

Liability Insurance Issues

The President of America Outdoors is scheduled to speak about industry concerns regarding the liability insurance minimums required in backcountry guide service contracts. This issue originally came up in 2011 in regard to rafting contracts at Grand Teton. The issue was reinforced when the Dinosaur National Monument prospectus for rafting services was released in July 2013.

Recap of NPS Process

To ensure appropriate determination of insurance limits, the NPS conducts a detailed analysis of the operations and risks and associated insurance requirements for each new concession contract using an independent, professional insurance consultant. For rafting operations the insurance consultant evaluates risk factors including the class rating of the river, the guide-to-client ratio, and the number of visitors per boat. The established liability insurance minimums, therefore, will vary by contract. For example, at Grand Teton National Park, where the class of river is up to Class III, the minimums are lower than those potentially established at Dinosaur National Monument, where the river class may be up to Class IV.

Dinosaur Contract

- Based on the class of river and the other factors, the general liability minimums for the Dinosaur National Monument rafting services were established at \$4 million per occurrence and \$5 million aggregate. Concerns were raised about these minimum coverage requirements as well as other insurance requirements including automobile liability coverage, longshoreman's and harborworker's endorsements, and the ratings of insurance carriers. There also was confusion about certain coverages listed in the insurance exhibit but required only if applicable. NPS cancelled the Dinosaur National Monument rafting services solicitation. The NPS will reissue the prospectus at a later date.

Actions Being Taken

To address Dinosaur-specific and ongoing insurance concerns, the following actions are being taken:

- The NPS has tasked its insurance consultant with reviewing the requirements contained in the Dinosaur National Monument prospectus. Several requirements, such as the longshoreman's and harborworker's endorsements, have been determined to be unnecessary for this contract and will be removed. Alternative automobile liability insurance requirements have also been identified.
- NPS is reviewing the language of the standard Insurance Exhibit to identify potential points of confusion and to clarify which insurance requirements apply to a particular contract (e.g., total pollution, underground property, others).
- The NPS is conducting additional market analysis to verify availability and costs of the specified insurance, which we will accomplish through additional insurance expert consultation including brokerage exercises.
- The NPS continues to assess the types and availability of insurance and level of insurance minimums for guide and outfitter services. This includes contracting with a second insurance expert to review minimums recommended for rafting services. The NPS also is conducting additional research regarding concerns raised by your organization and others such as aggregate coverage per location, rating of insurers, claims of a professional nature,

Liability Insurance Issues (cont.)

medical payment coverage, and applicability of longshoreman's and harborworker's endorsements.

- The NPS is engaging other Federal agencies to obtain information that may be applicable to its own contracting processes.
- The NPS will request that the CMAB authorize a subgroup on insurance in which the NPS can gather additional data from the insurance and concessioner community to help more fully inform its insurance process.

Insurance Compliance System

Validation that concessioners have the insurance that is specified in their contracts is part of the annual oversight process required of park concession specialists. However, obtaining and understanding the paperwork necessary to make these assessments is complicated. In addition, sometimes concessioners are not aware of whether they have all the correct requirements. A compliance review conducted for a selected set of concession contracts was conducted in 2011 using the NPS insurance consultant. The results indicated that a large percentage of deficiencies existed in both documentation and actual coverages. Additional issues were found as insurance coverages were investigated following Super Storm Sandy.

Beginning in 2011 NPS contracted with its insurance consultant to develop an insurance compliance oversight process. Through this process, insurance requirements in contracts are centrally catalogued. An insurance professional annually obtains and reviews the insurance certificates and other documentation if required, to assess the concessioner's insurance coverage against contract requirements. A compliance report is generated that can then be used by the park staff as validation of contract compliance or to ensure the proper insure is obtained by the concessioner.

Final piloting of 65 concession contracts was completed in 2013 and the program will be rolled out Servicewide in 2014.

Recognition and Incentives - Concession Management Advisory Board Subgroup Progress

The Recognition and Incentives subgroup was formed in the summer of 2013. It is chaired by Dr. James Eyster. The NPS Commercial Services Coordinator is Kurt Rausch. Fourteen concession companies are represented on the Subgroup. The primary objectives for the Subgroup are:

- Defining what criteria are might be appropriate to identifying exceptional performance;
- Determining ways to evaluate this performance;
- Outlining ways NPS might recognize this performance; and
- Identifying incentives and benefits/awards.

NPS Commercial Services hosted three 2-hour teleconference meetings of the Subgroup. The first meeting was held at the end of July 2013 and involved an open round-table discussion on ideas and strategies. At the Subgroup's request, a matrix of opportunities with pros and cons was developed by the NPS following this first meeting.

