# FINANCIAL ADMINISTRATION

## A. ANNUAL FINANCIAL REPORTS

### 1. Law

P.L. 89-249

SEC. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination have access to said records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

### 2. Regulation

None.

### 3. Policy

Management Policies Manual, Chapter VIII
Financial Statement

Concessioners whose operations gross $1 million or more annually shall provide to the National Park Service audited financial statements on which an auditor's opinion has been expressed by an independent certified public accountant.

Concessioners whose operations gross between $250,000 to $1 million annually shall provide to the National Park Service financial statements in which a "Review" has been performed by an independent certified public accountant. The auditor's report on the "Review" must accompany the financial statements.

Concessioners whose operations gross less than $250,000 annually shall submit financial statements which they certify to be complete and correct. No independent accountant's audit, review, or compilation is required.

4. Responsibilities

a. WASO

Perform comprehensive review of financial reports and advise Regions of results for appropriate follow-up with concessioners.

b. REGION

(1) Oversee the receipt of the financial report by the Parks. If the report is past due, oversee that reasonable follow-up is being made until received.

(2) Forward the original financial report to Washington as soon as possible but not later than 30 days after receipt from the Park.

(3) Perform a review based on ability/expertise and need.

c. PARK

(1) At least 30 days before the end of the operating year, provide the concessioner with 5 copies of the appropriate financial report form.

(2) Obtain from each concessioner within the due date specified in the concession contract or permit an original and 3 copies of the completed financial report. The original and 2 copies are to be sent to the Region as soon as possible but no later than 30 days after receipt.

(3) If the financial report is not received when due, reasonable follow-up should be made until the report is received.

(4) Perform a preliminary review of the financial report.

5. Requirements

Each concessioner is required to submit an annual financial report whch reflects the results of that operation pursuant to the contract authorization. Concessioners with operations in more than one location in a park but under separate contract authorization as well as those concessioners with operations in more than one park are required to submit separate financial reports. Furthermore, financial reports should reflect only in-park operations and not include income, expenses, assets, liabilities or equity of other non-concession operations or business of a concessioner's organization. This is most important because each separate financial report should accurately reflect only the results of the concession operation under contract authorization to allow for meaningful analysis, comparison and evaluation by the Service. Other requirements relate to the forms submitted and to independent audits.

a. APPROVED FORMS

Concessioners report on one of two NPS forms, both of which have been approved by the Office of Management and Budget through 4/30/*88*, and which have been given OMB No. 1024-0029. The long form, Form 10-356 (Rev. March 1979), consists of two parts and 11 schedules while the short form, Form 10-356a (Rev. March 1979) is a one-page income statement. Both forms are available in the normal manner from the Brentwood Supply Facility. Concessioners should submit the appropriate forms (a signed original and the three copies) by the due date specified in the concession authorization.

b. FORM AND AUDIT REQUIREMENTS

The form and audit requirements are dependent on the concessioner's gross receipts. The following chart summarizes these requirements:

| | Annual Gross Receipts | Form Required | Audit Requirement |
|---|---|---|---|
| I. | $1,000,000 and over | 10-356 | Audit and opinion by Independent CPA |
| II. | $250,000 to $1,000,000 | 10-356 | Review by Independent CPA |
| III. | $100,000 to $250,000 | 10-356 | No audit or review requirement |
| IV. | less than $100,000 | 10-356a | No audit or review requirement |

Concessioners in the first category (I) are required to have the Primary Schedules, which are listed in Part I of the Concessioner Annual Financial Report, audited by an independent certified public accountant in accordance with generally accepted auditing standards and procedures promulgated by the American Institute of Certified Public Accountants (AICPA). The auditor's report on the Primary Schedule must accompany the Concessioner Annual Financial Report.

The submittal of an audited financial report on other than Form 10-356 is not acceptable and does not relieve a concessioner of our requirement. Additionally, the independent accountant's report should refer to our Form 10-365 and not to other report formats.

All concessioners submitting Form 10-356 must include explanatory notes on Schedule F regardless of whether or not the report is audited.

Concessioners in category (II) are required to have a independent certified public accountant perform a "Review" of the Primary Schedules listed in Part I of the Concessioner Annual Financial Report in accordance with the auditing standards and procedures promulgated by the AICPA. The auditor's report on his "Review" must accompany the Concessioner Annual Financial Report.

Regardless of the audit threshold requirements, a concessioner in category II and III may be required to submit audited financial statements when it is considered necessary.

c. COMBINED AUDITED FINANCIAL STATEMENTS

Each concession contract requires that concessioners with sales in excess of $1 million submit annually an audited financial statement reflecting the results of the operations authorized by the contract. Several concessioners have more than one contract and operate in more than one park or location within a park. Those concessioners wishing to submit a combined audited financial statement in lieu of separate audited statements may be granted approval under the following conditions:

(1) Requests for approval must be made by the concessioner to the Office of Inspector General.

(2) Each request must include the reasons and rationale to adequately support the request.

(3) If approval is given, the combined audited statements must be accompanied by individual unaudited statements for each location. These financial statements must include an independent CPA opinion (a) on the reasonableness of the allocated expenses, and (b) that the combining information used to prepare the combined financial statements has been subjected to auditing procedures in accordance with the AICPA's Statement on Auditing Standards Number 29.

(4) The National Park Service may require at any time an individual audited statement if it is determined to be necessary. However, sufficient notice must be given to the concessioner.

(5) Approval may be withdrawn at any time should it be found that the concessioner is misrepresenting or not properly reporting financial data.

d. SEPARATE REPORTING

It would be desirable that a concessioner operate in the parks as a separate business entity or corporation. If not organized as a separate entity, it will be incumbent upon a concessioner with outside operations to establish and maintain adequate accounts that will permit identification of the concession accounting transactions for park operation. Expenses and revenues must be segregated and strict control be maintained of interdepartmental transfers between the operations inside and outside the park.

Those concessioners having operations outside the park which supplement the park operations should submit their annual financial reports in such a manner that will show separately the accounts pertaining to inside the park and those pertaining to outside the park.

The investment in common property used jointly in concession and non-concession operations should be allocated between such operations according to the extent that it is used by each, or should be included in the investment account of the operation by which it is principally used and the other operation charged a reasonable rental for its use of the common property.

e. ADDITIONAL INFORMATION

The information requested on the financial report should be considered the minimum required. The concessioners should be aware that the Service may request additional information to supplement the financial report, when needed. This may include requests for clarification and breakdown of information already submitted, as well as new information. At times Superintendents may need specialized information that responds to a particular problem in their park or may feel that certain management data is necessary to properly carry out NPS responsibilities. Operational data such as customers per day, occupancy rates, etc., can be extremely helpful.

6. Instructions For Preparation

a. GENERAL INSTRUCTIONS

Instructions for the individual schedules for both the long and short form are on the back of each schedule. Specific questions can be addressed to the Washington Concessions Division (Financial Branch).

7. Review

Concessioner Annual Financial Reports Form 10-356 (Long Form) and Form 10-356A (Short Form) should be given a preliminary review shortly after reception. While the best place for this review to take place is at the park level, Regions may wish to take on this responsibility themselves. Concessioners should be notified in writing of problems found and/or clarification needed. Some corrections may be arranged by telephone, but no changes to the report should be made by NPS officials without concessioner approval. Any changes made should be initialed and a note made or attached as to the reason for the change.

Upon receipt at the park and regional level, the date of reception should be indicated in the box set aside for that purpose in the upper right-hand corner.

The following is a guide for a preliminary review at the park or regional level. While additional reviews may be performed, this is the minimum that should be done.

a. GENERAL

(1) There should be no obvious addition errors

(2) All amounts should be properly transferred from schedule to schedule as indicated by the directions on the forms.

(3) All amounts should be rounded off to the nearest dollar.

(4) All amounts should be adequately described. No large amounts, relatively speaking, should have an "other" or "miscellaneous" heading. Clarification should be requested if amounts are excessive.

(5) Only activity from within the parks should be reflected in the report. To ascertain if the income statement contains gross receipts from outside the park, check Schedule B (long form) as the concessioner will usually deduct the applicable amount.

(6) Franchise fees paid may not always equal the amount indicated on the report. Adjustments from prior years may increase or decrease the amount paid and this should be explained. Also, concessioners reporting on a cash basis may be indicating the fee paid for the prior year to the report year if that fee was paid during the report year. Some or all of the fee may be included on another line in the report.

b. COVER SHEET

(1) Insure that the concessioner has signed and dated the report.

