculation of revenues generated under this permit.

It is expressly agreed and understood that this authorization does not authorize the CUA holder to advertise, solicit business, collect any fees, or sell any goods or services on lands owned and controlled by the United States. The Service will not approve the rates of the CUA holder.

The CUA holder will have none of the rights or privileges of Public Law 105-391, and will not be considered a concessioner to the National Park Service. The CUA holder and all participants authorized herein must comply with all of the conditions of the authorization including all exhibits or amendments or written direction of the Superintendent. The CUA holder is prohibited from giving false information; to do so will be considered a breach of conditions and be grounds for revocation. [Re: 36 CFR 2.32(4)]

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Nonexclusive Authorization

This authorization shall not be construed as limiting the obligation of the Superintendent to issue similar authorizations at the request of all other persons seeking to conduct the same or similar activities in the area. This authorization carries no special privileges in reserving the use of any park area, use is determined on a first-come, first-served basis.

The CUA holder and all participants authorized herein must comply with all of the conditions of the authorization and with all directions of the Superintendent. The CUA holder must have obtained all permits or licenses of state or local government, as applicable, necessary to conduct the commercial activities specified within the CUA and must operate in compliance with all pertinent federal, state, and local laws and regulations.

This authorization is applicable only for the use of the area and terms designated in the CUA.
The area authorized for use under this CUA must be left in substantially the same condition as it was prior to the activities authorized herein, and all refuse shall be placed in the trash containers provided or disposed of as otherwise directed by the Superintendent or park staff. The CUA holder shall be liable for any damages to property of the United States resulting from the activities authorized hereunder.

Fees

A CUA requires the advance payment by the CUA holder, of an application fee of $100.00, and an administration fee of $100.00, for a total of $200.00, notwithstanding the length of the permit.

Indemnification

The CUA holder shall save, hold harmless, defend, and indemnify the United States of America, its agents, and employees for losses, damages, or claims for personal injury, death, or property damage, of any nature whatsoever and by whomever made, arising out of the activities of the CUA holder, its employees, or agents under the authorization.

Insurance

The CUA holder shall provide Comprehensive General Liability (CGL) insurance against claims occasioned by actions or omissions of the permittee in carrying out the activities and operations authorized hereunder. Such insurance shall be in the amount commensurate with the degree of risk and the scope and size of such activities authorized herein, but in any event, the limits of liability shall not be less than $1,000,000.00 per occurrence covering both bodily injury and property damage and $2,000,000.00 aggregate. If claims reduce available insurance below the required per occurrence limits, the CUA holder shall obtain additional insurance to restore the required limits. An umbrella or excess liability policy, in addition to a comprehensive general liability policy, may be used to achieve the required limits. All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America and / or shall provide that the United States of America is named an additional insured.

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The CUA holder shall also obtain the following coverage, if applicable at the same limits as required for Comprehensive General Liability insurance unless other limits are specified.

1) Watercraft liability, Protection and Indemnity if watercraft is used for the execution of the authorization
2) Automobile liability is required to cover all owned, non-owned, and hired vehicles operated inside the park by the CUA holder. The following are the minimum insurance requirements.
   - Vehicles - 1-6 passengers - $500,000.00 per occurrence (bodily injury or property damage) or combined single limit of $1,000,000.00 per occurrence
   - Vehicles – 7-15 passengers - $1,500,000.00
   - Vehicles – over 16 passengers - $5,000,000.00
3) Workers' compensation is required if the CUA holder employs any persons to support this authorization

The CUA holder agrees to comply with any revised insurance limits the Superintendent may require during the term of this permit. The CUA holder shall provide the Superintendent with a Statement of Insurance and Certificate of Insurance in order to receive a Commercial Use Authorization, and shall provide the Superintendent thirty (30) days advance written notice of any material change in the CUA holder's insurance program.

The Superintendent will not be responsible for any omissions or inadequacies of insurance coverage and amounts if such prove to be inadequate or otherwise insufficient for any reason whatsoever.

Construction

No buildings, fixtures or other structures shall be erected within the George Washington Memorial Parkway, or at any park sites for the use of this CUA.

Assignment

This Commercial Use Authorization may not be transferred, extended, or assigned under any circumstances.

Revocation

It is expressly understood and agreed that this authorization may be revoked at any time at the discretion of the Superintendent without compensation to the CUA holder or liability to the United States.

No Right of Renewal

No right of renewal attaches hereto.

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Nondiscrimination

EMPLOYMENT: If use of the resource covered by this authorization will involve the employment of a person or persons by the CUA holder, the CUA holder agrees as follows:

1. The CUA holder will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disabling condition. The CUA holder will take affirmative action to ensure that applicants are employed and treated during employment without regard to their race, color, religion, sex, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CUA holder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The CUA holder will, in all solicitations or advertisements for employees placed by or on behalf of the CUA holder state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.

3. The CUA holder will send to each labor union or representative of workers with which the CUA holder has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Secretary, advising the labor union or workers' representative of the CUA holder's commitments under Section 202 or Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The CUA holder will comply with all provisions of Executive Order No: 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The CUA holder will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the CUA holder's books, records, and accounts by the Superintendent and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the CUA holder's noncompliance with the nondiscrimination clauses of the authorization or with any of such rules, regulations, or orders, the authorization may be canceled, terminated, or suspended in whole or in part, and the CUA holder may be declared ineligible for further CUAs in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The CUA holder will include the provisions of paragraphs (1) through (6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The CUA holder will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the CUA holder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a

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result of such direction by the Superintendent, the CUA holder may request the United States to enter into such litigation to protect the interests of the United States.

Accessibility

Title V, Section 504 of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law and calls for consultation with disabled persons in determining what is reasonable and feasible.