A series of two meetings were conducted in September 2013 to discuss the matrix and associated options. Based on the input from these meetings, the NPS was asked to develop a more refined "proposal." Subgroup meetings were planned in October 2013 to discuss the proposal but were unable to occur due to the shutdown.

The current concepts contained in the draft proposal are as follows:

- The current evaluation ratings will be expanded to include Unsatisfactory, Marginal, satisfactory and now Good, Excellent and Outstanding. The new evaluation process will include a visitor satisfaction score. The process for objectively collecting information for and assessing this rating is being investigated by the Subgroup.
- Good and Excellent will be determined through the park evaluation process and will address performance in meeting contract and operational performance standards. This expanded rating process is already part of the ongoing SERA project effort.
- Outstanding performance will consist of performance above contractual requirements and may include things such as adoption of new classifications and standards during the term of an existing contract, Healthy Parks Healthy People, Green Parks, and Call-to-Action and/or park-specific programs for visitor satisfaction or natural resource management. The criteria will account for the variability in activities and opportunities between front and back-country operations.
- Outstanding performance will be identified through the park evaluation process but rated by a regional team that may consist of other park and regional personnel and possibility a hospitality consultant. The Subgroup is still assessing this process.
- A process for recognizing those concessioners who have received an Excellent or Outstanding rating for the year is being considered. This may be through though the NPS web site or other means.
- Incentives/Benefits for Excellent and Outstand Performance have been discussed. For Excellent performance, benefits will be offered may include "non-monetary" benefits including reduced periodic and report. It may also include allowing more flexibility in rate approval.

Recognition and Incentives - Concession Management Advisory Board Subgroup Progress (cont.)

- Outstanding performance benefits will be for sustained performance (rating over multiple years). The most viable option currently identified is the award of a contract extension of up to three years (the legal limit).

Next Steps are for the Subgroup to meet in November to evaluate the NPS proposal. It is anticipated that additional meetings will be required over the period between the Fall 2013 and Spring 2014 to resolve issues and propose a complete to operationalize the program which will be presented to the CMAB at the Spring 2014 meeting.

Standards, Evaluation and Rate Administration Program (SERA) Update

Classifications and Standards

NPS is updating its standards and classifications to make them more complete and current. The process for each service includes industry benchmarking, draft standards development, piloting to obtain park and concessioner input and field validation, final revision and distribution. NPS intends to complete these updates for all major services by the end of 2014.

Lodging, food and beverage and retail standards are undergoing final editorial review and will be ready for release by the end of 2013. A classification survey process was developed and executed for these three major services in 2013 and draft classifications are completed for these properties, Servicewide. Draft standards have been developed and piloted in parks for 11 other services from marinas to mountaineering guides. These are being revised and will be finalized in early 2014. Site visits are underway to pilot golf, air transportation, employee housing and dining and swimming pools. On-site data collection is also underway for ski, medical clinics and dog kennels. Standards for these and any additional major services will be finished in 2014.

Evaluations

In addition to updating the standards and establishing classifications for services, NPS is also revising the concessioner evaluation process. This revision will accomplish the following:

- Accommodate the expanded and updated set of standards.
- Expand the performance rating scale from unsatisfactory, marginal and satisfactory to include good and excellent.
- More robustly incorporate evaluation criteria including environmental management, asset management and visitor satisfaction performance into the annual overall rating.

An updated operational scoring system was developed and applied to lodging, food and beverage and retail using a NPS Workgroup of WASO, regional and park personnel and a hospitality consultant in 2013. The results were tested at Yosemite National park in August 2013. Modification is ongoing based on this exercise and a second test is scheduled for November at Grand Canyon National park or an alternate location. A final evaluation tool for these services is scheduled for completion by the end of 2013. Similar efforts will be employed for the other service standards through 2014.

The updated annual overall rating process is also being designed. An asset management performance evaluation form is developed and being tested at Yellowstone National Park. Visitor satisfaction monitoring methods are being assessed by the NPS hospitality consultant and through the CMAB Recognition and Incentives Subgroup. An enhanced AOR process will be ready for presentation by Spring 2014.

Finally, NPS has begun investigation on the use of new technologies to complete field evaluations including the use of a tablet application. A contractor has presented a concept and a cost/benefit analysis is being completed.

Standards, Evaluation and Rate Administration Program (SERA) Update (cont.)

Rate Administration

NPS intends to complete program development by the Spring 2014 with final testing and roll-out by the end of 2014. NPS desires to host a CMAB SERA Subgroup to obtain input from concession stakeholders on the most current policy concepts and draft operational tools in the late fall or winter 2014.