(2) Check the report identifying information for completion and accuracy.

c. SCHEDULE A

(1) The auditor's preparation and opinion will depend on the gross receipts entered on line 1. See subparagraph 5.b.

(2) Gross receipts also determine if the proper form has been used.

(3) Many of these lines may be left blank. Please bear in mind that not all entities pay income taxes. Sole proprietors, partners, and subchapter S corporations pay the taxes on their personal returns. Also some corporations may be applying a loss carried forward from prior years to offset any taxes owed.

d. SCHEDULE B

(1) Compare line 29 to the amount actually paid. Bear in mind subparagraph 7.a.(6) above.

(2) Check contract terms to see if concessioner used proper percentage and flat or building use fees.

(3) Review authorized deductions for reasonableness.

(4) Deductions declared for genuine U.S. Indian and native handcraft should be reviewed further. Vouchers should be retained by the concessioner to support this deduction.

(5) All subconcessioner transactions should be reported on Schedule B. Note that 50% of all commissions or fees received by the concessioner from the subconcessioners should be paid as franchise fees.

e. SCHEDULE C

(1) Long term debt listed on line 29, should have been approved by the Service.

(2) Does the equity invested meet the committment made by the concessioner in his offer.

(3) A general check can be made to see if the concesioner has enough liquid assets to cover the current liabilities that may be soon due.

f. SCHEDULE D

(1) Only the concessioner's possessory interest assets should be listed on columns A and B.

(2) Totals on Schedule K should match entries on lines 2,3, and 7.

g. SCHEDULE E

(1) Lines 33 through 39 should be positive if there has been an increase in the specific current liabilities and negative if a decrease, (following the same format as the current assets on lines 26 through 32). Some accountants will reverse the signs not understanding that the total on line 40 is derived by subtracting the total of lines 33 through 39 from the total of lines 26 through 32.

(2) A large decrease in line 25 indicates a significant outflow of money. A continuation over a number of years can be a danger sign in the stability of the business.

h. SCHEDULE F

(1) All notes should be read for understanding.

i. SCHEDULE G

(1) All departmental totals on this schedule should be referenced to a unique column on Schedule H. However, minor totals can be combined to create a miscellaneous column on Schedule H. No departmental total should have more than one letter in the "reference" column.

(2) Percentages of each line to the total can be calculated and compared to prior years to see trends and for comparision with other similar concessioners. This product mix can effect profitability in a significant way.

j. SCHEDULE H

(1) Each column on Schedule H should be "carried down" to line 31. Proration of some of the direct expenses, such as utilities, may be necessary by the concessioner to properly distribute the expenses.

(2) Overhead expenses listed in this schedule (or I) should cause a request to be sent to the concessioner to break out the total dollars into separate componets with the appropriate dollar amounts indicated.

k. SCHEDULE I

(1) No direct expenses like utilities, maintenance, etc., should be listed in this schedule.

(2) If a management fee is listed, an approved management agreement should be on file with the Park Service.

(3) See paragraph j.(2) above.

l. SCHEDULE J

(1) No changes should have occured to the ownership from the prior year without notification and/or approval by the Service.

(2) No other salaries should be paid to the owners other than those listed in this schedule. The total should be placed on line 1. Schedule I.

m. SCHEDULE K

(1) The assets listed should be grouped and totaled according to the categories on Schedule D. These totals should match the entries on lines 2,3, and 7 of Schedule D.

n. FORM 10-356A (Short Form)

(1) Items (1), (3), (4) and (6) in subparagraph 7.a. and items (1) and (2) in subparagraph 7.b. above apply.

(2) The Statement of Income, lines 1 through 26 should be reasonably complete. Because the same information must be provided to the Internal Revenue Service, there should be no justifiable reason why this simple form should not be fully completed.

8. Distribution

Reports should be transmitted to the next higher level as soon as possible after reception. Of course, it may be administratively efficient to wait until a number of reports have been received. In any event, the original should be sent to Washington Concessions Office.

If, during the review of the financial report, questions have come up or unacceptable portions have been found, the reports should still be transmitted to the next level. A copy of the letter to the concessioner should be attached as an explanation of the status.

The eventual distribution of the four copies should be the park, Regional concessions office, Regional Finance Office, and WASO concessions office.

On certain occasions, concessioners will submit their reports directly to WASO. WASO will then initiate the transmittal pattern in reverse with whatever franchise fee information is necessary to properly credit the concessioner's payment.

B. AUDIT GUIDE

1. Law

P.L. 89-249

Sec. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

2. Regulation

None.

3. Policy

None.

4. Responsibilities

Washington Office

5. Procedures

In March 1979, the Department of Interior's Inspector General in cooperation with the National Park Service issued an "Audit Guide for National Park Service Concessioners". The purpose of the guide is to provide assistance and information to those independent auditors who are engaged by concessioners to have their primary annual financial statements audited reviewed or compiled in accordance with generally accepted auditing standards.

In addition to providing background information, the audit guide identifies special requirements relating to concessioners and provides suggested audit procedures for determining the extent and adequacy of concessioner compliance with the requirements. The audit guide has been dropped as a requirement and its use is now optional. A copy of the audit guide is on file in the Washington Concessions Division and in each Regional Concessions Office.

C. SYSTEM OF ACCOUNT CLASSIFICATION GUIDE

1. Law

P.L. 89-249

Sec. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

2. Regulation

None.

3. Policy

Management Policies, Chapter VIII
System Of Account Classification

To insure uniformity in reporting, concessioners shall maintain an accounting system whereby the accounts can be readily identified with the System of Account Classification Guide and the Concessioner Annual Financial Report form.

4. Responsibilities

Washington Office

5. Procedures

A System of Account Classification Guide was established for concessioners operating in areas administered by the National Park Service. The Guide was issued in conjunction with the requirements of the Accounting Records and Reports section of the concession contract and permit. It is intended to assist concessioners in setting up their accounting system and insure uniformity in maintaining their accounting records and reporting on our Concessioner Annual Financial Report form.

Concessioners may use their own system of account numbers and titles, however, we must be assured that they can be readily identified with the account numbers and titles of our Guide and our Concessioner Annual Financial Report form. Concessioners with limited operations do not need to maintain an involved accounting system but should use sufficient accounts and books of original entry to disclose the financial status of their entire operation and support the amounts required to be shown on our Concessioner Annual Financial Report form.

A copy of the System of Account Classification Guide is on file in the Washington Concessions Division and in each Regional Concessions Office.

## D. FRANCHISE FEE

1. Law

P.L. 89-249 dtd October 9, 1965

SEC. 3(b). The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

SEC. 3(d). Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

P.L. 97-433, January 8, 1983

SEC. 3. There is hereby established in the Treasury of the United States the National Park Visitor Facilities Fund. There should be credited to the Fund an amount equal to all National Park System concession fees, including franchise fees and building use fees paid to or due and owing to the United States after October 1, 1982 for the privilege of providing visitor accommodations and services in units of the National Park System.

SEC. 8. The authorities contained in this Act shall expire on September 30, 1989. After that date any moneys previously credited to the Fund under this Act which have not been appropriated, or if appropriated, which have not been obligated or expended, shall be transferred to miscellaneous receipts of the Treasury.

2. Regulation

None.

3. Policy

Management Policies Manual, Chapter VIII

a. FRANCHISE FEES

The probable value of a concession contract/permit shall be reflected in the franchise fee paid to the National Park Service. The fee shall be in the form of a percentage of the concessioner's annual gross receipts. In addition, for those concesioners who use Government-owned facilities, a building use fee based on fair value will be charged. Fees for most small operations under concession permits may be converted to a flat dollar amount fee.

The appropriate franchise fee for concessioners shall be determined by first comparing the concessioner's profitability against the profitability of similar industries. The concessioner's reported statistics may be adjusted to reflect the value realized by the concessioner. Any known future changes in the financial condition of the operation should be taken into account.

In order to protect the investments and efforts of the parties involved, a minimum and maximum fee shall be determined thus establishing fee limits.

A fee will be determined within these limits that produces a reasonable level of profitability consistent with the risk undertaken by the concessioner.

As a final test, the impact of this fee should be reviewed to ensure that it is not at a level which will interfere with the concessioner's reasonable opportunity for a profit. Additionally, it should not interfere with the concessioners's ability to charge comparable rates or impact on NPS objectives of preserving and protecting park resources.

Franchise fees for small operations having goss receipts of less than $100,000 shall be 2 percent (2%). If Government-owned facilities are assigned, a building use fee will also be charged.

No concession contract or permit is to be amended, extended or renewed without the written approval of the Director if it reduces or eliminates the existing franchise fee.

No concession permit is to be issued which includes an annual franchise fee of less than one hundred dollars ($100) unless it has the written approval of the Director.

The Washington Office will review and be responsible for approving every contract/permit franchise fee determination where annual gross receipts exceed $100,000 and/or the term is 5 years or more. This also applies to franchise fees that must be reconsidered.

Regional Directors will be held responsible for approving franchise fee determinations for contracts/permits with annual gross receipts under $100,000 and/or a term of less than 5 years. This also applies to franchise fees that must be reconsidered.

In order to encourage the sale of genuine Indian and native handcrafts, gross receipts derived from the sale of these items will be excluded from the franchise fee computation.

Effective National Park Service cash management requires that franchise fees be recovered monthly over the year and that interest charges be assessed on late payments. In addition, all franchise fee payments of $10,000 or more should be transmitted electronically using the Treasury Financial Communication System (TFCS).

Waivers of franchise fees are discouraged by the Service but may be granted when exceptional circumstances beyond the concessioner's control warrant relief.

b. FEES CHARGED FOR GOVERNMENT FACILITIES ASSIGNED TO CONCESSIONERS

All buildings, structures, or facilities assigned for concessioner use shall provide for a fair value return, which value will be determined in accordance with acceptable practices in the industry for the determination of a fair annual value. Adjustments may be made to the appraised value taking into consideration all of the judgmental factors regarding reasonable profit as stated in Public Law 89-249.

4. Responsibilities

a. WASO

The Washington Office will review and approve every contract/-permit franchise fee determination where annual gross receipts exceed $100,000 and/or the term is 5 years or more. This also applies to franchise fees that must be reconsidered.

b. REGION

Regional Directors will be held responsible for approving franchise fee determinations for contracts/permits with annual gross receipts under $100,000 and/or a term of less than 5 years. This also applies to franchise fees that must be reconsidered.

5. Procedures

Concessioners pay a franchise fee to the National Park Service for the privilege of operating which, according to Public Law 89-249, "shall be determined upon consideration of the probable value to the concessioner of the privileges granted by" the authorization. This value is "the opportunity for net profit in relation to both gross receipts and capital invested." Franchise fees are secondary to both preservation of the resources and service to the visitor.

a. CONCESSIONERS SUBMITTING LONG FORMS (10-356)

Significant portions of the process of determining the appropriate franchise fee require an understanding of financial concepts. This expertise is available in the WASO Concessions Office. As such, Regions should maintain a close contact with the WASO Concessions Office during these determinations.

Fundamental to the concept of determining franchise fees is the assumption that operating conditions and contractual requirements will be basically similar to the years being reviewed. This is not to say that everything will be identical but rather that any operating changes to the concessioner will be the same as experienced by the industry as a whole. Therefore, any known changes that will be unique to the concessioner should be kept in mind and approximated in the financial presentation.

(1) **Select The Years To Be Used In The Analysis**

Use the most recent five complete years for which you have an annual financial report. Partial years should be excluded unless the partial year captures a complete operating season. If five years of financial reports are not available, use as many as are available.

(2) **Determine The Average Level Of Gross Receipts For Each Gross Receipts Category Designated On Worksheet No. 1**

Schedule G of the concessioner's annual financial report breaks down the concessioner's annual gross receipts into specific departments and categories. Using this schedule for each year selected above, transfer the information to the proper lines on Worksheet No. 1. (Exhibit 1, page 1) so that the concessioner's total gross receipts are rearranged on the worksheet. Be sure to deduct the amount of any authorized deductions (claimed by the concessioner on schedule B of the annual financial report) from the appropriate category. After deducting, the amount of the deduction should be entered on the bottom of the worksheet so that the total line for each year at the bottom of the form equals the concessioner's annual gross receipts. Total each year to verify.

To obtain the averages, total each category and divide by the number of years selected above. The total of the averages (adding down) should equal the sum of the yearly gross receipts totals (adding across).

It may be necessary to estimate the distribution of some authorized deductions if they encompass more than one category. You can use the same percentage breakdown used on other years, if known, or divide the deduction according to the magnitude of the categories. Generally, this type of estimation will have no effect on the final fee.

(3) **Calculate The Minimum For The Given Breakdown Of Gross Receipts**

Transfer the averages calculated on Worksheet No. 1 to column (a) of Worksheet No. 2 (Exhibit 1, page 2). Perform the appropriate multiplications: Column (a) times column (b) to produce column (c). Total columns (a) and (c).

Divide the total of column (c) by the total of column (a) to produce the Minimum ($FF_{min}$).

<u>NOTE</u>: The percentages listed in columns (b) have been obtained by averaging the appropriate quartile statistics from <u>Industry Norms</u>, a Dun and Bradstreet publication, and special norms produced by Dun and Bradstreet under contract. The multiplications performed in step 3 essentially produce a weighted average of return on sales quartile statistics based on outside industry.

(4) **Complete the Financial Summary**

Fill out the selected statistics under Section I of Worksheet No. 3 (Exhibit 1, page 3) as reported by the concessioner for each of the years selected. Average equity is the average of beginning and ending equity (both numbers are obtained from Schedule C, line 39 of the concessioner AFR - "this year" and "last year"). The tax rate is determined by dividing line 30 of Schedule A by line 27 of Schedule A. The returns should be based on income after taxes if available. If not available, then income before taxes can be used.

NOTE: These returns are based on the concessioner's reported numbers. Subsequent analysis may result in the use of different returns by way of adjustments to reported income.

**(5) Study The Expense Categories Reported By The Concessioner**

For each of the years selected, all major expenses reported by the concessioner should be compared to gross receipts. Comparisons should be made with outside industry when such statistics are available (check with the Washington Concessions Office). Departmental operating and direct expenses should also be compared to departmental sales (see Schedule H). Fixed expenses and "other income" on Schedule A, although often a function of management decisions, should be studied for their effect on net income. Section II of Worksheet No. 3 is provided to aid in this analysis. The accounts listed are those that experience has indicated are often areas needing closer review. Three of the groupings have been listed without headings to allow you to select additional accounts according to the circumstances. Record the magnitude of the expense and its percentage of gross receipts.

If all expenses appear reasonable, then adjustments are not necessary and you can move on to Worksheet No. 4 (Exhibit 1, page 4). On the other hand, if certain expenses are materially greater or less than can be explained by the operating situation or complexities of the concessioner, then adjustments should be made. Refer to Exhibit 2 to this chapter for sources of industry statistics. Special attention will be given to those expenses that are paid to related companies or individuals. If you have any questions on reasonableness, contact the Washington Concessions Office.

Exhibit 3 to this chapter contains a discussion on adjustments which may be helpful in understanding some of the factors and accounts which are the object of this analysis.

Those amounts determined to be materially out of line with industry should be listed under Section III of Worksheet No. 3 with the appropriate rationale for the determination (such as "in excess of industry averages").

**(6) Determine the Adjusted Net Income**

To properly compare the concessioner to industry, we must look at the concessioner's results as if he did not have to pay franchise fees. To accomplish this, we add the average percentage fee amount to average income before taxes (see line A of Section I, Worksheet No. 4.). Adjustments, if any, are added in line C and a new tax calculated in line E. The result is an adjusted income after taxes which can be used to calculate new returns for a valid comparison to similar industry returns.

In calculating the return on equity, the assets listed by the concessioner should be reviewed to ensure that no large amounts of non-concession related assets are being carried on the balance sheet. If there are, they should be deducted from both assets and equity before calculating the return on equity.

(7) **Calculate The Maximum Fee**

Since our policy indicates that the fee should not be greater than 50 percent of the concessioner's pre-tax and pre-franchise fee profit, the maximum franchise fee can be calculated by dividing line D (Section I of Worksheet No. 4) by 2.

(8) **Determine the Recommended Franchise Fee**

Copy the MIN and MAX, as calculated, on the blanks provided in Section III of Worksheet No. 4. Calculate the midpoint (used for visualization purposes only).