Lodging. NPS, working with PKF has developed electronic tools that allow the import of industry tools, such as Smith Travel Research and TravelClick, to identify comparables and rates, reducing travel and phone time and expense for park and concessioners. Policy and operational changes have also been identified and are being assessed including:

- Setting seasonal maximum rates, instead of one year-round max rate to improve fairness to visitors;
- Reducing the number and complexity of comparability criteria to streamline process;
- Incorporating “indexing” to simplify the number of comps. (Some concessions have a dozen comps to deal with different room configurations); and,
- Increasing the use of competitive market pricing for whole properties (where there is a complete market outside the park) and for portions of the property (where there is strong market segmentation within the property).

Pilot testing of tools and concepts has occurred at Zion, Mammoth Cave, and Olympic National Parks. Additional piloting is anticipated in the end of 2013 and 2014 at several other locations.

Food and Beverage Cost-of-Goods. The current method to set rates for food and beverage is “Core Menu.” In some cases, parks have trouble finding comparables for their food and beverage items. A more industry-like “Cost of Goods” method for those is currently being assessed as an alternative method. However, this method is complex and may only have utility and benefit for a small number of parks.

Fuel Markup. Currently, fuel prices are set using comparability. However, fluctuating fuel prices and comparable differences in supply arrangements, contract terms and delivery schedules, have made comparability a cumbersome and inadequate way to price fuel. Several options are being piloted including the use of industry markups and indexing off comparables.

Core Products/Services. Piloting is underway of a new rate “Core Retail” rate setting method for convenience items in lieu of markup and MSRP. The concept is also being evaluated for other services. This method would allow the NPS to streamline the rate approval process by evaluating primary products/services/routes using comparability and then use market pricing validated by financial analysis for more unusual services where comps are difficult to identify. Pilots are underway for ferry services at Channel Islands.

Competitive Market Declaration. Recognizing the increased facilities and services near parks and market awareness offered through internet and other sources, NPS is evaluating the competitive market

declaration criteria so that this method could be more frequently applied to reduce unnecessary administration and oversight.

NPS Guest Donation Program

There has been interest expressed by the Director and by NPHA to increase concessioner participation in the \$1 visitor Lodging NPS Guest Donation Program as a way to generate additional revenue to the NPS. Concession representatives may ask questions about NPS activities during the “Items of Concessioner Interest” portion of the CMAB meeting.

Currently only 13 of 40 lodging concessioners (around 30%) and two ferry contracts report participation in the program. A workgroup consisting of WASO Commercial Services, Partnerships and Philanthropic Stewardship, park and regional representatives has been formed. The following actions are being taken:

- A survey has been developed for concessioners to take, to collect information on their perceptions of challenges and opportunities for improvement and expansion in the program. Plans are to request survey participation through NPHA and America Outdoors.
- The workgroup is exploring ways to enhance the program including developing a sign program like the recreation fee program to highlight and increase visitor awareness of projects in parks.
- Template in-room and front desk materials are being developed for parks/concessioners using best practice examples collected from the field.
- The Workgroup is investigating expansion including allowing in other services (e.g., food and beverage, retail, tours and guiding), increasing the lodging donation amount, and allowing opt-in rather than opt out are being explored.

Healthy and Sustainable Food

Healthy food standards and sustainable food guidelines for NPS front-country food and beverage operations were issued in June 2013. Concession representatives may ask questions about NPS plans to recognize and highlight concessioner efforts.

In June 2013, four concessioners provided healthy and sustainable food demonstrations and participated in the signing ceremony with the Director, Secretary of Interior and White House Director of the Let’s Move Program. Commercial Services has prepared several News articles for its external web site highlighting the concessioner efforts.

In July 2013, concern was raised by some fishing industry associations and Congresspersons regarding the NPS adoption of a sustainable fish guideline that referenced two sustainable fish certifying programs; the Monterrey Bay Seafood Watch and the Marine Stewardship Council. These guidelines were adopted from Centers for Disease Control (CDC) Federal guidance. NPS met with interested congresspersons, NOAA National Marine Fisheries, CDC and modified its guideline to avoid reference to a particular certifier. A revised guideline was issued in September 2013.

The following activities are underway:

- NPS will continue to seek opportunities to highlight successes.
- NPS is working with the Institute at Golden Gate to develop a tool for identifying the differential cost/savings of healthy and sustainable food for use by concessioners and parks in developing programs.
- NPS has developed a self-survey for concessioners to identify whether their facility has implemented a program that meets the healthy food standards and incorporates sustainable food guidelines. Those that self-certify will be identified as healthy and sustainable food program participants on the NPS web site as a way to recognize these concessioners.