Review the quartile thresholds provided in Exhibit 4 for the various services. Choose the concessioner's primary service(s) and determine what quartile the concessioner's adjusted return on gross (see line G of Section I, Worksheet No. 4) falls into. Indicate the concessioner's relative profitability with respect to outside industry by placing a check at the approximate place within that quartile. Repeat for the return on average equity and if appropriate, the return on assets.

If the concessioner has one or more secondary services which are significant in size to the primary service, the above can be repeated for this secondary service(s).

The final fee determination is based on this comparison of the concessioner's returns with similar outside industry returns. High concessioner returns (high 3rd quartile or 4th quartile) indicate a higher percentage fee. Low concessioner returns (1st quartile or low 2nd quartile) indicate a lower percentage fee.

Leaving the averages calculated for a moment, the actual statistics (both industry and concessioner) should be analyzed for any trends that are developing as well as the reasons for any unusual variations. Greater weight should be given to the most recent years in any anticipation of future operating conditions or results.

The franchise fee recommended should be indicated in the block designated the determined fee.

(9) **Determine The Effect Of The Proposed Fee On The Concessioner's Results**

The financial reports submitted by the concessioner indicate the effect of the old fee on the concessioner's past operating results. Given the new fee proposed in step 8, the past results of the concessioner should be revised as if this proposed fee was paid for the period being analyzed.

This entails substituting the new fee as the percentage franchise fee expense and recalculating taxes and then determining the new financial returns. Both the reported expenses and if appropriate, adjusted expenses are to be used in this process.

Once again, review the quartile thresholds provided in Exhibit 4 for the various services with these new financial returns. If this fee is in a comparable range with industry statistics, then this percentage franchise fee will be the determined fee and presented to the Regional Director for presentation to the parties.

(10) **Fact Finding And Forcasting Future Costs**

Once the fee has been determined by reviewing past financial results, it's time to obtain information from the Parks and Concessioners concerning facts that would or could change or have an impact on the determined franchise fee.

Any known future significant changes that are unique to the concessioner's operating situation should be included in the final fee determination. For instance, a significant increase in building use fee, or new operating requirement that does not have a corresponding income increase should be considered. Inflation or increased insurance expense can be considered only if the concessioner will not raise rates as his comparables would normally do. Construction programs should be considered only to the extent that it would be unusual for a similar business (see Exhibit 3).

(11) **Decision And Justification**

After gathering future changes and placing a dollar amount on them, an adjustment can be made on the franchise fee that was determined during the review of past financial results. Any such NPS management adjustment must be fully explained (dollar for dollar) and the justification presented in final written form to satisfy the National Park Service's franchise fee policy.

b. CONCESSIONERS SUBMITTING SHORT FORMS (10-356A)

An extensive franchise fee analysis is not possible for concessioners submitting the short form (10-356A) because it contains no balance sheet information. Additionally, these concessioners are generally small business and sole proprietors and, as such, have a different expense structure than our larger concessioners. Several have other business outside the park and they prorate in-park expenses.

With this in mind and in an effort to reduce unnecessary workload, the following guideline shall be in effect:

The franchise fees of concessioners with gross receipts under $100,000 (i.e., submitting Form 10-356A) shall be equal to 2 percent of gross receipts.

This 2 percent figure may be converted into a dollar figure by multiplying the percentage by the average expected gross receipts for the life of the authorization. Inflation can easily be accounted for at the time the gross receipts are estimated.

Only in cases of exceptional profitability should any further effort be expended. Any annual building use fee for the use of government-owned structures should be in addition to the 2 percent fee. Both the building use fee and the percentage fee may be converted to a flat dollar amount fee. <u>No concession permit is to be issued which includes an annual franchise fee of less than one hundred dollars ($100) unless it has the written approval of the Director</u>.

c. NEW OPERATIONS (PROSPECTUS)

When a new operation is being introduced into the system, a history of sales and profits may not be available. In order to establish a minimum franchise fee and, later, a final franchise fee, estimates will have to be made as to the magnitude of the gross receipts for each service contemplated in the authorization, as well as some estimate of the concessioner's expected profitability. Once these estimates are made, Worksheet No. 2, can be completed to produce a minimum. How far the final fee will rise above the minimum will depend on the expected profitability and this will, of course, be based on more judgement than usual.

If the fee determined is cause for concern, the normal 5-year reconsideration language in the contract should be reduced to require a reconsideration after 1, 2 or 3 years. With permits, the actual term could be reduced.

d. BIDDING FOR PROSPECTUSES

If an administrator decides to produce a franchise fee by having the offerors bid, which is a preferred alternative, the worksheets should be completed in the normal manner. A minimum fee acceptable to the NPS should be placed in the Statement of Requirements of the Prospectus to ensure that lower offers are not accepted.

The maximum can be stated in the Statement of Requirements, if it is felt necessary with the provision that the NPS has determined that higher fees may interfere with service to the visitor.

e. BUILDING USE FEE

The building use fee is a return to the government for the use of government-owned structures by the concessioner. The fee is based on a fair value return to the government and is to be determined in accordance with acceptable practices as utilized in the industry for determining fair value. Adjustments may be made to the appraised value taking into consideration all of the judgmental factors regarding reasonable profit as stated in Public Law 89-249. The appraisal and support for any adjustments should be placed in the files for future reference and support.

Government-owned structures used by the concessioner should be listed in Exhibit A to the concession contract along with the annual fee charged for each structure. This annual fee should reflect the anticipated number of months the concessioner operates and be a simple proration of the annual fair return.

If the concessioner uses no government-owned structures, Exhibit A should still be completed with "none" indicated in both the list of structures and the fee total.

All government-owned structures used by the concessioner which relate to the concession contract and the services provided must be listed on Exhibit A. No agreements outside of the concession contract can be made with the concessioner relating to use of structures pursuant to the services provided under the contract.

f. FRANCHISE FEE EXCLUSIONS

The gross receipts, against which the percentage fee is applied, is defined in the standard contract language. No changes to the definition of gross receipts may be made without WASO written approval. Certain gross receipts may be excluded by concessioners in computing the franchise fee provided they are reported as gross receipts on line 1 of Schedule A (Statement of Income) of the Concessioner Annual Financial Report. The following is a listing of items which may be excluded.

(1) Sale of genuine United States Indian and native handcraft

(2) Intercompany earnings on account of charges to other departments of the operation (such as laundry)

(3) Charges for employees' meals, lodging, and transportation

(4) Cash discounts on purchases

(5) Cash discounts on sales

(6) Returned sales and allowances

(7) Interest on money loaned or in bank accounts

(8) Income for investments

(9) Income from subsidiary companies outside of the area

(10) Sale of property other than that purchased in the regular course of business for the purpose of resale

(11) Sales and excise taxes that are added as separate charges to approved sales price

(12) Gasoline taxes, fishing license fees and postage stamps not to exceed the amount actually due or paid Governmental agencies

(13) Approval surcharges added to the prices of goods and services in order to recover concessioner utility expenses greater than comparable utility expenses.

No other exclusions are permitted and no changes to the definition of gross receipts in the standard contract language can be made without prior written approval of the Director.

g. FRANCHISE FEE RECONSIDERATION

Franchise fee determinations are made at various times before and during the term of the authorization. By law, they must be reconsidered at least every 5 years. The particular constraints and NPS leverage vary according to the reason and time of the consideration.

(1) **Beginning Of An Authorization**

The initial franchise fee determination is made prior to the execution of the authorization and, lacking an amendment, the fee will remain throughout the authorization. This is also the time when the Park Service has the most leverage in the determination of the final fee amount.

One method is for the NPS concessions official to perform the analysis detailed in subparagraph 5.a. of this section and place the determined amount in the SOR for all readers to see and accept as a given when submitting an offer.

Another method is to set a minimum acceptable fee to the Park Service and further state in the SOR that the offer must indicate what fee the concessioner would be willing to pay. The offer by the successful applicant would become the contractual fee if it was equal to or greater than the minimum set by the Service. If two offers were considered equal after evaluating the primary factors, the higher of the two franchise fee offers would become the amount set in the authorization. If a preferential right for renewal existed, that concessioner would be given the opportunity to meet the higher franchise fee offer.

In any situation where the SOR does not specify a franchise fee, the Service should determine a maximum acceptable franchise fee as well as a minimum. At some point, given comparability of rates, a high franchise fee will begin to adversely affect service to the visitor. Bids over the maximum would be reduced to the maximum.

(2) **Reconsiderations**

Standard contract language has provisions whereby the franchise fees will be considered at periodic times during the contract. These times should be set so that there is no violation of the 5 year reconsideration requirement but it also provides the Park Service the opportunity to set reconsiderations at other appropriate times. This can be important when a new service is to be provided and there is no historical information as to the profitability. An initial fee determination can be made and then reconsidered after 2 years instead of waiting for five.

The old standard contract language requires that any decision to change a franchise fee during a reconsideration period must be mutually agreed to by both parties. That is, if either party does not agree, no change can be effected in the franchise fee.

Under the new standard contract language if both the Secretary and Concessioner cannot agree to an adjustment in franchise fees, the position of the Concessioner must be reduced to writing and submitted to the

Secretary for a determination. If desired by the Concessioner, an advisory arbitration panel will be established for the purpose of recommending to the Secretary appropriate franchise fees. The written determination of the Secretary as to franchise fees shall be final and conclusive.

(3) **Extensions**

Amendments which extend authorizations making them more than 5 years since the last franchise fee reconsideration, are in violation of P.L. 89-249. A reconsideration should be performed prior to completing the amendment. Any changes that are necessary as a result of the franchise fee reconsideration should be included in the extension amendment. (See Chapter 10, Paragraph B.2.

(4) **Concession Requests**

Concessioners will often request a decrease in the franchise fee rate outside the specified reconsideration period as stated in the authorization. This is in effect, a request to change the terms of a contract that were agreed to by both the concessioner and the Park Service. Requests for a decrease in the franchise fee rate at a time other than specified in the authorization can only be agreed to if there is equal consideration or benefit flowing to the Government. In other words, the Government cannot give up something both parties agreed to unless it receives like consideration in return.

h. PAYMENT AND DISPOSITION

Franchise fee due dates are specified in the concession authorization. While fees have been historically due within 60 days after the end of the concessioner's fiscal year, new standard language incorporates both the Departmental and National Park Service cash management policies.

Under these cash management policies, concessioners are required to pay franchise fees on a monthly basis. The payments are due within 15 days after the last day of each month. Any adjustments due the government should be paid at the time the financial statements are due and any overpayments should be offset against the next months franchise fee payment. Concessioners operating under existing contracts with franchise fee payments of $10,000 or more, should be encouraged to transmit such payments electronically using the Treasury Financial Communication System (TFCS). The standard contract language has been revised to accommodate the payment of franchise fees by wire. (See Chapter 6, Exhibit 2, page 12.) This language, which requires concessioners to electronically transmit franchise fee payments of $10,000 or more, shall be used in all new contracts, renewals and amendments.

An interest charge is to be assessed on all overdue amounts for each 30 day period, or portion thereof, that the franchise fee payment is delayed. This late interest charge is to be assessed on all concessioners regardless of whether they operate pursuant to old or new standard contract language. The percent of interest to be charged should be based on the current value of funds to the United States Treasury which is published quarterly in the Treasury Fiscal Requirements Manual.

For additional information on cash management, see Departmental Manual, Part 338 DM 1 and Special Directive 86-5.

i. WAIVERS

The payment of franchise fees is a contractual obligation of the concessioner. Failure to pay the fee is a violation of the contractual agreement and can be cause for termination. Under exceptional circumstances, the Service may waive the fee in whole or in part for a particular year. The authority to waive franchise fees rests with the official who has the responsibility to execute the authorization. Generally, this will be the Regional Director for contracts and the Superintendent for permits. It should be kept in mind, however, that franchise fee waivers are discouraged by the Service and should not be viewed as a "right" of the concessioner.

Once a decision is reached on a concessioner's franchise fee request, it becomes final. This decision may only be reconsidered if substantial new information is provided by the concessioner. Since the authority to waive franchise fees is strictly discretionary with the Secretary, there is no administrative appeal from such decisions.

It is important that the method for handling fee payments be applied consistently throughout the Service. Therefore, all waiver requests should be handled as follows: The concessioner should be required to remit payment of the franchise fee no later than the date required by its concession contract. However, if a concessioner requests permission to delay payment of the fee and can show that by remitting such fee on a timely basis its operation would be seriously jeopardized or an unreasonale hardship will result, an exception should be made whereby the fee payment would be delayed pending a decision on the waiver request.

Any request for a waiver by a concessioner must be in writing and must be received by the Service no later than the last day the final franchise fee payment or adjustment is due. In addition, no requests for waiver shall be submitted by the concessioner prior to the last day of its operating year.

All requests for waiver must include specific and detailed documentation necessary to support the request. Since prudent businesses obtain reasonable insurance such as business interruption insurance, etc., the supporting information should also address insurance.

To be eligible for waiver, the circumstances must be beyond the concessioner's control and be of such a nature that warrant relief for the concessioner. All assertions must be substantiated in detail and the actual dollar amount of losses suffered must be presented. Comparisions with prior years, whether gross receipts, expenses, or visitation figures, are acceptable if presented in a valid and cogent manner.

To be considered beyond the concessioner's control, the circumstances must meet all of the following conditions:

(1) must be other than a normal business risk.
(2) must be unanticipated
(3) must be caused by external influences on the concession operation and its owners and managers.

To warrant consideration for relief, the concessioner must be characterized by all of the following:

(1) have suffered financial loss in the year in question.

(2) have depressed financial history

(3) be in a financial situation where service to the visitor will be significantly affected.

In addition, the circumstances described by the concessioner must have occurred in the concessioner's operating year for which the waiver is being requested. The maximum relief that can be granted is the amount of the franchise fee due for that particular year. No fees from future years may be considered but, on the other hand, relief amounting to less than the total franchise fee can be granted.

Waivers should be restricted to unusual circumstances that are not considered normal to a business. When circumstances occur that reflect long term trends affecting profitability, a reconsideration of the franchise fee should be the appropriate course of action. See subparagraph 5.g. for reconsideration of franchise fees.

Should the situation warrant, the Office of the Inspector General can be requested, through the Washington Office, to audit the books and records of a concessioner requesting a waiver. However, we cannot be assured that such audit request will be given immediate consideration by the Inspector General because of its other planned workload priorities. While an audit report cannot be expected to provide an answer to waive the fee or not, the information provided may aid in the analysis. At a minimum, it should provide assurance as to the reliability of the concessioner's figures.

j. DOCUMENTATION

Decision documents should be prepared for all actions taken concerning franchise fees even if no changes occur. This requirement includes both reconsiderations and waivers and should be prepared regardless of who the initiating party is.

This document should be in the form of a memorandum from the Regional Concessions Chief to the appropriate Regional official responsible for making the decision. It should contain a detailed analysis taking in all the pertinent factors and presenting in a clear, concise manner the weighing of these factors against whatever criteria is applicable in the particular case. Franchise fees may be considered secondary to service for the visitor but franchise fee actions must still be supportable as to the conclusions reached. Special attention should be paid to the assumptions and development of the analysis.

A letter to the concessioner will usually have to be sent to inform the concessioner of the decision or action taken. This letter can be a summary of the decision document but need not go into the detail the other document, by its nature, must have.

These documents should be retained in the originating office for review as well as becoming a part of the official record.

k. VARIANCES

No changes to the franchise fee portion of standard contract language are permitted without WASO approval. This includes the definition of gross receipts as well as the actual payment language.

E. OPENING BALANCE SHEET

1. Law

P.L. 89-249

Sec. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

2. Regulation

None.

3. Policy

Management Policies Manual, Chapter VIII
Opening Balance Sheet

All new concessioners operating pursuant to a contract shall submit a balance sheet to the NPS effective as of the beginning of the first day of operation.

4. Responsibilities

a. WASO

Performs a review of the Opening Balance Sheet and advises the Regions of any descrepancies for follow-up with concessioners.

b. REGIONS

(1) Oversee the receipt of the Opening Balance Sheet by the parks. If it is past due, oversee that reasonable follow-up is made until received.

(2) Forward the original to Washington as soon as possible but not later than 30 days after receipt from the park.

(3) Perform a review based upon ability/expertise and need.

c. PARKS

(1) Provide 4 copies of the Opening Balance Sheet form to the concessioner at the time of the new contract or approval of the sale.

(2) Obtain an original and 2 copies of the completed Opening Balance Sheet within the due date. The original and copy should be sent to the Region as soon as possible but no later than 30 days after receipt.

(3) If the Opening Balance Sheet is not received when due, reasonable follow-up should be made until it is received.

5. Procedures

Concessioners are required to submit an Opening Balance Sheet within 90 days after the execution of a new contract or upon the assignment/sale of a concession. The Opening Balance Sheet must be as of the first day of the new contract or assignment/sale and include a schedule of assets in which a possessory interest is claimed. The Opening Balance Sheet and accompanying schedule are required for the following reasons:

a. It assists NPS in determining the concessioner's financial condition at contract inception or upon the assignment/sale.

b. It enables NPS to verify the financial information contained in a concessioner's offer in response to a prospectus, fact sheet, or purchase agreement.

c. It provides NPS with a detailed listing of those assets in which the concessioners claim a possessory interest and establishes the respective values for these assets.

The Opening Balance Sheet should be audited by an independent certified public accountant. The form to be used for submitting the Opening Balance Sheet is Schedule C (Balance Sheet) of the Concessioner Annual Financial Report, Form No. 10-356. The accompanying schedule of assets in which a possessory interest is claimed must include the following for each asset.

a. A brief description of each asset claimed

b. The date the asset was acquired

c. The cost of the asset

d. The estimated useful life of the asset

e. The depreciation method used

f. The net book value of the asset

g. The prior year depreciation

A copy of the Opening Balance Sheet format and schedule of possessory interest assets format which should be used by concessioners is included as Exhibit 5 to this Chapter.

An Opening Balance Sheet will generally not be required from existing concessioners whose contracts are being renewed because these concessioners annually submit a balance sheet as part of their annual financial report submittal. However, if NPS does not have on file a schedule of possessory interest assets claimed, it should be requested at the time of contract renewal.

## F. EMERGENCY AND UNSCHEDULED PROJECTS LUMP SUM PROGRAM

The lump sum program comprises four separate categories: (1) roads betterment, (2) major alterations, buildings and utilities, (3) major alterations, historic structures, and (4) concessioner developments.

The concessioner category was established to enable the Service to provide for minor utility services (construction and connections), walks, trails, parking and roadways to serve developments constructed and operated by concessioners, the need which cannot be foreseen and programmed during the normal budget process. Such funding is also intended to provide for emergencies as the needs arise, e.g., storm damage, water erosion, health, safety, etc. The projects under this program must always serve or be adjunctive to concessioner operations. Concession lump sum funding is the most effective method of accomplishing these minor construction projects since emergency and unscheduled construction needs can be met quickly without a lengthly review and appropriation process delay.

In prior years, each of the four categories were handled separately. However, beginning with FY 1984 a new procedure for programming this total activity was established. Under the new procedure the Regions submit a single priority list for all their lump sum needs. Following the submission of each Region's priority list, the Director will make a determination of the projects to be funded from this activity.

Should emergency needs occur during the course of the year, the Regions will be expected to delete, or reduce in cost, those projects approved for funding in order to fund the new projects.

## G. UTILITIES

### 1. Law

16 U.S.C. 1b-4

Furnishing on a reimbursement of appropriations basis all types of utility services to concessioner's, contractors, permittees, or other users of such services, within the National Park System, Provided, that reimbursement for cost of such utility services may be credited to the appropriation current at the time reimbursements are received.

31 USC 483a

OMB Circular A-25, 3.b. Lease or sale. Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial pratices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government.

2. Regulations

None

3. Policy

SPECIAL DIRECTIVE 83-2

The National Park Service has recently adopted a new policy on charging users for NPS-produced utilities. Under the new policy the Service will:

1. Charge rates based on operating costs (not including existing capital investments) or comparability, whichever is greater, to all users except NPS employees. Concessioners will be permitted to pass through costs exceeding comparability.

2. Permit charges to be adjusted (no lower than comparability) where operating costs are extraordinarily high and cannot practically be passed through in total to the visitor through price increases, i.e., allow adjustments to rates where passing through the excess of operating costs over comparability would jeopardize the economic viability of the concessioner.

4. Procedures

Since utility rates are to be based on actual operating costs or comparability whichever is greater, both methods must be completed and kept current. Completion of both methods will be made at the Park level with Regional Office review and approval. Guidance on both methods is available from the Washington Finance Division and Engineering and Safety Services Division (Maintenance).

If it is determined that utility charges are greater utilizing the operating cost method rather than the comparability method, concessioners, one of several groups of users, will be allowed to increase the prices they charge visitors for goods and services. The increase will allow concessioners to recover those utility costs which exceed comparable utility costs by passing such excess costs directly to the actual users -- the visitors. (See Chapter 18, Paragraph, F.1, Procedure For Adjusting Comparable Rates)

In certain extraordinary circumstances, recovering actual operating costs for utility services from concessioners may threaten the economic viability of their operations and frustrate the ability of the Service to carry out its statutory requirements to preserve and protect areas of the National Park System and to provide for their enjoyment by the public. In those few instances, the utility charges may be adjusted but in no event will they be lower than comparability. (See Chapter 18, Paragraph F.2, Utility Charge Exception)

The following guidance is available from the WASO Concessions Division:

a. increasing visitor rates to recover utility charges in excess of comparability;

b. reduction of utility charges below operating costs (but not below comparability).

**WORKSHEET NO. 1: AVERAGE GROSS RECEIPTS** CONCESSIONER ______________________

| RECEIPTS BY SERVICE CATEGORY (SCH G) | AVERAGE | 19__ | 19__ | 19__ | 19__ | 19__ |
|---|---|---|---|---|---|---|
| LESS AUTHORIZED DEDUCTIONS FROM SCH B | | | | | | |
| Lodging (1-3) | | | | | | |
| Food Service, Bar (4-7) | | | | | | |
| Souvenirs (8) | | | | | | |
| General Merchandise (10-13) | | | | | | |
| Auto and Marina Fuel (14,19) | | | | | | |
| Auto and Marina Repairs (15,21) | | | | | | |
| Boat/Houseboat/Motor Rental (17-18) | | | | | | |
| Boat and Motor Sales (20) | | | | | | |
| Slips and Other Marina (16,22,23) | | | | | | |
| Boat Transportation (24) | | | | | | |
| Vehicle Transportation (25) | | | | | | |
| Saddle House/Livery (26) | | | | | | |
| Float Trips and River Runners (27) | | | | | | |
| Ski Lifts and Tows (28) | | | | | | |
| Trailer Village (29) | | | | | | |
| Vending (30) | | | | | | |
| Equipment and Other Rental (32) | | | | | | |
| Guide and Instruction (33) | | | | | | |
| Other (31,34) | | | | | | |

NUMBERS IN PARENTHESES ARE LINE NUMBERS FROM SCHEDULE G
TRANSPOSE AVERAGES TO COL A OF WORKSHEET NO. 2, MINIMUM FRANCHISE FEE
CHECK TOTALS BY ADDING BACK IN AUTHORIZED DEDUCTIONS BELOW (BUT DO NOT TRANSPOSE TO THE MINIMUM FRANCHISE FEE WORKSHEET).

| | | | | | | |
|---|---|---|---|---|---|---|
| Handicraft | | | | | | |
| Employee's Services | | | | | | |
| Gasoline Taxes | | | | | | |
| Other ____________ | | | | | | |
| ____________ | | | | | | |
| TOTAL | | | | | | |

WORKSHEET NO. 2: MINIMUM FRANCHISE FEE CONCESSIONER ____________

| SERVICE | AVERAGE GROSS | MINIMUM CALCULATION | |
|---|---|---|---|
| | (a) | (b) | (c) |
| | | | [a x b] |
| Lodging | ______ | 0.0 | ______ |
| Food Service, Bar | ______ | 0.9 | ______ |
| Souvenirs | ______ | 1.0 | ______ |
| General Merchandise | ______ | 1.0 | ______ |
| Auto and Marina Fuel | ______ | 0.6 | ______ |
| Auto and Marina Repairs | ______ | 1.4 | ______ |
| Boat, Houseboat and Motor Rental | ______ | 3.8 | ______ |
| Boat and Motor Sales | ______ | 0.9 | ______ |
| Slips, Mooring, Storage & Other Marina | ______ | 0.7 | ______ |
| Boat Transportation | ______ | 0.0 | ______ |
| Vehicle Transportation | ______ | 1.4 | ______ |
| Saddle Horse and Livery | ______ | 1.9 | ______ |
| Float Trips and River Runners | ______ | 1.9 | ______ |
| Ski Lifts and Tows | ______ | 2.7 | ______ |
| Trailer Village | ______ | 2.3 | ______ |
| Vending | ______ | 1.3 | ______ |
| Equipment and Other Rental | ______ | 7.9 | ______ |
| Guide and Instruction | ______ | 1.9 | ______ |
| Other | ______ | 2.0 | ______ |
| TOTALS | ______ | | ______ |

To find the Minimum, divide the total of column c by the total of column a:

MINIMUM = ____________ ÷ ____________ = ____________ = $FF_{min}$
col c total col a total

**WORKSHEET NO. 3: FINANCIAL SUMMARY AND ADJUSTMENTS** CONCESSIONER ____________

## I. FINANCIAL SUMMARY: / / THROUGH / / (Excluding Partial Periods of Operation)

| YEAR | GROSS RECEIPTS | AVG EQUITY | FRANCHISE FEES: % FEE | BUF | TAX RATE (%) | INCOME (LOSS) BEFORE TAXES | INCOME (LOSS) AFTER TAXES | RATE OF RETURNS: GROSS | AVG EQUITY |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| TOTALS | | | | | | | | | |
| AVG | | | | | | | | | |

## II. SPECIFIC EXPENSE ACCOUNTS (and % of gross receipts)

| Year | Admin Exp | Officer Sal | Pension Exp | Overhead Exp | Mgmt Fee | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| AVG | | | | | | | | |

## III. ADJUSTMENTS (If Necessary)

| Identify Expenses. . . | AMOUNT | BASIS |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| TOTAL | | [To Section I, Line C on Worksheet No. 4] |

WORKSHEET NO. 4: FEE DETERMINATION          CONCESSIONER ____________________

I. ADJUSTED INCOME

A. 1. Avg % franchise fee (from Section I, Worksheet No. 3) __________
   2. Avg Income before taxes (from Section I, Worksheet No. 3) __________
B. Average income before taxes and % Franchise Fee (line A.1 + A.2) __________
C. Total of Adjustments (From section III, Worksheet No. 3) __________
D. Total (B + C) __________
E. Estimated Taxes (Use 40% if no historical rate available) __________
F. Adjusted Income After Taxes (Line D - Line E) __________

G. New Returns: GROSS __________ EQUITY __________ ASSETS __________

II. MAXIMUM FEE GUIDELINE:

50% of the before tax and before franchise fee income (1/2 of line D, Section I, above)

$$\frac{(\qquad\qquad)}{2} = \underline{\qquad\qquad}$$

Divide result by the Average Gross Receipts (Worksheet No. 3) and multipy by 100: ________%

III. FEE DETERMINATION:

PLACE A CHECK FOR EACH RETURN BELOW WHERE THE CONCESSIONER'S RETURNS (I.G., ABOVE) FALL WITH RESPECT TO OUTSIDE INDUSTRY

| | | | LQT | MED | UQT |
|---|---|---|---|---|---|
| Primary Service: | Equity | | | | |
| | Gross | | | | |
| | Assets | | | | |
| Secondary Service: (Optional) | Equity | | | | |
| | Gross | | | | |
| | Assets | | | | |

MIN ________

MID POINT ________

DETERMINED FEE [ ]

MAX ________

## BIBLIOGRAPHY OF INDUSTRY STATISTICS AVAILABLE FOR USE IN THE NATIONAL PARK SERVICE FRANCHISE FEE DETERMINATION

| | Publication Name | Published By |
|---|---|---|
| 1. | Industry Norms | Dun and Bradstreet Credit Service |
| 2. | RMA Annual Statement Studies | Robert Morris Associates |
| 3. | Almanac of Business and Industrial Financial Ratios | Leo Troy |
| 4. | US Lodging Industry | Laventhal and Horwath |
| 5. | Trends in the Hotel Industry | Pannell, Kerr, Foster |
| 6. | Cost of Doing Business | Dun and Bradstreet Credit Services |
| 7. | Key Business Ratios | Dun and Bradstreet |
| 8. | Merchandising and Operating Results | National Retail Merchants Association |
| 9. | Industry Report, Convenience Store News | BMT Publications |
| 10. | Restaurant Industry Operations Report | NRA/Laventhal & Horwath |
| 11. | Concessioner Comparability Study Procedures | NPS (Coopers and Lybrand) |

## ADJUSTMENTS

The aim in reviewing a concession's financial performance for franchise fee purposes is to arrive at a figure that represents the probable value of the opportunity granted by the authorization to operate. According to current policy and standard contract language, the figure representing probable value is expressed as a percentage of gross receipts.

As discussed in the body of this document, the most appropriate way to determine a value for this opportunity is to analyze the net profits reported by the concessioner. However, it is understood that these reported figures may have to be modified, in some cases to present a figure which reflects the opportunity inherent in the authorization. This does not mean that the concessioner is being penalized or that the items in question are unauthorized.

In making adjustments to reported net profits, it appears that the best source of comparison are industry statistics, where they are available. Included as Exhibit 2, page 1, is a bibliography of industry statistics available for such use. In this, however, the most difficult problem will be the determination of whether any significant differences between industry and the concessioner are the result of inherent operating conditions of the concession or the result of management ability or reporting variation. Keeping in mind that industry means and averages are not absolutes but rather statistical discriptions of a limited sample, every attempt must be made to allow reasonable expenses given the specific operating conditions of the authorization.

Adjustments will be of two types. The first will be translated into dollar amounts and added or subtracted to net profits on Worksheet 3. The other, where no quantitative value can be calculated, will be taken into account in the actual setting of the fee on the bottom of Worksheet 4. Whenever possible, the adjustments should be of a quantitative nature and made in either direction.

The review of the concessioner's results will consist of a search for overstated or understated expenses and for evidence of good or poor management. Field observation will be especially important in judging management performance because of the lack of an effective quantitative measure. Evaluation reports and periodic operational reviews can be useful aides.

### Adjustments to Operating and Administrative Expenses

Any adjustments made to operating or administrative expenses because of observed differences with industry statistics must be made with caution. Analyze those expenses that can shift between Schedules A, H and I, such as salaries.

(a) Decreasing Reported Expenses

(1) Owner benefits

These adjustments center around expenses which directly benefit an owner or parent company. Of particular importance in the analysis is the value of the services being provided and the corresponding payment. While officer salaries may be the most reviewed item, other expense items such as pensions, travel expenses, management fees, and overhead allocations are also important. Payments to relatives must also be considered.

(2) Management Decisions

Special attention should be paid to the notes (Schedule F) for listed problems and/or qualifications.

(b) Increasing Reported Expenses

Deferred Expense

If for some reason, the concessioner's reported expenses do not reflect the real cost of operating the concession, adjustments can be made to reflect these costs. However, this is not a common occurrence and should be used with great care.

Adjustments to Fixed Expenses

The Dun and Bradstreet industry averages used in these procedures calculate their returns using net profits after taxes and fixed expenses. As fixed expenses can vary significantly, care should be taken in comparing concessioner returns to these standards.

(a) Interest Expense

Concessioners reporting no long term debt should have low interest expense. As a result, profitability will be overstated when comparing with industry averages. Please note that interest expense is sometimes charged to a subsidiary in the form of an overhead allocation.

Concessioners reporting mostly debt financing will have high interest expense. As a result, profitability will be understated when comparing with industry averages.

(b) Depreciation

Depreciation expense is a function of the cost, type, and estimated life of a concessioner's fixed assets. It is fair to assume that similar businesses will have similar need for fixed assets but companies that lease a large portion of their fixed assets will transfer this expense to operating expenses.

Concessioners taking accelerated depreciation or depreciation in excess of generally accepted accounting principles will be under stating their profitability. Concessioners with older assets that have fully depreciated will be overstating their profitability with respect to industry averages.

Construction Program

Adjustments should not be made to the franchise fee as a result of a construction program, unless a significant portion of the program will generate little or no revenue for the concessioner.

Construction programs, by their nature, require the initial expenditures in anticipation of future income. Franchise fees, representing the probable value, should reflect the value of the operation.

If the concessioner has been requested to construct facilities that will not generate sufficient revenues, adjustments may be made, as appropriate.

## INDUSTRY RETURNS (5 YEARS ENDING 1986)

| | RETURN ON SALES | | | RETURN ON EQUITY | | | RETURN ON ASSETS | | |
|---|---|---|---|---|---|---|---|---|---|
| Primary Service | LQT | MED | UQT | LQT | MED | UQT | LQT | MED | UQT |
| Lodging | 0.0 | 6.1 | 15.1 | 1.4 | 12.1 | 29.4 | 0.1 | 4.0 | 9.6 |
| Food Service | 0.9 | 3.9 | 8.9 | 4.7 | 18.3 | 47.4 | 1.6 | 8.2 | 19.9 |
| Souvenir Sales | 1.0 | 5.4 | 13.3 | 3.5 | 17.6 | 40.7 | 1.7 | 9.3 | 21.8 |
| Merchandise Sales | 1.0 | 3.5 | 8.5 | 3.3 | 10.4 | 23.1 | 2.0 | 6.7 | 13.9 |
| Marina | 0.9 | 4.2 | 10.3 | 5.0 | 15.8 | 34.9 | 1.2 | 5.1 | 11.8 |
| Gasoline Service Station | 0.6 | 2.2 | 4.7 | 5.1 | 16.2 | 42.2 | 2.4 | 8.0 | 20.3 |
| Water Transportation | -0.5 | 5.5 | 10.3 | -8.2 | 14.6 | 36.1 | -1.1 | 6.0 | 15.9 |
| Ground Transportation | 1.4 | 6.2 | 12.9 | 6.3 | 22.4 | 47.2 | 2.1 | 10.4 | 20.1 |
| Amusement/Recreation | 1.9 | 8.1 | 19.0 | 3.1 | 14.9 | 40.7 | 1.2 | 7.5 | 19.7 |

LQT = Lower Quartile Threshold

MED = Median

UQT = Upper Quartile Threshold

1. The principal line of business, or primary service, of the concessioner should be determined in order to use the above table. For the most part, the lodges in the lodging sample will have other services some of which may even have greater revenue than the lodging segment. Other types of businesses, such, as marinas, will be in similar circumstances.

2. The source for the above data are Dun and Bradstreet's Industry Norms (1983-4, 1984-5, 1985-6, 1986-7, and 1987-8) and special norms provided by contract, averaged by the number of years available.

## INDUSTRY RETURNS (1986 ONLY)

| | RETURN ON SALES | | | RETURN ON EQUITY | | | RETURN ON ASSETS | | |
|---|---|---|---|---|---|---|---|---|---|
| Primary Service | LQT | MED | UQT | LQT | MED | UQT | LQT | MED | UQT |
| Lodging | -1.6 | 5.2 | 14.0 | -2.0 | 8.7 | 26.3 | -1.4 | 2.5 | 8.2 |
| Food Service | 0.7 | 3.6 | 9.2 | 3.7 | 15.1 | 43.0 | 1.3 | 7.3 | 19.8 |
| Souvenir Sales | 0.7 | 5.4 | 12.4 | 3.1 | 17.6 | 44.5 | 1.6 | 8.7 | 21.2 |
| Merchandise Sales | 0.9 | 3.1 | 7.8 | 2.5 | 10.1 | 22.1 | 1.7 | 6.1 | 13.0 |
| Marina (1984) | 0.8 | 5.0 | 12.0 | 4.2 | 18.4 | 41.2 | 1.2 | 6.2 | 13.0 |
| Gasoline Service Station | 0.8 | 2.4 | 4.9 | 5.5 | 15.9 | 41.1 | 2.8 | 8.3 | 17.6 |
| Water Transportation | 2.0 | 5.3 | 7.2 | -2.8 | 13.2 | 48.5 | 0.2 | 11.2 | 12.7 |
| Ground Transportation | 1.9 | 5.8 | 10.5 | 9.1 | 23.4 | 46.7 | 4.5 | 11.8 | 20.0 |
| Amusement/Recreation | 1.5 | 7.6 | 17.6 | 2.0 | 11.5 | 32.6 | 0.8 | 6.5 | 17.8 |

LQT = Lower Quartile Threshold

MED = Median

UQT = Upper Quartile Threshold

1. The principal line of business, or primary service, of the concessioner should be determined in order to use the above table. For the most part, the lodges in the lodging sample will have other services some of which may even have greater revenue than the lodging segment. Other types of businesses, such, as marinas, will be in similar circumstances.

2. The source for the above data is Dun and Bradstreet's Industry Norms (1987-1988) and a special norm for marina, 1984.

| CONCESSIONER: | AS OF: |
|---|---|
| OPENING BALANCE SHEET | |

ASSETS

Current Assets

| | | |
|---|---|---|
| 1. | Cash | ______ |
| 2. | Marketable Securities | ______ |
| 3. | Inventories-Merchandise | ______ |
| 4. | Accounts Receivable | |
| 5. | Notes Receivable-Related Party | ______ |
| 6. | Notes Receivable-Other | ______ |
| 7. | Prepaid Expenses | ______ |
| 8. | Other | ______ |
| 9. | TOTAL CURRENT ASSETS | ______ |
| | **Fixed Assets** | |
| 10. | Depreciable Fixed Assets | ______ |
| 11. | Less: Accumulated Depreciation | ______ |
| 12. | Net Depreciable Fixed Assets | ______ |
| 13. | Construction in Progress | ______ |
| 14. | Land | ______ |
| 15. | TOTAL FIXED ASSETS | ______ |
| | **Other Assets** (Identify) | |
| 16. | ______________ | ______ |
| 17. | ______________ | ______ |
| 18. | TOTAL OTHER ASSETS | ______ |
| 19. | TOTAL ASSETS | ______ |

LIABILITIES

**Current Liabilities**

| | | |
|---|---|---|
| 20. | Notes Payable-Other Party | ______ |
| 21. | Notes Payable-Other | ______ |
| 22. | Accounts Payable | ______ |
| 23. | Current Maturities on Long-Term debt | ______ |
| 24. | Government Franchise Fee Payable | ______ |
| 25. | Accured Liabilities | ______ |
| 26. | Advance Deposits | ______ |
| 27. | Other | ______ |
| 28. | TOTAL CURRENT LIABILITIES | ______ |
| | **Long-Term Liabilities** | |
| 29. | Long-Term Debt, Less Current Maturities | ______ |
| 30. | Other | ______ |
| 31. | TOTAL LONG-TERM LIABILITIES | ______ |
| 32. | TOTAL LIABILITIES | |

EQUITY

| | | | |
|---|---|---|---|
| 33. | | Partner's or Proprietor's Capital | ______ |
| 34. | CORP. ONLY | Preferred Stock, Park Value $______ | ______ |
| | | Authorized:______ Shares, Issued:______ Shares | |
| 35. | | Common Stock, Par Value $______ | |
| | | Authorized:______ Shares, Issued:______ Shares | ______ |
| 36. | | Less: Treasury Stock | ______ |
| 37. | | Additional Paid-in Capital | ______ |
| 38. | | Retained Earnings | ______ |
| 39. | | TOTAL EQUITY | ______ |
| 40. | | TOTAL LIABILITIES AND EQUITY | ______ |

DATE
AS OF: ____________________

## SCHEDULE OF ASSETS
## IN WHICH CONCESSIONER CLAIMS POSSESSORY INTEREST

| Description of Asset (A) | Date Initially Acquired or *Constructed* (B) | Depreciation Method (C) | Depreciation Life (D) | Cost (E) | Accumulated Depreciation (F) | Net Book Value (G) |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
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| | | | | | | |
| | | | | | | |

Officer's Name: ____________________
(Signature)

Title: ____________________

## SPECIFIC COLUMNAR INSTRUCTIONS

Column A. Description -- Using a separate line for each asset, list only those assets in which the concessioner claims possessory interest. Describe each asset in sufficient detail so that upon physical examination thereof, the assets can be readily identified. Include location of asset in description.

Column B. Date Initially Acquired or Constructed -- Give month, day and year when individual assets were acquired or constructed.

Column C. Depreciation Method -- Indicate what method is used to depreciate assets, for example:

1. SL - straight line
2. DB - declining balance

Column D. Depreciation Life -- Indicate the number of years over which assets are being depreciated.

Column E. Cost -- Indicate cost of assets at time of acquisition.

Column F. Accumulated Depreciation -- Indicate amount of accumulated depreciation as of the date form is filed.

Column G. Net Book Value -- Subtract amount in Column F from amount in Column E. Enter result.